

Guidelines for the Virtual Bail Court Scheme

Virtual Bail Court Scheme (VBCS) practitioners are bound by the Legal Aid NSW [Quality Standards](#), [Service Agreement](#) and the following VBCS Guidelines when providing duty or assistance on behalf of Legal Aid NSW. VBCS membership is open only to individuals and not to firms.

Allocation of work

1. The amount of legal aid duty back-up for private practitioners is limited and is dependent upon the capacity of the in-house solicitors to meet the demand for legal aid services. This capacity can vary over time, and from court to court.
2. Appointment to the VBCS does not confer an entitlement to work. Legal Aid NSW is, however, committed to ensuring a fair and reasonable distribution of work amongst practitioners appointed to the VBCS in each area.

A practitioner may be offered work from a Statewide list should a local practitioner not be available.

VBCS offers of work will be made through the Back Up Duty Allocation System (BUDSAS) to ensure fair and reasonable distribution of work amongst practitioners, VBCS Practitioners must accept work through a work offer from BUDSAS by SMS with the court location listed as “Virtual Bail Court”

3. It is the responsibility of the Solicitor in Charge or Senior Criminal Law Solicitor at each regional office or criminal law section to ensure the fair and reasonable distribution of work allocated under the VBCS.
4. VBSC practitioners who undertake work on these days will be remunerated for a minimum of 5 hours plus 1 hour follow up work and must not undertake other work, including other Legal Aid NSW matters or physical appearance in any other court.
5. Only practitioners on the VBCS can be allocate virtual bail court work.

Role of the VBCS Practitioner

6. Have read and be familiar with the Standard Operating procedures for centralised weekday bail as set By The Local Court NSW.
7. When required to perform bail work, a practitioner must setup the necessary tech systems in a suitable environment for conferencing and appearing via AVL by 9.00am, or as otherwise directed by the relevant local Legal Aid NSW office.

Virtual Bail Court Scheme Guidelines	Version 1
June 2025	1

Technical and Operational Readiness for Virtual Bail Court Work

8. As all bail proceedings are conducted virtually, solicitors wishing to undertake Bail Court work must ensure they possess the necessary skills, equipment, and confidence in digital platforms to appear and operate effectively in virtual courtrooms. This includes:
 - Access to a fully functional computer suitable for video conferencing and online court appearances.
 - The ability to reliably connect to virtual courtrooms, including navigating platform links and logins.
 - Appropriate audio and video accessories (e.g. headset and webcam) to ensure clear communication during all conferences and court proceedings.
 - Proficiency in Microsoft Teams, which is the primary communication platform used for Centralised Bail Court.
 - Familiarity with Webex, which is used for conferencing with defendants and during specific court appearances.
 - The ability to complete and submit the Legal Aid NSW Digital Duty Form efficiently and accurately.
 - Capability to receive, mark up, and manage paperwork electronically (or arrange printing at personal expense if preferred).
 - Competency in sending and receiving documents electronically, including emails and shared file platforms.
 - Comfort with navigating digital workflows, following procedural steps without hard-copy backups.
 - Access to a stable and reliable internet connection to prevent disruption during court proceedings.
 - Basic troubleshooting skills to address common technical issues quickly and independently.
9. It is the VBCS practitioners' responsibility to conference defendants via Audio Visual Link (AVL) and to report any issues with the availability of or quality of AVL facilities in all locations.
10. The VBCS practitioner must complete administration tasks and follow processes as set out by Legal Aid NSW.
11. The VBSC practitioner must attend virtual bail court as arranged with Legal Aid NSW. If unable to do so, a practitioner must advise the office of Legal Aid NSW as soon as possible.
12. VBSC practitioners are expected to work collaboratively with other solicitors in a hub, handling matters beyond their local area if required.
13. In-house solicitor(s) are responsible for coordinating the allocation of tasks and matters and are required to direct the VBSC practitioners accordingly. The VBSC practitioner should advise the solicitor(s) rostered on their hub as soon as practicable after reporting for duty. The VBSC practitioner should also advise the in-house solicitor(s) if they require breaks from duty outside of the regular morning tea and lunch breaks.

