



Legal Services Agency

Pokapū Ratonga Ture

Provider Information Pack: Criminal Law Proceedings

Legal Aid Rates and Fees, Disbursements, and Steps

Effective from 29 June 2009

Contents

- Introduction 2**
- Granting Policies and Procedures..... 3**
 - Application for a Grant of Legal Aid..... 3
 - Amendments to a Grant of Legal Aid 3
 - Maximum Grant..... 3
 - Guideline Hours..... 4
 - Maximum Grant, Guideline Hours and Amendments 4
 - Claims for services provided 4
 - Section 66 – Additional Payments..... 5
 - Legal Aid Review Panel 5
 - Specialist Advisers 5
- Legal Aid Rates and Fees 7**
 - Fee Rates..... 7
 - Other Fee Rates..... 8
- Disbursements 9**
 - General Office disbursements..... 9
 - Special disbursements 10
 - Travel costs 11
 - Travel Policy for Legal Aid Services..... 12
 - Notes to Travel costs..... 13
- Steps for Criminal Law Proceedings 14**
 - Structure of the Steps..... 14
 - Documentation Requirements 14
 - Granting Notes..... 14
 - Revision History..... 14
 - Steps for Criminal Law Proceedings 16
 - Summary Jurisdiction 17
 - Summary Jurisdiction 19
 - Indictable Jurisdiction 26
 - Indictable Jurisdiction 27
 - Indictable Jurisdiction 28
 - Indictable Jurisdiction 29
 - Indictable Jurisdiction 30
 - Indictable Jurisdiction 32
 - Indictable Jurisdiction 33
 - Indictable Jurisdiction 34
 - Parole (Criminal Matters) June 2009 37
 - Court of Appeal..... 39
 - Supreme Court 41

Introduction

Provider information pack

The provider information pack is a quick reference guide for lawyers and other providers covering:

- key legal aid granting policies and procedures; and
- information necessary to determine the maximum grant for a matter and to prepare claims for services with reference to:
 - the steps for criminal law proceedings;
 - the legal aid rates and fees; and
 - disbursements.

The components of the information pack are described in the following sections along with tables of legal aid rates, fees and disbursements, and steps for criminal law proceedings for quick reference.

Amendments to the information pack

The format of the information pack has been designed to make it easier to update and disseminate changes to legal aid rates, fees, disbursements and steps for proceedings in the future.

If you have any suggestions or comments on the format and content of the information pack please forward to:

Manager Operations Support, Grants
Legal Services Agency
PO Box 5333
Wellington.

Granting Policies and Procedures

The key legal aid granting policies and procedures applied by the Agency are included in this section of the information pack.

Application for a Grant of Legal Aid

An application for a grant of legal aid must be made in the prescribed manner - Application for Criminal Legal Aid (*LSA Form 1*) - and include all the supporting documentation as stated on the application form. Failure to do so may result in:

- a delay to make a decision, or
- a further request to you and/or the aided person to provide further information.

Providers should ensure that an application for a grant of legal aid is made to the Agency before the final disposition of the matter. Failure to do so may result in the application being declined by the Agency and returned to you or the legally aided person.

For further information refer to section 12 of the Legal Services Act 2000.

Amendments to a Grant of Legal Aid

An application to amend the conditions of the grant may be made as soon as it is known that those conditions have changed. For example, the maximum grant may need to be changed if the guideline hours for a particular activity are expected to be insufficient due to special circumstances.

An application for an amendment to a grant of legal aid must be made in the prescribed manner – Criminal Legal Aid Amendment to Grant (*LSA Form 2*) - and include all the supporting documentation, for example copies of application for orders, affidavits, exhibits, and summary documents for Court. Failure to provide the necessary information may result in:

- a delay to make a decision, or
- a further request to you and/or the aided person to provide further information.

Amendments seeking an increase in the guideline hours must be approved by the Agency before payment will be made for any additional time incurred.

Providers should ensure that an application for an amendment to a grant of legal aid is made to the Agency before the final disposition of the matter. Failure to do so may result in the application being declined by the Agency. For further information refer to section 24 Legal Services Act 2000.

Maximum Grant

The maximum grant for a proceeding is the amount of legal aid authorised under the grant. In criminal law proceedings, the maximum grant will comprise:

- the guideline hours for the activities in the steps to be performed by the provider - at the appropriate fee rate (the fee rate, which is expressed in GST inclusive terms, is an hourly rate set according to 'proceedings and forum categories' and 'levels of experience of providers' - see section on Legal Aid Rates and Fees);
- the fees (if any) for the activities in the steps to be performed by the provider; and

- the amount (if any) of pre-approved disbursements.

Information about how the maximum grant is determined for a matter, is included in the letter sent to the provider when the grant is approved.

Guideline Hours

Guideline hours have been established for each activity specified in the steps for a proceeding. The hours are a 'reasoned estimate' of the time required for the activity in at least 80% of cases. The 'reasoned estimate' has been developed in consultation with lawyers experienced in proceedings in the particular area of law.

The guideline hours are expressed in 'up to' terms – this means that the Agency expects:

- the legal aid work to be undertaken for the specific activity to be within the guideline hours stated – in 80% of cases; and
- that each claim for services by providers will be based on 'actual and reasonable' time incurred for the specified activity.

Once a grant of legal aid has been approved for a matter, the Agency will not require prior approval to undertake the steps and activities specified for the proceeding. This will also apply to disbursements where they are specified and expected to be incurred as part of the activities performed within the steps.

Where fees are specified in the steps as an alternative to guideline hours, they are the 'maximum' amount that can be claimed for the activity. They are considered to be, on average, a fair and reasonable payment for the work to be performed on that activity measured over time across a number of similar types of matters.

Maximum Grant, Guideline Hours and Amendments

A provider is required to apply for an amendment to grant when the maximum grant is likely to be exceeded, ie when the guideline hours for one or more activities within a step in a proceeding are likely to be exceeded because of the nature and complexity of the matter.

When determining the need to seek an increase in the maximum grant, the provider will need to consider and confirm the following:

- the services required are not covered by the guideline hours/fixed fees;
- the services required are legal aid services;
- there is merit in continuing with the services required; and
- the services required may be subject to special circumstances.

