

Applying to be a legal aid provider

Selection Committee guidance

Ministry of Justice

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MINISTRY OF
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Tabu o te Ture

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Introduction

When an applicant applies to provide legal aid services, the Secretary for Justice (Secretary) considers their application to determine whether they meet all the criteria set out in the [Legal Services Act 2011 \(Act\)](#) and the [Legal Services \(Quality Assurance\) Regulations 2011 \(Regulations\)](#).

The purpose of this document is to provide consistent guidelines for Selection Committee members on the Secretary's interpretation of the Act and Regulations.

The Selection Committee

The purpose of the Committee (the Committee) is to assess applications for approval to provide legal aid services or specified legal services and advise the Secretary of the suitability of those applicants.¹

Defined roles and responsibilities:

Selection Committee member

A member of the legal profession who has been appointed by the Secretary because of their experience in a particular area(s) of law. They assess applications in accordance with the Act, Regulations and this guidance. The Selection Committee provides a recommendation to the Secretary on the applicant's suitability for approval.



Chairperson

A Ministry employee who facilitates the discussion of applications and ensures the Act, Regulations and this guidance are applied in order to reach a collective recommendation for each application. The chairperson determines which members are to attend meetings and decides the dates, times and method of meetings.



Provider Services (Legal Aid) Advisor

A Ministry employee from Provider Services (Legal Aid) who collates the documents, organises meetings, communicates decisions to applicants and provides the recommendation to the Secretary. This person is not involved in the Committee's consideration of applications.



¹ s 78 of the Act

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Selection Committee meeting process



Meeting invitation:

At least 1 month in advance, members receive an email invitation to a Committee.



Meeting scheduled

Members accept or decline the invitation. Provider Services finds replacements for declined members and confirms the meeting.

Pre-meeting work:

At least 4 working days before the meeting, members are sent an updated email invitation identifying the applicants for assessment and where the documents can be located. Members advise chairperson of any conflicts of interest within 24 hours of receiving update. Members access and review applications, attachments and case examples.



Meeting occurs

Members attend meeting by dialling in to the teleconference. They discuss each application and reach a decision on what the recommendation to the Secretary will be.

Post-meeting work:

Members send an invoice to Transactional Services (accounts.payable@justice.govt.nz). Provider Services writes up the recommendation and provides to the Chair for confirmation. Provider Services informs members if any follow-up work is required.

Relevant legislation



The Ministry expects members to be familiar with the [Legal Services Act 2011](#) and the [Legal Services \(Quality Assurance\) Regulations 2011](#).

The relevant provisions are identified below.

Legal Services Act 2011

Part 3

Administration of legal services system
Subpart 2 – Quality assurance system for providers

Section 76: Application for approval to provide legal aid services or specific legal services

Section 77: Approval

Section 78: Selection committees

Section 80: Further provisions relating to committees in Schedule 3

Section 82: Review of decisions of Secretary regarding approvals

Section 83: Judicial review

Schedule 3: Part 2: Further provisions that apply to performance review committee or any selection committee

Legal Services (Quality Assurance) Regulations 2011

Part 1

Specified legal services applications

- Reg 4: Criteria for approval
- Reg 5: Professional entry requirements
- Reg 6: Experience and competent requirements
- Reg 6A: General Waiver of requirement for recent experience
- Reg 6B: Waiver of experience and competence requirements for specified purpose
- Reg 7: Where applicant applying for approval other than as lead provider
- Reg 9: Service delivery systems
- Reg 9A: Work samples
- Reg 9B: References
- Reg 9C: Applicant must be fit and proper person

Part 2 – Selection Committees

Part 4 – Review Authority

Schedule: Experience and competence requirements

Experience criteria



The Secretary is responsible for assessing whether an applicant applying for approval to provide legal aid services or specified legal services is sufficiently experienced and competent to provide those services.² In deciding whether an applicant is sufficiently experienced and competent, the Secretary must:³

- apply the relevant experience and competence requirements in the Schedule to the Regulations (summarised below)
- consider the applicant's experience as a lawyer⁴, and
- 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 the Committee. Both the Committee and the Secretary will consider the applicant's case examples, general experience and other information provided.

