

Quality Management Guidelines

Contents

| | |
|---------------------------|---|
| 1. Purpose | 1 |
| 2. Scope | 1 |
| 3. Quality Standards | 1 |
| 4. Quality Priorities | 2 |
| 5. Quality Assurance | 2 |
| 6. Proactive Monitoring | 3 |
| a. Risk Indicators | 3 |
| Financial | 3 |
| Workload | 4 |
| Complaints | 4 |
| Specific concerns | 4 |
| b. Category of risk | 4 |
| 7. Audits | 5 |
| a. Types of audits | 5 |
| File reviews | 5 |
| Quality Audits | 5 |
| Spot Check Audits | 5 |
| b. Audit outcomes | 6 |
| 8. Responsive Monitoring | 6 |
| a. Investigation | 6 |
| 9. Actions | 7 |
| a. Quality training | 7 |
| b. Interim action | 7 |
| c. Final action | 8 |

1. Purpose

These guidelines detail how the Private Lawyer Quality Standards Unit (PLQS) will oversee the quality assurance of legal aid work undertaken by panel member Law Practices and their Associates. They outline the processes utilised by PLQS for monitoring the following:

- whether the Law Practice and its Associates are undertaking legal aid work in accordance with the Legal Aid NSW (LANSW) Quality Standards
- whether a Law Practice is compliant with the Panel Service Agreement (the service agreement), and
- the steps taken by PLQS where non-compliance is identified.

2. Scope

These guidelines use the Panel Service Agreement and Quality Standards to assess compliance.

3. Quality Standards

The Quality Standards provide Law Practices with clarity on the quality of legal services they are expected to deliver when undertaking legal aid work. They provide a benchmark of service and enable panel member Law Practice's to self-manage the quality of their work.

The Quality Standards contribute to the level of legal services provided to our clients through:

- high quality case management
- enabling unambiguous ethical decision making from all Associates delivering legally aided services
- ensuring culturally appropriate and respectful client engagement

| | |
|-------------------------------|--------------|
| Quality Management Guidelines | Version: 1.1 |
| 9 August 2023 | Page 1 |

- clear accountability in the relationship between LANSW and the Law Practice and Associates.

The Quality Standards also provide LANSW with the foundation from which to monitor and manage quality, identify further development needs and support Law Practices in delivering quality legal services.

The Quality Standards include:

- Practice standards
- Client service standards
- Law Practice requirements
- Individual requirements

4. Quality Priorities

Quality priorities are developed annually and determine the areas of focus for PLQS for the upcoming calendar year. They are based on observed trends and / or issues or concerns in the quality of legal services delivered by our panel member Law Practices. They are designed to improve the quality of services provided to clients by focusing on specific areas of practice improvement.

5. Quality Assurance

To ensure clients are receiving high quality legal representation, PLQS actively monitor the quality of work being done by panel member Law Practices and their Associates and intervene where appropriate. PLQS adopts a risk-based approach to monitoring quality and compliance with the Service Agreement.

There are two types of monitoring approaches that PLQS utilise to identify non-compliance: proactive and responsive.

Proactive monitoring includes:

- Audits
- Dashboard analysis

| | |
|-------------------------------|--------------|
| Quality Management Guidelines | Version: 1.1 |
| 9 August 2023 | Page 2 |

- Regular report and data analysis
- Fieldwork
- Stakeholder engagement.

Responsive monitoring includes:

- Investigations arising out of complaints or issues raised regarding the conduct of a Law Practice or Associate

6. Proactive Monitoring

The Quality Priorities will guide our proactive monitoring. This monitoring involves regularly reviewing data relating to panel member activity. Data is analysed against risk indicators to determine whether any quality issues, including breaches of the Service Agreement, are raised in relation to a panel member Law Practice and/or its Associates.

a. Risk Indicators

The following risk indicators will identify potential quality issues relating to a Law Practice and/or its Associates and will guide the type of intervention that will be taken by PLQS.

Financial

- the amount paid to the Law Practice in the previous financial year
- the percentage increase in payments to the Law Practice over two consecutive years
- a comparison of the amount paid to the Law Practice and/or Associates (relative to the number and types of cases) against the amounts paid to other Law Practices and/or Associates undertaking the same work in a specified area of law
- outcomes of financial transactional audits

| | |
|-------------------------------|--------------|
| Quality Management Guidelines | Version: 1.1 |
| 9 August 2023 | Page 3 |

Workload

- number of legal aid matters assigned during a financial year relative to the number of Associates undertaking legal aid work at the Law Practice
- number of transfer requests from clients
- percentage increase in cases managed by the Law Practice and/or Associates over two consecutive years

Complaints

- number of complaints received
- type and severity of complaint received
- adverse judicial comments

Specific concerns

- previous adverse audit findings
- internal risk flags identified either during or post appointment process.