An amendment to the maximum grant – when the guideline hours for an activity are likely to, or have been exceeded - may be requested by:

- a Criminal Legal Aid Amendment to Grant (*LSA Form 2*) or

Claims for services provided

The claims for legal aid services are based upon 'actual and reasonable' time incurred on a matter, and may include fees and disbursements.

Lawyers and other providers are expected to promptly claim for services undertaken on legal aid grants.

The claims for legal aid services are submitted on the invoice forms developed by the Agency for this purpose – Criminal Legal Aid Guilty Plea Tax Invoice (*LSA Form 3*) or Criminal Legal Aid Tax Invoice (*LSA Form 4*). The invoice form specifies the information required, if any, to be submitted in support of the claim, but as a minimum should include details of the activities and steps completed along with a report on the progress or outcome of the matter.

The Agency recommends that a claim be prepared and submitted to the Agency after the completion of the activities for each step in a proceeding.

This timing is preferred, as it assists the Agency to promptly review and certify the claim against the particular activities undertaken within a step.

Providers should retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring:

- the work invoiced by the provider within the steps was actually and reasonably completed; and
- the provider advised the Agency of any change in the merits of the case, or other conditions of the grant.

Section 66 – Additional Payments

A lawyer or other listed provider may not take payments from, or in respect of, a person who receives services from the legal aid scheme (or any other scheme administered by the Agency) unless authorised by the Agency – s66 Legal Services Act 2000.

A provider may request the Agency to determine whether to allow an additional payment to be made. The Agency will consider each request on its own merits and will authorise an additional payment under section 66 only in exceptional circumstances.

Legal Aid Review Panel

The legally aided person and/or the provider may decide to appeal a granting decision made by the Agency. This appeal is made to the Legal Aid Review Panel.

A grant of legal aid may be made by the Agency for this appeal. The maximum grant for this purpose is set out in the section on Legal Aid Rates and Fees. Claims in excess of the fixed fee will require justification and be decided on a case by case basis.

Specialist Advisers

The Agency has Specialist Advisers who are experienced lawyers with the necessary technical expertise to assist staff with making granting decisions, including:

- to grant or decline legal aid;
- to advise on the maximum grant appropriate for a matter; and
- to assess the merits of continuing with a grant of legal aid.

Applications for grants of legal aid, including applications for amendments to grants, may be referred to Specialist Advisors by grants officers for a recommendation or decision at any time.

A referral is more likely to be made when the nature and circumstances of the proceedings indicate complex legal issues, multiple parties, and the costs are likely to significantly exceed the guideline hours set out in the steps for proceedings.

Legal Aid Rates and Fees

The legal aid rates and fees are used to reimburse lawyers and other providers for performing legal aid services in accordance with the steps for criminal law proceedings. The rates and fees are comprised of:

- hourly rates set according to the category of the forum – court or similar – for the proceedings, and the level of experience of the provider; and
- fees set for a specific service.

Fee Rates

The following hourly rates are applied in the determination of maximum grants and claiming for legal aid services performed in criminal law proceedings [Legal Services Act 2000 s6]

Proceedings Category (see below for full explanation of categories)	Level of Experience			
	Other (\$/hr)	Level 1 (\$/hr)	Level 2 (\$/hr)	Level 3 (\$/hr)
PC1 - DC/HC: non jury trials		103	108	119
PC2 - DC/HC: jury trials, sentence <10yrs		108	135	140
PC3 - DC/HC: jury trials, sentence >10yrs		130	140	151
PC4 - DC/HC: jury trials, life imprisonment		146	162	179
Court of Appeal/Supreme Court		146	162	179
Travel time		54	65	76
Qualified legal executives	92			
Non qualified legal executives/para-legals	81			
Law clerks	81			

For example a level 2 Provider's Guideline Hourly Rate is \$135 (incl. GST) in a PC2 matter

NB: All fee rates are GST inclusive.

The fee rates are effective from 1 July 2009.

Proceedings Categories

PC 1 Proceedings in a District Court or the High Court (other than a jury trial or the preliminary hearing of an offence).
Proceedings transferred to a Youth Court (other than the preliminary hearing of an offence).

PC 2 Jury trials in any court or before a District Court or High Court 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 10 years' imprisonment.

Proceedings before, and appeals from, the New Zealand Parole Board.

- PC 3** Jury trials before any court or before a District Court or High Court 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 more than 10 years' imprisonment (other than life imprisonment and other than where the person is convicted and a High Court judge indicates they are considering a sentence of preventive detention. The matter becomes a PC4 at that stage.)
- PC 4** Jury trials in any court (including the preliminary hearing of the offence) where any charge carries a maximum penalty of life imprisonment or where the aided person, is charged, is likely to face a sentence of preventive detention.

Level of Experience

- Level 1** A person with up to 4 complete years of litigation experience
- Level 2** A person with at least 4 and up to 9 complete years of litigation experience
- Level 3** A person with at least 9 complete years of litigation experience

Court of Appeal/Supreme Court

Proceedings in the Court of Appeal or the Supreme Court.

Second Counsel

These rates apply to remuneration of providers at their PC listing approval level acting in cases at the equivalent or lesser level cases.

Other Fee Rates

Other fee rates have been established by the Agency for the following specific services:

Services	Fixed Fee/Rate
LARP Review	\$220 per review * (including disbursements)

* Payment in excess of the fee, up to a maximum of 3 hours at the appropriate fee rate, will be considered in special circumstances - by application for amendment to grant.

NB: All other fee rates are GST inclusive.

Disbursements

Lawyers and other providers are normally expected to pay for all disbursements relating to a legally aided matter, but may claim reimbursement of those costs from the Agency. The disbursements are claimed by the 'lead provider' assigned to the matter.

Disbursements which may be reimbursed include:

- general office disbursements,
- special disbursements, and
- travel costs.

The amount of disbursements incurred on a matter, along with the fees paid for the services provided, will contribute to the cost of services, part or all of, which have to be repaid by the legally aided person.

The amount of disbursements likely to be incurred on a matter will be part of the maximum grant established for that matter.

General Office disbursements

General office disbursements include specific office expenditure incurred by a lawyer or other provider which can be *directly* attributed to the conduct of a matter.

