

Applying to be a legal aid provider

Step-by-step guide

Ministry of Justice

July 2021



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JUSTICE
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New Zealand Government

Introduction

This guide will help you complete an application to become an approved provider of legal aid services or specified legal services under section 77 of the Legal Services Act 2011 (Act).

The guide explains some of the terms used in the forms and includes a checklist to help you ensure your application is complete.

Before you can provide legal aid services or specified legal services, you need to have first been approved to provide these services (section 75 of the Act) *and* have entered into an agreement with the Secretary to do so (section 69(b) of the Act). The Secretary won't be able to consider retrospective applications.

To be approved, you must provide enough information to satisfy the criteria set out in the Legal Services (Quality Assurance) Regulations 2011 (Regulations).

When to use the application form

Applying for the first time

whether as a lead provider, supervised provider, provider of specified legal services or for a limited approval.



Already an existing provider

and you are applying for approval in another area of law or at a higher level (for Criminal approval).



Relevant legislation

[Legal Services Act 2011](#)

[Legal Services \(Quality Assurance\) Regulations 2011](#)

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The application form



Prescribed manner for applying

It's important you answer every question on the form, except where it is stated the question is optional.

The form must be filled in electronically so you can select from drop down options. You must save a copy of the form to your computer **before** you fill it out. Please do not fill in the form online without saving it to your computer first – this will result in information being lost when you send it to us and we will not be able to process it.

You must email your completed application to legalaidprovider@justice.govt.nz along with your supporting documentation. Your application will only be assessed if it's complete.

Where possible, send your application and supporting documentation in one email. If you need to send the information in multiple emails, make this clear in the subject line (for example, Email 1 of 3).

Supervised providers: You do not need to complete the *Recent experience* or *Case examples* sections.

Queen's Counsel: You do not need to complete the *Recent experience*, *Case examples* or *References* sections.

Limited approval: You must complete the whole form (including the *Case examples* and *References* sections, to the extent you can) and explain why you should be granted a limited approval in the *Additional information* section on page 4.

Before submitting your application, make sure you've provided:

1. The completed application using the Ministry of Justice form
2. The required number of case examples with completed coversheets and indexes of supporting documents
3. The required number of referee declarations
4. Your supervision arrangements and undertakings from your employer or nominated supervisor(s) (if applying for supervised approval)
5. Any other documentary evidence requested on page 5 of the application form.

Provider contract for service

By signing the application form, you're agreeing to the terms and conditions in the provider contract prescribed by the Secretary for Justice (Secretary). The contract is available on the [Ministry of Justice website](#).

Experience criteria



The Secretary is responsible for assessing whether an applicant applying for approval to provide legal aid services or specified legal services is experienced and competent to provide those services.¹ In deciding whether an applicant is sufficiently experienced and competent, the Secretary must:²

- apply the relevant experience and competence requirements in the Schedule to the Regulations (summarised below)
- consider the applicant's experience as a lawyer³
- be satisfied that the applicant has the appropriate level of knowledge and skill to provide the relevant services.

The Secretary makes their decision after receiving a recommendation from a Selection Committee. Both the Selection Committee and the Secretary will consider your case examples, general experience and other information provided.

The experience and competence criteria table on the following page provides a guide to help applicants determine whether they're ready to apply for lead approval. If an applicant decides they're not yet ready for lead approval, the Secretary encourages them to apply for approval as a [supervised provider](#). This is a good way for lawyers to gain the experience and competence they'll need to be approved as a lead provider.

The table is split into four columns:

- *Minimum period of recent experience*
- *Minimum number of cases or proceedings (substantial and active)*
- *Indicative number of cases or proceedings (substantial and active)*
- *Other requirements*

The first, second and third columns outline the requirements listed in the Schedule to the Regulations for each area of law. Keep in mind that the first two columns outline the minimum requirements for approval. To be approved, the Secretary must be satisfied an applicant is sufficiently experienced and competent to provide the relevant service(s). The more relevant experience an applicant has, the more likely the Secretary will be satisfied they're sufficiently experienced and competent.

The third column provides a general guide about the level at which the Secretary is likely to be satisfied that a typical applicant has the necessary practical experience to be approved. However, we stress that this is a guide only, and you don't need to have completed this number of cases or proceedings for approval. Provided an applicant satisfies the minimum requirements, the Secretary will be considering whether an applicant is sufficiently experienced and competent to provide the relevant service(s). This will be determined by the individual merits of each application.

¹ Reg 6(1) of the Regulations

² Reg 6(2) of the Regulations

³ Employment advocates don't need to be lawyers.

References to ‘substantial and active involvement’ mean making a significant contribution to all or most key parts of the case or proceeding.