The experience and competence table on the following page provides a guide to help the Committee determine whether an applicant is suitable for approval as a lead provider. If the Committee doesn't consider that an applicant should be approved as a lead provider, the Secretary encourages the Committee to consider whether the applicant would be suitable for approval with a supervising or mentoring condition. These conditions provide a good way for providers to gain experience and competence.

The 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 first, second and fourth columns outline the requirements listed in the Schedule to the Regulations for each area of law. It must be kept in mind that the first two columns outline the minimum requirements for approval. However, to be approved, the Secretary must be satisfied that an applicant is sufficiently experienced and competent to provide the relevant service(s). The more relevant experience an applicant has, the more likely the Secretary will be satisfied they're sufficiently experienced and competent.

The third column provides a general guide about the level 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. The applicant isn't required to have completed this number of cases or proceedings for approval. Provided an applicant satisfies the minimum requirements, the key question is whether

² Reg 6(1) Regulations

³ Reg 6(2) Regulations

⁴ Employment advocates don't need to be lawyers.

the applicant is sufficiently experienced and competent to provide the relevant services, which is determined on the merits of the application.

References to ‘substantial and active involvement’ mean making a significant contribution to all or most key parts of the case or proceeding.

Experience and competence criteria

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
Criminal approval level (PAL) 1⁵	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 - where at least 1 charge was for a sexual offence carrying a maximum penalty of 14 years’ imprisonment or more 	-

⁵ If you’re unsure about the criminal approval levels, please refer to [Appendix 1 – Guidance for assessing Criminal PALs](#).

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
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)
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 at least 5 civil proceedings, including at least 2 where the applicant lead 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 law cases	-	Substantial and active involvement in at least 15 family or criminal law cases	Observed at least 3 completed mental health cases

Area of law	Minimum period of recent experience	Minimum number of cases or proceedings (substantial and active involvement)	Indicative number of cases or proceedings (substantial and active involvement)	Other requirements
Employment Advocate	N/A	N/A	Had substantial and active involvement in 5 employment matters such as: <ul style="list-style-type: none"> - 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 heard in the Court of Appeal or Supreme Court	-
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 at least 10 cases at the Refugee Status Branch level Actively participated in 2 proceedings before any of the following tribunals/authorities: 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

Recent experience is defined in the Regulations as “in relation to an application from a lawyer, experience gained in the 5 years immediately before the date of application”.⁶ However, the Secretary may waive the requirement that an applicant’s relevant experience be recent if the Secretary is satisfied that the applicant meets the relevant experience and competence requirements in all other respects.⁷

If the applicant’s experience isn’t recent, they should outline their previous experience, and any other relevant information (such as recent courses completed), in the *Additional information* section of the form.

Where relevant, the Committee should provide an explanation of why it recommends waiving or not waiving the requirement that experience be recent.

Limited approval: Waiver of experience and competence requirements for specified purpose

An applicant who doesn’t meet the experience and competence requirements for approval as a lead provider may apply for a limited approval to act:⁸

- in a proceeding that relates to another proceeding in which the applicant is acting, or has acted
- in a proceeding, or type of proceeding, for which the applicant has specialist skills or experience, or
- in a proceeding, or type of proceeding, taking place in a region with a shortage of existing providers with the necessary skills and experience to act in the proceeding, or type of proceeding.

When determining whether to grant a limited approval, the Secretary must:⁹

- consider how, and the extent to which, the applicant doesn’t meet the experience and competence requirements
- be satisfied that the applicant is suitable to act, and that it would be more efficient for the applicant than another lawyer to act, in the proceeding or type of proceeding.

When providing advice to the Secretary on an application for a limited approval, the Committee must provide an explanation for why they recommend waiving or not waiving the experience and competence requirements, and the factors they’ve taken into consideration.

