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# Criminal matters - counsel 2021/22

## Criminal Law Counsel fee scales 1 July 2021 to 30 June 2022

1. Committal matters charged on or after 30 April 2018
2. Solicitor Advocate/Uninstructed Counsel Fees
3. District Court - Counsel Fees
4. Complex Criminal Law Barrister Panel – Counsel Fees
5. Supreme Court - Counsel Fees
6. Court of Criminal Appeal- Counsel Fees
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### 1. Committal matters charged on or after 30 April 2018

| **Non-complex Children's Court or Local Court committal (Junior Counsel)** | |
|---|---|
| Lump sum fees for counsel | $4800 |
| **Additional Items that can be claimed as applicable** | |
| Attendance at Case Conference and settling of the case conference certificate | $2400 |
| Appearance at a hearing where the Local Court has directed a witness to attend to give evidence | $1200 |
| **Complex Children's Court or Local Court committal (Junior Counsel)** | |
| Lump sum fees for counsel | $5600 |
| **Additional Items that can be claimed as applicable** | |
| Attendance at Case Conference and settling of the case conference certificate | $2400 |

| | |
|---|---|
| Appearance at a hearing where the Local Court has directed a witness to attend to give evidence | $1200 |
| **Complex Children's Court or Local Court committal (Senior Counsel or Queens Counsel)** | |
| Lump sum fees for counsel | $6300 |
| **Additional Items that can be claimed as applicable** | |
| Attendance at Case Conference and settling of the case conference certificate | $2700 |
| Appearance at a hearing where the Local Court has directed a witness to attend to give evidence | $1300 |

## 2. Solicitor Advocate/Uninstructed Counsel Fees

**Scale of fees for approvals made on or after 17 Sep 2012**

Fee scale applies to the following District Court matters:

- Matters which do not fall within the definition of Complex Criminal Matter; and
- Matters committed to the District Court which are not complex and approval has been obtained for the solicitor advocate or uninstructed counsel to appear

Note: Sentence Matters - Refer to Local Court Committals/ District Court & Supreme Court Sentences fee scale for Committal matters charged on or after 1 January 2006.

| | |
|---|---|
| **Trial preparation fee and first day of trial**<br>(Note: Pre trial conference fee is included in preparation fee) | $1,909 |
| **Subsequent days of trial:**<br>Per hour<br>Maximum per day<br>Per co-accused represented per day | <br>$255<br>$1,275<br>$334 |
| **Conference with client or witness** | $170 |
| **Mention:** Per hour in Court | $170 |
| **Appearance on Sentence:** Per day | $765 |
| **Additional Approvals**<br>No other payments will be made unless prior approval is obtained. | |
| Travel Entitlements | |

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person

under the *Crimes (Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986,* or

2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.
4. An order for costs is made in favour of the legally aided person in proceedings under:

- the *Crimes (High Risk Offenders) Act* or *Terrorism (High Risk Offenders) Act*
- the *Child Protection (Offenders Registration) Act 2000,* and the *Child Protection (Offenders Prohibition Orders) Act 2004*
- the *Criminal Code 1995* (Cth)
- the *Crimes (Serious Crime Prevention Order) Act*, and
- the *Crimes (Criminal Organisations Control) Act.*

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## 3. District Court - Counsel Fees

**Note**: For sentence matters where a plea of guilty is entered in the Local Court, refer to Local Court/District Court & Supreme Court Sentences Fees Scale for Committal matters charged on or after. Junior Counsel Note: Fee scale applies to the following District Court matters:

- Matters which do not fall within the definition of Complex Criminal Matter;
- Matters which do fall within the definition of Complex Criminal Law Matter and prior approval has been given for junior counsel who is not appointed to the Specialist Barrister Panel (Complex Criminal Matters) to be briefed.

