

Guidelines for the Domestic Violence Duty Scheme

The aim of the Domestic Violence Duty Scheme (DVDS) 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.

Lawyers undertaking work for the DVDS are bound by the Legal Aid NSW [Quality Standards](#), [Service Agreement](#) and the following DVDS Guidelines.

1. DVDS Locations

The DVDS operates in the following locations:

Metropolitan Local Courts

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

Regional Local Courts

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

2. Appointment to the DVDS

- 2.1. Eligible associates of law practices on the Legal Aid NSW Domestic Violence Panel may apply for appointment to the DVDS. Application is through an Expression of Interest addressing selection criteria determined by Legal Aid NSW.
- 2.2. Each DVDS location will have a set number of lawyers appointed. The number of lawyers for each location will be determined by Legal Aid NSW in consultation with the WDVCS Manager for the relevant courts, based on service delivery needs and the desirability of continuity of service provision to DVDS clients. The number of lawyers appointed to each DVDS location is subject to change at any time.
- 2.3. As part of the Expression of Interest for the DVDS, a lawyer will nominate DVDS locations. The principal place of practice of the lawyer (as registered with and stated on the Law Society NSW website) must be within 35kms of the town where the nominated court is located, unless otherwise approved by Legal Aid NSW.
- 2.4. A lawyer may be appointed to one or more of their nominated DVDS locations and may include both regional and metropolitan local court locations.
- 2.5. Appointment to the DVDS does not confer automatic or ongoing inclusion on a roster, or an entitlement to work.
- 2.6. Review of appointment to the DVDS will be conducted as deemed appropriate by Legal Aid NSW, in consultation with relevant WDVCS Managers.

3. The DVDS Roster

- 3.1. Each DVDS location will have its own duty roster. Duty rosters will be made up of lawyers appointed to that location. In addition to the rostered lawyers, there may also be back-up lawyers appointed for each roster.
- 3.2. The roster will operate for a period of one year.
- 3.3. Legal Aid NSW will contact DVDS lawyers for each DVDS location at least two months before the rostering period to confirm availability for inclusion on the roster.

- 3.4. Attempts will be made for the fair and reasonable rostering of work amongst lawyers taking into account nominated preferences, service delivery and continuity considerations.

4. Role of the WDVCAS

- 4.1. WDVCASs will provide services to women, including cis-gender women and transgender women, who:

- Are experiencing or have experienced domestic and family violence, and
- Are aged 16 years or older.

WDVCASs also provide services to gender diverse and non-binary people who feel comfortable working with the WDVCAS as a women's domestic and family violence specialist service.

- 4.2. The WDVCAS Manager for each court is responsible for maintaining the duty roster.

- 4.3. Once completed a copy of the roster should be provided to:

- The DVDS lawyers on the roster for that location.
- The Legal Aid NSW Duty Scheme Coordinator at dutyscheme@legalaid.nsw.gov.au
- The Manager, Women's Domestic Violence Advocacy Program ("WDVCAP") at wdvcap@legalaid.nsw.gov.au.

- 4.4. The WDVCAS Manager is responsible for keeping an independent and accurate record of the time the start and finish times of the lawyer and will complete the WDVCAS record sheet. These records will be forwarded promptly to Legal Aid NSW when requested. The WDVCAS Manager will also note on the record sheet the names or number of clients that were assisted by the DVDS lawyer.

- 4.5. The WDVCAS Manager is responsible for reporting to the Legal Aid NSW Duty Scheme Coordinator any late or non-attendances by a DVDS lawyer where arrangements have not been made for another lawyer to attend in their place.

5. Role of the DVDS Lawyer

- 5.1. A DVDS lawyer must be familiar with the Legal Aid NSW eligibility policies and guidelines in particular the [Apprehended Violence Order policies and guidelines](#).
- 5.2. A DVDS lawyer has the same duties towards the client as would apply to a private client under the normal practitioner-client relationship.
- 5.3. If unavailable to attend on the rostered date, the DVDS lawyer is responsible for organising a swap or substitute with another DVDS lawyer on the same roster at least 48 hours in advance of the rostered duty. The Manager WDVCS and the Legal Aid NSW Duty Scheme Coordinator must be advised of the roster change (by email)
- 5.4. If no other lawyer on the roster is available to swap or substitute, the WDVCS Manager and the Legal Aid NSW Duty Scheme Coordinator must be notified (by email) at least 48 hours in advance of the rostered duty, unless there are exceptional circumstances.
- 5.5. Duty roster commitments may not be delegated to lawyers who are not part of the DVDS unless there are exceptional circumstances or with prior written approval of the Legal Aid NSW Duty Scheme Coordinator.
- 5.6. Failure to notify the Legal Aid NSW Duty Scheme Coordinator of a change to the roster could result in delayed payment of duty invoices and constitutes a breach of these guidelines.

6. Responsibilities of the DVDS lawyer on the roster date

The rostered DVDS lawyer is expected to:

- 6.1. Attend court on their rostered dates at 9.00am unless otherwise agreed with the WDVCS Manager and be present in the same room or relevant court room for the duration of the duty day.
- 6.2. Notify the WDVCS Manager if you leave the court precinct for any reason prior to the completion of the duty day.

