

Applying to be a legal aid provider

Step-by-step guide

Ministry of Justice

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MINISTRY OF
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Tabu o te Ture

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Introduction

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

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

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

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

When to use the application form

Applying for the first time

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



Already an existing provider

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



Relevant legislation

[Legal Services Act 2011](#)

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

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The application form



Completing the application form

It is important that you answer every question on the form, except where it is stated the question is optional. You can find the application form [here](#).

Please note that if your application (for a single approval) is longer than 150 pages, you will be asked to reduce the number of supporting documents provided to ensure it can be considered within the applicable timeframe.

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

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

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

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

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

Limited approval: You must complete the whole form including the *References* section and the *Case examples* section (to the extent you can). Please refer to the guidance for limited approvals on page 9 before applying.

Before submitting your application, make sure you have included:

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

Provider contract for services

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

Experience criteria



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

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

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

The experience and competence criteria table on pages 4-6 provides a guide to help you determine whether you are ready to apply for lead approval. If you decide they you are not yet ready for lead approval, the Secretary encourages you to apply for approval as a supervised provider. Supervised approval is a good way to gain the experience needed to apply for approval as a lead provider. You can find additional information about supervised approval on page 8.

The experience and competence table is split into four columns:

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

The minimum approval requirements

The first, second and fourth columns outline the requirements listed in the Schedule to the Regulations for each area of law.

Please note that those columns outline the minimum requirements for approval. To be approved, the Secretary must be satisfied that an applicant is sufficiently experienced and competent to provide the relevant services. The more relevant experience an applicant has, the more likely it is that the Secretary will be satisfied they are sufficiently experienced and competent.

¹ Reg 6(1) of the Regulations

² Reg 6(2) of the Regulations

‘Substantial and active’ involvement

The Regulations often require the applicant to show ‘substantial and active involvement’ in a number of cases. Case examples are used to demonstrate that involvement.

‘Substantial and active’ involvement means making a significant contribution to all (or most) key parts of a case, including:

1. **Preparation** - This includes research, providing advice, liaising with opposing counsel, and drafting submissions and other court documents; and
2. **Court proceedings** - This includes trials, appeals or hearings, attendance at court, making opening addresses, leading evidence, cross-examining witnesses and experts, addressing the court, delivering closing addresses and presenting submissions.

Ideally, your application should include cases that proceeded through all relevant stages (for example, a criminal case that went to trial). However, we recognise that this might not always be possible. For example, a matter may settle at an earlier stage, or the lead provider may not give you the opportunity to be involved in each step.

Where that is the case, you should provide case examples that, when considered together, demonstrate experience across all (or most) key tasks required of a lead provider in the relevant area of law. Your case examples must collectively show that you can run a case from start to finish by yourself.

The ‘knowledge and skill’ test

In addition to considering whether you meet the minimum approval requirements, the Selection Committee and Secretary must consider whether you have the appropriate level of ‘knowledge and skill’ to provide services in each area of law you are applying for. This is a general competence and experience assessment based on the available information.

Overall, the Selection Committee and Secretary must be satisfied that you are ready to undertake legal aid work at the relevant level.

The indicative criteria

The third column in the table below indicates the level at which the Secretary is likely to be satisfied that a typical applicant has the necessary practical experience to be approved. However, this is only a guide, and you do not have to demonstrate involvement in the indicated number of cases to be approved.

Experience and competence criteria

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

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

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

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

Waiver of requirement that experience be recent

Column one above sets out the minimum period of recent experience for each approval. “Recent experience” is defined in the Regulations as experience gained in the last five years.⁵

The Secretary can consider experience that is more than five years old if they are satisfied that the applicant meets the relevant experience and competence requirements in all other respects.⁶

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

Please note that the five-year recency requirement only applies to the minimum period of experience for each approval. It does not apply to any other requirements, such as demonstrating substantial and active involvement in cases. That means that your case examples and supporting documents can be more than five years old (although recent examples are preferred).