Refer to Scale of fees: Complex Criminal Law Barrister Panel where such criteria is met. **Initial trial grant**

| | | |
|---|---|---|
| Counsel brief fee | **· Reading the brief (based on 1 day)including conference with the client** | **$1,289** |
| Gaol visit | | **$340** |

**Counsel may be briefed before arraignment.**

The initial trial grant includes perusal of the brief, taking instructions and a conference with the client in a correctional centre, where applicable.

The brief fee is paid once only. Counsel engaged at committal, either to advise on the brief or on a direct access basis, or briefed for the committal, will not be eligible to claim the initial trial grant brief fee as this fee will already have been paid. Once briefed, counsel should make all efforts to remain in the matter.

The same counsel should retain the brief for all stages of the proceedings, including retaining the matter for trial where briefed at committal or before arraignment.

Preparation in addition to the initial trial grant will not be considered before arraignment unless there are exceptional circumstances.

| | | |
|---|---|---|
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Visit to correctional centre | | $170<br>$340 |
| View | Fee as for mention, plus necessary travel expenses if held in the country | |
| No Bill Application/Notice of Motion/other Interlocutory Applications | | $241 per hour to a max. of 5 hours |
| **Appearance in Court** | Daily Appearance fee | $1,119 |
| Each co-accused represented, per day of trial | | $250 |
| Conference with accused, where trial exceeds one week *{up to two (2) per week where held during the trial}* | | $170 |
| Appearance on plea of guilty or sentence following trial | per day | $701 |
| Additional preparation | By negotiation | See guidelines |
| Travel Entitlements | | |

**Queen's Counsel (Q.C.), Senior Counsel (S.C.)**

**Note:** In District Court proceedings it is a condition of the grant of legal aid that a practitioner must not brief senior counsel unless Legal Aid NSW has given express approval. Senior Counsel will only be approved in exceptional circumstances.

**Initial trial grant**

| | | |
|---|---|---|
| **Counsel brief fee** | **· Reading the brief (based on 1 day) including conference with the client** | **$1,882** |
| **Gaol visit** | | **$340** |

**Counsel may be briefed before arraignment**.

The initial trial grant includes perusal of the brief, taking instructions and a conference with the client in a correctional facility, where applicable.

The brief fee is paid once only. Counsel engaged at committal, either to advise on the brief or on a direct access basis, or briefed for the committal, will not be eligible to claim the initial trial grant brief fee as this fee will already have been paid. Once briefed, counsel should make all efforts to remain in the matter.

The same counsel should retain the brief for all stages of the proceedings, including retaining the matter for trial where briefed at committal or before arraignment.

Preparation in addition to the initial trial grant will not be considered before arraignment unless there are exceptional circumstances.

| | | |
|---|---|---|
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Gaol visit | per journey | $250<br>$340 |
| View | Fee as for mention, plus necessary travel expenses if held in the country | |
| No Bill Application/Notice of Motion/ other Interlocutory Applications | | $325 per hour to a max. of 5 hours |
| **Appearance in Court** | Daily appearance fee | $1,632 |
| Each co-accused represented, per day of trial | | $342 |
| Conference with accused, where trial exceeds one week<br>*{up to two (2) per week where held during the trial}* | | $250 |
| Appearance on plea of guilty or sentence following trial | per day | $932 |
| Reading/preparation fee | By negotiation | See guidelines |
| Travel Entitlements | | |

**Recovery of costs in criminal matters** - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986,* or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the*Costs in Criminal Cases Act 1967*.
4. An order for costs is made in favour of the legally aided person in proceedings under:

- the *Crimes (High Risk Offenders) Act* or *Terrorism (High Risk Offenders) Act*
- the *Child Protection (Offenders Registration) Act 2000*, and the *Child Protection (Offenders Prohibition Orders) Act 2004*
- the *Criminal Code 1995* (Cth)
- the *Crimes (Serious Crime Prevention Order) Act*, and

- the *Crimes (Criminal Organisations Control) Act.*

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## 4. Complex Criminal Law Barrister Panel - Counsel Fees

**Junior Counsel** Note: For matters that come under the definition of a Complex Criminal Matter.

Refer to 2. District Court – Counsel Fees for a) matters that do not come under this definition b) all Queens Counsel, Senior Counsel or c) Junior Counsel not appointed to the Complex Criminal Law Barrister Panel.