⁶ Reg 3 of the Regulations

⁷ Reg 6A Legal Services (Quality Assurance) Regulations 2011

⁸ Reg 6B(1) and (2) of the Regulations

⁹ Reg 6B(3) of the Regulations

Recommendations



The Committee must assess applications on the information provided in the application form and the Committee's knowledge of the applicant.¹⁰ While the Committee can consider their subjective knowledge of the applicant, their advice must be based on an objective assessment of:

- whether the applicant meets the experience and competence requirements listed in the Schedule to the Regulations (and, where applicable, whether a waiver under reg 6A or reg 6B is appropriate)
- whether they're satisfied the applicant has the appropriate level of knowledge and skill to provide the relevant services.

There is no issue with Committee members having knowledge of the applicant, but they must be wary of situations where they have a conflict of interest. Situations where the Secretary considers a Committee member or chairperson may be conflicted include where the member or chairperson:

- has a close relationship with the applicant, for example, romantic partner, close relative, friend, work colleague etc
- may be perceived as being biased toward the applicant, for example, because the applicant has laid a complaint against the member in the past.

Committee members must declare any conflict of interest to the chairperson as soon as they're aware of it. They must also step aside from any involvement in the matter if the chairperson considers the conflict of interest is likely to materially affect the member's impartiality.

The chairperson must declare any conflict of interest to the Secretary. They must also step aside from any involvement in the matter if the Secretary considers that the conflict is likely to materially affect the chairperson's impartiality.

General experience

In the *Information about you and your practice* section of the form, applicants are asked to specify how many years they've held a practising certificate in New Zealand and overseas as a general indication of their experience. They're also asked to specify how many years of litigation experience they have.

In the *Experience in the area(s) of law applied for* section of the form, applicants are asked to indicate, for relevant types of proceedings, the **approximate** number of cases or proceedings in the last 5 years in which they've made a significant contribution to key tasks or activities. They're also asked to specify if their involvement was as a senior or junior counsel. This provides the Committee with an indication of their general experience in the area(s) of law they're seeking approval for.

¹⁰ Reg 11(2)(a) of the Regulations

Parole Board

Minimum requirements for approval to appear before the Parole Board are not prescribed within the Schedule to the Regulations.

To be approved for this area of law, the Secretary expects an applicant will:

- have at least 12 months' experience at Criminal PAL 1
- have 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
- demonstrate the relevant skills and knowledge to appear as counsel for a postponement order, recall application or an order that the offender not be released.

Employment Advocates

Minimum requirements for Employment Advocates are not prescribed within the Schedule to the Regulations.

To be approved as an Employment Advocate, an applicant doesn't need to be a practising lawyer. However, the Secretary requires Employment Advocates to be members of the Employment Law Institute of New Zealand (ELINZ). Members of ELINZ are bound by the ELINZ Code of Conduct and aspire to best practice standards.

In addition, the Secretary expects an applicant to demonstrate experience dealing with mediation, dispute resolution and/or HR issues.

Fit and proper person

In the *Information about you and your practice* section of the form, applicants are asked to provide details of any convictions (including traffic convictions) and upheld/substantiated complaints by any professional body. Committee members should review this information to inform their assessment of whether an applicant is a fit and proper person to provide legal aid services or specified legal services.

When making this assessment, the Committee should take into consideration that the Secretary must be satisfied that:¹¹

- any convictions wouldn't adversely affect the applicant's relationship with a legally-aided person or the integrity of the legal services system
- any complaint upheld wouldn't adversely affect the integrity of the legal services system or breach any practice standard.

¹¹ Reg 9C(3) of the Regulations

Case examples

Case examples are one of the most important parts of the application. They demonstrate the applicant's experience, knowledge and ability to provide the services for which they're seeking approval. The following table sets out the minimum number of case examples required for each area of law. Each case example should show substantial and active involvement (discussed further below).