Experience and competence criteria

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
Criminal Provider Approval Level (PAL) 1⁴	At least 12 months in criminal law practice	Appeared as counsel with substantial and active involvement in at least 3 trials	Appeared as counsel with substantial and active involvement in 5 trials that have progressed to at least the close of the prosecution case	-
Criminal PAL 2	At least 24 months on Criminal PAL 1 proceedings	Appeared as counsel with substantial and active involvement in at least 3 trials that are Crown prosecutions	Appeared as counsel with substantial and active involvement in 5 Crown prosecution trials that have progressed to at least the close of the Crown case	-
Criminal PAL 3	At least 36 months on Criminal PAL 2 proceedings	Appeared as counsel with substantial and active involvement in at least 4 Criminal PAL 3 or 4 proceedings where at least 1 charge carried a maximum penalty of 10 years’ imprisonment or more or the defendant is likely to face cumulative sentences of more than 10 years’ imprisonment	Appeared as counsel with substantial and active involvement in 10 Criminal PAL 3 or 4 proceedings that have progressed to at least the close of the Crown case, including at least 3 proceedings where at least 1 charge was for a sexual offence carrying a maximum penalty of 14 years’ imprisonment or more	-
Criminal PAL 4	At least 24 months on Criminal PAL 3 proceedings	Appeared as counsel with substantial and active involvement in at least 4 Criminal PAL 3 or 4 proceedings where at least 1 one of those proceedings is a PAL 4 proceeding	Appeared as counsel with substantial and active involvement in 10 Criminal PAL 3 or 4 proceedings that progressed to at least the close of the Crown case where at least: <ul style="list-style-type: none"> - 3 were Criminal PAL 4 proceedings, and - where at least 1 charge was for a sexual offence carrying a maximum penalty of 14 years’ imprisonment or more 	-
Duty Lawyer	At least 6 months in criminal law practice	Appeared as counsel with substantial and active involvement in: <ul style="list-style-type: none"> - 1 pre-trial hearing - 1 hearing at which an opposed bail application was made - 1 trial conducted by or on behalf of Police before a Judge alone, and - 1 sentencing hearing at which a plea of mitigation was made 	Appeared as counsel with substantial and active involvement in 10 criminal proceedings	Successfully completed duty lawyer training course (unless waived by Secretary)

⁴ If you’re unsure about the approval level to apply for, please refer to Appendix 1 – Guidance for assessing Criminal PALs.

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
Police Detention Legal Assistance	At least 24 months working on Criminal PAL 1 proceedings	Appeared as counsel with substantial and active involvement in at least 3 trials that are Crown prosecutions	Appeared as counsel with substantial and active involvement in 5 Crown prosecution trials that have progressed to at least the close of the Crown case	-
Parole Board	N/A	N/A	At least 12 months' experience at Criminal PAL 1 Appeared as counsel with substantial and active involvement in 10 criminal proceedings, including at least 3 sentencing hearings where a plea of mitigation was made	-
Family/ Family Legal Advice Service	At least 18 months working on family cases	Substantial and active involvement in at least 5 family cases of various types, including interlocutory hearings, mediation conferences, judicial conferences and proceedings where witnesses gave oral evidence	Substantial and active involvement in 10 family cases of various types	-
Civil	At least 18 months working on civil cases	Appeared as counsel with substantial and active involvement in at least 3 civil proceedings Assisted in the preparation of at least 2 other civil proceedings	Appeared as counsel with substantial and active involvement in 5 civil proceedings, including at least 2 where the applicant led evidence from, or cross-examined, witnesses. These may be interlocutory, procedural or case management hearings as well as the substantive hearing Assisted in the preparation of at least 4 other civil proceedings	-
Mental Health	At least 24 months working on family or criminal law cases	-	Substantial and active involvement in at least 15 family or criminal law cases	Observed at least 3 completed mental health cases
Employment Advocate	N/A	N/A	Substantial and active involvement in 5 employment matters such as: - mediation - dispute resolution - HR issues	-
Court of Appeal and Supreme Court	At least 5 years in litigation work	Substantial and active involvement in 5 appeal proceedings of various types (including, without limitation, pre-trial hearings, Solicitor-General's appeal, and appeal by way of case stated) in the High Court or another higher court	Substantial and active involvement in 5 appeal proceedings of various types in the High Court or another higher court, at least 3 of which have been in the Court of Appeal or Supreme Court	-

