

Record and file keeping obligations

Guidance for criminal legal aid providers

Record-keeping obligations in the legal aid provider contract, and practice standards

The legal aid provider contract and practice standards explain what documents and information are to be kept on the file for each case. The file should be organised so that another lawyer could easily work out how you are managing the case if they have to take over. It's in both the client's best interests and your own (in case of a complaint, or you are selected for an audit) to keep the file up to date and organised.

Checklist

The checklist below covers what is expected to be kept in the file and is available to use as you progress through your client's case, or to check off when closing.

- All documents that were submitted as a part of the legal aid application, as well as the purpose and extent of legal aid funding.
- All correspondence, including correspondence with the Ministry in relation to legal aid and with the client.
- A copy of all court documents filed, served, or issued.
- File notes of all phone conversations and meetings. This should include the date, name of the person spoken to, and details of the conversation.
- Records of all court attendances, including the name of the judge(s), counsel and parties present, a summary of any negotiations or submissions, orders or directions made, and the time involved.
- Receipts, records of disbursements and expenditure.
- Records of all time spent by the provider and any other providers or non-lawyers.
- Any client instructions. Especially in respect to plea, election of Judge Alone Trial or election of a Jury Trial, acceptance or otherwise of any Sentence Indication, and acceptance or otherwise of the Summary of Facts.
- Any advice provided to the client in writing.
- The stage the matter is at, including the next scheduled court date, and copies of any court documents filed, served, or issued.
- A copy of your client care letter that outlines how you will communicate and manage financial arrangements, confidentiality, personal information, documents, records, conflicts of interest, your duty of care, and how a client can make a complaint.
- A signed brief of evidence or affidavit of the client's account of the events and signed confirmation that the client agrees with the summary of facts.

Further advice

- You do not need to include research, draft documents or disclosure documents on the file, but they must be kept in an index of documents.
- You must keep an electronic or hard copy of all files for legal aid cases for at least seven years from the date of closure or last activity on the case.
- It is preferable that correspondence and court documents are kept in separate parts of the file so that they are easily identifiable.
- Ensure that your written communication with clients uses appropriate language for their capacity, avoid jargon and clearly present complex information.