**Initial trial grant**

| | | |
|---|---|---|
| **Counsel brief fee** | ·Reading the brief (based on 1 day) including conference with the client | **$1,474** |
| **Gaol visit** | | **$340** |

**Complex Criminal Matter**

A complex criminal matter includes:

- All Supreme Court trials and pleas;
- Matters where the maximum penalty is life imprisonment;
- Manslaughter trials and pleas;
- All terrorism matters;
- Sexual Assault matters where there are multiple complainants and/or multiple defendants;
- Matters where the trial is complex because of the nature of the charge or the defence or where significant case management is required (e.g. sex slavery, fraud or money laundering charges where there are more than 30 counts and/or the total value is more than $500,000.00);
- Those trials involving a number of expert witnesses and identified by the trial judge as requiring significant case management pursuant to s.141 *Criminal Procedure Act 1986*;
- Where the trial length is estimated at 20 days or more; and
- Where the brief of evidence is more than 5,000 pages.

**Counsel may be briefed before arraignment.**

The initial trial grant includes perusal of the brief, taking instructions and a conference with the client in a correctional centre, where applicable.

The brief fee is paid once only. Counsel engaged at committal, either to advise on the brief or on a direct access basis, or briefed for the committal, will not be eligible to claim the initial trial grant brief fee as this fee will already have been paid. Once briefed, counsel should make all efforts to remain in the matter.

The same counsel should retain the brief for all stages of the proceedings, including retaining the matter for trial where briefed at committal or before arraignment.

Preparation in addition to the initial trial grant will not be considered before arraignment unless there are exceptional circumstances.

| | | |
|---|---|---|
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Gaol visit | per journey | $170<br>$340 |
| View | Fee as for mention, plus necessary travel expenses if held in the country | |
| No Bill Application/Notice of Motion/other Interlocutory Applications | | $260 per hour to a max. of 5 hours |
| **Appearance in Court** | Daily Appearance fee | $ 1,304 |
| Each co-accused represented, per day of trial | | $250 |
| Conference with accused, where trial exceeds one week *{up to two (2) per week where held during the trial}* | | $170 |
| Appearance on plea of guilty or sentence following trial | $939 | Up to 2 days fixed |
| Additional preparation | By negotiation | See guidelines |
| Travel Entitlements | | |

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## 5. Supreme Court - Counsel Fees

Note: For junior counsel in Supreme Court matters who are not appointed to the Specialist Barrister Panel (Complex Criminal Matters). Exceptional circumstances apply.

Refer to Scale of fees: Specialist Barrister Panel (Complex Criminal Matter) where such criteria is met.

**Initial trial grant**

| | | |
|---|---|---|
| **Counsel brief fee** | · Reading the brief (based on 1 day)including conference with the client | **$1,542** |
| **Gaol visit** | | **$340** |

**Counsel may be briefed before arraignment**

The initial trial grant includes perusal of the brief, taking instructions and a conference with the client in a correctional centre, where applicable.

The brief fee is paid once only. Counsel engaged at committal, either to advise on the brief or on a direct access basis, or briefed for the committal, will not be eligible to claim the initial trial grant brief fee as this fee will already have been paid. Once briefed, counsel should make all efforts to remain in the matter.

The same counsel should retain the brief for all stages of the proceedings, including retaining the matter for trial where briefed at committal or before arraignment.