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
Refugees and Protected Persons	At least 18 months working on refugee and protected person cases	Substantial and active involvement in at least 5 cases at the Refugee Status Branch level Actively participated in at least 1 proceeding before the Immigration and Protection Tribunal, Deportation Review Tribunal, Refugee Status Appeals Authority, or Removal Review Authority	Substantial and active involvement in 10 cases at the Refugee Status Branch level Actively participated in 2 proceedings before any of the following tribunals/authorities: Immigration and Protection Tribunal, Deportation Review Tribunal, Refugee Status Appeals Authority, or Removal Review Authority	-
Waitangi Tribunal	At least 18 months working on Waitangi Tribunal cases	Substantial and active involvement in at least 3 substantial Waitangi Tribunal proceedings	Substantial and active involvement in 5 substantial Waitangi Tribunal proceedings	Have sound knowledge of Te Tiriti o Waitangi and Waitangi Tribunal jurisprudence Have an understanding of tikanga Māori and basic ability in te reo Māori
Māori Land Court and Māori Appellate Court	At least 18 months working on Māori Land Court cases	Substantial and active involvement in at least 3 substantial Māori Land Court proceedings	Substantial and active involvement in 5 substantial Māori Land Court proceedings	Have sound knowledge of Te Tiriti o Waitangi and Māori land law Have an understanding of tikanga Māori and basic ability in te reo Māori

Waiver of requirement that experience be recent

Recent experience is defined in the Regulations as “in relation to an application from a lawyer, experience gained in the 5 years immediately before the date of application”.⁵ However, the Secretary may waive the requirement that an applicant’s relevant experience be recent if the Secretary is satisfied that the applicant meets the relevant experience and competence requirements in all other respects.⁶

If your experience isn’t recent, you should outline your previous experience, and any other relevant information (such as recent courses completed), in the *Additional information* section of the form.

⁵ Reg 3 of the Regulations

⁶ Reg 6A of the Regulations

Sections of the application form

Contact details

In this section, we ask you to provide your contact details, including your (or your practice's) bank account and GST numbers if we don't already have them. If you're not sure whether we have these details, please provide them. You must also provide a copy of a bank deposit slip or similar proof of your bank account, including bank logo, account name and account number. Applicants applying for supervised approval don't need to provide bank account or GST details.

The contact details you provide will be used by Legal Aid Services to communicate with you. You'll normally receive correspondence via email. Your contact details will also be provided to your legal aid clients in assignment letters and be published on our website (['Find a Legal Aid Lawyer/Provider'](#) and/or ['Care of Children'](#)), so please only provide contact details you're comfortable with being publicly available.

Area(s) of law you're applying for

In this section, tell us which legal aid services and/or specified legal services (for example, Police Detention Legal Assistance, Family Legal Advice Service, or Duty Lawyer) approvals you're applying for.

You need to specify which area(s) of law you're applying for approval in, and whether you're seeking lead provider, supervised provider or limited approval. **Please note:** If you're applying to provide a specified legal service, you can't apply for supervised provider approval.

Lead providers

Lawyers or employment advocates approved by the Secretary to provide legal aid services or specified legal services in one or more areas of law.

Supervised providers

Lawyers approved by the Secretary to provide legal aid services in one or more areas of law under the supervision of a lead provider.

Limited approval

A lawyer approved by the Secretary as a lead provider for:

- a proceeding to provide continuity of services, or
- a proceeding or type of proceeding because of their specialist skills or experience, or a shortage of existing providers with the necessary skills and experience.

Supervised providers

Supervised providers are lawyers who don't meet the experience or competence requirements to be approved as a lead provider, but otherwise meet the criteria for approval in the Regulations.

Approval as a supervised provider is subject to the requirement that the supervised provider is supervised by, and responsible to, a lead provider approved in the area(s) of law applied for. Legal aid cases cannot be assigned to a supervised provider and a supervised provider cannot be paid directly for the work they undertake. Instead, work is delegated to them from the lead provider and Legal Aid is invoiced by the lead provider.

The lead provider is responsible for all work carried out on cases assigned to them. This includes responsibility for:

- all work completed by a supervised provider
- ensuring all work delegated to the supervised provider is adequately supervised, including where supervision is delegated to another lead provider.

Supervision is an interactive process. The lead provider has oversight of all work done by a supervised provider, including:

- reviewing written work
- discussing advice and information for clients
- providing feedback on the supervised provider's performance.

Lead providers may ask supervised providers to self-assess their performance as a basis for ongoing development and training. This aligns with the New Zealand Law Society's Continuing Professional Development Rules, which encourage all lawyers to identify areas for their own development.

It's expected that a lead provider will have held an approval in the relevant area of law (and level for Criminal) for at least 1 year (and actively practised in that area for that period) to perform the role of a supervisor.

Undertaking of supervision

If you're applying for supervised provider approval, you must attach an undertaking of supervision with your application. This undertaking may be in the form of a signed letter or an email, provided the email address and email signature can be identified.

We accept two types of undertaking:

Employer undertaking

Your employer must confirm:

- you're employed by their practice
- you'll be adequately supervised in the area(s) of law you're applying for in accordance with the requirements set out in the [Legal Aid Services Grants Handbook](#) and [Practice Standards for Legal Aid Providers](#). A template is provided on the following page.

Employer undertaking template

I (name of person authorised to provide undertaking on behalf of employer) of (name of practice) confirm that (name of applicant) is employed by this practice. I confirm (name of applicant) will be adequately supervised in the following areas/s of law (civil, criminal, family etc) in accordance with the requirements set out in the Legal Aid Services Grants Handbook and Practice Standards for Legal Aid Providers.