The Agency will reimburse the following general office disbursements:

Type of disbursements	Basis of Reimbursement
Cell phone/mobile calls	Cost per call
Facsimiles	Cost per facsimile
Photocopying	20 cents per page copied
Postage, courier fees	Cost per delivery
Toll calls (from land lines)	Cost per call

Office overhead expenses - for example, office running costs, secretarial costs, file administration, computer costs, phone rental including local calls, cell phone /mobile plans and equipment rentals - are not reimbursable.

The Agency does not require 'prior approval' for general office disbursements up to \$100 for each matter. An amount of \$100 will be allocated to each matter for grant approval and notification purposes, pending the claim for reimbursement.

Amounts in excess of \$100 will be considered for approval as part of the application for amendment to grant process.

A claim for 'actual and reasonable' general office disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi) for the matter in question. Details of the supplier, date and description of service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice. General office disbursements may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim general office disbursements, providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

Special disbursements

Special disbursements include specific expenditure for the services supplied by third parties which can be directly attributed to the conduct of a matter.

The Agency will reimburse the following pre-approved special disbursements:

Type of disbursements	Basis of Reimbursement
Agents Fees	Fee @ Cost (as agreed by reference to Fee Rates for providers)
Court Filing Fees	Fees not covered by the fees waiver and refund regulations (fees noted under the regulations may be waived/refunded upon application to the Registrar of the Court)
Document/Process Servers	Cost (as invoiced by third party)
Specialist Reports – Valuations, Medical, Restorative Justice, Other	Cost (as invoiced by third party)
Witnesses and Interpreters	Fee @ Rates governed by the Witnesses and Interpreters Fees Regulations 1974, or Courts Schedules - and any subsequent updates

The Agency does not require ‘prior approval’ for the special disbursements listed above **provided** they are incurred on matters which will be conducted *within* the guideline hours specified in the steps for the particular proceedings. The disbursement may be:

- a standard cost which has been notified to providers as being part of the proceedings steps applicable to the matter; and/or
- is expected to be incurred in the normal course of a proceedings, in accordance with the activities and tasks for which guideline hours have been specified, eg costs for the serving of documents by Document and Process Servers.

The lead provider will need to seek prior approval from the Agency for all other special disbursements, as part of the application for legal aid, or the amendment to grant process.

A claim for ‘*actual and reasonable*’ special disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi) for the matter in question. Details of the supplier, date and description of service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice.

Special disbursements may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim special disbursements providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

Travel costs

Travel costs include specific expenditure incurred by lawyers and other providers on travel arrangements which can be directly attributed to the conduct of a matter.

The Agency will reimburse, in accordance with its Travel Policy (see below), the following travel costs, including travel time:

Type of fees/disbursements	Basis of Reimbursement
Accommodation, meals, and incidentals	Cost (as invoiced by third party) (see Notes to Travel Costs below for guideline accommodation rates and meal allowances)
Travel – air, train, bus, taxi, car rental	Cost (as invoiced by third party)
Travel time	Fee @ Fee Rates specified for travel time by lawyers and other providers (see Legal Aid Rates and Fees)
Use of provider’s motor vehicle	Kilometres travelled @ 73 cents per kilometre

The Agency does not require ‘prior approval’ for travel costs where travel is required and unavoidable – this includes travel:

- to a place of ‘detention’ or similar; and
- a change in the assigned court for the hearing or trial.

All other travel costs will require prior approval, by application for amendment to grant.

A claim for ‘actual and reasonable’ special disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi). Details of the supplier, date and description of travel and related service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice. Travel costs may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim special disbursements providers and other providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

Travel Policy for Legal Aid Services

Introduction

The Agency recognises that from time to time it will be necessary for a lawyer and other providers to undertake travel to meet clients, witnesses, and experts, and to attend court and mediation hearings, and meetings between the parties. To ensure that the impact of travel costs, which can be significant in certain circumstances, is managed fairly for all parties – the legally aided person, the lawyer and other providers, and the Government – the Agency has developed a Travel Policy for Legal Aid Services.

Reimbursement of travel costs

The Agency will reimburse the actual and reasonable travel costs, including time, of a lawyer or other provider, where:

- the legally aided person is being held in a place of detention, including prisons, mental health institutions, refugee detention centres;
- the travel destination is not 'local' for the provider – for example, travel to a court in another centre (High Court, Court of Appeal), the matter is moved to another court by the Judiciary/Courts ('local' is explained below);
- non reimbursement of travel costs would compromise the legally aided person's access to justice; or where
- exceptional circumstances exist.

'Local' is described as the centre – large metropolitan city, provincial city, town - where the provider's normal place of work and the travel destination – usually the Court – is located. Travel costs will not normally be reimbursed for travel within the 'local' centre unless it is unreasonable for the provider to bear the time and cost of travel given the time and distance required to travel to the court, or other destination, within that 'local' centre. As a guide, distances less than 25 kilometres and/or travel time less than 30 minutes would normally be considered 'local' and travel costs will not be reimbursed.

The Agency will endeavour to assign, in accordance with its Assignment Policy, a lawyer or other provider to a legal aid matter who is located in the same centre as the appropriate court.

Claims for travel costs

The Agency, when assessing the 'reasonableness' of travel time and costs for certification of the claim, may take into account the following factors which necessitated the travel:

- the Agency's Assignment Policy, which allows for preferred providers and by-rotation providers, and whether the matter should have been reassigned, or an agent appointed;
- the availability of providers in the 'local' centre with the appropriate listing categories and/or expertise in the matter;
- the existence of any conflicts of interest among counsel within a 'local' centre necessitating reassignment of the matter to a lawyer/other provider located outside the centre;
- the 'other party' is located in another centre;
- the legally aided person and/or person significant to the matter, is physically unable to travel, e.g. temporary hospitalisation; and

- the most cost effective travel option(s) have been applied – for example, these might include:
 - economy class air travel
 - advance booking of air fares
 - use of a rental car if private vehicle reimbursement is likely to exceed the rental cost
 - accommodation guidelines covering room rates, meal and incidental allowances.

