

The following information will assist you in applying to become a provider of legal aid services with the Legal Services Agency. This can be an initial application to be listed or for existing providers to apply for additional areas of law, for other legal aid schemes or to advance criminal – proceedings category. A person may not provide legal aid services under any legal aid scheme unless they are listed as approved to provide those services. Section 69 of the Legal Services Act 2000 outlines the effect of listing.

All applications for listing as a provider of legal aid services with the Agency are considered in conjunction with the *Criteria for Approval as a Listed Provider pursuant to section 71 of the Legal Services Act 2000*. Please refer to the **Criteria for Approval as a Listed Provider** (including Glossary of Terms) while completing your application.

Forms:

- **Lead Provider Application Form Part 2** – use this form if you are a lawyer applying for the first time as a lead provider¹ or you are currently on the Legal Services List (known as the Provider List) and are applying for additional areas of law or legal aid schemes or criminal proceedings categories.
- **Litigation Experience Level Form Part 3** – outlines your employment history to ascertain at what litigation level you will be remunerated. Use this form when you apply for listing as a lead provider or to apply to increase your litigation experience level.
- **Reference Form Part 4** – contains the form to be completed by two work-related referees in the area of law in which you are applying and attached to your application. The Agency may contact your referees to validate the information provided.
- **Secondary Provider Application Form Part 5** – use this form if you are applying for secondary provider listing. A secondary provider is "a qualified lawyer/law practitioner, who meets the general listing criteria but does not meet the experience and competence criteria to be listed as a lead provider in a given area of law". A secondary provider is a listed provider who can only work under the supervision of a lead provider. The lead provider is fully responsible for the case/matter.
- **Non-lawyer Application Form Part 6** – use this form if you are a non-lawyer who wishes to provide assistance or support under the legal aid scheme.
- **Change of Employment Form Part 7** – use this form to advise the Agency of a change of employment status, change of location and any change of employment and/or contact details.
- **Direct Crediting Form Part 8** – complete this form to enable the Agency to direct credit legal aid payments to your or your firm's bank account. This form is required when you apply for listing as a lead provider or to advise the Agency of a change to your bank account or account details.

Approval as a Listed Provider

All applications for approval in area/s of law must be made directly to Provider List Administration, Legal Services Agency, P O Box 5333, Wellington, DX SP22526.

The Agency has established Local Consultative Groups, under section 101 of the Legal Services Act 2000, to assess the information provided by you for inclusion on the Provider List as a Lead Provider in specific area/s of law including Criminal – Proceedings category advances. The Group will consider the information provided by you to ascertain your experience and competence in relation to the area of law for which you have applied. A recommendation concerning the application will be made to the Agency. The Agency will make the decision to approve / decline / defer the area/s of law applied for. The Agency will convey this decision to you in writing.

You must provide sufficient information, to demonstrate your recent experience and competence, for listing for each area of law applied for.

- **If insufficient information is provided it will impede the progress of your application.**
- **Please refer to the separate checklist below to ensure you have included all the required material with your application.**
- **The Agency retains the right to return to you, any application considered to be incomplete.**

Please refer to the *Criteria for Approval as a Listed Provider (including Glossary of Terms)* when you compile your application.

The Agency can only consider your application on the basis of the information provided to it. In order to assist in the assessment process you should provide a statement of experience outlining your skills and experience in the area/s of law applied for and/or your current CV.

Contract for Services

If you are approved to be a listed provider you will be required to sign a Contract for Services with the Agency. This will contain a Schedule A and a Schedule B. Schedule A contains your approvals to provide legal aid services in specified area/s of law, any conditions attached to those approvals as well as your listed provider number and litigation experience level. Your approval is not confirmed until your signed Contract has been received and executed by the Agency.

Additional Requirement for Firms – Schedule B

Schedule B contains your firm's undertaking and will require them to verify that they will comply with certain requirements. Some administration and financial procedures, such as paying legal aid and performing reviews of files, will require information from, and the agreement of, your firm as well as you. Barristers, Sole Practitioners and some Principals will not need to complete a Schedule B.

¹A lead provider is a provider who has an approval that does not require supervision from another listed provider and who has overall responsibility for the management and conduct of the legal aid case including the substantive hearing.

Change of Status

If you change your employment/firm you must complete a **Change of Employment Form Part 7** and forward it to the Agency. Changes of this nature will require a new listed provider number and new contract schedules to be issued. You may also use Part 7 to advise the Agency of any change of name, address or other contact details.

If you wish to apply to change your litigation experience level you will need to advise the Agency in writing. Use the **Litigation Experience Level Part 3 Form** for this purpose. On approval, Schedule A to the Contract will be amended and a copy sent to you.

Should you no longer hold a current practising certificate, you are required to notify the Agency immediately. Please note, the Agency will not be obliged to pay for any services provided during any period where a practising certificate is not held or is not current.