Area of law/level	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	2 (or 1 if applying for a Criminal lead approval at the same time)
Police Detention Legal Assistance	3 trials that are Crown prosecutions
Family/Family Legal Advice Service	5
Civil	5 including substantial, interlocutory and procedural hearings
Mental Health	3 (samples can be family or criminal)
Court of Appeal and Supreme Court	5, with at least 2 being Court of Appeal or Supreme Court
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

For each case example, applicants should fill out the coversheet providing a summary of their involvement in the case. If they're applying for a limited approval, and cannot provide the required number of case examples, they should provide as many as they can (if any). Applicants are not expected to provide case examples for all matter types within an area of law. However, they are expected to provide case examples for a range of matter types across the area(s) of law they're applying for approval in. This is to demonstrate their knowledge across the area(s) of law.

The Regulations and the application form talk about 'substantial and active involvement' in cases or proceedings. This means making a significant contribution to all or most key tasks and activities and encompasses participation in:

- 1. Pre-court or preparation** - including research, client consent, liaising with opposing counsel, and drafting submissions and other court documents; and
- 2. Court proceedings** - including trials or hearings (where relevant), experience and attendance at court, making opening addresses, leading evidence, examining and cross-examining witnesses and experts, addressing the court, closing addresses and presenting submissions.

Ideally, an applicant should provide case examples where they've made a significant contribution to all key tasks and activities in a matter that has proceeded through all stages (for example, a criminal matter that has proceeded to trial). However, the realities of practice mean that might not be possible (for example, a matter may settle at an earlier stage or the lead provider may not give the applicant the opportunity to be involved in every stage). In these circumstances, applicants should provide case examples that, together, show their experience across all (or at least most) key tasks and activities in the relevant area of law, and that they can run a matter from start to finish by themselves.

Each case example should be accompanied by important documents demonstrating the applicant's involvement in the case. The applicant should list their supporting documents in the index at the bottom of the coversheet along with a brief description of their role in relation to the document.

Additional information

There's an *Additional information* section for applicants to provide any relevant additional information not captured elsewhere in the form. This may be information that the applicant is required to provide for specific areas of law or may be additional information they want the Secretary to consider in support of their application. This section may not apply to all applicants.

Additional information that will be required (if applicable):

- Further information required to establish eligibility for certain approvals under the Regulations:
 - **Duty Lawyer approval:** Confirmation the applicant has successfully completed the duty lawyer training course and the date it was completed.
 - **Mental health approval:** Confirmation the applicant has observed at least 3 completed mental health cases
 - **Waitangi Tribunal approval:** Information about the applicant's knowledge of te Tiriti o Waitangi and Waitangi Tribunal jurisprudence, their level of understanding of tikanga Māori and their ability in te reo Māori
 - **Māori Land Court approval:** Information about the applicant's knowledge of te Tiriti o Waitangi and Māori land law, their level of understanding of tikanga Māori and their ability in te reo Māori.
- **Employment advocate approval:** Information required to assess the applicant's eligibility as an [Employment Advocate](#)
- **Experience not recent:** An explanation of why the applicant's experience and/or case examples are not from the last 5 years and why the Secretary should waive the recent experience requirement under regulation 6A of the Regulations
- **Limited approval:** Reasons why the Secretary should waive the experience and competence requirements under regulation 6B of the Regulations.

Some examples of relevant information that applicants may wish the Secretary to consider in support of their application are:

- If they want a matter type excluded from their approval, for example, Family approval excluding Relationship Property
- If they only wish to apply for approval for a specific matter type(s) within an area of law, for example, Civil but only ACC and Employment
- Professional development or courses completed

Note: The Secretary will take into consideration any courses an applicant has completed and considers relevant to support their application. However, the only course required by the Regulations is the Duty Lawyer course when applying for Duty Lawyer approval.

- Further factors to demonstrate their experience.
- Life experience
- Publications they've written.

Judgement

The role of the Committee necessarily involves applying a degree of judgement. There are two main areas where Committee members will have to apply their judgement:

1. Whether the applicant has demonstrated 'substantial and active involvement' in the minimum number of cases or proceedings required by the Regulations; and
2. Whether the Committee is satisfied that the applicant has the appropriate level of knowledge and skill to provide the relevant services.