⁵ Reg 3 of the Regulations

⁶ Reg 6A of the Regulations

Sections of the application form

Contact details

In this section, we ask you to provide your contact details, including your (or your practice's) bank account and GST numbers. If you are not sure whether we have these details, please provide them.

You must also provide a copy of a bank deposit slip or similar proof of your bank account, including bank logo, account name and account number. Applicants applying for supervised approval don't need to provide bank account or GST details.

The contact details you provide will be used by Legal Aid Services to communicate with you. You will normally receive correspondence via email.

Please note that your primary phone number, email and address will be provided to your clients in legal aid correspondence and may be published on the Ministry's website (see [Find a Legal Aid Lawyer](#) and [Care of Children](#)). Please only provide contact information that can be made publicly available. If you have any questions about what information will be published, please email legalaidprovider@justice.govt.nz.

Areas of law you are applying for

In this section, you need to specify which area(s) of law you are applying for approval in, and whether you are seeking lead, supervised or limited approval.

Please note that if you are applying to provide a specified legal service (such as FLAS or Duty Lawyer) you cannot apply for a supervised provider approval.

Lead providers

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

Supervised providers

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

Limited approval

A lawyer approved by the Secretary as a lead provider for a specific proceeding (or a specific type of proceeding within an area of law) because of their involvement in related matters, their specialist skills or experience, or a shortage of providers with the necessary skills and experience.

Supervised providers

Supervised providers are lawyers who do not meet the experience and competence requirements for approval as a lead provider, but otherwise meet the approval criteria in the Regulations.

Supervised providers are supervised by a lead provider. Legal aid cases cannot be assigned to a supervised provider and they cannot be paid directly for the work they undertake. Instead, work is delegated to them by the lead provider, who invoices Legal Aid and is assigned to the grant of aid.

Supervising lead providers are expected to have held lead approval (and actively practised) in the relevant area of law for at least a year.

For additional information about supervision and the Legal Aid delegation policy please see page 56 of the [Grants Handbook](#).

Supervision undertaking

If you are applying for supervised provider approval you must attach an undertaking of supervision with your application. This undertaking can be a signed letter, or an email as long as the email address and email signature can be identified.

We accept two types of undertaking:

Employer undertaking

Your employer must confirm that:

- you are employed by their practice
- they will comply with the supervision requirements set out in the Grants Handbook and the Practice Standards.

A template is provided below.

Employer undertaking template

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

Supervisor undertaking

Your nominated supervisor(s) must confirm they will comply with the supervision requirements set out in the [Grants Handbook](#) and the [Practice Standards](#).

If you have more than one supervisor, each of them must complete an undertaking.

A template is included on the next page.

Supervisor undertaking template

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

Limited approval

If you want to act in a specific case (or a specific type of proceeding within an area of law) and you cannot meet the requirements for lead approval set out at pages 4-6, you can apply for a waiver of those requirements if the relevant case:⁷

- **relates to another proceeding** in which you are, or have, acted
- is a proceeding, for which you have **specialist skills or experience**, or
- is taking place in a region with a **shortage of existing providers** with the necessary skills and experience.

In deciding whether to grant a limited approval, the Secretary will consider:⁸

- the extent to which you meet, or do not meet, the lead approval requirements
- whether you are suitable to act in the proceeding,
- whether it would be more efficient for you to act than another lawyer, and
- whether overall, you are sufficiently experienced and competent to act in the proceeding.

If you are applying for limited approval **you must provide the following information** in the *Additional information* section of the application form or in a covering email/letter.

- Information about the case for which you are seeking limited approval, including a description of the relevant issues, your contemplated involvement, and any applicable legal aid grant number and/or application for legal aid.
- An explanation of which of the grounds listed above you are relying on for a waiver of the lead approval requirements, and why the situation justifies waiving the requirements.
- Information about your relevant experience. If you cannot provide the required number of case examples, provide as many as you can.
- Whether the matter is urgent, especially if the client has a hearing within the next 15 working days.