Claims for travel time

Claims for travel time are to reimburse the time actually spent in travelling to the ‘travel destination’ where it was not possible to undertake other client chargeable activities. Travel time does not include normal home-office travel in accordance with established business and tax practice.

Application of Policy

The Travel Policy applies to services provided by lawyers and other providers under the Legal Aid Scheme, the Duty Solicitor and Police Detention Legal Assistance Schemes.

Notes to Travel costs

Guideline Accommodation Rates and Meal Allowances

The following guideline rates and allowances may be used by lawyers and other providers in claims for reimbursement of travel costs if needed:

Accommodation rates*	\$/day (GST inclusive)
Metropolitan city	\$140 to \$155
Provincial city	\$125 to \$140
Town	\$125 to \$140

Meal allowances	\$/day (GST inclusive)
Breakfast	up to \$15
Lunch	up to \$10
Dinner	up to \$30

* The range of accommodation rates are within acceptable thresholds for government funded organisations and contracted suppliers of services.

The rates and allowances are maintained by the Agency for domestic travel by staff. The rates are current as at 1 July 2008.

Steps for Criminal Law Proceedings

Steps have been established for all major types of criminal law proceedings to help determine:

- the maximum grant that may be approved when legal aid is granted in a matter; and
- the amount that may be claimed for services provided in a matter.

Structure of the Steps

The steps for a proceeding are made up of:

- *steps* - covering the main 'events' in a proceeding, eg Status Hearing;
- *activities* – defined for each of the steps, or main 'events' in a proceeding, eg Preparation for Hearing, Hearing;
- *guideline hours and/or fees* - a 'reasoned estimate' of the time required for each activity in a step for at least 80% of matters;
- *tasks* – describing the actions for each activity within a step;
- *documentation requirements* – forms to be completed by providers to support the legal aid services; and
- *granting notes* – providing additional information to support special granting situations.

A summary of the Agency's policies and procedures for applying the steps to granting legal aid and making claims for services provided is included in the Policies and Procedures section of this information pack.

Documentation Requirements

The documents required to support the provision of services are specified in the steps for the proceedings. Generally, the documents required comprise the Agency's forms covering:

- applications for, and amendment of, grants of legal aid; and
- tax invoices.

Providers should also retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

Granting Notes

The steps are supported by 'Granting Notes' which may apply to one or more activities within the steps. The notes provide additional context for the activities within the steps, and any special granting requirements and approvals.

Revision History

The steps which are available for application to criminal law proceedings comprise:

Steps	Last Revision
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Summary	June 2009
Indictable	June 2009
Parole	June 2009
Court of Appeal	June 2009
Supreme Court	June 2009

The Agency will, as needed, update the steps to reflect changes to the legislation upon which the proceedings are based, and any significant changes in court procedures and legal practice surrounding the proceedings.

Steps for Criminal Law Proceedings

The steps for criminal law proceedings follow.

Lawyers and other providers should ensure they are familiar with the key granting policies and procedures, and information located elsewhere in this information pack, before applying the steps to a matter.

Step 1: Guilty Pleas (including sentencing)

Activity	Fixed Fees/ Guideline Hours	Tasks normally covered by Guideline Hours
Guilty Plea/Sentencing (both same day – no stand down) OR Charges withdrawn	Flat fee of \$248 including any disbursements	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Engaging in charge resolution/negotiation
Guilty Plea/Sentencing (both same day – after stand down for pre-sentencing reports/inquiries)	Flat fee of \$303 including any disbursements	<ul style="list-style-type: none"> • Attending Registrar's/Judge's List Court • Entering plea • Obtaining pre-sentencing reports • Preparing and delivering sentencing submissions • Receiving sentence
Guilty Plea/Sentencing (sentencing on another day – after pre-sentencing reports/inquiries obtained)	Flat fee of \$330 including any disbursements	<ul style="list-style-type: none"> • Reporting to client • Reporting to and invoicing LSA
Section 38 – Forensic Report	up to 2 hours	For <ul style="list-style-type: none"> • Liaising, obtaining and reviewing section 38 Forensic Report
Expert witness/reports	up to 2 hours	For: <ul style="list-style-type: none"> • Locating expert witness • Liaising • Psychiatric reports • Reviewing reports Expert witness fee subject to approval of amendment
Restorative Justice Report	up to 2 hours	For <ul style="list-style-type: none"> • Obtaining Restorative Justice Report – in preparation for sentencing
Written sentencing submissions	up to 3 hours	For <ul style="list-style-type: none"> • Preparing sentencing submissions under Sentencing Practice Note 2003 or, providing written submissions in support of an application made, for example section 106, special reasons or substitution of community based sentences under the Land Transport Act.

Documentation Requirements

- Application for Criminal Legal Aid (*LSA Form 1*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Guilty Plea Tax Invoice (*LSA Form 3*)
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Fixed fees are GST inclusive
- Disclosure – see page 25 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for legal aid (and amendment to grant if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 2: Applications for Bail, Name Suppression, Media Coverage

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Unopposed application for Bail, Name Suppression (excluding electronic bail monitoring application)	up to 2 hours (for each hearing)	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Preparing application for, or opposition to, order(s) • Liaising with Family, Whanau – for bail applications • Receiving decision • Reporting to client • Reporting to and invoicing LSA
Opposed application for Bail, Name Suppression (excluding electronic bail monitoring application)	up to 4 hours (for each hearing)	
Electronic bail monitoring (unopposed and opposed)	up to 4 hours (for each hearing)	
Opposed application for Media Coverage (for all applications)	up to 4 hours (for each hearing)	
Unopposed variation	up to 1 hours (for each hearing)	
Opposed variation	up to 2 hours (for each hearing)	
Hearing	Actual hours	

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 25 for Granting Notes covering the Agency's policy on waiting time.
- Disclosure – see page 25 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for amendment to grant if expecting to exceed fee/guideline hours, correspondence and invoicing.

Step 3: Disclosure – Criminal Disclosure Act 2008

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Disclosure by defendant	up to 1 hours	For preparation of disclosure package, including: <ul style="list-style-type: none"> • Notice of alibi – s22 • Evidence of expert witness - s23 • Service on prosecutor • Associated correspondence
Non-party disclosure	up to 3 hours	For <ul style="list-style-type: none"> • Application for non-party disclosure hearing – s24
	Actual hours	For: <ul style="list-style-type: none"> • attending non-party disclosure hearing(s)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 25 for Granting Notes covering the Agency’s policy on waiting time.