The Committee should approach these matters objectively, based on the information contained in the application, their knowledge of the applicant and the referee declarations. Committee members are chosen for their expertise in the area(s) of law applied for and they should bring that expertise when they come to apply their judgement, particularly in borderline cases.

Imposition of a condition

Refer to s 77(2) of the Act and reg 10 of the Regulations

The Secretary may impose the following types of conditions on a provider's approval:



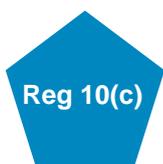
Supervised in manner specified by Secretary

The Secretary may impose a condition on a lead approval requiring the applicant to be supervised in the manner specified in the Legal Aid Services Grants Handbook and the Practice Standards for Legal Aid Providers. This is different to a supervised approval, which is used where the applicant doesn't meet the experience and competence criteria for lead approval.



Mentored in manner specified by Secretary

The Secretary may require the applicant to be mentored by someone who is available to offer support and guidance to the applicant. The mentor must meet regularly with the applicant but doesn't need to have direct oversight of their work.



Undergo training specified by Secretary

The Secretary may require an applicant to undergo a specific type of training, for example, training in cross-examination. However, the Secretary won't endorse or require applicants to complete any specific courses run by private entities.



Specific to certain types of proceeding

The Secretary may limit an applicant's approval to certain types of proceeding. For example, a Civil approval limited to employment law and ACC.



Limited to a specific proceeding

The Secretary may limit an applicant's lead approval to a specific proceeding (usually because the applicant only wants approval for one proceeding). This is different to a limited approval, which is used where the applicant doesn't meet the experience and competence criteria for lead approval.

If the Committee recommends imposing a condition, they should recommend the period of time the condition is to take effect, or the date any act specified in the condition must be done. An explanation of why the condition is recommended should be provided to the chairperson so that it can be included in the recommendation. This explanation will also be included in the decision letter to the applicant if the Secretary decides to impose the condition.

Verifying information

The Committee may verify information provided with an application.¹²

If this is required, the Committee will nominate one member to undertake the verification. The Committee will agree:

- who the nominated member should contact to verify the information
- what information needs to be verified to inform the recommendation
- what the recommendation will be if the information is or is not verified, for example, if the information is not verified the Committee recommends to decline, or if the information is verified the Committee recommends to approve/approve with a condition.

The nominated member will advise the chairperson of the outcome of verification by email. They will copy the other Committee members and the Provider Services (Legal Aid) Advisor into this email. The member will state whether the information was verified and whether the recommendation is to approve, approve with conditions or decline based on what was previously agreed with the Committee.

Declining an application

If the Committee recommends declining an application, it should clearly specify the reason(s) by reference to the criteria for approval in the [Regulations](#). The Committee should also specify what steps it considers the applicant should take before applying again in the future.

