

## Duty Roster Guidelines for Lawyers participating in the Domestic Violence Duty Scheme

These Guidelines are incorporated into and form part of the Domestic Violence Panel Practice Standards. They provide more detail about the duties specified in Section 5 of the Domestic Violence Panel Practice Standards.

The Domestic Violence Duty Scheme consists of lawyers in private practice who have been appointed to the Legal Aid NSW Domestic Violence Panel. The aim of the Domestic Violence Duty Scheme is to work in partnership with the Women's Domestic Violence Court Advocacy Service ("WDVCAS") to provide trauma-informed, holistic, high quality and client-focused service to help victims of domestic and family violence.

### Participation on the ADVO list day roster

Upon appointment to a Domestic Violence Duty Scheme roster, a Domestic Violence Duty Scheme lawyer is required to attend the court on a rostered basis where the WDVCAS provides services and:

1. Be available for court attendance, as arranged and rostered by the WDVCAS Coordinator;
2. Attend the relevant court on each rostered AVO list day at 9:00am, unless otherwise agreed with the WDVCAS Coordinator;
3. Be present in the safe room or the relevant court room at all times or immediately available to the WDVCAS Coordinator;
4. Provide legal advice and representation to WDVCAS clients, subject to their needs, that is:
  - (i) Legal advice, assistance and referrals for individuals experiencing domestic and family violence (including protected persons in police-initiated ADVOs) in relation to the broad range of legal problems precipitated by domestic and family violence such as family law, care and protection, housing, social security, credit/debt, immigration, victim's support and criminal law. This may include:
    - explaining the effect of an ADVO and the court process
    - ensuring that applications and orders sought are appropriate
    - negotiating with defendants to obtain orders by consent
    - providing advice and/or negotiating arrangements in family law matters where appropriate
    - advocating and/or making an application under section 68R of the *Family Law Act 1975* (Cth) where appropriate,

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- (ii) Legal advice and representation for individuals who are seeking a private ADVO (including cross applications), and
  - (iii) Legal advice and representation for defendants to applications for ADVOs where the client is also a protected person in an associated ADVO (cross application), or where it appears that the client is a victim of domestic or family violence.
5. Notify the WDV CAS Coordinator if it is necessary to leave the court precinct for any reason prior to the completion of duty work;
  6. Be available to provide advice and representation to any victim of domestic and family violence requiring assistance on the AVO list day, provided that priority is given to WDV CAS clients.
  7. Not represent defendants on the lawyer's rostered list day, unless such individual is also a protected person in an associated ADVO (cross application), or where it appears that the client is the primary victim of domestic or family violence;
  8. Ensure that adjournments for further mention(s) coincide with an AVO list day when a Domestic Violence Duty Scheme lawyer will be present;
  9. Should a matter progress to a defended hearing, the duty lawyer who obtains a date for the defended hearing:
    - (i) Is responsible for submitting an application for a grant of legal aid on behalf of the client via Grants Online,
    - (ii) Should appear for the client for whom they have appeared on a duty basis with a grant of legal aid, if eligible, and
    - (iii) Should continue to appear on behalf of the client in any subsequent appeal to the District Court with a grant of legal aid, if eligible.
  10. Provide details of outcomes of all ADVO proceedings (mentions and hearings) to the WDV CAS Coordinator, and provide the Coordinator with a copy of orders made for the client;
  11. Work co-operatively at all times with WDV CAS staff, police officers (in particular, Domestic Violence Liaison Officers and police prosecutors) and court staff;
  12. If time permits, debrief with the WDV CAS Coordinator on the AVO list day before leaving court.

## Rosters

13. The Domestic Violence Duty Scheme operates in the following Local Courts:

### Metropolitan Local Courts

Blacktown	Mt Druitt	Waverley
Campbelltown	Newtown	Windsor
Downing Centre	Parramatta	
Hornsby	Penrith	
Manly	Sutherland	

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## Regional Local Courts

Albury	Maitland	Tamworth
Belmont	Newcastle	Toronto
Cessnock	Nowra	Wollongong
Dubbo	Port Kembla	
Gosford	Port Macquarie	

## Allocations

14. A lawyer must be a member of the Domestic Violence Panel for consideration for appointment to the Domestic Violence Duty Scheme.
15. Legal Aid NSW will call for nominations from members of the Domestic Violence Panel for appointment to the Domestic Violence Duty Scheme at least 2 months before the end of the calendar year.
16. A lawyer may nominate for appointment to the Domestic Violence Duty Scheme in both regional and metropolitan (Sydney) Local Courts.

## Regional areas

17. In regional areas the principal place of practice of the lawyer (as registered with and stated on the Law Society NSW website) must be located in the town or within 35kms of the town where the Local Court is located, unless otherwise approved by Legal Aid NSW and the WDVCS.