Step 4: Status Hearing (including Family Violence Monitoring Hearings)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to 2 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Engaging in charge discussions/resolution/negotiation with the Officer in Charge, Prosecution • Entering plea • Reporting to client • Reporting to and invoicing LSA
Hearing	Actual hours (if matter continues to a Defended Hearing - Step 4)	For <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 25 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 25 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.
- If a guilty plea is entered at or before the hearing, then only the following guideline hours/fee may be claimed:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Guilty plea entered or charges withdrawn at or before status hearing	up to 2 hours plus the Fee for the appropriate Guilty Plea /Sentencing option - Step 1	For <ul style="list-style-type: none"> • Preparing for status hearing • Obtaining pre-sentencing reports • Preparing and delivering sentencing submissions • Receiving sentence • Reporting to client • Reporting to and invoicing LSA

Step 5: Defended Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<p>Preparation for hearing (including 'same day' sentencing)</p>	<p>up to 5 hours or up to 3 hours (if preparation has already been claimed for the Status Hearing - Step 2)</p>	<p>For</p> <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Preparing for hearing – cross examination, briefing witnesses, submissions • Preparing written submissions • Preparing and delivering sentencing submissions • Receiving verdict/sentence • Reporting to client • Reporting to and invoicing LSA
<p>Expert witness/reports</p>	<p>up to 2 hours</p>	<p>For:</p> <ul style="list-style-type: none"> • Locating expert witness • Briefing expert witness • Liaising • Psychiatric reports • Reviewing reports <p>Expert witness fee subject to approval of amendment</p>
<p>Hearing (including 'same day' sentencing)</p>	<p>Actual hours</p>	<p>For</p> <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)
<p>Preparation for sentencing (when matter adjourned to another day for sentence)</p>	<p>up to 2 hours</p>	<p>For</p> <ul style="list-style-type: none"> • Preparing for sentencing hearing • Obtaining pre-sentencing reports • Preparing and delivering sentencing submissions • Receiving sentence • Reporting to client • Reporting to and invoicing LSA
<p>Section 38 – Forensic Report</p>	<p>up to 2 hours</p>	<p>For</p> <ul style="list-style-type: none"> • Liaising, obtaining and reviewing section 38 Forensic Report
<p>Restorative Justice Report</p>	<p>up to 2 hours</p>	<p>For</p> <ul style="list-style-type: none"> • Obtaining Restorative Justice Report – in preparation for sentencing

Step 5: Defended Hearing continued

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Written sentencing submissions	up to 3 hours	For <ul style="list-style-type: none"> Preparing sentencing submissions under Sentencing Practice Note 2003 or, providing written submissions in support of an application made, for example section 106, special reasons or substitution of community based sentences under the Land Transport Act.
Sentencing hearing (when matter adjourned to another day for sentence)	Actual hours	For <ul style="list-style-type: none"> Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 25 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 25 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.
- If a guilty plea is entered at or before the hearing, then only the following guideline hours/fee may be claimed:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Guilty Plea entered before Hearing	up to 5 hours or	For <ul style="list-style-type: none"> Preparing for defended hearing Obtaining pre-sentencing reports Preparing and delivering sentencing submissions Receiving sentence Reporting to client Reporting to and invoicing LSA
	up to 3 hours (if preparation has already been claimed for the Status Hearing - Step 2) plus the Fee for the appropriate Guilty Plea /Sentencing option - Step 1	

Step 6: Appeals to the High Court

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Appeal against disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)	up to 5 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Preparing and filing notice of appeal • Preparing affidavits • Undertaking research • Liaising with Crown, prosecution • Considering Crown, prosecution submissions • Preparing submissions for hearing • Interviewing/cross examining witnesses • Liaising with the High Court • Receiving decision • Reporting to client • Liaising with prison • Reporting to and invoicing LSA
Bail or Media Coverage	up to 5 hours	
Name Suppression	up to 6 hours	
Appeal against Sentence	up to 6 hours	
Appeal against Conviction	up to 10 hours	
Appeal against Conviction and Sentence	up to 12 hours	
Hearing	Actual hours	

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 25 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 25 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Summary Jurisdiction

Granting Notes

Waiting Time - Proceedings Step 2, 3, 4, 5

The Agency accepts claims for waiting time, as part of claims for actual appearances in hearings – before a judge. To support claims for approval and payment of waiting time, the following information is required:

- A summary of both the waiting time and hearing time on the day of appearance – date and times
- If waiting time exceeds 1 hour, an explanation of the circumstances.

Disclosure by prosecutor – All Proceedings Steps

Disclosure by the prosecutor can occur at many points in proceedings. Where the steps refer to “Receiving and reviewing disclosure”, this includes any or all of the following tasks:

- Request further initial disclosure from prosecution (after commencement of proceedings)
- Receiving and reviewing further initial disclosure
- Receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- Requesting additional disclosure
- Interlocutory applications:
 - Application for address of witness or informant
 - Application for disclosure of information – s30
 - Application for order setting conditions for viewing exhibit – s31
 - Application for timetabling order – s32

Remuneration for disclosure by the prosecutor is included within the relevant steps. However, if providers are required to attend hearings in connection with interlocutory applications, they may claim actual hearing time.