Preparation in addition to the initial trial grant will not be considered before arraignment unless exceptional circumstances.

| | | |
|---|---|---|
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Gaol visit | per journey | $170<br>$340 |
| View | Fee as for mention, plus necessary travel expenses if held in the country | |
| No Bill Applications/Notice of Motion/ other Interlocutory Applications | | $257 per hour to a max. of 5 hours |
| **Appearance in Court** | Daily appearance fee | $1,292 |
| Each co-accused represented, per day of trial | | $250 |
| Conference with accused, where trial exceeds one week *{up to two (2) per week where held during the trial}* | | $170 |
| Appearance on plea of guilty or sentence | per day | $932 |
| Reading/preparation fee | By negotiation | See guidelines |
| Travel Entitlements | | |

**Queen's Counsel (Q.C.) / Senior Counsel (S.C.) Initial trial grant**

| | | |
|---|---|---|
| **Counsel brief fee** | · Reading the brief (based on 1 day) including conference with the client | **$2,358** |
| **Gaol visit** | | **$340** |

**Counsel may be briefed before arraignment**

The initial trial grant includes perusal of the brief, taking instructions and a conference with the client in a correctional centre, where applicable.

The brief fee is paid once only. Counsel engaged at committal, either to advise on the brief or on a direct access basis, or briefed for the committal, will not be eligible to claim the initial trial grant brief fee as this fee will already have been paid. Once briefed, counsel should make all efforts to remain in the matter.

The same counsel should retain the brief for all stages of the proceedings, including retaining the matter for trial where briefed at committal or before arraignment.

Preparation in addition to the initial trial grant will not be considered before arraignment unless exceptional circumstances.

| | | |
|---|---|---|
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Gaol visit | per journey | $250<br>$340 |
| View | Fee as for mention, plus necessary travel expenses if held in the country | |
| No Bill Applications/Notice of Motion/ other Interlocutory Applications | | $422 per hour to a max. of 5 hours |
| **Appearance in Court** | Daily appearance fee | $2,108 |
| Each co-accused represented, per day of trial | | $342 |
| Conference with accused, where trial exceeds one week *{up to two (2) per week where held during the trial}* | | $250 |
| Appearance on plea of guilty or sentence following trial | per day | $1,254 |
| Reading/preparation fee | By negotiation | See Guidelines |
| Travel Entitlements | | |

**Recovery of costs in criminal matters** - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986,* or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.
4. An order for costs is made in favour of the legally aided person in proceedings under:

- the *Crimes (High Risk Offenders) Act* or *Terrorism (High Risk Offenders) Act*
- the *Child Protection (Offenders Registration) Act 2000*, and the *Child Protection (Offenders Prohibition Orders) Act 2004*
- the *Criminal Code 1995* (Cth)
- the *Crimes (Serious Crime Prevention Order) Act*, and

- the *Crimes (Criminal Organisations Control) Act*.

**Junior Counsel**

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## 6. Court of Criminal Appeal - Counsel Fees

**Junior Counsel**

| | | |
|---|---|---|
| Opinion on the prospects of success or to prepare submissions | Sentence | $1,304 |
| | Interlocutory | $782 |
| | All Grounds | $2,086 |
| | Other: including appeal under Part 5, 7 or 8 Crimes (Appeal and Review) Act 2001 or Supreme Court Act 1970 | $1,304 |
| Crown appeal - Preparation/submissions | $1,304 | |
| **Conference**<br>Per appellant/witness<br><br>Gaol visit | $223<br><br>$340 | |
| Mention | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| | | |
| **Appearance in court** | preparation fee for 1st day<br><br>Half day appearance fee<br><br>Full day appearance fee | $782<br><br>$651<br><br>$1,304 |
| Preparation / Reading Fee - By negotiation | | |
| Travel Entitlements | | |

**Queen's Counsel (Q.C.) / Senior Counsel (S.C.)**

| | | |
|---|---|---|
| Opinion on the prospects of success or to prepare submissions | Sentence | $2,108 |
| | Interlocutory | $1,264 |
| | All Grounds | $3,372 |
| | Other: including appeal under Part 5,7 or 8 Crimes (Appeal and Review) Act 2001 or Supreme Court Act 1970 | $2,108 |
| Crown appeal - Preparation/submissions | $2,108 | |
| **Conference**<br><br>Per appellant/witness<br><br>Visit to gaol/shelter | $326<br><br>$340 | |
| Mention | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Appearance in court** | preparation fee for 1st day<br><br>Half day appearance fee<br><br>Full day appearance fee | $1,264<br><br>$1,054<br><br>$2,108 |
| Preparation / Reading Fee - By negotiation | | |
| Travel Entitlements | | |