## Sydney metropolitan area

18. Lawyers will be asked to nominate between 3 and 5 metropolitan Local Courts in order of their preference as to allocation of Domestic Violence Duty Scheme work.
19. Legal Aid NSW, in consultation with the WDVCS Coordinator for relevant courts, will consider the number of lawyers required for each metropolitan Local Court based on the business needs of Legal Aid NSW, taking into account the desirability of continuity of service provision to Domestic Violence Duty Scheme clients.
20. Allocation of lawyers to rosters at individual Domestic Violence Duty Scheme courts will be determined by Legal Aid NSW, in consultation with the relevant WDVCS Coordinator. Lawyer nominations will be taken into account, but will not be determinative of, allocation of work amongst Domestic Violence Panel members.
21. Allocations will be based on the need for fair and reasonable distribution of work amongst lawyers, taking into account:
  - (i) Nominated preferences expressed by lawyers; and
  - (ii) The ability of lawyers to provide a responsive service to the courts nominated.
22. Where the preferences of lawyers cannot be accommodated, allocations will be determined on the basis of a rolling list.
23. Review of allocations to Domestic Violence Duty Scheme courts will be conducted every 12 months, or as deemed appropriate by Legal Aid NSW, in consultation with relevant WDVCS Coordinators.

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## Management of rosters

24. Duty rosters will be made up only of those lawyers appointed to the roster for the relevant Court.
25. Duty rosters are compiled by the relevant WDV CAS Coordinator on the basis of the fair and reasonable distribution of work amongst lawyers allocated to each roster.
26. The WDV CAS Coordinator for each Court is responsible for managing and maintaining the duty roster.
27. Duty rosters will operate for one calendar year.
28. Once completed a copy of the roster should be provided to:
  - (i) The Domestic Violence Duty Scheme lawyers on the roster
  - (ii) The Legal Aid NSW Duty Scheme Coordinator at [dutyscheme@legalaid.nsw.gov.au](mailto:dutyscheme@legalaid.nsw.gov.au)
  - (iii) The Manager, Women's Domestic Violence Advocacy Program ("WDV CAP") at [Michelle.Jones@legalaid.nsw.gov.au](mailto:Michelle.Jones@legalaid.nsw.gov.au)

## Rostered Panel Members

29. Panel lawyers must:
  - (i) Liaise with the relevant WDV CAS Coordinator about duty roster commitments,
  - (ii) If unavailable to attend on the rostered date, organise a swap or substitute with another Domestic Violence Duty Scheme lawyer on the same roster, and advise the WDV CAS Coordinator of the arrangement, and
  - (iii) If no other Panel member is available to swap or substitute, notify the WDV CAS Coordinator as soon as possible.
30. Panel lawyers must not delegate their duty roster commitments to non-panel members.
31. The WDV CAS Coordinator is responsible for keeping an independent and accurate record of the time the Domestic Violence Duty Scheme lawyers start and finish on each list day and will complete the WDV CAS record sheet. These records will be forwarded promptly to Legal Aid NSW when requested. The WDV CAS Coordinator will also note on the record sheet the names or number of clients that were assisted by the Domestic Violence Duty Scheme lawyer.
32. All duty lawyers must complete the Criminal Law Duty and Advice Application form and have the client sign that form. Each form must be retained by the lawyer for Legal Aid NSW audit purposes.
33. The WDV CAS Coordinator will be responsible for reporting to Legal Aid NSW on a regular basis any late attendance or any non-attendance by a lawyer where arrangements have not been made for another lawyer to attend in their place.

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34. Failure to notify Legal Aid NSW of a change to the roster could result in delayed payment of duty invoices.

## **Travel**

35. Travel will not be paid to lawyers rostered to attend a Local Court in the Sydney metropolitan area as the duty lawyer.

36. The Sydney metropolitan area includes all Local Courts within the area bound by:

- Hornsby
- Penrith
- Campbelltown
- Sutherland

37. Travel will not be paid to a lawyer rostered to attend a non-metropolitan Local Court as the duty lawyer except where:

- (i) The distance between the court and the lawyer's principal place of practice is over 35kms, and
- (ii) The Grants Division at Legal Aid NSW has approved payment of travel costs.

## **Dispute Resolution**

38. In the event of a dispute the lawyer and the relevant WDVCS Coordinator shall attempt to settle the dispute.

39. If the dispute is not settled by the parties, either party shall submit the dispute to the Manager, WDVCS and the Legal Aid NSW Duty Scheme Coordinator.

40. WDVCS and the Grants Division of Legal Aid NSW will determine a resolution.

## **Duty Work and Invoicing Legal Aid NSW**

41. Lawyers on the Domestic Violence Duty Scheme must submit an invoice for their rostered day through [Grants Online](#).

42. Invoices are to be submitted within 30 days of the corresponding duty attendance.

Please note that all duty claims are checked on a regular basis with WDVCS records.

If you have any questions regarding these guidelines please contact the Legal Aid NSW Duty Scheme Coordinator on (02) 9219 5122 or by email at [dutyscheme@legalaid.nsw.gov.au](mailto:dutyscheme@legalaid.nsw.gov.au).

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