

Fees for State law matters effective on or after 24 May 2010

Civil Matters – Practitioner Fees

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Fee Scales

1. Local Court and Other Tribunals - Practitioner Fees

Scale of fees for work done on or after 24 May 2010 in State matters.

Local Court and other Tribunals

Other tribunals are all tribunals **except** the Commercial Tribunal and the Equal Opportunity Tribunal.

"Legal Practitioners" includes solicitors and counsel whether practising in NSW or interstate.

Senior counsel will be allowed 150% of the appropriate rate.

The fee rates provide for Hourly Rates and for itemised Rates (which are derived from the hourly rates).

- When advising a client of the estimated cost of the proceedings under the Legal Profession Act, legal practitioners should have regard to the hourly rates.
- At the conclusion of the matter a legal practitioner may choose to submit an account in accordance with either the hourly rate or itemised rate (which is derived from the hourly rate).

Advice from Counsel

A lump sum amount of \$587.00 is paid to counsel for a written advice. Senior counsel is paid at 150% of the lump sum amount.

Hourly Rates

There are two fee rates:

1. **\$196.00 per hour** (or \$217.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) where costs are awarded in favour of the legally assisted person; or
- (b) where there is a component for costs included in the successful settlement.

2. **\$150.00 per hour** (or \$186.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) in a jurisdiction where costs are not awarded;
- (b) where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- (c) where costs are not awarded in favour of the legally assisted person;
- (d) where the matter is concluded unsuccessfully;
- (e) where there is no component for costs included in the successful settlement;
- (f) where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by Legal Aid NSW prior to releasing the file;
- (g) where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
- (h) where payment of interim accounts is requested by the practitioner.

Work done by a clerk may be claimed as one-third of the practitioner's rate.

Fee Scales

2. All Courts (except Local Courts) and Nominated Tribunals - Practitioner Fees

Scale of fees for work done on or after 24 May 2010 in State matters.

All Courts (except Local Courts) and Nominated Tribunals

Nominated Tribunals are the Commercial Division of the Fair Trading Tribunal and the Equal Opportunity Division of the Administrative Decisions Tribunal.

"Legal Practitioners" includes solicitors and counsel whether practising in NSW or interstate.

Senior counsel will be allowed 150% of the appropriate rate.

When advising a client of the estimated cost of the proceedings under the Legal Profession Act.

Advice from Counsel

A lump sum amount of \$587.00 is paid to counsel for a written advice. Senior counsel is paid at 150% of the lump sum amount.

Hourly Rates

There are two rates based on the following hourly rates:

1. **\$217.00 per hour** (or \$239.00 per hour where time is spent in a hearing as an advocate).

This rate applies -

- i. where costs are awarded in favour of the legally assisted person; or
- ii. where there is a component for costs included in the successful settlement.

2. **\$172.00 per hour** (or \$215.00 per hour where time is spent in a hearing as an advocate).

This rate applies -

- (a) in a jurisdiction where costs are not awarded;
- (b) where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- (c) where costs are not awarded in favour of the legally assisted person;
- (d) where the matter is concluded unsuccessfully;
- (e) where there is no component for costs included in the successful settlement;
- (f) where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by Legal Aid NSW prior to releasing the file;
- (g) where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
- (h) where payment of interim accounts is requested by the practitioner.

Work done by a clerk may be claimed at one-third of the practitioner's rate.

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Fee Scales

3. Mental Health - Practitioner Fees

Scale of fees for approvals made on or after 24 May 2010.

Magistrates Inquiry and Mental Health Review Tribunal	
Attendance at Hospital: per hour (to the nearest quarter hour) Including time spent taking instructions and conducting hearings.	\$150.00
Waiting time is payable (to the nearest quarter hour) except if a practitioner has other private work to attend to whilst waiting for legal aid matters to be reached.	\$150.00
No other fees or allowances will be paid unless prior approval is obtained.	

Scale of fees for approvals made on or after 24 May 2010.

Guardianship Tribunal	
Attendance at Tribunal: per hour (to the nearest quarter hour)	\$150.00
Conference with client only	\$95.00
Visit to hospital (nursing home, etc)	\$87.00
Preparation time: per hour (2 hours preparation is normally allowed)	\$150.00
Waiting time is payable (to the nearest quarter hour) except if a practitioner has other private work to attend to whilst waiting for legal aid matters to be reached.	\$150.00
No other fees or allowances will be paid unless prior approval is obtained.	