**Recovery of costs in criminal matters** - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986,* or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.
4. An order for costs is made in favour of the legally aided person in proceedings under:

- the *Crimes (High Risk Offenders) Act* or *Terrorism (High Risk Offenders) Act*
- the *Child Protection (Offenders Registration) Act 2000*, and the *Child Protection (Offenders Prohibition Orders) Act 2004*
- the *Criminal Code 1995* (Cth)
- the *Crimes (Serious Crime Prevention Order) Act,* and
- the *Crimes (Criminal Organisations Control) Act.*

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## 7. High Court - Counsel Fees

**Junior Counsel**

| | | |
|---|---|---|
| **Special leave application** | Opinion on Merit of Appeal | $1,304 |
| | Grounds and argument | $2,606 |
| | Appearance on special leave | $1,304 |
| **Appeal** | Preparation | $2,606 |
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br><br>Per accused/ witness<br><br>Gaol visit | per journey | $223<br><br>$340 |
| **Appearance on the appeal** | preparation | $1,304 |
| | appearance at court | $1,304 |
| Each co-accused represented, per day of appeal | | $250 |
| Reading/preparation fee | By negotiation | |
| Travel Entitlements | | |

**Queen's Counsel (Q.C.) / Senior Counsel (S.C.)**

| | | |
|---|---|---|
| **Special leave application** | Opinion on Merit of Appeal | $2,108 |
| | Grounds and argument | $4,216 |
| | Appearance on special leave | $2,108 |
| **Appeal** | preparation | $4,216 |
| **Mention** | 1 Hour<br>2 Hours<br>3 Hours<br>All day | $225<br>$323<br>$440<br>$744 |
| **Conferences**<br>Per accused/ witness<br>Gaol visit | per journey | $326<br><br>$340 |
| **Appearance on the appeal** | preparation | $2,108 |
| | Appearance in court | $2,108 |
| Each co-accused represented, per day of appeal | | $342 |
| Reading/preparation fee | By negotiation | |
| Travel Entitlements | | |

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## 8. Additional Preparation

**Committal**

**Legal practitioner (including counsel on a direct access brief)**

A legal practitioner (including counsel on a direct access brief) appearing for a legally aided client at committal may make an application for payment of fees for preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) in addition to the brief fee paid in the standard committal grant. However, additional preparation will not usually be considered at committal unless there is something extraordinary about the brief. Approval for additional preparation and the fee payable is at the absolute discretion of the Director Criminal Law or the Director Grants or their nominee.

Following committal, a legal practitioner may seek additional preparation in relation to material not served prior to committal.

Approval is subject to the Additional Preparation Guidelines.

**Counsel (where approval has been obtained for counsel to advise on the brief and/or approval has been given for counsel to be briefed at committal)**

Where approval has been obtained for counsel to advise on the brief and/or appear for a legally aided client, counsel may make an application for payment of fees for preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) in addition to the fee paid to advise on the brief. However, additional preparation will not usually be considered at committal unless there is something extraordinary about the brief. Approval for Additional Preparation and the fee payable is at the absolute discretion of the Director Criminal Law or the Director Grants or their nominee.
All fees paid at committal will be paid at the Legal Practitioner rate.
Where additional preparation is allowed, counsel will be required to keep a record of time spent on preparation and a synopsis of material read.
The fee for counsel to advise on the brief and/or any fee paid as preparation at committal will be deducted from the fee for preparation for trial.
Approval is subject to the Additional Preparation Guidelines.

**Trial**

**Solicitor**

Following committal, a legal practitioner may seek additional preparation in relation to material not served prior to committal.
Approval is subject to the Additional Preparation Guidelines.