¹² Reg 11(2)(b) of the Regulations

Internal Review

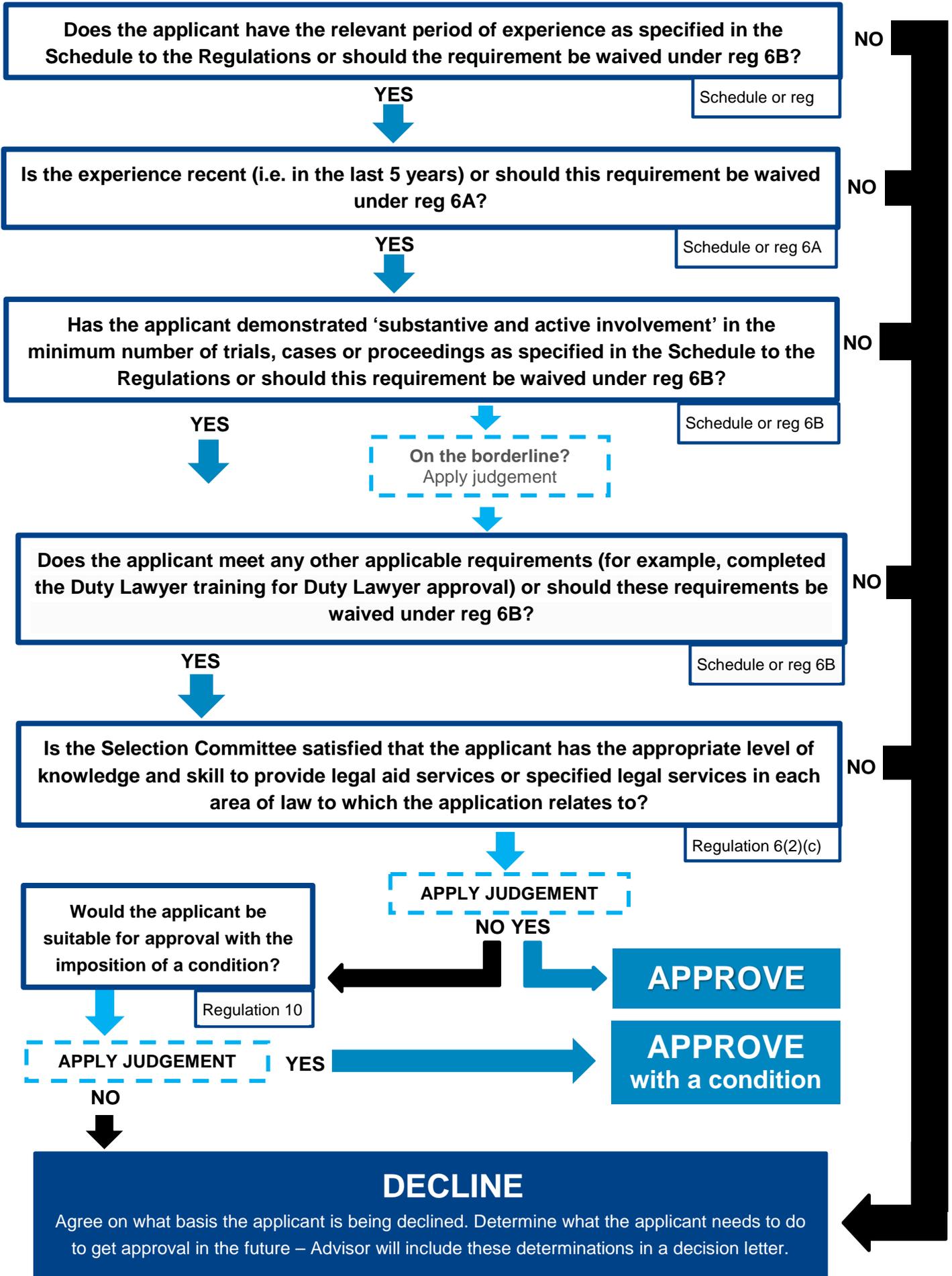
The Secretary's decision is not final until 20 working days from the date of the decision letter. Until that time, the applicant may apply for an internal review if they disagree with any aspect of the Secretary's decision. If an applicant chooses to apply for an internal review they may provide any additional information that further supports or assists their application during the review process.

If the applicant chooses to review the Secretary's decision, they will submit an internal review form outlining any additional information provided and any response to the Secretary's interim decision. The application, internal review form and the Secretary's initial decision letter will be submitted to a different Selection Committee who will provide a new recommendation to the Secretary.

After the internal review, the Secretary will make a final decision. The applicant has 20 working days to apply to the Review Authority from the date they are notified of the Secretary's final decision to review that decision¹³.

¹³ s 82(2) of the Act. However, s 82(3) of the Act allows an applicant three months to apply to the Review Authority if exceptional circumstances prevents them from applying within 20 working days.

Selection Committee decision-making map



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 matter is a Crown or Police prosecution, the applicable offence category 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 Service 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.

Limited approval means a lawyer approved by the Secretary as a lead provider for:

- a proceeding to provide continuity of services
- a proceeding or type of proceeding because of their specialist skills, or experience, or a shortage of existing providers with the necessary skills and experience.

Ministry means the 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.

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