

## **DOMESTIC VIOLENCE PANEL**

### **Information for Applicants**

This document provides information for lawyers who wish to apply for appointment to the Domestic Violence Panel (“the DVP”) for the provision of legal assistance to people experiencing domestic and family violence and who are involved in Apprehended Domestic Violence Order (ADVO) matters at Local Courts throughout NSW.

The following information applies to:

- those who have been appointed to the Domestic Violence Practitioner Scheme, and whose current appointments are due to expire and wish to reapply for appointment; and
- new applicants.

### **OUR CLIENTS**

Domestic and family violence can and does affect people of all cultural, social and economic backgrounds. Victims of domestic and family violence are predominantly women and children. They are priority clients of Legal Aid NSW.

Domestic and family violence affects some people in disproportionate and/or in more complex ways. Women, and in particular women who are pregnant, indigenous, from multicultural backgrounds, and who have a disability, have a heightened vulnerability to domestic and family violence. Children are similarly vulnerable.

It is important that lawyers representing such clients have a sophisticated understanding of the complexities facing children and women who are indigenous, from culturally diverse backgrounds and who have disabilities who are experiencing domestic and family violence. Lawyers must have a capacity to communicate to and on behalf of vulnerable clients and to deliver services that are inclusive and accessible.

In particular, lawyers are asked to identify their skills, competencies and experience that address the needs of all people across NSW, including those with a heightened vulnerability to domestic and family violence.

Legal Aid NSW aims to improve access to justice to the people of NSW by providing a range of innovative, high quality legal and other services. In partnership with lawyers and professionals from the Women’s Domestic Violence Court Advocacy Service (WDVCAS), Community Legal Centres, private practices and other agencies, Legal Aid NSW works towards equitable access to justice for our clients.

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Further details in relation to our client base are available at [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au). Please refer to the Legal Aid NSW [Annual Report](#).

## GENERAL INFORMATION

This panel is established under [section 50\(1\)](#) of the [Legal Aid Commission Act 1979 \(NSW\)](#).

Lawyers appointed to the DVP are:

- Appointed for a period of up to 5 years. Appointments to the panel apply to individual solicitors and not to firms.
- Required, as a condition of appointment, to enter into service provision agreements with Legal Aid NSW.

The DVP is for the direct legal representation of clients.

Lawyers appointed to the DVP will be eligible to be rostered to perform the role of duty solicitor and to appear in assigned case matters. Wherever possible, practitioners who appear on behalf of a client on a duty basis are expected to appear at any subsequent ADVO hearing on behalf of that client, subject to receipt of a grant of legal aid for that matter.

Lawyers who are not in private practice or are employed by a Community Legal Centre or the Aboriginal Legal Service NSW cannot apply for appointment to the panel.

Barristers may be appointed to the DVP to directly represent legally assisted clients in matters covered by the panel. For direct representation matters, barristers must ensure compliance with the [Legal Profession Uniform Conduct \(Barristers\) Rules](#), in particular Rule 22.

Where a barrister appointed to the panel receives an offer of an assignment on a direct access basis from Legal Aid NSW, the barrister may decline to accept the assignment if it is inappropriate to do the work without the involvement of an instructing solicitor.

## ROLE OF THE DVP

The role of the DVP is to provide a specialist panel of practitioners who undertake (a) assigned contested ADVO matters in Local Courts throughout NSW and (b) duty work in a number of specified NSW Local Courts (the Domestic Violence Duty Scheme).

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## **A. Assigned contested ADVO matters in NSW Local Courts**

Legal Aid NSW provides grants of aid for representation of victims of domestic and family violence in contested ADVO hearings in Local Courts throughout NSW. Such grants will be assigned to a DVP lawyer, unless there are exceptional circumstances, in accordance with the Grants Allocation Guidelines. Lawyers who appear on behalf of people in ADVO and related proceedings in courts not referred to in (B) below are therefore encouraged to apply.

## **B. Duty matters at the following Local Courts (the Domestic Violence Duty Scheme)**

Practitioners must be appointed to the DVP in order to be eligible to participate on those duty rosters where the Domestic Violence Duty Scheme operates.

The Domestic Violence Duty Scheme currently operates in the Local Courts specified below. However, if the Domestic Violence Duty Scheme is expanded in future to other Local Courts, membership of the DVP will be required for practitioners wishing to be considered for inclusion on the relevant roster(s).

### **Metropolitan Local Courts**

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

### **Regional Local Courts**

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

At these Local Courts, the DVP provides legal services to Women's Domestic Violence Court Advocacy Service (WDVCAS) clients.