Supervisor undertaking

Your nominated supervisor(s) must confirm they'll supervise you in the area(s) of law you're applying for in accordance with the requirements set out in the [Legal Aid Services Grants Handbook](#) and [Practice Standards for Legal Aid Providers](#).

If you have more than one nominated supervisor, you must provide an undertaking from each supervisor. A template is provided below.

Supervisor undertaking template

I (name of supervisor) of (name of practice) confirm that I will supervise (name of applicant) in the following areas/s of law (civil, criminal, family etc) or arrange for another suitable legal aid provider to do so. I confirm the supervision will be carried out in accordance with the requirements set out in the Legal Aid Services Grants Handbook and Practice Standards for Legal Aid Providers.

Limited approval

An applicant who doesn't meet the experience and competence requirements for approval as a lead provider may apply for a limited approval to act:⁷

- in a proceeding that relates to another proceeding in which the applicant is acting, or has acted
- in a proceeding, or type of proceeding, for which the applicant has specialist skills or experience, or
- in a proceeding, or type of proceeding, taking place in a region with a shortage of existing providers with the necessary skills and experience to act in the proceeding or type of proceeding.

When determining whether to grant a limited approval, the Secretary must:⁸

- consider how, and the extent to which, the applicant does not meet the experience and competence requirements
- be satisfied that the applicant is suitable to act in the proceeding or type of proceeding, and that it would be more efficient for the applicant to act in the proceeding or type of proceeding than another lawyer.

⁷ Reg 6B(1) and (2) of the Regulations

⁸ Reg 6B(3) of the Regulations

If you're applying for limited approval, you must explain why you should be granted a limited approval in the *Additional information* section on page 4 of the application form. You must also tell us:

- if your client's hearing date is within 15 working days, or
- if the reason for your limited approval is because your client has had their charges increased, or additional charges laid, and you don't hold the appropriate Criminal PAL approval.

Criminal

If you're applying for approval as a Criminal provider, you must specify which PAL (1 to 4) you're applying for. If you're unsure about which PAL to apply for, please refer to [Appendix 1 – Guidance for assessing Criminal PALs](#).

You must indicate the court cluster you wish to cover. You can only be assigned to one court cluster at a time. You must also indicate the courts and PAL you wish to be added to within the court cluster. See the below example:

Cluster: Auckland

Courts and PALs you'll cover within the cluster: Auckland (PAL1-3), Waitakere (PAL 3), Manukau (PAL 1-2).

Cluster list (courts within each cluster)

- Whangarei (Whangarei, Kaitaia, Kaikohe, Dargaville)
- Auckland (North Shore, Auckland, Waitakere, Manukau, Papakura, Pukekohe)
- Hamilton (Hamilton, Te Awamutu, Huntly, Te Kuiti, Morrinsville, Thames, Taumaranui)
- Rotorua (Rotorua, Taupo, Tokoroa)
- Gisborne (Gisborne, Wairoa, Ruatoria)
- Tauranga (Tauranga, Whakatāne, Opotiki, Waihi)
- Napier/Hastings (Napier, Hastings, Waipukurau, Dannevirke)
- New Plymouth (New Plymouth, Hawera)
- Whanganui (Whanganui, Marton, Taihape)
- Palmerston North (Palmerston North, Levin)
- Wellington (Wellington, Porirua, Hutt Valley, Masterton)
- Nelson/Blenheim (Nelson, Blenheim, Kaikoura)
- Christchurch (Christchurch, Timaru, Ashburton, Greymouth, Westport)
- Dunedin (Dunedin, Alexandra, Oamaru)
- Invercargill (Invercargill, Gore, Queenstown)

Please note: Specialist courts (such as Young adult list and Alcohol and Other Drug Treatment Court) operate throughout New Zealand, which may require defence counsel to follow alternate processes.

The Commissioner requires you to complete any applicable induction or resource familiarisation before you can participate in these courts. Please refer to the Ministry of Justice website to view the applicable information.

Parole Board

Parole Board approval is granted for proceedings before the New Zealand Parole Board that:

- are held under ss 27, 65 or 107 of the Parole Act 2002, or
- otherwise concern an offender who is entitled, under ss 49(3)(c) of the Parole Act, to be represented by counsel in the proceeding.

To be eligible for approval for Parole Board, it's expected you will:

- have at least 12 months' experience at criminal PAL 1
- have appeared as counsel with substantial and active involvement in 10 criminal proceedings, including at least 3 sentencing hearings where a plea of mitigation was made
- demonstrate the relevant skills and knowledge to appear as counsel for a postponement order, recall application, or an order that the offender not be released.

If you've already been granted approval at PAL 2 or higher, you're able to accept assignments for Parole Board and don't need to fill out an application form or obtain a separate Parole Board approval.