Limited approvals take up to 15 working days to assess. While urgent applications are prioritised where possible, the Ministry's ability to prioritise applications is dependent on the availability of Selection Committees and the number of applications on hand.

Please note that applications for retrospective limited approvals cannot be considered by the Secretary.

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

⁸ Reg 6B(3) of the Regulations

Applicants from the Public Defence Service

Employees of the Public Defence Service (PDS) leaving to commence private practice can apply to transfer their existing legal aid approvals without completing the full application process.

Please note that this process does not apply to former PDS employees who have not directly transferred to private practice.

If you hold lead Criminal (PAL1-4), Court of Appeal and Supreme Court, duty lawyer or PDLA approval at the PDS, you can apply to transfer your existing approvals by sending the following documents to legalaidprovider@justice.govt.nz.

- A completed [Change of Details](#) form and any required documents listed on page 2 of the form
- Proof of your lead approvals at the PDS
- Your updated practising certificate (if you are practising on your own account/as a barrister)
- A firm undertaking (unless you are practising as a barrister).

If you hold supervised criminal approval at the PDS and want to keep that approval, please submit:

- A completed [Change of Details](#) form and any required documents listed on page 2 of the form
- Proof of your supervised approval at the PDS
- An employer/supervisor undertaking
- Your updated practising certificate (if you are practising on your own account/as a barrister)
- A firm undertaking (unless you are practising as a barrister).

Criminal (PAL 1-4) approval

If you are applying for approval as a Criminal provider, you must specify which PAL (1-4) you are applying for. If you are unsure about which PAL to apply for, please refer to [Appendix 1](#).

You also need to indicate which court cluster you will cover. You can only be assigned to one court cluster at a time. You can also choose the assignments lists you would like to be on within the relevant cluster. For example:

Cluster: Auckland

Courts and PALs within the cluster: Auckland (PAL1-3), Waitākere (PAL 3), Manukau (PAL 1-2).

Court clusters

- Whangārei (Whangārei, Kaitaia, Kaikohe, Dargaville)
- Auckland (North Shore, Auckland, Waitākere, Manukau, Papakura, Pukekohe)
- Hamilton (Hamilton, Te Awamutu, Huntly, Te Kuiti, Morrinsville, Thames, Taumaranui)
- Rotorua (Rotorua, Taupō, Tokoroa)
- Gisborne (Gisborne, Wairoa, Ruatoria)

- Tauranga (Tauranga, Whakatāne, Ōpōtiki, Waihi)
- Napier/Hastings (Napier, Hastings, Waipukurau, Dannevirke)
- New Plymouth (New Plymouth, Hāwera)
- Whanganui (Whanganui, Marton, Taihape)
- Palmerston North (Palmerston North, Levin)
- Wellington (Wellington, Porirua, Hutt Valley, Masterton)
- Nelson/Blenheim (Nelson, Blenheim, Kaikōura)
- Christchurch (Christchurch, Timaru, Ashburton, Greymouth, Westport)
- Dunedin (Dunedin, Alexandra, Oamaru)
- Invercargill (Invercargill, Gore, Queenstown)

Please note that specialist courts (such as the Young Adult List and Alcohol and Other Drug Treatment Court) may require defence counsel to follow alternate processes. You must complete any applicable inductions and review any required resources before you can participate in those courts. Please refer to the Ministry of Justice [website](#) for up-to-date information about the specialist courts.

Parole Board approval

Parole Board approval is granted for proceedings before the New Zealand Parole Board. Additional information about the parole matters covered by Legal Aid is available on page 25 of the [Grants Handbook](#).

To be eligible for Parole Board approval, it is expected that you will:

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

If you already have criminal approval at PAL 2 or higher, you can accept parole assignments and do not need a separate Parole Board approval.

Police Detention Legal Assistance (PDLA) approval

If you are seeking PDLA approval, you must specify which police stations you will cover and provide an after-hours phone number. Please only nominate police stations that are close to your home so that you are able to attend in person if required.

Obtaining PDLA approval will not automatically result in a place on the PDLA roster. For more information, please refer to the [PDLA Operational Policy](#).

