

# Combined jurisdiction legal aid application form

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## Submissions and decisions

May 2018



*Legal Aid Services*

New Zealand Government

# Foreword

Thank you to everyone who engaged with the review on the combined jurisdiction legal aid application form through the Ministry of Justice website, or via submissions to the New Zealand Law Society or the Public Defence Service.

Your contributions have helped us to determine the best way to ensure that our application forms are fit for purpose and are easy to use for you and our customers.

Overall, your feedback told me that it would be preferable not to combine the applications for the family/civil and criminal jurisdictions. I have taken your feedback on board, and have decided to only combine the forms within the criminal jurisdiction, and keep them separate from the family and civil legal aid form. I have also taken in account your feedback regarding the parts of the form related to criminal legal aid, and have used this to create an improved criminal legal aid form. Attached to this document is the proposed combined criminal legal aid application form, and I welcome your feedback on this.

This document gives a summary of your feedback and helps to give context around why we have made the changes. I am confident that you will be pleased with the criminal application form and the benefits that will come with that.

Thank you for your ongoing commitment to our customers.

**Bryre Patchell**

**Group Manager, National Service Delivery**

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# Introduction

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Legal aid covers a wide range of matters that may go to court such as criminal charges, orders for parenting arrangements and resolving employment or ACC disputes. After the success of the family and civil application form, it was proposed to combine the family and civil application form with the three criminal application forms.

This document sets out how we undertook the review and summarises the key feedback that helped inform the new proposed application form.

## Process

A small project team was set up and a select group of Legal Aid Services experts reviewed the family and civil form along with the criminal forms, and developed questions that would allow the Commissioner to make accurate assessments about eligibility pursuant to the Legal Services Act 2011 (the Act) and the Legal Services Regulations 2011 (the Regulations).

In March, your feedback was sought on the new proposed application form via the consultation page “Have Your Say” on the Ministry website. At the same time, the New Zealand Law Society and the Public Defence Service provided their own submissions.

This document sets out your feedback, our responses and decisions. It addresses your comments, and other matters.

Should you have any further questions, contact information is available at the end of this document.

# Summary of decisions

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## Your comments

We received a wide range of feedback from you in response to the consultation on the proposed combined jurisdiction application form.

We received significant feedback on the proposal to combine the family and civil legal aid application form with the forms for the criminal jurisdiction. Your comments mainly indicated that it would be preferable not to combine the applications for the family/civil and criminal jurisdictions. We also received feedback suggesting that we combine the three criminal forms together.

With respect to criminal legal aid, you mentioned that the form could be further improved by:

- having a section where the maximum penalty of a charge can be entered
- a question regarding co-defendants
- changing the wording of the audio-visual link confirmation
- a space for the next hearing date to be entered on the front page.

We also received positive comments, in particular:

- the income section is an improvement on the current criminal forms
- simplifying forms is a good idea
- the form is well-presented.

We also received feedback on specific parts of the form related to family and civil legal aid.

## Our responses

In response to your feedback, we have:

- decided to combine the three criminal application forms together, while keeping them separate from the family and civil application form
- used your feedback to improve the criminal form
- taken into account the comments relating to the family and civil aspects of the form, and will modify the family and civil application form in the future.

The changes should ensure that applications for criminal legal aid are easier to complete for you and our applicants. We welcome your feedback on the proposed criminal legal aid form. After consultation closes, we will take your feedback into account, and then make the final form available.

# Key feedback from you, and our responses

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The table below provides key feedback from you regarding improvements to the criminal aspects of the form, and provides our responses and decisions. They are ordered by sections in the new form.

Your comments	Our responses
<b><i>Next appearance date and extra space on front page</i></b>	
The first page of the form should include space where the next hearing date can be entered.	We agree and have added space for the next hearing date.
Extra space is required for duty lawyers to communicate whether a case meets the opposed bail criteria.	We agree and have added extra space at the top of the page for duty lawyers.
<b><i>Personal details and living arrangements</i></b>	
There should be a separate question asking whether the applicant is held in custody.	We disagree. This information can be included under the postal address question.
The form could request fewer phone numbers.	We disagree. The more information that is provided, the more likely it is that grants officers and providers can contact the applicant.
There should be a question asking who co-defendants are, for financial eligibility and assignment purposes.	We agree and have added this question.
<b><i>Mental health</i></b>	
There should be a question indicating whether the applicant has mental health issues. This question could be broader than the current question on the Police and Crown Prosecution forms, which asks whether the applicant is subject to the Mental Health Act or the Intellectual Disability Compulsory Care & Rehabilitation Act orders.	We agree and have included the mental health question from the previous police prosecution form. We do not agree that the question should be broader, due to the difficulty of defining this and because the information about those two Acts is used to assist grants officers with assigning cases.