Step 1: Guilty Plea/Sentencing – s160 Summary Proceedings Act 1957 (replaces s153A Summary Proceedings Act 1957 from 29 June 2009)

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Preparation (including annexure(s) for Home Detention, Community Detention)	up to 10 hours	up to 15 hours	up to 15 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Undertaking research • Liaising with Crown/Court • Discussing charges/case/plea with Crown • Obtaining pre-sentencing reports • Preparing sentencing submissions • Attending Registrar's/Judge's List Court • Entering plea • Receiving sentence • Reporting to client • Reporting to and invoicing LSA
Section 38 – Forensic Report	up to 2 hours	up to 2 hours	up to 2 hours	For <ul style="list-style-type: none"> • Liaising, obtaining and reviewing section 38 Forensic Report
Restorative Justice Report	up to 2 hours	up to 2 hours	up to 2 hours	For <ul style="list-style-type: none"> • Obtaining Restorative Justice Report – in preparation for sentencing
Hearing	Actual hours	Actual hours	Actual hours	For <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Application for Criminal Legal Aid (*LSA Form 1*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency's policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for legal aid (and amendment to grant if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 2: Applications for Bail, Name Suppression, Media Coverage

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Unopposed application for Bail, Name Suppression (excluding electronic bail monitoring application)	up to 2 hours (for each hearing)	up to 2 hours (for each hearing)	up to 2 hours (for each hearing)	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Preparing application for, or opposition to, order(s) • Liaising with Other Agencies and Family, Whanau • Receiving decision • Reporting to client • Reporting to and invoicing LSA
Opposed application for Bail, Name Suppression (excluding electronic bail monitoring application)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	
Electronic bail monitoring (unopposed and opposed)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	
Opposed application for Media Coverage (for all applications)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	up to 4 hours (for each hearing)	
Unopposed variation	up to 1 hours (for each hearing)	up to 1 hours (for each hearing)	up to 1 hours (for each hearing)	
Opposed variation	up to 2 hours (for each hearing)	up to 2 hours (for each hearing)	up to 2 hours (for each hearing)	
Hearing	Actual hours	Actual hours	Actual hours	

Documentation Requirements

- Application for Criminal Legal Aid (*LSA Form 1*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Indictable Jurisdiction

Step 2: Applications for Bail, Name Suppression, Media Coverage – cont'd

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency's policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for legal aid (and amendment to grant if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 3: Disclosure – Criminal Disclosure Act 2008

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Disclosure by defendant	up to 2 hours	up to 2 hours	up to 2 hours	For preparation of disclosure package, including: <ul style="list-style-type: none"> • Notice of alibi – s22 • Evidence of expert witness – s23 • Service on prosecutor • Associated correspondence
Application for disclosure of information – s30	Estimate (by amendment)	Estimate (by amendment)	Estimate (by amendment)	For <ul style="list-style-type: none"> • Preparation of an application for disclosure of information under s30 • Preparation for hearing (including written submissions)
	Actual hours			For attending hearing(s)
Other applications for disclosure	up to 1.5 hours	up to 2 hours	up to 3 hours	For preparation of any or all of: <ul style="list-style-type: none"> • Application for address of witness or informant – s17 • Application for order setting conditions for viewing exhibit – s31 • Application for timetabling order – s32 • Preparation for hearings.
	Actual hours			For attending interlocutory hearing(s)
Non-party disclosure	up to 3 hours	up to 4 hours	up to 5 hours	For <ul style="list-style-type: none"> • Preparation of an application for non-party disclosure hearing – s24 • Preparation for hearing (including written submissions)
	Actual hours			For attending non-party disclosure hearing(s)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency's policy on waiting time.

Step 4: Committal – Summary Proceedings Act 1957

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Standard committal (no hearing s169)	up to 10 hours	up to 20 hours	Estimate (by Amend- ment)	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Receiving disclosure • Undertaking research • Liaising with experts • Corresponding with Police/Crown • Liaising with Crown/Court • Discussing charges/case/with Crown • Reviewing videos • Reporting to client
Application for oral evidence order (s 178)	up to 5 hours	up to 5 hours	up to 5 hours	For <ul style="list-style-type: none"> • Identifying legal and factual issues • Preparing application for Oral Evidence Order • Preparing oral or written submissions for Judge List event (Oral Evidence Order <i>with</i> oral submissions) • Reporting to client
	Actual hours			For attending Judge List event (Oral Evidence Order <i>with</i> oral submissions only)
Committal hearing (with oral evidence s183)	up to 15 hours	up to 25 hours	Estimate (by Amend- ment)	For <ul style="list-style-type: none"> • Preparing hand up witnesses • Taking instructions, attending the client • Identifying legal and factual issues • Receiving disclosure • Undertaking research • Liaising with experts • Corresponding with Police/Crown • Liaising with Crown/Court • Discussing charges/case/with Crown • Reviewing videos • Reporting to client • Briefing witnesses • Preparing cross examination • Preparing submissions
	Actual hours			For attending Committal Hearing – including waiting time (see Granting Notes). Oral Evidence Order only

Documentation Requirements

- Application for Criminal Legal Aid (*LSA Form 1*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated, and for estimating preparation time in a PC4 matter
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Opposed application for extra time – providers should apply for an amendment.
- Guideline hours include preparing application for legal aid (and amendment to grant if expecting to exceed fee/guideline hours), correspondence and invoicing.
- Providers may claim for:
 - Standard committal; or
 - Standard committal and application for oral evidence order (oral evidence order refused); or
 - Application for oral evidence order (where application granted) and committal hearing.

Step 5: Pre-Trial Conferences/Callovers

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Preparation (Memorandum – initial callover)	up to 2 hours	up to 2 hours	up to 2 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Undertaking research • Reviewing evidence (including videos) • Corresponding with Police/Crown • Discussing charges/case/with Crown • Liaising with experts • Receiving Crown memorandum • Preparing Defence memorandum • Identifying pre trial issues • Liaising with Crown/Court • Liaising with witnesses • Reporting to client • Reporting to and invoicing LSA
Preparation (Memorandum – each subsequent callover)	up to 1 hours	up to 1 hours	up to 1 hours	
Hearing	Actual hours	Actual hours	Actual hours	For <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated, and for estimating preparation time in a PC4 matter
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 6: Pre-Trial Applications and Responding to Crown Applications

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Preparation (For all applications in a substantive hearing)	up to 10 hours	up to 20 hours	up to 20 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Perusing file • Undertaking research • Corresponding with Police/Crown • Liaising with Crown/Court • Discussing charges/case/with Crown • Reviewing Crown submissions • Briefing witnesses • Preparing cross examination • Preparing submissions • Reporting to client • Reporting to and invoicing LSA
Expert witness/reports	up to 2 hours	up to 4 hours	up to 4 hours	For: <ul style="list-style-type: none"> • Locating expert witness • Liaising • Psychiatric reports • Reviewing reports <p>Expert witness fee subject to approval of amendment</p>
Hearing	Actual hours	Actual hours	Actual hours	For <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated.
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency's policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 7: Trial