Where you wish your name to be removed from an area of law or all of the Provider List, you must notify Provider List Administration in the Agency's Head Office immediately at P O Box 5333, Wellington, DX SP22526, Fax: 04 4955911 or provider@lsa.govt.nz

Privacy Statement

Under the provisions of the Privacy Act 1993, we are required to inform you that:

- *The information you provide is being collected for the purpose of applying to be included on the Provider List established by the Legal Services Agency under the Legal Services Act 2000.*
- *The information is needed to evaluate your eligibility to be included on this list.*
- *The provided information may be confirmed by reference to any of the following relevant parties: the New Zealand Law Society, District Law Society, Local Consultative Groups, peers and Judges.*
- *You have rights of access to the information held about yourself and you have the right to request correction to this information.*
- *Evaluative information gathered from the Local Consultative Groups reviewing the application is retained in an anonymous and summarised format.*
- *The application and supporting information will be kept for as long as it is required having regard to the purposes for which it was obtained.*
- *In accordance with section 70 of the Legal Services Act 2000, some or all of the following information will be publicly available through the Agency's Provider List through the Agency's website or on request: your name, address, phone/fax, email and approvals, including any conditions which may be attached.*

Exemptions from the Criteria

The Agency does not as a rule approve applications that do not meet the Criteria for Approval as a Listed Provider. However, if you seek a listing and do not meet the specified criteria and consider that your application should proceed due to exceptional circumstances, the Agency will require written submissions, which reflect your detailed and specific reasons for seeking such an exemption.

Secondary Providers

The definition of a secondary provider is "a qualified lawyer/law practitioner, who meets the general listing criteria and who does not meet the experience and competence criteria in a given area of law to be listed as a lead provider". A secondary provider is a listed provider who can only work under the supervision of a lead provider. The lead provider is fully responsible for the case/matter.

Once the Agency is satisfied that the general listing criteria have been met, you will have a secondary provider approval in the area/s of law applied for. As a secondary provider you may undertake a variety of work in the area/s of law specified in your Contract for Services under the supervision of a current lead provider who holds an approval in the relevant area/s of law.

- As a secondary provider you are required to have one lead provider for each legal aid case/matter you are working on.
- As a secondary provider you are responsible for finding your own lead provider/s from the Agency's provider list. This lead provider may be working within or outside the firm for whom you work.
- The lead provider in a case in which you are working is responsible for the quality and outcome. In order to achieve this, the lead provider is required to adequately supervise you at all times.
- As a secondary provider you make arrangements for payment of your legal aid work with the nominated lead provider.
- The lead provider is responsible for the payment to you. It is expected that your payment rate is at the Level 1 rate for lawyer listed providers.
- The lead provider must make the legal aid application and must name you as the secondary provider on the legal aid application.
- The lead provider is responsible for submitting the invoice for payment of legal aid and must show on all invoices the number of hours worked by both lead and you as secondary provider. The total hours claimed must be within the maximum grant of aid.

The Agency can only approve your application on the information provided by you. Therefore you will need to provide a copy of your Practising Certificate and your current CV and/or statement of experience.

▶ Lead Provider - Applicant Details

Are you a current listed provider? No Yes → Your Provider Number

Existing Approvals

I am applying for:

<input type="radio"/> Civil - General	<input type="radio"/> Maori Land & Maori Appellate Courts	<input type="radio"/> Refugee
<input type="radio"/> Duty Solicitor	<input type="radio"/> Mental Health	<input type="radio"/> Supreme Court
<input type="radio"/> Family	<input type="radio"/> Police Detention Legal Assistance Scheme	<input type="radio"/> Waitangi Tribunal

Criminal - Proceedings Category: 1 2 3 4

Surname

Mr/Mrs/Miss/Ms/Dr

First Name(s)

Preferred First Name

Direct e-mail

Direct Dial No. (0)

Cell Phone No. (0)

District Law Society

New Zealand Practising Certificate held for years

Current Practising Certificate Yes No

Issued on / / → Expires on / /

Type Solicitor Barrister Barrister & Solicitor

Conditions attached to Practising Certificate, if any

Firm Details

Name of Practice

E-mail for Remittance Advice

Street Address

PO Box No.

Town/City

DX Address

Telephone No. (0)

Fax No. (0)

Total years of practice elsewhere years
Please provide details using **Part 3**

Litigation Experience Level Level 1 Level 2 Level 3
less than four years four to nine years more than nine years

General Listing Criteria (all applicants)

- With regard to the provisions of the Criminal Records (Clean Slate) Act 2004 do you have any criminal convictions against your name that might adversely affect the relationship with aided persons, or the integrity of the legal aid schemes?
 No Yes → Provide details on a separate page and attach to form.
- Has either a District Law Society or the New Zealand Law Society (NZLS) upheld any complaints about you sufficient in aggregate to either be a risk to the integrity of the Agency's Schemes or contravene the Agency's Service Standards?
 No Yes → Provide details on a separate page and attach to form.
- Have you, in the last 5 years, had your practising certificate suspended, been struck off or declared bankrupt (the Agency may waive this criterion where it judges the circumstances documented will not impact on the practitioner's fitness to practice as a legal aid provider)?
 No Yes → Provide details on a separate page and attach to form.

You must provide two written references from practitioners who know you in a work context, preferably in the area of law in which you are applying. If you are applying for listing approval as a duty solicitor, one of your referees must be an approved assessor for the NZLS Duty Solicitor Training Programme. References MUST be provided on the reference form **Part 4**. They must include comments about your working relationship with the referee, the length of time they have known you, comment on your ability in the area of law you are applying for and address the general competencies on the form. If you are employed by a law firm, at least one of the referees must be from outside the firm in which you work. The Agency reserves the right to contact your referees in order to verify the information provided.