- 6.3. 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 is the primary victim of domestic or family violence. Lawyers should use their judgement based on client instructions, court documents and WDVCS information sharing, as to whether a client is a primary victim of domestic and family violence.
- 6.4. Ensure that adjournments for further mention(s) coincide with an AVO list day when a DVDS lawyer will be present.
- 6.5. Complete the Criminal Law Duty and Advice Application form and have the client sign that form. The form should contain detailed and legible notes recording the advice given, instructions received and outcome. Each form must be retained by the lawyer for Legal Aid NSW audit purposes.
- 6.6. Provide details of outcomes of all ADVO proceedings (mentions and hearings) to the WDVCS Manager, and provide them with a copy of orders made for the client.
- 6.7. Work co-operatively at all times with WDVCS staff, police officers (in particular, Domestic Violence Liaison Officers and police prosecutors) and court staff.
- 6.8. If time permits, debrief with the WDVCS Manager on the AVO list day before leaving court.

Legal Advice and Representation

- 6.9. A DVDS lawyer is required to provide legal advice, representation and referrals to individuals referred by the WDVCS.
- 6.10. Legal advice is expected to be given 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, but is not limited to:
 - explaining the effect of an ADVO and the court process
 - ensuring that applications and specific conditions sought are appropriate
 - negotiating with defendants and police to obtain orders by consent

- providing advice and/or negotiating parenting 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
- providing advice to PINOPs and defendants about ADVO variation applications and drafting such applications and assisting the client to file them where appropriate
- providing advice to individuals seeking a private ADVO (including cross applications) and assisting them to draft and file such application where appropriate,
- drafting representations to NSW Police where appropriate, and
- drafting and filing Property Recovery Order applications where appropriate.

6.11. Duty representation is expected for individuals referred by the WDVCS:

- who are PINOPs seeking to vary or revoke an ADVO;
- who are seeking a private ADVO (including cross-applications) and any associated Property Recovery Order Application;
- who are defendants in an application for an ADVO where they are a victim of domestic or family violence, or to vary or revoke an ADVO.

Applying for Grants of Legal Aid

6.12. The DVDS lawyer should apply for a grant of legal aid for any client represented on a duty basis who satisfied Legal Aid NSW eligibility policies and guidelines for a grant of legal aid, particularly the [AVO policies](#).

6.13. Should an ADVO matter progress to a contested hearing, the DVDS lawyer who obtains a date for the hearing is responsible for submitting an application for a grant of legal aid on behalf of the client.

6.14. The DVDS lawyer should make reasonable efforts to retain the approved grant of aid, but in the event they are unable to do so must immediately submit a transfer request.

- 6.15. The DVDS lawyer should make reasonable efforts to continue to appear on behalf of a client in any subsequent appeal to the District Court with a grant of legal aid, if eligible.

7. Travel

- 7.1. Travel will not be paid to DVDS lawyers rostered to attend a metropolitan Local Court in the Sydney metropolitan area.
- 7.2. Travel will not be paid to a DVDS lawyer rostered to attend a regional Local Court except where:
- The distance between the court and the lawyer's principal place of practice is over 35kms, and
 - Legal Aid NSW has approved payment of travel costs.
- 7.3. Any request for travel outside these guidelines must be approved by the Legal Aid NSW Duty Scheme Coordinator.

8. Invoicing

- 8.1. Payment for work undertaken on the DVDS will be in accordance with the Legal Aid NSW [Fee Scales](#).
- 8.2. Claims for payment should be submitted through the Legal Aid NSW grants management system within 30 days of the corresponding duty attendance.
- 8.3. A lawyer cannot claim imbursement for the time spent on other commitments or private clients during DVDS work.
- 8.4. All duty claims are checked on a regular basis with WDVCS records.

9. Dispute Resolution

- 9.1. In the event of a dispute the DVDS lawyer and the relevant WDVCS Manager shall attempt to settle the dispute.
- 9.2. If the dispute is not settled by the parties, either party shall submit the dispute to both the Manager, WDVCS and the Legal Aid NSW Duty Scheme Coordinator.

- 9.3. WDVCAP and the Director Legal Services, Legal Aid NSW will determine a resolution.

10. Removal or suspension from the DVDS

- 10.1. A lawyer may be removed from the DVDS in the following circumstances:
- For a breach of these guidelines and/or Legal Aid NSW Service Agreement and/or Quality Standards;
 - Where the Lawyer is no longer a Domestic Violence Panel member;
 - At the lawyers' request. If the lawyer is on a roster and requests removal, they must provide reasonable notice to the WDVCS Manager and Legal Aid NSW Duty Scheme Coordinator.
- 10.2. Legal Aid NSW monitors the quality of duty assistance provided by private lawyers on the DVDS and handles complaints made against them. Complaints or suspected breaches of the Quality Standards and/or these Guidelines may result in removal or suspension of the practitioner from the DVDS.
- 10.3. While a complaint is under investigation, the DVDS lawyer may be suspended from the roster pending the outcome of the investigation and any subsequent determination.
- 10.4. Before a DVDS lawyer is removed from the roster due to breach of the Guidelines, Legal Aid NSW Service Agreement or Quality Standards, they will be formally notified of the intention to remove them, provided with reasons, and given an opportunity to respond to the issues raised.

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.