Police Detention Legal Assistance (PDLA)

If you're seeking PDLA approval, you must specify which police station(s) you'll cover and provide an afterhours phone number. You must only nominate police station(s) that are local to your home to ensure you're able to attend in person if necessary.

Obtaining PDLA approval won't necessarily result in a place on the PDLA roster or list. For more information, please refer to the [PDLA Operational Policy](#).

Family and Family Legal Advice Service (FLAS)

If you're applying for Family approval and intend to practise in relationship property matters, the Secretary requires you to have access to a trust account. If you answer 'no' to the question about whether you have access to a trust account at question 14 of the form, your approval will probably be subject to a condition that you cannot do relationship property work.

The requirements for Family approval and FLAS approval are the same. If you already have Family approval and wish to apply for FLAS, please advise Provider Services by emailing legalaidthe@justice.govt.nz. You don't need to fill out a new application form.

Employment Advocate

To be eligible for Employment Advocate approval, it's expected that you:

- can demonstrate experience dealing with mediation, dispute resolution and/or HR issues
- are a member of the Employment Law Institute of New Zealand.

If you're applying for Employment Advocate approval:

- you don't need to complete questions 12, 13, 14, 15, 16 or 21 of the application form. You do need to complete all other questions on the form.
- you must provide the following information in the *Additional information* section:
 - your qualifications
 - a brief employment history, including any experience you have with mediation, dispute resolution and/or HR issues
 - any relevant courses or training you've completed.

Information about you and your practice

In this section, we ask you for general information about you and your practice, including whether you have any convictions (including traffic convictions) and whether you have had any complaints upheld/substantiated by any professional body (past or present) or the Ministry.

Question 16 of the application form asks you how many years of 'litigation experience' you have. Litigation experience is litigation work undertaken after admission to the bar and while holding a current practising certificate.

Types of legal work that are not litigation experience include:

General legal practice work - Work that is predominately related to the drafting of trusts, wills, other types of commercial agreements, conveyancing work and acting only as an instructing solicitor. This work can only be counted as litigation experience if it is carried out alongside advocacy in person, such as in court or in mediation.

Legal work where litigation is not undertaken - Legal work such as an in-house legal adviser, law clerking, lecturing and working as a judge's research counsel or clerk.

Non-legal work - Some work has a legal element but for the Ministry's purposes is not litigation experience, for example policy advice.

The Ministry may consider other examples of litigation experience on a case by case basis. If you believe that certain work experience should be considered as litigation experience, you can set out the reasons why in the 'Additional information' section of the form.

If you answer 'yes' to question 20 of the form regarding complaints, you must provide a copy of any decision(s) made by anybody external to the Ministry. This means if a complaint has been upheld/substantiated by the Ministry (including the Secretary) or the Legal Complaints Review Officer, you don't need to attach this. If you have one or more convictions (including traffic convictions) but are eligible to conceal those convictions under the Criminal Records (Clean Slate)

Act 2004, you should answer 'no' to question 18. If you're unsure whether you're eligible to conceal your convictions under the Clean Slate Act, you can request a copy of your criminal record from the Ministry's Criminal Records Unit (see www.justice.govt.nz/criminal-records/). If you're eligible, your criminal record will say you have no convictions.

Your experience in area(s) of law applied for

In this section, we ask you about your general experience in the area(s) of law for which you're applying for approval.⁹

First, we ask how many years you've practised in the relevant area(s) of law.

Then we ask you to provide the **approximate** number of cases or proceedings in the last 5 years in which you made a significant contribution to key tasks or activities for the types of proceedings listed in the table (please note, you must select each type of proceeding separately as it won't auto-populate from the area of law). Please use the correct column to identify whether your involvement was as senior or junior counsel.

If you're applying for approval at criminal PAL 2, 3 or 4, please complete separate entries for cases or proceedings at the level for which you seek approval and the preceding level. For example, if applying for PAL 3 approval, fill out separate entries for your experience in PAL 2 proceedings and PAL 3 proceedings.

If a type of proceeding you want to demonstrate experience in is missing from the drop-down list, please select the option 'enter matter type manually'. Once selected, you'll be able to input text into the drop-down box.

⁹ For Mental Health approval, you should outline your experience in family and/or criminal cases.