Virtual Bail Court Scheme Guidelines	Version 1
June 2025	2

14. Completion of Digital Criminal Law Duty Form – First Contact Matters

15. In all first contact duty matters, the VBSC practitioner must ensure that the [Digital Criminal Law Duty Form](#) is fully completed. This requirement applies regardless of whether the client is in custody or at liberty—all fields on the form must be addressed without exception. If the client is in custody and unable to sign, a physical signature is not required. In such cases, the practitioner should clearly record that the client is in custody.
16. At the end of each day, once all bail matters are completed, the practitioner must ensure that all related papers and the Duty Form are forwarded to the appropriate administrative address(es) as designated by Legal Aid NSW. All documentation must be submitted to the relevant Legal Aid NSW office on the same day as the bail appearance. *Please note: multiple locations may be involved depending on the jurisdiction or specific matters addressed.*
17. The VBSC practitioner must undertake legal aid work in an effective and efficient manner bearing in mind the high volume demands of duty work, while ensuring all clients are represented to a high professional and ethical standard.

Distribution and Confidentiality of Court Papers

18. Court papers for the entire hub will generally be provided electronically by Police NSW. In some cases, however, the responsibility for forwarding these documents may fall to a Legal Aid NSW representative.

All such emails and attachments must be treated as strictly confidential:

- Only the intended recipient or an authorized individual may access, share, or act upon the contents.
- If you are not the designated solicitor for the day or have received the information in error, do not read, store, distribute, or use the materials in any way.
- In such cases, promptly notify the sender via reply email and delete the message—including any attachments—from your system.

Who must the VBSC Practitioner appear for?

19. Unless otherwise directed by the in-house practice, the VBSC practitioner must represent clients who qualify for legal aid in the following matters:
- Release (bail) applications, bail variations, detention applications and breach of bail proceedings (noting that the Means Test does not apply to first bail applications)
 - Mentions and adjournments
 - Pleas of guilty and sentence matters in summary State and Commonwealth charge matters and indictable charge matters which may be dealt with summarily
 - Applications under section 14 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW) (or s20BQ Commonwealth applications)

- Forensic Procedure Applications for eligible defendants: see [2.2.3.7], [2.2. Local Court criminal law matters - Legal Aid NSW](#)
- Filing and proceeding with section 4 Annulment applications
- Apprehended Domestic Violence Orders for eligible defendants: see [5.1. Apprehended Domestic Violence Orders - Legal Aid NSW](#)

Section 14 Applications

20. The VBCS practitioner should not adjourn a matter for the purposes of a section 14 application, unless:

- The accused person is eligible for a grant of aid,
- Arrangements are in place to obtain reports in support of the proposed application, and
- The file is clearly marked with what those arrangements are

21. If the proposed arrangements for obtaining reports in support of a s14 will require expenditure, the matter should not be adjourned for this purpose without approval of the senior in-house solicitor present at the time. If no in-house solicitor is available or it is impractical to obtain their approval before adjourning the matter, the BUDS practitioner in seeking the adjournment for a s14 application should advise the court that the undertaking of an assessment and report on the client is subject to a grant of aid for this purpose.

Setting down Defended Hearings

22. When the VBCS practitioner is asked to fix a date for a defended summary hearing, or any other matter which requires expenditure, the VBCS practitioner must be satisfied that the client either:

- has a grant of legal aid for that specific matter, or
- is eligible to be granted legal aid and has provided the required verification documents

23. If the VBCS practitioner is not satisfied that the client has a grant, or is eligible to be granted legal aid, the BUDS practitioner must:

- **For non-Domestic Violence proceedings:**
Obtain instructions from the client to adjourn the proceedings so as to allow the client to provide verification documents, or
 - in Domestic Violence proceedings, or where an adjournment is not sought or is refused the VBCS should advise the court the VBCS practitioner is appearing on a duty basis,
 - legal aid has not yet been granted to the client for the defended hearing/s.14 application etc,
 - representation on the hearing date is subject to the client being granted legal aid or arranging their own legal representation
 - If there is no grant of legal aid, or they do not to make their own arrangements the defendant will be unrepresented, and
 - Any outstanding brief items are to be served on the defendant

Section 4 Annulment applications

- 24.** Where the VBCS practitioner is instructed to file a section 4 annulment application, the VBCS practitioner should file the application with the court during the course of the duty day where reasonably practicable to do so. This can be done via electronic means either to the Virtual Bail Court during the proceedings or afterwards at the adjourned court. The annulment application and proof of filing should be sent with the other paperwork.
- 25.** The VBCS practitioner must undertake Centralised Bail Court training, which will be provided by Legal Aid NSW.

Duty as if to private client

- 26.** A VBCS practitioner has the same duties towards the Legal Aid NSW client as would apply to a private client under the normal practitioner-client relationship.
- 27.** If the VBCS practitioner believes they are unable to act for the client for ethical reasons, the VBCS practitioner should refer the client to another practitioner performing duty work at the court on the day. If not practical, seek instructions from your client in relation to an adjournment.