Part 2

I am applying for:

Criminal - Proceedings Category One

How much post-admission time have you spent working on criminal matters

Years Months

Date of completion of the NZLS 'Duty Solicitor Training' Programme

/ /

Date of completion of the NZLS 'Introduction to Criminal Law Practice'

/ /

Number of defended hearings where you have appeared as counsel

Please provide details of at least **three** recent defended hearings where you appeared as counsel with a substantive and active involvement using **Part 2.1** (Page 5). **Outline your role in each.**

Criminal - Proceedings Category Two

Date of your approval to Criminal - Proceedings Category One

/ /

Date of completion of the NZLS 'District Court Jury Trials' workshop

/ /

Have you had 24 months continuous experience of Criminal - Proceedings Category One, since being approved for it

Yes No

Number of trials where you have appeared as counsel with a substantive and active involvement

Cat 2 Cat 3 Cat 4

Please provide details of at least **three** recent Criminal - Proceedings Category Two (or above) trials where you appeared as counsel with a substantive and active involvement on **Part 2.1** (Page 5). **Outline your role in each.**

Criminal - Proceedings Category Three

Date of your approval to Criminal - Proceedings Category Two

/ /

Date of completion of the NZLS 'Litigation Skills' Programme

/ /

Have you had 24 months continuous experience of Criminal - Proceedings Category Two, since being approved for it

Yes No

Number of trials where you have appeared as counsel with a substantive and active involvement

Cat 3 Cat 4

Please provide details of at least **three** recent Criminal - Proceedings Category Three or Four trials where you appeared as counsel with a substantive and active involvement on **Part 2.1** (Page 5). **Outline your role in each.**

Criminal - Proceedings Category Four

Date of your approval to Criminal - Proceedings Category Three

/ /

Have you had 24 months continuous experience of Criminal - Proceedings Category Three, since being approved for it

Yes No

Number of trials where you have appeared as counsel for the **defence** with a substantive and active involvement

Cat 3 Cat 4

Please provide details of at least **six** recent Criminal - Proceedings Category Three or Four trials where you appeared as counsel for the defence with a substantive and active involvement on **Part 2.1** (Page 5). **Outline your role in each.**

Duty Solicitor Scheme

Date of your completion of the NZLS 'Duty Solicitor Training' Programme

Attach a copy of the certificate

/ /

If approved, I am available to be rostered at the following courts:

I understand that the Agency will consider my court preferences but cannot guarantee all choices.

Part 2

Civil - General
 How much post-admission time have you spent working on Civil matters Years Months
 Date of completion of the NZLS 'Civil Litigation Skills' workshop / /
 Provide details of your appearance as counsel in **at least three** recent Civil proceedings using **Part 2.2** (Page 6). **Outline your role in each.** Details of your assistance in the preparation in **at least five** recent Civil matters and your attendance at or observation of **five** recent Civil or Family proceedings with witnesses giving oral evidence should be included in your statement of experience/covering letter.

Family
 How much post-admission time have you spent working on family matters Years Months
 Date of Completion of the NZLS 'Introduction to Family Law - Advocacy and Practice' Programme / /
 Provide details of your active participation in **at least three** recent proceedings with witnesses giving oral evidence using **Part 2.2** (Page 6). **Outline your role in each.** Details of your substantive and active involvement in a wide range of recent Family Court proceedings including interlocutory hearings, mediation conferences and judicial conferences should be included in your statement of experience/covering letter.

Mental Health
 How much post-admission time have you spent working on family matters Years Months
 How many completed mental health proceedings have you observed
 Provide details of **at least three** completed recent mental health proceedings that you have observed using **Part 2.2** (Page 6). **Outline your role in each.**

Police Detention Legal Assistance Scheme
 I hold a Criminal - Proceedings Category Two or above Yes No
 I am applying for Criminal - Proceedings Two at the same time Yes
 If approved, I am available in the following regions:

 After hours contact number/s (including mobile phone numbers)
 (0) (0) (0)
 I understand that the Agency will consider my regional preferences but cannot guarantee all choices.

Refugee
 How much post-admission time have you spent working on Refugee matters Years Months
 Provide details of your participation in and completion of significant preparation in **at least five** recent cases at the Refugee Status Branch level and representation of clients in **at least three** recent Refugee Status Appeals Authority proceedings using **Part 2.2** (Page 6). **Outline your role in each.**

Supreme Court (Interim)
 Current listing approvals

 I hold litigation experience level: Level 2 4 to 9 years Level 3 more than 9 years

Waitangi Tribunal
 Maori Land / Maori Appellate Courts
 How much post-admission experience have you had Years Months
 Date of completion of the NZLS 'Civil Litigation Skills' or New Zealand Litigation Skills programmes / /
 Demonstrate through a **written statement and by completing Part 2.2** (Page 6) your experience and competence in this area. You must provide evidence that you have:

- studied the Treaty of Waitangi, Waitangi Tribunal jurisprudence and Maori Land Law
- an understanding of tikanga Maori and basic ability in te reo Maori when working in Waitangi Tribunal jurisprudence
- engagement on the preparation of submissions for three relevant court or tribunal proceedings using **Part 2.2** (Page 6). **Outline your role in each.**

Part 2

Statutory Declaration By All Applicants:

- I solemnly and sincerely declare that the information provided in this form is accurate and complete.
- I understand and consent to my application form being used to evaluate whether I may be listed in the areas of law for which I have applied.
- I accept that my application may be referred to Local Consultative Groups¹ organised by the Agency on a confidential basis as part of the process to determine eligibility.
- I have read the "Criteria for Approval as a Listed Provider" and the application form including the information pages.
- And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Full name and residential address of applicant making this declaration

Applicant's signature

--

Declared at

--

this day

the month and year of

--

--

Before me *(Name or stamp of person authorised to take a statutory declaration)*

--

Authorised person's signature

--

Specific Skills or Qualifications

The Agency plans to establish a register to indicate to clients particular language and other relevant skills held by listed providers e.g. Maori, Pacific nations, New Zealand Sign, etc. If you have specific skills you would like to register, please list them below.