Case examples

In this section, we ask you to provide the number of case examples specified in this guide.¹⁰ The minimum number of case examples we require differs depending on the area of law (and level for Criminal). The following table sets out the minimum number of case examples we require:

Area of law/ level	Minimum number of case examples
Criminal PAL 1	3 trials
Criminal PAL 2	3 trials that are Crown prosecutions
Criminal PAL 3	4 PAL 3 or 4 proceedings
Criminal PAL 4	4 PAL 3 or 4 proceedings, at least 1 being PAL 4
Duty Lawyer	2 (or 1 if applying for a Criminal lead approval at the same time)
Police Detention Legal Assistance	3 trials that are Crown prosecutions
Family/Family Legal Advice Service	5
Civil	5 including substantial, interlocutory and procedural hearings
Mental Health	3 (examples can be family or criminal)
Court of Appeal and Supreme Court	5, with at least 3 being Court of Appeal or Supreme Court
Refugee and Protected Persons	5, with at least 1 being for a proceeding before any of the following: Immigration and Protection Tribunal, Deportation Tribunal, Refugee Status Appeal Authority, or Removal Review Authority
Waitangi Tribunal	3 substantial Waitangi Tribunal proceedings
Maori Land Court and Maori Appellate Court	3 substantial Māori Land Court Proceedings

Case examples are one of the main ways the Selection Committee and the Secretary assess your experience and competence. For each case example, you should fill out the coversheet and index of documents. If you're applying for a limited approval and cannot provide the required number of case examples, provide as many as you can (if any).

We don't expect you to provide case examples for all matter types within an area of law. However, we do expect you to provide case examples for a range of matter types across the area(s) of law you're applying for approval in to demonstrate your knowledge across these area(s) of law.

The Secretary wants to know about cases where you actively participated in and completed a substantial amount of work in that area/matter/hearing type from **start to finish**.



The Regulations and the application form talk about 'substantial and active involvement' in cases or proceedings. Each case example should show substantial and active involvement. This means making a significant contribution to all, or most, key tasks and activities and encompasses participation in:

- 1. Pre-court or preparation** - This includes research, client consent, liaising with opposing counsel, and drafting submissions and other court documents; and
- 2. Court proceedings** - This includes trials or hearings (where relevant), experience and attendance at court, making opening addresses, leading evidence, examining and cross-examining witnesses and experts, addressing the court, closing addresses and presenting submissions.

¹⁰ The Regulations refer to these as 'work samples' (reg 9A), but we use the term 'case examples'.

Ideally, you should provide case examples where you made a significant contribution to all key tasks and activities in a matter that's proceeded through all stages (for example, a criminal matter that has proceeded to trial). However, we recognise that the realities of practice mean this might not be possible (for example, a matter may settle at an earlier stage or the lead provider may not give you the opportunity to be involved in every stage). In these circumstances, you should provide case examples that, together, show your experience across all (or at least most) key tasks and activities in the relevant area of law, and that you can run a matter from start to finish by yourself.

Each case example should be accompanied by copies of important documents demonstrating your involvement in the case. You don't need to provide your whole file on the matter – we ask that you be discerning in the documents you choose to provide, as this will assist in a timely decision being made on your application. You should list your supporting documents in the index provided on the coversheet along with a brief description of your role in relation to the document.

The following example demonstrates what an applicant may choose to submit:

Criminal PAL 1: 3 trial case examples

Case example 1 – Trial

Supporting documents – research notes on legal issue, transcript from witness cross-examination and sentencing submissions you co-drafted.

Case example 2 – Trial

Supporting documents – interlocutory application to exclude evidence and decision, affidavit you drafted, research notes and correspondence with your client.

Case example 3 – Trial

Supporting documents – transcript from witness evidence in chief and re-examination and sentencing submissions you drafted.

References

You need to provide completed referee declaration forms from at least two referees who have observed your work in the relevant area of law in the last 3 years.

If you're applying for approval in more than one area of law, you must provide at least one referee declaration for each area (the same person can complete a referee declaration for multiple areas of law). For example:

- If you're seeking approval for Criminal only, you must provide two referee declarations from two different referees, both relating to your criminal experience.
- If you're seeking approval for Criminal and Family, you must provide two referee declarations, one for Criminal and one for Family, from two different referees. The same referee may comment on your competence and experience for both areas of law, however, two different referees are still required.
- If you're seeking approval for Criminal, Family and Civil, you must provide three referee declarations, one for each area, from at least two different referees. The same referee may comment on your competence and experience for more than one area of law, meaning you may not need three different referees.

Referees don't need to be approved legal aid providers unless you're applying for supervised approval. If you're applying for supervised approval, ensure one of your referees is your nominated supervisor. Your second referee could be, for example, a colleague, mentor, employer or another nominated supervisor.

Independent referees are preferable where possible and appropriate. However, this isn't a requirement.

If you haven't practiced within the last 3 years and are unable to provide recent referees, please provide:

- 1 referee declaration from someone who observed you when you last practiced law
- 1 (or more) referee declaration(s) from someone who can attest to your knowledge and skill, for example, a colleague or employer.

If you're applying for a limited approval and cannot provide the required number of references in the relevant area of law, you can substitute references from another area of law.

When selecting your referees:

Please ensure that your referees:

- are experienced in the area of law for which you're seeking approval
- have direct experience and recent knowledge of your skill in the area of law or category for which you're seeking approval
- don't have any potential conflicts of interest in providing a reference for you
- have a higher PAL level than the PAL level you're applying for (or are a peer at PAL 4) if you're applying for Criminal approval

If applying for supervised approval, please ensure that one (or more) of your referees is your nominated supervisor(s).