The aim of the Domestic Violence Duty Scheme is to work in partnership with the WDVCAS to provide a holistic, high quality and client-focused service which

1. Helps people experiencing domestic and family violence to obtain effective protection through an ADVO,
2. Provides assistance and advice in resolving related legal problems which victims of domestic and family violence often experience, in particular in family law and care and protection issues, housing, social security,

credit/debt problems, immigration, victim's support and criminal law, subject to a client's needs, and

3. Facilitates client access to a network of professional services that can help them with their other legal and social/welfare needs.

## **SPECIALIST DVP PRACTITIONERS**

The DVP is a specialist panel. Lawyers appointed to the DVP are expected to have specialist knowledge and skills in providing legal assistance to victims of domestic and family violence. This specialisation includes:

1. Specialist knowledge and skills in adopting a trauma-informed approach to providing services to clients subject to actual and/or threatened violence and with complex legal and/or social needs,
2. Expertise in relation to the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) and in conducting Apprehended Domestic Violence Order proceedings, and
3. Demonstrated capacity to provide legal assistance in relation to the broad range of legal problems precipitated by domestic and family violence.

Panel lawyers are expected to provide:

1. Legal advice, assistance and referrals for individuals experiencing domestic and family violence (including protected persons in police-initiated Apprehended Domestic Violence Orders) 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,
2. Legal advice and representation for adults and children and young people (over 16) who are seeking a private ADVO, and
3. Legal representation for defendants to applications for Apprehended Domestic Violence Orders 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.

## **DUTY WORK**

Only practitioners appointed to the DVP will be eligible to undertake duty work at the specified Local Courts.

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Inclusion on a duty roster will depend on the service delivery needs of individual courts and satisfactorily addressing the selection criteria will not automatically result in inclusion on a duty roster.

Lawyers who are appointed to the DVP and rostered to perform duty work must comply with the Duty Roster Guidelines for practitioners participating on the Domestic Violence Duty Scheme (as amended). They will also be required to comply with the Domestic Violence Panel Practice Standards (as amended).

## **GRANTS ALLOCATION GUIDELINES**

### **Appointment to a panel does not confer an entitlement to work.**

Grants are assigned in accordance with the Legal Aid NSW Grants Allocation Guidelines (as amended).

In Local Courts other than the specified courts, grants of legal aid will be assigned to a DVP practitioner, unless there are exceptional circumstances, in accordance with the Grants Allocation Guidelines.

## **FEE RATES**

Lawyers are paid at legal aid rates as notified from time to time and in accordance with Legal Aid NSW policy.

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## SELECTION CRITERIA

Applicants who wish to be considered for appointment to the DVP are invited to submit an application. The application must address the selection criteria and provide details and information to demonstrate that all the criteria are met. Do not assume that the selection committee knows of your expertise in a particular area or what you have achieved in the past.

Applicants may not consult with other people in relation to the selection criteria. All answers must be original work. Copying or duplicating the work of another applicant may result in your application for inclusion on the panel being declined.

**1. Do you have a current practising certificate?**

(Applicants are not required to provide a copy of their current practising certificate).

**2. What was your date of admission and how many of years have you practised as a solicitor or barrister?**

**3. Is your certificate subject to any conditions or undertakings?**

If yes, please provide details.

**4. Are there any restrictions on your certificate that would restrict your capacity to represent parties in Apprehended Domestic Violence Order (ADVO) proceedings?**

If yes, please provide details.

**5. What areas of law do you have experience in?**

**a) What areas of law have you previously practiced in and when?**

**b) What areas of law do you currently practice in?**

Provide details of your current and previous areas of practice.

**6. Do you have current NSW Law Society Specialist Accreditation in any area of law?**

If yes, please provide details.

Note: It is not essential to have specialist accreditation to be appointed to the panel.

**7. Demonstrated experience in the conduct or preparation of matters under the *Crimes (Domestic and Personal Violence) Act 2007 (NSW)***

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**and related matters such as family law and care and protection issues, tenancy, social security, credit/debt, immigration law and victim's support and criminal law.**

Provide one example of demonstrated experience in a matter conducted to finality that raised issues under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW). Discuss what other legal problems arose as a result of the domestic and family violence experienced in that matter, and how you resolved them.

**8. Demonstrated knowledge of the Crimes (Domestic and Personal Violence) Act 2007 (NSW) and related matters such as family law and care and protection issues, tenancy, social security, credit/debt, immigration law, victim's support and criminal law.**

Your response to the following scenario question will be taken into consideration as to whether you have demonstrated knowledge of the *Crimes (Domestic and Personal Violence) Act 2007 (NSW)* and related matters. The Domestic Violence Panel is a specialist panel. Therefore you are expected to provide a satisfactory response in the first instance in your application for appointment to the panel as submitted. Any subsequent further response to the scenario question provided may not be taken into account.

Your response should be limited to 1,000 words. Point form answers are acceptable.

Your response should address the questions listed below.