¹ The Agency has established Local Consultative Groups pursuant to s.101 of the Legal Services Act 2000 to assess for approval, the information supplied by the applicant. Group members, including those nominated by the relevant law society, will have an understanding of the experience and competence required for each area of law. The Group will assess the information provided by the applicant and a recommendation concerning the approval will be made to the Agency. The final decision as to whether to approve the listing will be made by the Agency.

▶ Lead Provider Experience - Criminal

Please copy as required

Name of applicant

Provider number

Criminal - Proceedings Category you are applying for

Category 1

Category 2

Category 3

Category 4

Details to demonstrate experience and competence

Name of Accused (*initials can be used*)

Date

 / /

Trial Judge

Prosecutor

Defence Team

Charges

Criminal proceedings category of charges

Relevant legislation

Legal/Factual issues

Result

Details of **your substantive and active** involvement in this matter:

Listed Provider Name

Provider number

Postal address

1. Litigation Experience – If necessary use separate page

(Start with the most recent and work back. You may prefer to attach your CV as well.)

Period of Employment (Month/Year)	Employer Details - including name and address	Details of role/s	Did you hold a current practising certificate (PC)? Yes/No (Please supply dates if you held a PC for some of this time).
/ to /			
/ to /			
/ to /			
/ to /			

Total years of practice in New Zealand

Total years of practice elsewhere

2. Have you had a continuous break (3 months or more) in your litigation experience?

Yes No Go to number 3

Please provide details below

Period of Break (Month/Year)	Reason for break e.g. Parental leave, study leave, holiday etc
/ to /	
/ to /	
/ to /	

3. Have you worked part-time during your litigation experience?

Yes No

Please provide details below

Period during which you worked part-time (Month/Year)	Hours worked per week during this period
/ to /	
/ to /	

Signature _____ Date ____/____/____

Please find the Litigation Experience Level Guidelines in the Legal Aid Provider Manual – Section 2, Part 1 and on the Agency's website www.lsa.govt.nz

▶ Reference

A completed reference form is required from 2 independent work-related referees who have observed you in the area(s) of law applied for. If you are applying for listing approval as a duty solicitor, one of your referees must be an approved assessor for the NZLS Duty Solicitor Training Programme.

APPLICANT

Name

Applying for

- | | | |
|---------------------------------------|--|---|
| <input type="radio"/> Civil - General | <input type="radio"/> Maori Land & Maori Appellate Courts | <input type="radio"/> Refugee |
| <input type="radio"/> Duty Solicitor | <input type="radio"/> Mental Health | <input type="radio"/> Supreme Court |
| <input type="radio"/> Family | <input type="radio"/> Police Detention Legal Assistance Scheme | <input type="radio"/> Waitangi Tribunal |
- Criminal - Proceedings Category: 1 2 3 4

The information you provide in this form is for the purposes of assessing the applicant's suitability to be listed as a lead provider with the Legal Services Agency. This completed form will be provided to the appropriate (Local) Consultative Group for their recommendation to the Agency. It will also remain with the application on the applicant's file held by the Agency.

In order to evaluate the applicant's suitability, we would appreciate as much information as you are able to provide regarding the general competencies as outlined.

The Agency may contact you in order to validate the information provided.

REFEREE

Name

Telephone

Position

Place of Work

Are you related to the applicant?
If so, provide details

How long have you known
the Applicant?

In what capacity have you worked with the applicant?

APPLICANT RATING

Professional Judgement

How do you view the applicant's professional judgement? Please explain.

Honesty/Integrity/Ethical conduct

How do you view the applicant's honesty/integrity/ethical conduct? Please explain.

Court Conduct/Court Etiquette/Advocacy skills

How do you view the applicant's court conduct/court etiquette/advocacy skills? Please explain.



Reference

(Please provide 2 completed forms with application)

Part 4

Analytical Skills and Problem Solving

How do you view the applicant's analytical skills and problem solving? Please explain.

Communication Skills (Oral & Written)

How do you view the applicant's communication skills (oral and written)? Please explain.

Interpersonal Style (clients, colleagues, court staff)

How do you view the applicant's interpersonal style (clients, colleagues, court staff)? Please explain.

Areas for Development

Please comment on any skills you view the applicant needs to develop with regards to this application.

Overall Recommendation

HR - Highly Recommended

R - Recommended

RWR - Recommended with Reservations

DNR - Do Not Recommend

Area of law

Recommendation

Recommendation

Criminal – Proceedings Category 1

Civil - General

Criminal – Proceedings Category 2

Family

Criminal – Proceedings Category 3

Maori Land and Maori Appellate Courts

Criminal – Proceedings Category 4

Mental Health

Duty Solicitor

Refugee

Police Detention Legal Assistance

Supreme Court

Waitangi Tribunal

Comments regarding applicant's competence in areas of law applied for

I confirm that the above reference has been provided by me.

Signature _____ Date ____ / ____ / ____

Direct Crediting of Listed Provider Payments

The Agency is pleased to advise that it can provide the benefit of direct credit payments for invoices. This means that each Thursday, payments will be able to be made directly to your bank accounts.

However, for those listed providers wishing to benefit from this service, an email address is required, as all remittance advices will be sent electronically.

If you wish to take advantage of this opportunity you must complete the information requirements below. Please return this form to the address specified, ensuring you forward us a **bank deposit slip** for the bank account where you wish payments to be lodged.