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Preparation	up to 15 hours	up to 35 hours	Estimate (by Amend- ment)	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Perusing evidence • Scene visits • Undertaking research • Corresponding with Police/Crown • Liaising with Crown/Court • Discussing charges/case/with Crown • Reviewing videos (for edits) • Serving summons to appear • Briefing witnesses • Preparing cross examination • Preparing submissions • Preparing opening/closing addresses • Reporting to client • Reporting to and invoicing LSA
Hearing	Actual hours	Actual hours	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated, and for estimating preparation time in a PC4 matter
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 8: Sentencing

Activity	Guideline Hours			Tasks normally covered by Guideline Hours
	PC2	PC3	PC4	
Preparation for Sentencing (Charges on Arraignment, Post-Trial)	up to 7 hours	up to 13 hours	up to 13 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Receiving and reviewing disclosure • Identifying legal and factual issues • Undertaking research • Obtaining testimonials/references • Corresponding with Police/Crown • Liaising with Crown/Court • Reviewing Crown submissions • Reviewing probation reports and annexures • Preparing submissions • Reporting to client • Reporting to and invoicing LSA
Judicial Monitoring after Sentencing	up to 2 hours	up to 2 hours	up to 2 hours	
Preparation for Sentencing Indication only	up to 2 hours	up to 2 hours	up to 2 hours	
Section 38 – Forensic Report	up to 2 hours	up to 2 hours	up to 2 hours	For <ul style="list-style-type: none"> • Liaising, obtaining and reviewing section 38 Forensic Report
Restorative Justice Report	up to 2 hours	up to 2 hours	up to 2 hours	For <ul style="list-style-type: none"> • Obtaining Restorative Justice Report – in preparation for sentencing
Hearing	Actual hours	Actual hours	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 36 for Granting Notes covering the Agency’s policy on waiting time.
- Disclosure – see page 36 for Granting Notes outlining the tasks involved in disclosure by the prosecutor.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Indictable Jurisdiction

Granting Notes

Waiting Time – All Proceedings Steps

The Agency accepts claims for waiting time, as part of claims for actual appearances in hearings – before a judge. To support claims for approval and payment of waiting time, the following information is required:

- A summary of both the waiting time and hearing time on the day of appearance – date and times. This includes waiting time for the jury to deliver a verdict. Exclude waiting time where judge has excused Counsel.
- If waiting time exceeds 1 hour, an explanation of the circumstances.

Disclosure by prosecutor – All Proceedings Steps

Disclosure by the prosecutor can occur at many points in proceedings. Where the steps refer to “Receiving and reviewing disclosure”, this includes any or all of the following tasks:

- Request further initial disclosure from prosecution (after commencement of proceedings)
- Receiving and reviewing further initial disclosure
- Receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- Interlocutory applications:
 - Application for address of witness or informant
 - Application for disclosure of information
 - Application for order setting conditions for viewing exhibit
 - Application for timetabling order

Remuneration for receiving and reviewing initial and full disclosure is included within the relevant steps. However, if providers are required to attend hearings in connection with interlocutory applications, they may claim actual hearing time.

Step 1: Proceedings before NZ Parole Board, High Court

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing – s6(c) Eligible proceedings are those specified under s6(c) Legal Services Act 2000:		For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Reviewing file • Perusing Parole Board material • Undertaking research • Instructing experts • Receiving specialist reports • Preparing application for order(s) • Preparing submissions for hearing(s) • Liaising with the Parole Board, High Court • Receiving decision • Reporting to client • Reporting to and invoicing LSA
Postponement order (s27)	up to 4 hours	
Recall (ss59-66A -breach of parole)	up to 4 hours	
Non-release orders (s107)	up to 12 hours	
Extended supervision orders (107F-107I, 107M, 107N)	up to 12 hours	
Appeals to High Court from certain decisions of the Parole Board (s 68-70) - postponements, extended supervision orders, recalls	up to 12 hours	
Appeals to Court of Appeal from sentencing Court (s107R extended supervision)	up to 12 hours	
Hearing	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Application for Criminal Legal Aid (*LSA Form 1*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the fee/guidelines hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including report on proceedings, outcome

Granting Notes

- Waiting time – see page 38 for Granting Notes covering the Agency's policy on waiting time.
- Guideline hours include preparing application for legal aid (and amendment to grant if expecting to exceed fee/guideline hours), correspondence and invoicing.

Other Parole Proceedings

- The Agency will grant legal aid under *civil* proceedings for all other Parole matters excluded through s6(c) of the Legal Services Act 2000.

Parole (Criminal Matters)

Steps for proceedings under the Parole Act 2002

Granting Notes

Waiting Time - Proceedings Step 1

The Agency accepts claims for waiting time, as part of claims for actual appearances in hearings – before a judge. To support claims for approval and payment of waiting time, the following information is required:

- A summary of both the waiting time and hearing time on the day of appearance – date and times
- If waiting time exceeds 1 hour, an explanation of the circumstances.

Step 1: Preparation of summary of issues to be raised on appeal

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation of issues (by trial counsel)	up to 2 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Preparing application for legal aid
Preparation of issues (by new counsel)	up to 4 hours	<ul style="list-style-type: none"> • Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step) • Reporting to client • Reporting to and invoicing LSA

Step 2: Preparation of appeals

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Appeal against interlocutory decision (eg, disclosure, pre-trial rulings, admissibility of evidence, name suppression, media coverage, etc)	up to 10 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step) • Preparing and filing notice of appeal
Appeal against Sentence	up to 5 hours	<ul style="list-style-type: none"> • Preparing affidavits • Undertaking research • Liaising with Crown, prosecution
Appeal against Conviction	up to 15 hours	<ul style="list-style-type: none"> • Considering Crown, prosecution submissions • Preparing submissions for hearing • Interviewing/cross examining witnesses
Appeal against Conviction and Sentence	up to 19 hours	<ul style="list-style-type: none"> • Liaising with the Court of Appeal • Receiving decision • Reporting to client • Liaising with prison • Reporting to and invoicing LSA
Hearing	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Application for Criminal Legal Aid Court of Appeal or Supreme Court (*LSA Form 12*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- The Agency accepts claims for waiting time, as part of claims for actual appearances in hearings – before a judge. To support claims for approval and payment of waiting time, the following information is required:
 - A summary of both the waiting time and hearing time on the day of appearance – date and times. Exclude waiting time where judge has excused Counsel.
 - If waiting time exceeds 1 hour, an explanation of the circumstances.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Step 1(a): Preparation of application for Leave to Appeal