Referee declaration

Referees must complete the referee declaration on page 7 of the application form and return this to you to submit with your application. If the referee is providing a reference in respect of more than one area of law, they must complete a separate declaration for each area.

It's expected that your referees will have observed you undertaking a substantial and active role and can comment on your skills and knowledge in most, if not all, of the following activities:

- providing advice and information to clients
- preparation of cases
- undertaking court proceedings
- producing documents/correspondence
- communication with Judges, other lawyers, experts and court staff
- working with people from different cultural backgrounds
- engaging in peer review discussions.

Your referee will be expected to comment on your written abilities and advocacy skills. This must be in their own words and based on their observations. Referees also have the option of providing further information to Provider Services by emailing legalaidprovider@justice.govt.nz.

We may contact your referees to verify the information they've provided.

Additional Information

This section allows you to provide any relevant additional information not captured elsewhere in the form. This may be information that you're required to provide for particular areas of law or may be additional relevant information that you want the Secretary to consider in support of your application. This section may not apply to all applicants.

Additional information required (if applicable):

- Further information required to establish eligibility for certain approvals under the Regulations:
 - **Duty Lawyer approval:** Confirmation you have successfully completed the duty lawyer training course and the date it was completed.
 - **Mental health approval:** Confirmation that you've observed at least 3 completed mental health cases.
 - **Waitangi Tribunal approval:** Information about your knowledge of te Tiriti o Waitangi and Waitangi Tribunal jurisprudence, your level of understanding of tikanga Māori and your ability in te reo Māori.
 - **Māori Land Court approval:** Information about your knowledge of te Tiriti o Waitangi and Māori land law, your level of understanding of tikanga Māori and your ability in te reo Māori.
- **Employment advocate approval:** Information required to assess your eligibility as an [Employment Advocate](#).
- **Experience not recent:** An explanation of why your experience and/or case examples are not from the last 5 years and why the Secretary should waive the recent experience requirement under regulation 6A of the Regulations
- **Limited approval:** Reasons why the Secretary should waive one or more of the experience and competence requirements under regulation 6B of the Regulations
- **Porirua District Court Young Adult List assignments:** Confirmation you have completed the online induction training to receive assignments for the Porirua District Court [Young Adult List](#).

You may also choose to provide additional relevant information in support of your application.

Examples of relevant information you may want the Secretary to consider include:

- If you want a matter type excluded from your approval, for example, Family approval excluding Relationship Property

- If you only wish to apply for approval for a specific matter type(s) within an area of law, for example, Civil but only ACC and Employment
- Professional development or courses completed

Please note: The Secretary will take into consideration any courses you've completed and that are relevant to support your application. However, the Ministry does not endorse any courses run by private entities. Examples of courses you may consider relevant are:

- NZLS Litigation Skills Course
 - NZLS How to Run a Jury Trial Course
 - NZBA Mastering Advocacy Cross Examination Workshop
 - NZBA Mastering Appellate Advocacy Workshop
- Further factors that demonstrate your experience
 - Life experience
 - Publications you've written.

Checklist and confirmation

This section:

- provides a checklist of documents that should be attached to your application (if applicable)
- asks you to confirm various matters relevant to the Secretary's decision on your application, including that you have satisfactory service delivery systems and that your client care letter is suitable for legal aid clients (discussed further below)
- asks you to confirm your consent or agreement to certain matters should you be approved, including that you'll be subject to the terms and conditions in the provider contract prescribed by the Secretary.

Service delivery systems

All applicants applying for approval must have satisfactory service delivery systems that enable them to carry out quality legal services and account for their legal aid work effectively, efficiently and ethically.¹¹ We assess this by ensuring you have processes and systems in place to:

- manage client service requirements and expectations
- manage scheduling conflicts
- manage complaints
- manage conflicts of interest
- invoice your time accurately
- maintain accurate client files.

Client care letter

The client care letter/letter of engagement must meet the requirements of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

Client care letters/letters of engagement **must** include reference to Legal Aid and current legislation. Letters must correctly refer to the Ministry of Justice, not the Legal Services Agency, and to the Legal Services Act 2011, not the Legal Services Act 2000.

The following information, in respect of legal aid, should be provided to ensure legal aid clients are aware of their obligations:

- that the client must tell the Ministry of Justice if their contact details, financial details, employment status or family circumstances change
- that the client should be aware legal aid is not always free and if they receive any payment resulting from this case, they may be required to make a lump sum repayment at the end of the case

¹¹ Reg 9 of the Regulations

- that invoices will be sent directly to the Ministry of Justice for payment. A copy of the invoice will be sent to the client, but they don't need to make any payment directly to you
- that for more information regarding legal aid they can contact the Ministry of Justice, www.justice.govt.nz

Examples of client care letters are available on the [Ministry of Justice website](#). You may copy and use these examples as you wish.