Provider name	<input type="text"/>
Provider number	<input type="text"/>
Firm name	<input type="text"/>
Firm number	<input type="text"/>
Email address	<input type="text"/>
Bank account number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>

Signature _____ Position / Title _____ Date ____ / ____ / ____

Please ensure a bank deposit slip is attached

If you have any queries about direct crediting, please contact
Direct Credit / Finance Section. Tel (04) 495 5910. Email: Finance@lsa.govt.nz

Please provide good quality, single-sided, unbound material and ensure you have attached or included the following information

- Completed Application Form (**Part 2**)
- Details of recent proceedings in which you have been involved (**Parts 2.1 or 2.2**)
- Completed Litigation Experience Level Form (**Part 3**)
- Statement of Experience (can be in the form of a covering letter)
- Current CV (optional)
- Two completed Reference Forms (**Part 4**) - If seeking duty solicitor approval, one of your referees must be an approved assessor for the NZLS Duty Solicitor Training Programme.
- If seeking duty solicitor approval, a copy of your certificate of completion of the Duty Solicitor Training Programme
- Details of continuing legal education or experience in a related field (provide copies of certificates, if able)
- Details of upheld complaints and/or relevant criminal convictions (refer to **Criteria for Approval as a Listed Provider, General Listing Criteria Page 4**)
- Any further information that may demonstrate your experience and competence that you consider appropriate
- If seeking listing outside the criteria, specific information to support this application
- Completed Direct Crediting Form (**Part 8**) NB- only required if this information has not previously been supplied.

Forward the completed, original application form with all supporting information to:

Provider List Administration
Legal Services Agency
P O Box 5333
WELLINGTON
DX: SP22526

The Agency retains the right to return to an applicant, any application considered to be incomplete.

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Foreword

The Agency has developed criteria for the approval of practitioners to be listed to provide legal services under its Legal Aid, Duty Solicitor and Police Detention Legal Assistance Schemes. The criteria require the applicant to demonstrate competence to take responsibility for the completion of a legal aid matter. Specific minimum criteria in demonstrating this competence are listed.

It is recognised that over time these criteria will continue to evolve and will require further development as the needs of the Agency, the profession and the aided person undergo change.

The criteria for approval as a Listed Provider will be supported by a set of service standards. These will clearly set out the service quality standards acceptable to the Agency. Work on developing service standards is underway.

The Agency is confident that its role and the role of the Listed Providers in providing service to the aided person will be enhanced by the adoption of the listing criteria and service standards and looks forward to their implementation.

In presenting this, the first edition of the Legal Services Agency Criteria for Approval as a Listed Provider, the Agency wishes to thank those members of the legal profession and the many other people and organisations that have assisted in bringing the quality framework to its present form.

In particular, the Agency would like to thank members of the project steering and working groups, the representatives of the New Zealand Law Society, the District Law Societies and Te Hunga Roia Maori o Aotearoa who have contributed their observations and recommendations.

It is through such willing co-operation that the Agency can attain its goal that aided persons can have confidence in all practitioners listed as Legal Aid providers.

T J Bannatyne
Chief Executive

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Legal Aid Schemes

The Legal Services Agency is tasked under the Legal Services Act 2000 to promote access to justice by providing legal aid schemes that assist people who have insufficient means to pay for legal services to nonetheless have access to them.

Legal services in relation to legal aid are defined in the Act as:

“legal advice and representation and includes assistance:

- i. with resolving disputes other than by legal proceedings; and
- ii. with taking steps preliminary or incidental to any proceedings; and
- iii. in arriving at or giving effect to any out-of-court settlement that avoids or brings to an end any proceedings.”

Legal services are further defined by the Agency as follows:

- Legal aid is granted only where the assistance required is related to proceedings, so assistance as defined here fits within an approved scheme only in terms of (ii) and (iii) above
- Advice simpliciter is similarly not covered by the Legal Aid Scheme except in (ii) above and (iii) above
- Advice and assistance on representation under the Duty Solicitor Scheme and advice on rights under the Bill of Rights with respect to duties and obligations under the Police Detention Legal Assistance Scheme are provided for within those schemes
- Legal representation in Courts must be by a practitioner holding a current practising certificate (apart from proceedings under the Employment Relations Authority, ACC or the Environment Court).

Three schemes are currently administered under the Legal Services Act 2000. These schemes are:

1. The Legal Aid Scheme; to assist persons with insufficient means, to have access to legal representation and advice in anticipation of proceedings.
2. The Duty Solicitor Scheme; to ensure that there is available in each District Court a sufficient number of lawyers for the purpose of assisting, advising and representing unrepresented defendants charged with an offence.
3. The Police Detention Legal Assistance Scheme; to ensure that there are available a sufficient number of lawyers to provide legal advice, or legal assistance, or both to any person -
 - to whom the scheme applies; and
 - who wishes to consult or instruct a lawyer about any matter relating to the person’s questioning and/or detention.

Listing Approval

Approvals for listed providers will be classified into the following areas of law:

Legal Aid Scheme:

- **Criminal (further divided into Proceedings Categories)**
- **Family**
- **Civil - General**
- **Refugee**
- **Supreme Court (Interim)**
- **Waitangi Tribunal and Maori Land and Maori Appellate Courts**
- **Mental Health**

Duty Solicitor

Police Detention Legal Assistance

The Agency has established listing criteria, for each area of law that requires the demonstration of experience and competence before listing can be approved. Input from referees and the totality of the applicant’s representation of the quality and relevance of his/her experience and competence will be taken into account.

Law practitioners will apply to the Agency for approval to be listed to provide legal aid services. The application with attached supporting documentation must provide sufficient information to allow the Agency to ascertain the qualifications, experience and competence of the applicant to act as lead provider. Where special circumstances exist, the Agency may give full or conditional approval where the applicant does not meet all of the criteria.