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation of application (by trial or prior appeal counsel)	up to 4 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Preparing application for legal aid • Reporting to client
Preparation of application (by new counsel)	up to 6 hours	<ul style="list-style-type: none"> • Reporting to and invoicing LSA
Hearing	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Step 1(b): Preparation of response to application for Leave to Appeal

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation of response (by trial or prior appeal counsel)	up to 3 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Preparing and filing notice of appeal • Preparing affidavits
Preparation of response (by new counsel)	up to 5 hours	<ul style="list-style-type: none"> • Undertaking research • Liaising with Crown, prosecution • Considering Crown, prosecution submissions • Preparing submissions for hearing • Interviewing/cross examining witnesses • Liaising with the Court of Appeal • Receiving decision • Reporting to client • Liaising with prison • Reporting to and invoicing LSA
Hearing	Actual hours	For <ul style="list-style-type: none"> • attending hearing – including waiting time (see Granting Notes)

Step 2: Substantive Appeal (following the granting of leave)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for appeal hearing	up to 40 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal and factual issues • Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step) • Receiving and reviewing disclosure • Engaging in charge discussions/resolution/negotiation with the Officer in Charge, Prosecution • Entering plea • Reporting to client • Reporting to and invoicing LSA
Appeal hearing	Actual hours	For <ul style="list-style-type: none"> • Attending hearing – including waiting time (see Granting Notes)

Documentation Requirements

- Application for Criminal Legal Aid Court of Appeal or Supreme Court (*LSA Form 12*) [s12 Legal Services Act 2000]
- Criminal Legal Aid Amendment to Grant (*LSA Form 2*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated
- Criminal Legal Aid Tax Invoice (*LSA Form 4*) – including a report on proceedings, sentencing outcome

Granting Notes

- The Agency accepts claims for waiting time, as part of claims for actual appearances in hearings – before a judge. To support claims for approval and payment of waiting time, the following information is required:
 - A summary of both the waiting time and hearing time on the day of appearance – date and times. Exclude waiting time where judge has excused Counsel.
 - If waiting time exceeds 1 hour, an explanation of the circumstances.
- Guideline hours include preparing application for an amendment to grant (if expecting to exceed fee/guideline hours), correspondence and invoicing.

Guidance for preparing a Criminal Legal Aid Tax Invoice

The full and accurate completion of a Form 4 Tax Invoice enables a Grants Officer to consider it against the Revised Criminal Steps in a timely manner.

If a Grants Officer is unable to determine how your invoice relates to the Revised Criminal Steps, it may be returned to you for changes to be made or for further information. The example attached is provided to help you complete the Form 4 Tax Invoice with reference to the Revised Criminal Steps.

Tips for completing the criminal tax invoice

Split the activities

Please split the activities on the second page of the Form 4. If a total amount is claimed the form may be returned to you for the activities to be separated.

Preparation		
Date (covers period from : to)	Hours	Description of proceedings (eg status hearing, defended hearing)
28/5/9 – 1/6/9	2	Opposed application for Name Suppression
2/6/9 – 28/6/9	2	Disclosure by defendant
28/6/9 – 30/6/9	2	Application for disclosure of witness address
30/6/9 – 6/7/9	20	s169 Committal
1/7/9 – 19/9/9	5	Callovers x 4
7/7/9 – 23/9/9	15	Trial
24/9/9 – 29/9/9	15	Sentencing including forensic report

Be specific

The more specific you are about what work has completed the more accurately and promptly the Grants Officer can assess your claim against the steps, the activities and the guideline hours available. Full details are not required but it is necessary to be specific about a number of aspects (i.e. when work was completed, whether bail was opposed or unopposed, number of callovers, what disclosure and committal processes have been used etc).

The attached is an example of a Legal Aid Tax Invoice – Form 4 which has been fully completed.



3/07 form **4**

Legal aid file no. (Specify) _____
 Invoice date 30 September 09
 Invoice number 01/01
 GST number --/--/--
 Lead provider's ref. Client A
 CRNs (Specify) _____

Criminal Legal Aid

To: **Legal Services**

PO Box/DX _____ City _____

Name of aided person Client A

Name of lead provider Provider B Name of law firm Firm C

Proceedings category 1 2 3 4 Court location Wellington

Court type High Court District Court Court of Appeal Supreme Court

Description of proceedings

- Status hearing
- Defended hearing
- (Summary) Change of plea to guilty
- Charges withdrawn
- Other (specify): Opposed application for name suppression
- Guilty plea (indictable)
- Committal
- Jury trial
- Interlocutory matter
- Change of plea (electable)
- Sentencing
- Appeal - sentence/conviction
- Bail (onus on defence)
- Bail (onus on prosecution)
- Bail (electronic)

Details of claim

Final invoice Interim invoice

	Lead Provider		Listed Provider B	
	Hours	Total Fee	Hours	Total Fee
Provider name or number	Provider B			
Level of experience	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3		<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3	
GHR (incl. GST)	\$ 154.00		\$ _____	
Preparation time (detail over)	66	\$10164.00		\$
Hearing time (detail over)	26.5	\$4081.00		\$
Other (specify):				\$
				\$
Total hours & fees (incl.GST)*	92.50	\$14245.00	0.00	\$ 0.00

Disbursements (specify):	Office	Total
		\$ 35.00
		\$
		\$

*If you are not registered for GST, you will be paid the GST exclusive amount

Total disbursements (incl. GST)* \$ 35.00
Grand Total (incl. GST)* \$ 14280.00

LSA office use only

Approve Defer Further information Decline

Name _____

Signature _____

Date _____
 day month year

Comments _____