The requirements for Criminal PAL 2 approval and PDLA approval are the same. If you already have Criminal PAL 2 approval and want to apply for PDLA, please email legalaidprovider@justice.govt.nz. You do not need to fill out a new application form.

Family Approval

If you are applying for Family approval and want to do relationship property work, you must have access to a trust account. If you indicate you do not have access to a trust account at question 14, your approval may be subject to a condition that you cannot do relationship property work.

Please note that every legal aid provider has a duty to protect the Legal Services Commissioner's interests in proceeds due to the legally aided person. Additional information about discharging that duty can be found at page 19 of the [Practice Standards](#).

Family Legal Advice Service (FLAS) approval

The requirements for Family approval and FLAS approval are the same. If you already have Family approval and want to apply for FLAS, please email legalaidprovider@justice.govt.nz. You do not need to fill out a new application form.

Employment Advocate approval

You can apply for Employment Advocate approval if you are a member of the Employment Law Institute of New Zealand and you are not a lawyer. If you are a lawyer, you need to apply for Civil approval to represent clients in employment matters.

To be eligible for Employment Advocate approval, it is expected that you will demonstrate experience dealing with mediation, dispute resolution and/or HR issues.

If you are applying for Employment Advocate approval you need to complete all questions on the form except 12, 13, 14, 15, 16 and 21.

You must also include the following information in the *Additional information* section:

- your qualifications
- a brief employment history, including any experience you have with mediation, dispute resolution and/or HR issues
- any relevant courses or training you have completed.

Information about you and your practice

In this section of the application form we ask you for general information about you and your practice, including whether you have any convictions and whether you have had any complaints upheld/substantiated by a professional body or the Ministry.

Criminal Convictions

If you have one or more convictions (including traffic convictions) but are eligible to conceal those convictions under the Criminal Records (Clean Slate) Act 2004, you should answer 'no' to question 18. If you are unsure whether you are eligible to conceal your convictions, you can [request a copy](#) of your criminal record from the Ministry's Criminal Records Unit.

Complaints

If you answer 'yes' to question 20 of the form regarding substantiated complaints, you must provide a copy of any decisions made by any professional body. If a complaint has been upheld/substantiated by the Ministry you do not need to attach it.

Litigation experience

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

Types of legal work that are not litigation experience include:

- **General legal practice work** - Work that is predominately related to the drafting of trusts, wills, other types of commercial agreements, conveyancing work and acting only as an instructing solicitor. This work can only be counted as litigation experience if it includes in-person advocacy, such as in court or mediations.
- **Legal work where litigation is not undertaken** - Legal work such as an in-house legal adviser, law clerking, lecturing and working as a judge's research counsel or clerk.
- **Non-legal work** - Some work has a legal element but for the Ministry's purposes is not litigation experience, for example policy advice.

The Ministry may consider other examples of litigation experience on a case-by-case basis. If you believe that certain work experience (other than the types noted above) should be considered as litigation experience, you can set out the reasons why in the *Additional information* section of the application form.

Your experience in areas of law applied for

In this section of the application form, we ask you about your experience in the areas of law relevant to the approvals you are applying for.⁹ The purpose of this section is to give the Selection Committee and Secretary information about how frequently you undertake work in the relevant areas of law, and the range of proceedings in which you have experience.

At question 22, we ask how many years you have practised in the relevant area(s) of law.

At question 23, we ask you to include the **approximate** number of relevant cases in which you have made a significant contribution to key parts of the case. Please include that information for each of the relevant types of proceedings listed in the table.

Please use the correct column to identify whether your involvement was as senior or junior counsel. For the purposes of question 23:

- **'Senior'** means you acted as the lead lawyer during the case (whether or not your work was supervised)
- **'Junior'** means you did not act as the lead lawyer during the case.

If you are applying for Criminal approval, please complete separate entries in the table for the cases you have been involved in at each PAL level.

If a relevant type of proceeding is missing from the drop-down list, please select the option 'enter matter type manually'. Once selected, you will be able to type in the drop-down box.