## Your comments

## Our responses

A duty lawyer can enter further details under the 'interests of justice' question.

### *Financial information*

The temporary additional support benefit should be on the list of excluded benefits as it is a 'special benefit' and has mostly replaced the terminology of 'special benefit'.

We agree - temporary additional support is now on the form as an excluded benefit.

The question 'What is your WINZ number?' should be easier to see on the form.

We agree and have made the WINZ number question a separate box rather than being part of the income grid.

The income question is unclear as to what time period is sought.

We have added wording to clarify we are asking for the income that the applicant is currently receiving. That income will then be forward-assessed 12 months. If an applicant's income will change, this can be entered under the question 'Are there any other reasons why you can't pay for your own lawyer?'

There should be more detail under the 'Are there any other reasons why you can't pay for your own lawyer?' question, such as 'is there any other financial information legal aid should know?', or a reference to special financial circumstances.

We disagree. We consider that the current question prompts the applicant to provide any other details that are relevant to their financial situation.

### *Criminal charges*

The lawyer of choice question is 'hidden' below the 'Appeal legal aid only' heading, meaning that customers may miss this question.

We agree and the question is now underneath the question asking where the case will be heard.

## Your comments

## Our responses

The applicant should have the ability to sign to confirm the lawyer they want to choose to represent them, to avoid confusion with lawyer of choice assignments.

We agree and have added this section.

There should be room for the maximum penalty of the charge to be entered to avoid confusion.

We agree and have added that column into the table containing the charges.

The 'interests of justice' question (Q 27) should allow for applicants to answer it where other factors are relevant.

We agree and have entered an 'other reason aid should be granted' tick box to allow for these situations.

### ***Hearing date and location***

The type of the court event for the next hearing (case review etc) should be included to assist the lawyer with up-to-date information.

We agree and have added a space where the type of court event can be added.

There should be space available for the court event just completed.

We disagree. This information will not assist grants officers, particularly when the next court event is known.

### ***Information sheet***

There should be a separate information sheet that can be given to applicants who apply at court. This will ensure the applicant has contact details for legal aid and background information.

We agree and are developing a separate information sheet.

### ***Trust information***

It was queried what the purpose of the 'Does the trust owe money to you and/or your partner' question was, as income from a trust is recorded separately.

The money owed by the trust is an asset for financial eligibility purposes.

## Your comments

## Our responses

### *Appeals*

It was queried whether the notice of appeal is still required.

Legal aid policy no longer requires a copy of the notice of appeal before aid can be granted, and it is possible for aid to be granted before a notice of appeal is filed.

### *AVL clause*

The wording of the AVL clause for duty lawyers could be improved.

We agreed. We have included further wording and a tick box so that a duty lawyer can indicate if they are signing on behalf of the applicant.

# Implementation dates

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A copy of the proposed criminal form is included for your reference below. We welcome your feedback on the proposed form on our [consultation page](#). The consultation will close on 24 May 2018, at which time final changes will be made to the criminal legal aid form.

## Questions

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If you have any questions about the changes outlined in this document, you can contact the National Service Delivery Operations Support team.

*By email:* [NSDOpsSupport@justice.govt.nz](mailto:NSDOpsSupport@justice.govt.nz)

Or the Group Manager, National Service Delivery

*In writing:*

Group Manager, National Service Delivery

DX: SX10125

Wellington

Next hearing date and time



MINISTRY OF  
**JUSTICE**  
*Tabū o te Ture*

Legal Aid

## Application for criminal legal aid

If you have any questions call 0800 2 LEGAL AID (253 425) or go to: [www.justice.govt.nz/legal-aid](http://www.justice.govt.nz/legal-aid)

### Personal details

1 Title  Mr  Ms  Mrs  Miss

2 Full name

3 Have you ever used another name?

Yes

No

If yes, your other names used:

4 Date of birth

*dd / mm / yyyy*

5 Your current address

  
  

Postcode

6 Your postal address *(if different from current address, or in custody)*

  
  

Postcode

7 Home phone

8 Work phone

9 Mobile phone

10 Other contact phone

Whose number is this?

11 Email

## Living arrangements

**12** Do you have a partner who lives with you?

Yes

No

If yes, your partner's full name:

**13** How many children do you have under 18 years old? (including step children, foster children etc)

How many of those are living with you?

**14** Is your partner the alleged victim in the proceedings?

Yes

No

**15** Is anyone else charged with you?

Yes

No

If yes, their name(s):

**16** Are you currently subject to the Mental Health Act or the Intellectual Disability Compulsory Care & Rehabilitation Act orders?