**Counsel**

A fee for reading the brief will be paid to counsel once only. Counsel engaged at committal either on a direct access basis, or to advise on the brief and/or to appear at committal will not be eligible to claim the initial trial grant brief fee as this fee will have already been paid.
Preparation in addition to the fee at committal or the initial trial grant will generally not be considered before arraignment unless there is something extraordinary about the brief.
Approval is subject to the Additional Preparation Guidelines.

**Guidelines for Additional Preparation**

An application for payment of fees for additional preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) are subject to the following guidelines:

1. Before additional fees for preparation will be considered, Legal Aid NSW will require:
   (a) an estimate of the amount of time it will take to read and prepare the case;
   (b) details of the nature and extent of preparation, including the nature of documents to be perused;
   (c) where counsel is briefed, details about which preparation is to be undertaken by counsel and which preparation will be undertaken by the solicitor; and
   (d) an estimate of the court time if the matter goes to hearing/trial.
2. If necessary, Legal Aid NSW will independently examine the documents and may require further and better particulars about the amount of preparation necessary.
3. Requests for additional preparation must be made within sufficient time for the request to be considered by Legal Aid NSW.
4. A practitioner must comply with the file management procedures outlined in the Practice Standards.
5. A practitioner is presumed to know the law. A fee will not be paid for researching the law.
6. Additional fees for preparation will only be allowed where the preparation is necessary and in exceptional circumstances.

**Method for calculating additional preparation**

1. Applications for additional reading may be considered if the brief contains more than 600 pages of reading/scanning material or, preparation sought is greater than a total of 6 hours (where there is a combination of reading/scanning, viewing), and the trial will have one or more of the following characteristics

a) the trial is likely to exceed 10 days, or has taken more than 10 days and the conviction/sentence is appealed;

b) the trial involves multiple accused or multiple offences;

c) the trial involves complex legal issues, such as

i) charges relating to relatively untested law (e.g. terrorism),
ii) complex fraud or money laundering trials,
iii) commercial manufacture or supply of a prohibited drug,
iv) multiple offences against complainants
v) contested expert evidence

2. The method of calculating the fee rate for preparation will apply:

a) Reading by both practitioners

i) Statements
ii) Record of interview
iii) Viewing the record of interview

b) Reading by the barrister only

i) Committal transcript

c) Reading/watching/listening by solicitor or barrister only, but not both

i) Transcripts of telephone intercepts
ii) Transcripts of listening devices
iii) Transcripts of surveillance logs

d) Scanning by either solicitor or barrister but not both practitioners

i) Previous trial transcript
ii) Surveillance logs other than surveillance logs transcribed
iii) Photographs
iv) Financial documents
v) Video/audio tapes other than video/audio tapes transcribed
vi) Medical reports

3. The fee for reading the brief will be paid at the applicable practitioner hourly rate.

4. The fee for scanning the brief will be paid at ½ the applicable practitioner hourly rate.

Note: The amount of additional preparation payable is at the absolute discretion of the CEO, Executive Director Criminal Law, Executive Director, Grants & Community Partnerships, Director Grants or their nominee.

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## 9. Travel Entitlements

**Travel Allowance**

- 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.

Where approved, travel will be paid at a rate of **$0.68 per kilometre** over 35km, or where appropriate, a return economy airfare (whichever is cheaper).

**Payment for travel time**

Payment for travel will only paid where the private lawyer is travelling over 35 kilometres (one way). The hourly fee rate is paid at $85.

**Note**: Travel allowances will be paid at actual kilometre rates submitted

**Note**: Lawyers travelling for duty and case work on the same day can only claim the travel allowance for either duty or the case work.

**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 in accordance with comparable public sector award rates based on the reasonable benefit limits set by the Australian Tax Office (as updated annually).

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## 10. 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 in accordance with comparable public sector award rates based on the reasonable benefit limits set by the Australian Tax Office (as updated annually). 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?**
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.

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