Verification of means

- 28.** If the client is on Centrelink, the VBCS practitioner should ensure that the Centrelink Consent on the duty form has been signed.
- 29.** The VBCS practitioner has the delegation to waive the requirement for verification for duty matters in special circumstances [9. Discretions under the Means Test](#). This delegation does not extend to verification for a grant of aid.

Record-Keeping and Digital File Management in Bail Matters

- 30.** For all bail matters conducted under the virtual practice model, the VBCS practitioner must maintain detailed and legible digital notes clearly documenting the advice provided and instructions received.
- Where a plea of guilty is to be entered, the practitioner should obtain the client's instructions and record them clearly in their notes, along with an explanation if a signature could not be obtained (e.g. client in custody).
 - The outcome of court proceedings must be recorded promptly—either within the electronic duty form or in accordance with the digital file management practices of the Legal Aid NSW office where duty is being performed.

Submission of Digital Documentation – Bail Duty Work

- 31.** For all duty back-up work conducted under the virtual practice model, the BUDS practitioner must ensure that all digital files, duty forms, and legal aid applications resulting from the day's work are submitted to the Legal Aid NSW office servicing the relevant court by the end of the duty day.

VBCS practitioners must liaise with the local Legal Aid NSW office to confirm the appropriate digital channels, file formats, and submission processes for transmitting documentation. Prompt and accurate file transfer supports continuity of service and client follow-up.

- 32.** All applications, regardless of whether the matter was adjourned or completed on the day, should be returned to Legal Aid NSW. The VBCS practitioner will not be authorised to retain any matter resulting from a duty back-up appearance.
- 33.** Duty tax invoices must be submitted through Grants Online as soon as possible after the performance of duty back-up work to allow for prompt payment.

Removal or suspension from the VBCS

- 34.** Legal Aid NSW's Criminal Law Executive monitors the quality of legal aid work undertaken by VBCS practitioners as well as compliance with these Guidelines and handles complaints against them.
- 35.** Complaints or suspected breach of these Guidelines will be investigated by the Crime Executive and may result in removal or suspension of the practitioner from the VBCS.
- 36.** A practitioner will be removed from the Virtual Bail Court Scheme by the Executive Director Criminal Law or their delegate in the following circumstances:
- after a Review of Appointments is conducted and a determination is made not to re-appoint a practitioner.
 - at the practitioner's request.
 - if the practitioner becomes ineligible to undertake legal aid work on the Summary Crime Panel.
 - for a breach of the VBCS Guidelines, Legal Aid NSW Service Agreement or Quality Standards.
- 37.** where a Virtual Bail Court Scheme practitioner fails to meet the working arrangements required of the Virtual Bail Court, Legal Aid NSW may require a practitioner to undertake training, be subject to supervision or be provided with support in a manner Legal Aid NSW Crime Executive deem appropriate in order to remain on the scheme.
- 38.** Prior to removal from the Virtual Bail Court Scheme for breach of the VBCS Guidelines, Legal Aid NSW Service Agreement and/or Quality Standards, the practitioner will be advised of the intention to remove and the reason for removal and will be given an opportunity to address the issues raised.

- 39.** Breaches of the Legal Aid NSW Service Agreement and/or Quality Standards may also be referred to the Private Lawyer Quality Standards Unit (PLQS) for investigation in accordance with Clause 11 of the Service Agreement.

Temporary Deactivation

- 40.** If a practitioner has been offered but has not accepted Virtual Bail Court work for over 6 months, their membership may be temporarily deactivated until they advise Legal Aid NSW that they are available to accept duty work again.

Definitions

Assignment

The process of allocating a grant of legal aid for the provision of legal services to a legal practitioner who is not employed by Legal Aid NSW or to a private law firm, or another organisation external to Legal Aid NSW (such as a Community Legal Centre). The grant of legal aid is “assigned” to the private legal practitioner, law firm or other organisation. Legal Aid NSW has power to assign legal work is under s12 of the Legal Aid Commission Act 1979 (NSW).

Duty Work

Duty work does NOT include EAGP matters, appearing in defended hearings or in matters requiring expenditure.

Grant of Legal Aid

Grant of aid means the funding of legal services by Legal Aid NSW.

Law Practice is defined by the Act and means:

- a sole practitioner (including a barrister)
- a law firm
- an incorporated legal practice
- an unincorporated legal practice.

Special Circumstances

Special circumstances for the purpose of waiver of verification of means in duty matters may include, but are not limited to, where the applicant is in custody and has a District Court appeal or Supreme Court bail application.

Verification

Legal Aid NSW requires that clients verify their means (both income and assets) as disclosed in the legal aid application.