All listed providers for Duty Solicitor and Police Detention Legal Assistance Schemes will be Lead Providers. The Agency may approve applicants under the Legal Aid Scheme as either Lead or Secondary Providers. Within each area of law:

- A Lead Provider is a provider who has an approval that does not require supervision from another Listed Provider and who has overall responsibility for the management and conduct of the legal aid case including the substantive hearing. A Lead Provider may, in certain circumstances, have a conditional approval.
- A Secondary Provider will have insufficient experience and/or competence to be approved as a Lead Provider but may be listed as a provider subject to meeting a condition that she/he is supervised by and is responsible to a Lead Provider managing the legal aid matter.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Legal Aid

The Criminal - Proceedings Categories, One to Four, relate to the experience and competence of the listed provider. This is to ensure that assignments are allocated to suitably experienced practitioners according to the complexity of the proceedings and the severity of the possible outcome for the aided person.

Legal aid is further defined for listing into: Family, Civil-General, Refugee, Waitangi Tribunal and Maori Land and Maori Appellate Courts, and Mental Health. The applicant may make application for approval in any of those areas where she/he has met the general listing criteria.

These separate listings have been developed to ensure that the Agency's Listed Providers have the requisite specialist knowledge, experience and competence.

Agency Discretion on Mandatory Training

Where the applicant has not completed a mandatory training requirement because of limited programme availability the Agency may issue an approval conditional on the training being successfully completed by a nominated date.

Court of Appeal

A listed provider may undertake work in the Court of Appeal in the areas of law for which she/he has full approval.

Agency Approval

In determining whether applicants meet the relevant listing criteria, the Agency may take advice from local consultative groups established for this purpose, or from any other appropriate professional body.

The Agency may list at its discretion, law practitioners as lead providers who do not fully meet the approval criteria in this document, where the applicant can demonstrate appropriate ability, equivalent experience and competence.

Conditional Listing Approval

Where the applicants do not meet the experience and competence criteria, the Agency may impose conditions on an approval to provide legal aid services. In this case, the listed provider must provide the services in accordance with those conditions, for the period that the listing approval specifies.

Where the conditions of an approval have been met, the listed provider may apply for full approval using the Agency application form and supplying the appropriate documentation.

Contract for Services

Listed providers must hold a current contract for services with the Agency in order to provide services under its legal aid schemes.

Legal Services will be provided under the terms of a contract for services between the Agency and the Listed Provider.

A set of service standards will be referenced in the contract.

However, if listed providers are subsequently employed by the Agency in its Public Defence Service pilot, they must enter into a current "Agreement for Listed Provider Employed by the Legal Services Agency" for the provision of services under the Agency's legal aid schemes.

Similarly, if lawyers who are not listed providers are employed by the Agency in its Public Defence Service pilot, they must also enter into a current "Agreement for Listed Provider Employed by the Legal Services Agency" for the provision of services under the Agency's Legal Aid Schemes.

Standards of Service

Listed providers are expected to provide a standard of service that meets the Agency's requirements. Work on developing service standards is underway.

Reporting of Complaints

In order to maintain the integrity and credibility of the Legal Aid Schemes, listed providers must advise the Agency of any upheld complaint made against them that may affect their standing as a listed provider and the interests of the aided person.

Reporting of Criminal Convictions

Listed providers must advise the Agency, without delay, of a conviction for any offence against the law (apart from minor traffic convictions) received after listing.

Non-lawyer providers

The listing criteria and service standards for non-lawyer providers will be advised separately.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

General Listing Criteria

1. Applicant lawyers wishing to be listed as a provider of legal services under the Legal Aid, Duty Solicitor and/or Police Detention Legal Assistance Schemes must hold a current practising certificate issued by a District Law Society.
2. Applicant lawyers will not have had their practising certificate suspended, nor have been struck off, nor declared bankrupt at any time over the previous five years. (The Agency may waive this criterion where it judges the circumstances documented will not impact on the practitioner's fitness to practise as a legal aid provider).
3. Applicant lawyers will not have had a criminal conviction where the nature of that conviction might adversely affect the relationship with aided persons, or the integrity and credibility of the legal aid schemes.
4. Applicant lawyers will have no history of upheld complaints sufficient in aggregate to either be a risk to the integrity of the Agency's Schemes or contravene the Agency's Service Standards.

Listing Criteria - Criminal - Proceedings Category One relates to:

- proceedings in a District Court or the High Court (other than a jury trial or preliminary hearing of an offence)
- proceedings transferred to a Youth Court (other than the preliminary hearing of an offence)

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Criminal-Proceedings Category One matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 12 months' post-admission criminal law experience
- appearance as counsel with substantive and active involvement in at least three defended hearings
- completion of the New Zealand Law Society Introduction to Criminal Law Practice
- completion of the New Zealand Law Society Duty Solicitor Training Programme

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as Secondary Providers and receive conditional approval.

Listing Criteria - Criminal - Proceedings Category Two relates to:

- trials or indictment before a jury or before a Judge alone, following an application under Section 361B of the Crimes Act 1961 (including the preliminary hearing of the offence) where the most serious charge carries a maximum penalty of not more than ten years imprisonment
- proceedings before, and appeals to, the New Zealand Parole Board

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Criminal - Proceedings Category Two matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 24 months' continuous experience as Criminal - Proceedings Category One
- appearance as counsel with substantive and active involvement in at least three Proceedings Category 2 or above trials
- completion of the New Zealand Law Society Court Jury Trials Workshop.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Listing Criteria - Criminal - Proceedings Category Three relates to:

- trials or indictment before a jury or before a Judge alone, following an application under Section 361B of the Crimes Act 1961 (including the preliminary hearing of an offence) where the most serious charge carries a maximum penalty of more than ten years' imprisonment (other than life imprisonment or where the aided person if convicted is liable to preventative detention) or where the aided person is likely to face cumulative sentences of more than 10 years imprisonment. (The matter becomes a Proceedings Category Four at that stage).