4. Travel Entitlements in State Civil Law Matters for work done on or after 24 May 2010

- A **travel allowance and lump sum payment** is paid if the total return distance travelled from the legal practitioner's office to court exceeds 70 kilometres, and the practitioner is travelling to a court located outside the Sydney metropolitan area.
- The Sydney metropolitan area includes all courts within the area bounded by:
 - Hornsby;
 - Penrith;
 - Campbelltown; and
 - Sutherland.
- Unless there are exceptional circumstances, the travel allowance will not be approved where the matter could be assigned to:
 - a practitioner located within 35kms of the court;
 - a practitioner who is significantly closer to the court;
 - a practitioner who has other matters at the court on the same day.
- Prior approval to claim the travel allowance must be obtained from Legal Aid NSW.
 - Unless there are exceptional circumstances, the travel allowance will not be approved in circumstances where a practitioner appointed to a panel has nominated their availability for a panel court out outside the geographical area surrounding their office.
 - Pursuant to the Duty Solicitor Scheme Guidelines travel is not generally paid to practitioners rostered to attend court as the Duty Solicitor except where there has been prior approval by Legal Aid NSW or the duty work is undertaken in one of the regions nominated in the Duty Solicitor Scheme Guidelines.
- If travel allowance is being claimed, approval should be sought in the original application.
- Travel allowance cannot be claimed more than once per day to the same court, regardless of the number of legal aid applicants being represented at that court.

Travel Allowance

Where approved, travel expenses will be paid at a rate of **\$0.60 per kilometre**, or where appropriate, a return economy airfare (which ever is the cheaper).

Lump sum payment for travel time

A lump sum of **\$100 for travel time** is paid in addition to the travel allowance of \$0.60 per kilometre. The lump sum payment for travel time may only be claimed once per day on which travel allowance is payable.

Accommodation

Where approved, accommodation expenses (including sustenance) will be paid as incurred to the maximum rates determined by the Department of Premier and Cabinet of the NSW government.

Frequently Asked Questions

Is travel allowance available for appeals?

Yes, provided the criteria for the travel allowance is met and prior approval is obtained.

If travel allowance is approved for a trial, is an allowance paid for accommodation and meals?

Yes. Actual expenses for meals and accommodation may be payable for each 24 hour period up to the maximum rates determined by the Public Employment Office of the NSW government. If an accommodation and sustenance allowance is approved, the applicable rate will be provided to you at the time of the grant or extension. All receipts must be provided and actual expenses only may be recovered.

My client has asked me to appear for him at a court that is more than 35kms from my office. My client insists that I appear and is unwilling to accept another solicitor. Is the travel allowance available?

Generally a travel allowance will not be approved where a practitioner located within 35 kms of the Court is available to appear for the client. In exceptional circumstances travel may be approved e.g. where the client is a child, or has a disability, and Legal Aid NSW agrees that continuity of representation is in the interests of the client.

Is travel allowance payable for views (in criminal matters)?

Yes, however, prior approval for the view must be obtained from Legal Aid NSW and will be limited to views conducted outside the Sydney metropolitan area.

How do I calculate the driving/road distance between destinations?

The website <http://www.travelmate.com.au> may assist in calculating distance between destinations.

Am I allowed to engage an agent?

In ordinary circumstances, a practitioner is not entitled to claim an additional grant of aid to instruct an agent. Where an agent is retained because the assigned practitioner is unavailable, the agent must be a panel practitioner and must be paid out of the assigned practitioner's lump sum fee for any court attendance up to the hearing stage.

Mentions: An additional allowance to instruct an agent at a mention will not be approved unless the practitioner can show that the matter is complex enough to justify an instructing allowance and:

- Legal Aid NSW is satisfied that engaging an agent is an economical use of legal aid funds; or
- exceptional circumstances exist.

Hearings: The use of an agent at a hearing will only be approved in exceptional circumstances. If a practitioner cannot attend a hearing it will generally be considered more appropriate for the matter to be reassigned to an available panel practitioner.