Following an assessment of the data relating to a Law Practice or Associate against the risk indicators, the conduct will be placed into a category of risk, which will inform what type of intervention is recommended.

b. Category of risk

The categories of risk and the recommended interventions are listed below. It should be noted that the conduct set out under these categories are a guide and the severity of conduct will be considered individually.

| Risk | File Review | Quality Audit | Quality Training |
|---|-------------|---------------|------------------|
| Minimal immediate | | | |
| • Transfer Request concerns. | X | | X |
| • Level 1 Complaint | X | | X |
| • A Level 2 Complaint | X | | X |
| • Amount paid to Law Practice in the previous financial year | X | | |
| • Percentage increase in payments | X | | |
| • Percentage increase in cases managed over two consecutive years | X | | |

| Risk | File Review | Quality Audit | Quality Training |
|---|-------------|---------------|------------------|
| Moderate | | | |
| • Level 1 Complaints (multiple) | X | X | X |
| • Concerns raised during File Review | | X | X |
| • Level 2 Complaints | | X | X |
| • Concerns raised during a previous audit | | X | X |
| High | | | |
| • Level 1 Complaints (multiple) | | X | X |
| • Level 2 Complaints | | X | X |
| • Concerns raised during PLQS complaint investigation | | | X |

Refer to [Legal Aid NSW Complaints handling policy and guidelines](#) for the definition of a Level 1 and Level 2 complaint.

7. Audits

PLQS will coordinate and facilitate the conduct of audits. The Principal of the Law Practice who executed the service agreement will be the primary point of contact. All audits conducted are assessed against the Quality Standards.

a. Types of audits

The following types of audits will be undertaken or facilitated by PLQS:

File reviews

- High level review of files (including duty / advice forms)

Quality Audits

- Formal detailed audit of one or more files

Spot Check Audits

- Audits carried out on a specific work item(s) and not an entire file. Work items will be selected for audit based on risk indicators and/or any concerns raised by practice areas.

b. Audit outcomes

Following the conduct of a file review, quality audit or spot check audit, an outcome of Compliant or Non-compliant will be recorded.

The outcomes are summarised in the table below:

| OUTCOME | RATING |
|---------------|---|
| Compliant | Compliant No breaches of the Service Agreement identified. |
| Non-Compliant | Breach of the Service Agreement identified that may include (but not limited to) one or more of the following: <ul style="list-style-type: none">• Incomplete or no client files• lack of detailed file notes• insufficient evidence of effective communication with client (including advice given to client and instructions taken from client)• discrepancies with application of the Means Test, incomplete documents supporting claims made to LANSW• Failure to comply with an audit request• failure to pay barristers and/or experts |

The outcome of the audit will inform the action taken by PLQS, which is outlined in part 9.

8. Responsive Monitoring

PLQS receives and responds to complaints or serious issues relating to panel member Law Practices or Associates undertaking legal aid work.

Where a complaint or serious issue is raised, PLQS will carry out an investigation.

a. Investigation

Investigations into the conduct of a Law Practice or an Associate will involve:

- formal information gathering where necessary, such as requesting court transcripts or further particulars

- ii. request for a response from the Principal of the Law Practice and / or an Associate
- iii. consideration of relevant responses from the Principal of the Law Practice.

Where there is a high level of technical complexity, the in-house practice areas may be consulted.

Following an investigation, PLQS will consider whether the complaint or issue raised is substantiated and if so, the seriousness of the conduct. This will inform what action will be taken.

9. Actions

a. Quality training

Quality training is developed in response to the Quality Priorities and insights derived from stakeholder feedback or quality monitoring activities. Associates of a panel member Law Practice may be required to undertake training to support the Associate in undertaking legally aided work, or in response to quality concerns.

Quality training includes:

- Online training modules
- Checklists relating to specific practice areas
- Locally delivered face-to-face training
- LANSW conferences
- Access to LANSW training material such as papers and podcasts

b. Interim action

Where a potential breach the Service Agreement has been identified, LANSW can implement one or more of the following actions at any stage during an investigation or while the matter is being considered:

- Cease to allocate work
- Remove existing legal aid work from a Law Practice
- Direct the Law Practice to remove the work from an Associate

| | |
|-------------------------------|--------------|
| Quality Management Guidelines | Version: 1.1 |
| 9 August 2023 | Page 7 |

c. Final action

Where a breach of the Service Agreement has been identified as a result of proactive or responsive monitoring, LANSW may take one or more of the following actions:

- No further action
- Provide support and intervention to the Law Practice
- Allow an Associate to continue to undertake legal aid work with conditions, limitations or restrictions;
- Allow the Law Practice to remain on a Panel/s with conditions, limitations or restrictions, including limiting the number of legally aided matters assigned to a Law Practice;
- Remove existing legal aid work and/or cease to allocate work for a period of time;
- Deem an Associate ineligible to undertake legal aid work;
- Remove the Law Practice from a Panel, some Panels or all Panels
- Take no further action
- Referral to an external agency (such as the Office of the Legal Services Commissioner (OLSC) or Law Society of NSW).

| | |
|-------------------------------|--------------|
| Quality Management Guidelines | Version: 1.1 |
| 9 August 2023 | Page 8 |