*A Women's Domestic Violence Court Advocacy Service (WDVCAS) Coordinator refers Fatma to you, and you speak with her in the safe room at the Local Court. Fatma tells you:*

*Fatma and Ahmed have 3 children including a 4 week old baby and 2 year old twins.*

*Fatma and Ahmed are of Pakistani background. Ahmed is an Australian citizen. Fatma is on a temporary spouse visa in Australia. Ahmed has been physically violent to Fatma since the start of their relationship 4 years ago. Fatma has not reported this violence to the police. On Saturday, there was a violent incident between Fatma and Ahmed during which Ahmed wrapped a scarf around Fatma's head and neck. The neighbours called the police and the police attended the home.*

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*The police officer asked Fatma if she was prepared to give a statement by video. Fatma said that she would. But now, she doesn't think it was such a good idea and would prefer not to give evidence at all against Ahmed. Fatma asks you how the police will use her video statement. The police have also referred Fatma's case to a Safety Action Meeting.*

*When the police attended, they became concerned about the state of the home.*

*The police applied for a provisional ADVO. The provisional ADVO prohibited Ahmed from having contact with Fatma. Ahmed moved out of the home.*

*A few days after the incident, Fatma received a letter from a lawyer which says that Ahmed wants to go to family dispute resolution conference to resolve children's issues. The letter says that if Fatma refuses to go to dispute resolution then he will take her to the family law court and gain orders for the children to live with him. Ahmed also sent Fatma text messages saying they should get back together and if Fatma refuses, then Ahmed will take the children away from her and back to Pakistan and she will never see them again.*

*Fatma's ADVO proceedings are now before the Local Court for the making of an Interim ADVO. Fatma wants to know about the ADVO process and whether the Court is likely to make an Interim ADVO?*

*Fatma also tells you that yesterday, she received a call from Community Services and that the caseworkers will be attending her home at 9.00am on Friday. Fatma wants to know what she should do?*

- a) What legal issues arise?
- b) What advice and assistance would you give Fatma about her legal issues?
- c) Assume Ahmed has commenced family court proceedings before the ADVO proceedings are listed in the Local Court. Fatma asks you how interim family court orders affect the ADVO proceedings. Outline your response to Fatma.
- d) What other needs do you identify for this client, for referral and assistance, with WDV CAS support workers?

**9. Demonstrated advocacy experience including capacity to conduct a contested ADVO hearing.**

Provide details of 2 defended or contested matters conducted to finality in which you appeared in the last 2 years.

**10. Give examples of your experience in communicating with people experiencing domestic and family violence including people:**

**(a) from multicultural backgrounds;**

**(b) who are Aboriginal or Torres Strait Islander; and/or**

**(c) with a disability (including mental illness).**

What do you think are some of the issues affecting people experiencing domestic and family violence, including those referred to at (a) – (c) above?

**11. Do you have any language skills other than English?**

If so, please indicate the language and your level of proficiency in that language. Please include Auslan (sign language) as a language skill.

**12. Capacity and willingness to adhere to Legal Aid NSW Domestic Violence Practice Standards.**

A copy of the Domestic Violence Panel Practice Standards is available at [Practice standards in legally aided matters webpage](#).

**13. Capacity to comply with Legal Aid NSW reporting and administrative requirements.**

Indicate your capacity to comply with Legal Aid NSW reporting and administrative requirements including compliance with the [Terms and Conditions of Use of Grants Online](#).

**14. Provide satisfactory references from two suitable referees**

**Provide the names and e-mail addresses of two referees who can attest to demonstrated relevant experience and the capacity to act as an effective advocate in proceedings on behalf of victims of domestic and family violence.**

Your referees must include one lawyer with a current practising certificate.

Where a Women’s Domestic Violence Court Advocacy Service (WDVCAS), operates in a court in which you practice, one of these referees could be a

WDVCAS Coordinator. If you are currently or have previously been included on the DV Panel, one of your referees should be a WDVCAS coordinator.

Your referees should be independent. They should not be employed by or have a commercial interest in the firm where you are currently employed.

Judicial officers should not be given as referees.

Please ensure that your referees are aware that they have been nominated and that Legal Aid NSW will contact them seeking a reference. An information document for referees is available in the information package. This document should be given to your referees.

The referees will be asked to provide information about their direct knowledge of your skills and experience and their opinion on whether or not you are a suitable person for appointment to the panel and the reasons for their opinion. They will also be asked to give their opinion about the extent to which you meet the selection criteria.

Substitute referees will not be accepted.

