

LEGAL AID NEWS

September 2016

Legal Aid News is your official regular communication from Legal Aid Services on all matters related to legal aid. *Legal Aid News* is generally published in the last week of every month.

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New contract and practice standards for legal aid providers

Following consultation with legal aid providers and the legal professional bodies, we have finalised the new contract and practice standards for legal aid providers.

The new contract is more streamlined and clarifies existing rights and obligations. It might look different, but nothing of substance has changed. We have added a few minor obligations for providers that reflect good professional practice, and that won't be onerous for providers. For example, we have included steps a provider and their firm must take before releasing proceeds of proceedings to legal aid clients.

We received consultation feedback from the New Zealand Law Society (NZLS) and a small number of providers. The NZLS considered the proposed improvements will help providers more clearly understand their rights and obligations. There was general support for the new obligations and some suggestions about amending them to make compliance more practicable.

We've taken this feedback into account and, as a result, we believe the final documents are more effective, transparent and robust.

We will send you the new contract in mid-October and it needs to be signed and returned to us before the current contract expires on 30 November.

More information is available on the Ministry website:

- [Consultation response report](#)
- [Contract for Services \(2016\)](#)
- [Practice Standards for Legal Aid Lawyer \(2016\)](#)

Paternity proceedings

We recently reviewed how legal aid has been granted in paternity matters and in particular, where aid appears to have been sought for DNA tests. We would like to confirm the Legal Services Commissioner's policy in these matters.

Legal aid will not be approved for DNA testing alone but may only be approved where there is a paternity dispute and an application for a paternity order or a declaration under the Family Proceedings Act or Status of Children Act may be required. Uncertainty about whether someone is the father of a child is not sufficient evidence of a dispute. For example, where the other party is uncertain if he is the father, but is willing to undergo a DNA test and is understood to be willing to acknowledge paternity if that is what the test shows, there is no dispute. These facts indicate the parties want a DNA test to establish paternity, but do not indicate a need for legal services.

To establish there is a paternity dispute the following key information is likely to be required:

- the identity of the putative father
- whether or not the putative father accepts he had sexual intercourse with the applicant about the time of conception
- if the putative father agrees to undergo DNA tests
- steps the legal aid applicant has taken to contact the putative father and ask these questions
- whether there is any corroborative evidence to establish that the putative father was in a relationship with the applicant about the time of conception
- whether an application to the Court may be required.

Where Court proceedings are filed and the Commissioner has paid the costs of the other party's DNA tests, the legal aid provider should submit an application for costs to the Court, or provide an explanation to the Commissioner as to why costs were not sought.

Queries?

If you have any queries about any article in this newsletter, please contact legalaidnews@justice.govt.nz.