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Criminal - Proceedings Category Three matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 24 months' continuous experience as Criminal - Proceedings Category Two
- appearance as counsel with a substantive and active involvement in at least three Proceedings Category Three or Four trials where participation in such trials is available to the practitioner¹
- completion of the New Zealand Law Society Litigation Skills Programme.

¹ In districts where access to Proceedings Category Three or Four trials is very limited the local consultative group will make its recommendations based on the applicants range and depth of experience and competence in proceedings Category Two trials.

Listing Criteria - Criminal - Proceedings Category Four relates to:

- trials or indictment before a jury or before a Judge alone, (including the preliminary hearing of an offence) where any charge carries a maximum penalty of life imprisonment or where the aided person, if convicted, is liable to face a sentence of preventive detention.

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Criminal - Proceedings Category Four matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 24 months' continuous experience as Criminal - Proceedings Category Three
- appearance as counsel for the defence with a substantive and active involvement in at least six Proceedings Category Three or Four trials.

Listing Criteria - Duty Solicitor relates to:

- Duty Solicitors under section 47 of the Legal Services Act 2000 are approved to assist, advise and under some circumstances represent, unrepresented defendants at Court who are charged with an offence.
- When Listed Providers meet the criteria of the Duty Solicitor Scheme their names may be added to the roster of Duty Solicitors in the relevant District Court, according to the Agency protocols.

Lead Providers

Applicants will meet the general listing criteria and in addition will have completed the New Zealand Law Society Law Society Duty Solicitor Training Programme.

Listing Criteria - Police Detention Legal Assistance Scheme relates to:

- Police Detention Legal Assistance Scheme provides assistance, through telephone or face-to-face, legal advice to persons being questioned or detained by the Police.
- When Listed Providers meet the criteria of the Police Detention Legal Assistance Scheme their names may be added to the static list or roster in the relevant District, according to the Agency protocols.

Lead Providers

Applicants will meet the general listing criteria and in addition will have a Criminal - Proceedings Category Two Listed Provider approval.

Note: The Agency may approve a Criminal, Proceedings Category One law applicant for Police Detention Legal Assistance, where there are insufficient Listed Providers of a higher category to provide an effective service. Such approvals will be particular to the location served.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Listing Criteria - Civil - General relates to:

- **civil proceedings under s7 (1) (a), (b), (c), (e)(iii), (e)(iv), (e)(v), (g), (h), (i), (n), and (o) of the Legal Services Act 2000.**

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Civil - General matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 12 months' post-admission legal experience in Civil matters
- attendance at, or observation of, five Civil or Family proceedings with witnesses giving oral evidence, and
- assistance in the preparation of at least five Civil matters
- completion of the New Zealand Law Society Entry Level Programme, Civil Litigation Skills Workshop
- appearance as counsel in at least three Civil proceedings.

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as Secondary Providers and receive conditional approval.

Listing Criteria - Family relates to:

- **family proceedings in a Family Court, High Court or Court of Appeal under s7(1) (a), (b) and (c) of the Legal Services Act 2000.**

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Family matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 12 months' post-admission legal experience in Family matters
- substantive and active involvement in a wide range of Family Court proceedings, including interlocutory hearings, mediation conferences and judicial conferences
- active participation in three proceedings with witnesses giving oral evidence
- completion of the New Zealand Law Society Entry Level Programme, Introduction to Family Law Practice.

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as Secondary Providers and receive conditional approval.

Listing Criteria - Mental Health relates to:

- **proceedings under s7 (1) (a), (b), and (c) of the Legal Services Act 2000.**

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Mental Health matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 24 months' post-admission experience in Family Law
- observation of at least three completed Mental Health proceedings.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as secondary providers and receive conditional approval.

Listing Criteria - Refugee relates to:

- proceedings under s7 (1), (j), (k), (l), and (m) of the Legal Services Act 2000.

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Refugee matter as a lead provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 12 months' post-admission legal experience in Refugee matters
- participation in and completion of significant preparation in at least five cases at the Refugee Status Branch level
- representation of clients in at least three Refugee Status Appeals Authority proceedings.

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as Secondary Providers and receive conditional approval.

Listing Criteria - Supreme Court - (Interim) relates to:

- appeal proceedings in the Supreme Court in accordance with the Supreme Court Act 2003 including:
- Criminal proceedings under section 6 (a) of the Legal Services Act 2000
- Civil proceedings under Section 7 (1) (b) of the Legal Services Act 2000
- Appeals under section 60 of the Legal Services Act 2000.

Lead Providers

Applicants must:

- only represent matters for which they hold a current listing approval
- hold litigation level 2 or above (i.e. have four years or more litigation experience)

Listing Criteria - Waitangi Tribunal and Maori Land and Maori Appellate relates to:

- proceedings under s7 (1) (e)(i), (e)(ii), and (f) of the Legal Services Act 2000.

Lead Providers

The Agency requires that the applicant demonstrate through a statement of the quality and relevance of her/his recent work experience, that she/he is competent to take responsibility for a Waitangi Tribunal and Maori Land and Maori Appellate Courts matter as a Lead Provider.