⁹For Mental Health approval, you should outline your experience observing mental health cases, as well as your involvement in family and/or criminal cases.

Case examples

In this section of the application form, we ask you to provide the number of case examples specified in this guide and the Regulations. The minimum number of case examples required differs depending on the approval you are applying for. The following table sets out the **minimum** number of case examples required:

Area of law	Minimum number of case examples
Criminal PAL 1	3 trials
Criminal PAL 2	3 trials that are Crown prosecutions
Criminal PAL 3	4 PAL 3 or 4 proceedings
Criminal PAL 4	4 PAL 3 or 4 proceedings, at least 1 being PAL 4
Duty Lawyer	4 (or fewer) showing 1 Judge-alone trial, 1 opposed bail hearing, 1 pre-trial hearing and 1 sentencing hearing
Police Detention Legal Assistance	3 trials that are Crown prosecutions
Family/Family Legal Advice Service	5 of various types, including hearings where witnesses gave oral evidence
Civil	5 including substantive, interlocutory and procedural hearings
Mental Health	3 observations of completed mental health cases
Court of Appeal and Supreme Court	5 appeals in the High Court or higher
Refugee and Protected Persons	5, with at least 1 being for a proceeding before any of the following: Immigration and Protection Tribunal, Deportation Tribunal, Refugee Status Appeal Authority, or Removal Review Authority
Waitangi Tribunal	3 substantial Waitangi Tribunal proceedings
Māori Land Court and Māori Appellate Court	3 substantial Māori Land Court Proceedings

Reviewing your case examples is the main way the Selection Committee and the Secretary will assess your experience and competence. Please ensure that you fill out the coversheet and document index for each case example. If you are applying for a limited approval and cannot provide the required number of case examples, provide as many as you can (if any).

We do not expect you to provide case examples for every type of proceeding within the relevant area(s) of law. However, we do expect you to provide case examples from a variety of proceedings in the areas of law you are applying for.

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



Supporting documents and application size

Please note that if your application (for a single approval) is longer than 150 pages, you will be asked to reduce the number of supporting documents provided to ensure it can be considered within the applicable timeframe.

At the Secretary's discretion, applications that exceed the page limit may be returned as not being in the prescribed manner.

The case examples you submit should be accompanied by key documents demonstrating your involvement in the case. You must list your supporting documents in the index provided on the coversheet, along with a brief description of your role in relation to each document.

For example, an applicant for criminal PAL1 approval might submit the following supporting documents.

Criminal PAL 1: Minimum 3 trial case examples

Case example 1 – Trial

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

Case example 2 – Trial

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

Case example 3 – Trial

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

Confidentiality

The Selection Committee members and Ministry staff are bound by strict confidentiality requirements. However, if your case examples include the names or identifiable details of children, vulnerable people or those with name suppression, please ensure that those details are redacted.

Please also use your discretion regarding the inclusion of photographic material.

References

You must provide [referee declarations](#) from at least two referees who have observed your work in the relevant area(s) of law in the last three years. References must be provided for all applications, including applications for supervised and limited approval.

Independent referees are preferred where possible. References from relatives will not be accepted by the Secretary.

Referees do not need to be approved legal aid providers but must have experience equivalent to the approval you are seeking. Referees can provide additional information by emailing legalaidprovider@justice.govt.nz.

The Selection Committee may contact your referees to verify the information they have provided.

References for lead approval

It is expected that your referees will have observed you undertaking a substantial and active role in at least one relevant case and can comment on your experience in most, if not all, of the following tasks:

- providing advice to clients
- undertaking preparation work
- representing clients in court

- producing documents and correspondence
- communicating with Judges, other lawyers, experts and court staff
- working with people from different cultural backgrounds.

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

- if you are seeking Criminal approval only, you must provide two referee declarations from two different referees, both relating to your criminal experience
- if you are seeking Criminal and Family approval, you must provide two referee declarations, from two different referees. At least one reference must relate to your criminal work and at least one to your family work. The same referee can comment on both areas of law
- if you are seeking criminal, family and civil approval, you must provide three referee declarations, one for each area, from at least two different referees.