## **ADDITIONAL INFORMATION AND DISCLOSURES**

Applicants must also disclose the following matters in their application:

- 1. Sustained complaints under the *Legal Profession Act 1987 and/ or 2004 and/or Legal Profession Uniform Law (NSW)***

**Have you been the subject of any complaint to the Office of the Legal Services Commissioner, the Law Society of NSW or the NSW Bar Association (or an equivalent body in another state) which has resulted in:**

- 1. you being cautioned**
- 2. you being reprimanded**
- 3. conditions being imposed on your practising certificate, and/or**
- 4. proceedings being commenced against you for unsatisfactory professional conduct or professional misconduct.**

If you have been the subject of any complaint resulting in any of the above please provide details of the complaint and the outcome, whether or not listed publicly on the disciplinary register.

- 2. Do you have any convictions or pending charges for any of the Disqualifying Offences set out in Schedule 2 of the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#)?**

If yes, please provide details.

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**3. Do you have any criminal convictions or pending criminal charges for any other offence (except in relation to minor traffic offences)?**

If yes, please provide details.

**4. Have bankruptcy proceedings been commenced against you?**

If yes, please provide details.

**5. Do you have an actual or perceived conflict of interest in relation to your selection onto the panel or your inclusion on the panel generally?**

If yes, please provide details.

**6. Have you ever been referred to the Legal Aid NSW Monitoring Committee?**

The Monitoring Committee considers matters that involve the possible breach by panel lawyers of panel service agreements.

If yes, please provide details.

**7. Have you ever been removed from any Legal Aid NSW panels for failing or refusing to cooperate with an audit?**

Legal Aid NSW carries out audits of work assigned to lawyers, including claims for payment of work, pursuant to s52B of the *Legal Aid Commission Act 1979* (NSW).

If yes, please provide details.

**8. Do you consent to the publication by Legal Aid NSW of your name, business address and telephone number in a list of members of the Panel?**

This information will appear on the Legal Aid NSW website and in any other form that Legal Aid NSW considers necessary to assist in the administration of services provided by Legal Aid NSW.

**CERTIFICATION**

**By checking "I agree" you acknowledge and certify the following:**

- All information disclosed in this application is true and accurate at the time of submission
- The application is your own work

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- You understand that Legal Aid NSW may check internal and/or publicly available records to verify the accuracy of information provided in the application or requested as part of the application process
- You understand that Legal Aid NSW may request written referee reports.

## **FURTHER INFORMATION**

Applicants can obtain more information about panels from the [Panels, audit and practice standards website](#).

All enquiries should be directed to Professional Practices Branch on (02) 9219 5662 or by email at [panels@legalaid.nsw.gov.au](mailto:panels@legalaid.nsw.gov.au).

## **HOW TO APPLY**

Applications must be lodged via the [Panels Application website](#).

## **SELECTION PROCESS**

The selection process involves consideration of applications by a Selection Committee comprising nominees from Legal Aid NSW's Grants Division and Domestic Violence Unit, a nominee of the WDVCAP, and nominees of the Law Society of New South Wales and the New South Wales Bar Association.

All applications received electronically will be acknowledged by email. Applications will be considered by the Selection Committee at suitable intervals as published on the Panels Application Website.

The Selection Committee makes recommendations to the Chief Executive Officer of Legal Aid NSW who determines the composition of the panel. In the event that it is proposed to refuse an applicant appointment to the panel, the applicant will receive written notification of the proposed determination with reasons. The applicant will then be given a reasonable opportunity to provide further submissions addressing the proposed decision before the final determination is made.

During the evaluation of applications, the Selection Committee may seek further information from an applicant in relation to their application and will contact referees nominated by the applicant. The Selection Committee will consider such information in evaluating the application. The comments and opinions of referees will be taken into account in the assessment of the application. The refusal or failure of any referee to provide a reference will also be taken into account.

In addition to information provided by applicants in response to the selection criteria and references and recommendations of the Selection Committee, Legal

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Aid NSW may take additional matters into account in determining the suitability of applicants for appointment to the panel.

In considering the appointment of a lawyer, the Selection Committee may request, and take into account, any information or opinion provided by a WDVCS operating at a Local Court at which the lawyer has appeared, relating to the lawyer's ability to meet the selection criteria for appointment and suitability for appointment to the panel.

The Committee may request that the applicant attend for interview following consideration of the written application.

All applications will be treated in confidence.

## **PRIVACY**

The information provided in applications will be used to determine eligibility for selection to a panel, and may be used in considering a legal practitioner's continued inclusion on a panel.

The applications will be provided to the Selection Committee, which will include representatives of the Law Society of New South Wales and the New South Wales Bar Association. Information provided in an application may be disclosed to the Monitoring Committee, which includes representatives of the Law Society of New South Wales and the New South Wales Bar Association, and to the Office of the Legal Services Commissioner. It is not intended to disclose any personal information contained in applications to any other persons.

You can access and amend your personal information through Grants Online. The Legal Aid NSW Service Desk, telephone (02) 9219 5999, is available to provide assistance to lawyers in how to update details in Grants Online.

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