Within this statement of experience and competence, applicants must demonstrate that the following elements have been met or exceeded:

- a minimum of 24 months' post-admission legal experience
- evidence that they have studied the Treaty of Waitangi, Waitangi Tribunal jurisprudence and Maori Land Law
- an understanding of tikanga Maori and basic ability in te reo Maori when working in the Waitangi Tribunal jurisprudence
- engagement on the preparation of submissions for three relevant Court or Tribunal proceedings
- completion of the New Zealand Law Society Civil Litigation Skills or New Zealand Litigation Skills programmes.

Secondary Providers

Applicants will meet the general listing criteria.

Applicants who do not yet meet the experience and competence criteria may be listed as Secondary Providers and receive conditional approval.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

Approval as a Listed Provider

All applications for listing approval must be made directly to the Legal Services Agency.

The Agency has established Local Consultative Groups to assess for approval, the information provided by the Applicant. Group members, including those nominated by the relevant District Law Society, will have an understanding of the experience and competence required for each area of law.

The Group will assess the information provided by the applicant to ascertain the applicant's experience and competence in relation to the area of law for which they applied. A recommendation concerning the approval will be made to the Agency. The final decision will be made by the Agency.

The information, to be provided by the applicant, will include inter alia:

- general curriculum vitae
- 2 completed reference forms attesting to the applicant's competence in the area/s of law applied for. These referees will be independent law practitioners, experienced and competent in the field for which the applicant has applied and whom the Agency or the Local Consultative Group may contact, if required
- statement of experience and competence against criteria including:
 - compliance with specific criteria
 - length of time in practice
 - details of proceedings/hearings/etc the applicant has been involved with in the past months (number relevant to the specific area of law applied for) including - the number, the complexity, the nature and the extent of involvement
 - recent experience in relevant related fields
 - confirmation of attendance at mandatory training programmes
 - details of continuing law education seminars, workshop or programmes or other applicable education or experience in a related field
 - the history of upheld complaints (if any)
 - any further information that may demonstrate the experience and competence of the applicant.

Where applicants seek listing outside of the criteria, the exceptional circumstances are to be detailed in the application documentation and referees must be able to attest to the applicant's experience and competence to be listed outside the guidelines.

Criteria for Approval as a Listed Provider

pursuant to section 71 of the Legal Services Act 2000

GLOSSARY OF TERMS USED IN THE CRITERIA FOR APPROVAL pursuant to section 71 of the Legal Services Act 2000

The Agency requires that the applicant **demonstrate** through a statement of the **quality** and **relevance** of his/her **recent** work **experience**, that she/he is **competent** to take responsibility for an [area of law] matter as a Lead Provider.

Most listings require that the applicants demonstrate that specific elements have been met or exceeded. In general terms these can include:

- [an amount of time] **post-admission legal experience** (which can include experience in a specific area of law)
- **assistance in the preparation** of [amount] of [area of law] matters
- appearance as counsel with **substantive and active involvement** in [amount] of **defended hearings** or trials
- **continuous experience** at a particular level
- **active participation** in [amount] of proceedings with witnesses giving oral evidence
- participation in and completion of **significant preparation** in at least [amount] of cases in [area of law]

The above terms in bold require definition. When applications for listing are assessed for approval, the following interpretations are generally applied:

- **Demonstrate** - to address the specific requirements of the criteria, in writing, with sufficient detail of specific matters to show that the level of skill and experience has been met and means by which that the information can be verified (e.g. case or court numbers, summary of case, assisting or opposing counsel, etc). This may include comments from third parties in the form of references or other documentation.
- **Quality** - the standard and significance of the applicant's work is appropriate in order to establish that the relevant criteria have been met for the area of law and/or category being applied for.
- **Relevance** - ensuring that the examples cited relate to the criteria and requirements of the area of law applied for.
- **Recent** - examples of involvement within the last 3 years in a particular area of law (at the outside edge, 5 years)
- **Experience** - detailed dates and examples of matters which will demonstrate particular skills, knowledge and practice in an area of law.
- **Competence** - a demonstrable capability that the applicant can undertake the work involved in the category/area of law applied for. Factors include; quality of work, difficulty of cases, number and range of matters involved in, satisfaction of clients, performance in Court, quality of legal argument and timeliness in responding to Court, the Agency and the legally aided person. This may be corroborated by third parties.
- **Post-admission legal experience** - holding a practising certificate and working within the area of law for which they are applying.
- **Assistance in the preparation** - demonstrable support and help in pre-trial matters for counsel involved in the proceedings.
- **Substantive and active involvement** - verifiable information about participation in particular cases demonstrating a significant and committed contribution to the matter. In most cases this would be interpreted as considerable input into the Court proceedings (such as examination or cross examination of witnesses; leading evidence, delivering opening and/or closing addresses) but substantial pre-trial contributions are considered on an individual basis.
- **Defended hearing** - a contested summary jurisdiction hearing as described in section 67 of the Summary Proceedings Act 1957 before a Judge, Justice of the Peace or Community Magistrate but not including a guilty plea.
- **Continuous experience or involvement** - uninterrupted practice in an area of law or at a particular level of experience.
- **Active participation** - demonstrated involvement in a matter, preparing and presentation of a case to a degree of proficiency in technical and strategic issues and which shows actual involvement with clients, witnesses, Police, the Court etc.
- **Significant preparation** - information which will exhibit a considerable and effective input into and involvement in the pre-trial and preparatory stages of a matter. (e.g. appearance at depositions, preparing case, brief witnesses, legal research, factual analysis, etc).