Firm undertaking

If you are an employee, partner or director of a law firm or incorporated law firm you must also submit an [undertaking](#) from your firm. This undertaking becomes the Schedule 3 undertaking in the provider contract for services. The contract is available on the [Ministry of Justice website](#).

What happens next...

If you're applying for lead provider or limited approval, when your completed application is received it will be tabled and assessed at the next applicable Selection Committee meeting. We'll advise you of the outcome within 15 working days from the date we receive your application.

Selection Committees assess applications and advise the Secretary of the suitability of those applicants for approval.¹² [See Schedule of Selection Committee dates](#).

[Read more information on how Selection Committees assess applications](#).

If you're applying for supervised provider approval, the Secretary will assess your application without referring it to a Selection Committee. We'll advise you of the outcome within five working days from the date we receive your application.

¹² s 78 of the Act

Attachments checklist



Attach the following documents to your application:

your Legal Aid Provider Certificate of Standing issued by the New Zealand Law Society

- You can provide a certified copy or the original.
- If you're an existing legal aid provider, you don't have to provide this unless you've been notified otherwise in writing.

Please note: A Legal Aid Provider Certificate of Standing is generally only valid for three months and must be valid when we receive your application. Further information on how to apply for a Legal Aid Provider Certificate of Standing is available on the NZLS website: www.lawsociety.org.nz/home/for-lawyers/regulatory/legal-aid-provider-certificate-of-standing

a copy of your (or your practice's) bank deposit slip or similar proof of bank account if we don't already have these details

- This must include the bank logo, account name and account number.
- If you're not sure whether we have these details, please provide them.

any complaints decision(s) (if applicable)

- If you answered 'yes' to the complaints question in *Information about you and your practice*, please provide a copy of any complaints decision(s) by any body external to the Ministry. You can also include any additional information relating to the complaint(s) that you want us to consider.

the required number of case examples, including completed coversheets and indexes of supporting documents

- Case examples should be your most relevant examples and should be reasonably recent.
- Please don't send original documents as they won't be returned to you. Working documents/notes (for example, notes taken for cross-examination) don't need to be typed.
- You may provide a judgment to demonstrate your involvement, but please note on the cover sheet the specific pages or paragraph numbers that are relevant.

the required number of referee declarations

your employer/supervisor(s) undertaking (if you're applying for supervised approval)

- Your supervisor(s) must be approved in the area(s) of law applied for.

a firm undertaking if you are an employee, partner or director of a law firm or incorporated law firm

Appendix 1

Guidance for assessing Criminal PALs

The table below sets out the minimum PAL required for proceedings by reference to the case type and maximum penalty, whether the matters are Crown or Police prosecutions, the offence categories in s 6 of the Criminal Procedure Act 2011 and the Legal Aid fixed fee schedules.

Case type and maximum penalty	Crown / Police prosecutions	CPA offence category	Legal Aid fee schedule	Minimum required PAL
Judge alone, non-imprisonment	Police	OC1	A	PAL1
Judge alone, less than 2 years' imprisonment	Police	OC2	A	PAL1
Judge alone, 2-10 years' imprisonment	Police	OC3	B-C	PAL1
Judge alone or jury trial elected, 2-10 years' imprisonment	Crown	OC3	D	PAL2
Judge alone or jury trial, all cases 10+ years' imprisonment except schedule F	Crown	OC3	E	PAL3
Judge alone or jury trial, life/liable for preventive detention	Crown	OC3	F	PAL4
Judge alone or jury trial, life/Sch. 1 Criminal Procedure Act	Crown	OC4	F	PAL4
High Court appeals for sentence and conviction	N/A	N/A	G	Same as substantive matter
Appeals to the Court of Appeal	N/A	N/A	H	N/A
Appeals to the Supreme Court	N/A	N/A	I	N/A
Parole matters	N/A	N/A	J	PAL2

Appendix 2

Glossary



Act means the Legal Services Act 2011.

Lead provider means a lawyer or employment advocate approved by the Secretary to provide legal aid services or specified legal services in one or more areas of law.

Limited approval means a lawyer approved by the Secretary as a lead provider for:

- a proceeding to provide continuity of services
- a proceeding or type of proceeding because of their specialist skills or experience, or a shortage of existing providers with the necessary skills and experience.

Ministry means Ministry of Justice.

PAL means Provider Approval Level (for Criminal approvals). These are the approval levels for criminal proceedings in cl 1 of the Schedule to the Regulations.

Regulations means the Legal Services (Quality Assurance) Regulations 2011.

Secretary means the Secretary for Justice.

Supervised provider means a lawyer approved by the Secretary to provide legal aid services in one or more areas of law under the supervision of a lead provider.

Ministry of Justice
Tāhū o te Ture

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