References for supervised approval

If you are applying for supervised approval, one of your referees must be your nominated supervisor.

We understand that applicants for supervised approval may not have experience in practice. If you do not have referees who can comment on your legal work, you can provide a reference from a colleague, mentor, employer, another supervisor, or any other person of standing who can attest to your general suitability for approval.

Applicants without recent experience

If you have not practised within the last three years please provide:

- at least one referee declaration from someone who observed you when you last practised law
- at least one referee declaration from someone who can attest to your current suitability for approval such as a colleague or employer.

When selecting your referees

Please ensure that they:

- are experienced in the area of law for which you are seeking approval
- have direct experience and recent knowledge of your skill in the relevant area
- don't have any potential conflicts of interest
- have a **higher** criminal approval than the PAL level you are applying for

If applying for supervised approval, please ensure that one of your referees is your nominated supervisor.

Additional Information

This section allows you to include any relevant information that is not captured elsewhere in the form. This may be information that you are required to provide for a particular area of law or other information you want the Secretary to consider.

Additional information required:

Further information is required to establish eligibility for certain approvals under the Regulations, including:

- **Duty Lawyer approval** – confirmation you have successfully completed the duty lawyer training programme and the date it was completed.
- **Waitangi Tribunal approval** – information about your knowledge of te Tiriti o Waitangi and Waitangi Tribunal jurisprudence, your level of understanding of tikanga Māori and your ability in te reo Māori.
- **Māori Land Court approval** – information about your knowledge of te Tiriti o Waitangi and Māori land law, your level of understanding of tikanga Māori and your ability in te reo Māori.
- **Employment advocate approval** – information required to assess your eligibility as an Employment Advocate.

You may also need to provide additional information where:

- **Your experience is not recent** – an explanation why your relevant experience is not from the last five years and why the Secretary should waive the recency requirement under r 6A of the Regulations
- **Applying for a Limited approval** – Reasons why the Secretary should waive one or more of the lead approval requirements under r 6B of the Regulations.
- **Young Adult List assignments** – Confirmation you have completed the online [Education Package](#) if you want to receive assignments for the [Young Adult List](#).

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

- if you only want approval for a specific type of proceeding within an area of law, for example, civil approval restricted to employment matters
- professional development or courses you have completed the Secretary will take into consideration any courses you have completed that are relevant to your application. relevant life experience
- publications you have authored.

Checklist and confirmation

This section:

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

Service delivery systems

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

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

Client care letter

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

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

The following information should be included to ensure legal aid clients are aware of their obligations:

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

¹¹ Reg 9 of the Regulations

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

Examples of client care letters are available [here](#). You may copy and use these examples as you wish.

Firm undertaking

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

You do not need to provide a firm undertaking if you are practising as a barrister.

What happens next...

If you're applying for lead provider or limited approval, when your completed application is received it will be tabled and assessed at the next applicable Selection Committee meeting. We will advise you of the outcome within 15 working days from the date we receive your application (20 working days for Waitangi Tribunal and Māori Land/Appellate Court applications).

Selection Committees assess applications and advise the Secretary of the suitability of those applicants for approval.¹² Upcoming Selection Committee dates can be found [here](#).

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

¹² s 78 of the Act

Attachments checklist



Attach the following documents to your application:

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

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

Please note: A Legal Aid Provider Certificate of Standing is generally only valid for three months and must be valid when we receive your application. Further information on how to apply for a Legal Aid Provider Certificate of Standing is available on the NZLS [website](#).

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

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

any complaints decision(s) (if applicable)

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

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

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

the required number of referee declarations

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

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

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

Appendix 1

Guidance for assessing Criminal PALs

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

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

Appendix 2

Glossary

Act means the Legal Services Act 2011.

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

Ministry means Ministry of Justice.

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

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

Secretary means the Secretary for Justice.

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

Ministry of Justice
Tāhū o te Ture

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