Yes

No

## Income

**17** The income you and your partner currently receive:

Note that the following payments are excluded when we are assessing your income: Accommodation supplement, Emergency benefit, Disability allowance, Special benefit, Temporary additional support, Child disability allowance, Unsupported child benefit and, if either you or your partner are in prison (excluding on remand), your partner's income and assets.

	You \$ (before tax)	Your partner \$ (before tax)	Frequency (eg weekly)
<b>Wages or salary</b>			
<b>Employer name, phone, address:</b>			
<b>Business/self employed</b>			
<b>Working for families tax credits</b>			
<b>Income from rent(s)</b>			
<b>Interest or dividends</b>			
<b>Income from a trust – also complete questions 19-20</b>			
<b>Pension or benefit:</b>			
1. Jobseeker support			
2. Sole parent support			
3. Supported living payment			
4. NZ superannuation			
5. Student allowance			
Other			

What is your WINZ number?

**18** If you don't receive an income, how are you financially supported?


**Complete this section if you have an interest in a trust:**

**19** Does the trust owe money to you and/or your partner? Yes  No

If yes, how much? \$

**20** When will you receive this money?  I don't know

Please **attach** the original trust deed and the latest trust accounts.

**Assets and debts**

**21** Do you and/or your partner own or have an interest in a home or land and/or property? Yes  No

<b>Property address</b>		
		<i>Postcode</i>
<b>Legal owner of property</b>		
<b>Estimated value \$</b>		
<b>Mortgage balance \$</b>		

Is it in a trust? Yes  No  What is your share of ownership of it? (eg 50%)  %

If you and/or your partner have more than one property please provide this information on another page.

**22** Do you and/or your partner have any money or investments? (excluding KiwiSaver) Yes  No

	You \$	Your partner \$
<b>Cash, savings and term deposits</b>		
<b>Shares and bonds</b>		
<b>Retirement funds</b>		
<b>Other – eg money owed to you</b>		

**23** Do you and/or your partner have any items that have a resale value of \$3,500 or more? (eg motor vehicles, boats, other) Yes  No

Description	Value \$	Amount owing \$

**24** Do you and/or your partner have any debts?

Yes  No

If yes, what is the balance owing?

	You \$	Your partner \$
Bank overdraft, personal debt, credit cards		
Fines, tax, student loans		
Hire purchase		
WINZ		
Other		

### Other financial information

**25** Are there any other reasons why you can't pay for your own lawyer?


### Criminal charges

**26** What are your charges, or the charges you are appealing?

Offence type	Section and Act	Max. penalty	Criminal Record Number

If you have other charges, include them on another page.

**27** If you are facing a maximum penalty of less than 6 months in prison or are applying for parole, tick the applicable statements.

<input type="checkbox"/> I have previous convictions.	<input type="checkbox"/> The proceedings involve a substantial question of law.
<input type="checkbox"/> There is a likelihood I will go to prison if convicted.	<input type="checkbox"/> There are complex factual, legal, or evidential matters.
<input type="checkbox"/> I do not understand the charges or cannot state my own case.	<input type="checkbox"/> Other reason aid should be granted. <input type="text"/>

If you have ticked a statement above, provide comment on why aid should be granted.




## Applicant confirmation

### By signing this application form, you agree and acknowledge that:

- » personal information about you will be collected and/or disclosed to meet responsibilities under the Legal Services Act 2011, associated regulations and/or any other relevant statute or court order. This information may be used for statistical and/or research purposes and in this context will not individually identify you
- » you have the right to have access to all information held about you, and to request correction of that information under the Privacy Act 1993
- » we will assess your financial means and you may be required to repay some or all of your legal aid. Any assets or property that you own may be subject to a charge to cover some or the entire repayment amount
- » interest will be charged on all outstanding legal aid debt when the case has finished
- » if you receive or keep any assets, property or money from your case, they are also subject to a charge to cover some or all of your legal aid costs
- » if you don't meet your repayment obligations we may issue a deduction notice to automatically deduct payments from your benefit, employment income or bank account and/or send your debt to a third party debt collection agency with collection costs added to the amount owed
- » you must let us know immediately of changes in your address, income or assets and provide updated information about your financial means during your case
- » we may contact Work and Income or another third party to obtain verification of your financial means, income, bank account, employer, address and phone number. This could include information about your benefit and asking other third parties (including your employer, bank or other income source) to provide the information when asked
- » if you don't provide all the information requested, your application may be declined
- » your information will be saved/stored in an electronic and/or physical form
- » the information you have given in this application is true, not misleading, and completed to the best of your knowledge
- » it is an offence to produce false documents, not answer required questions or provide false/misleading information to obtain legal aid or avoid repayment
- » you have no insurance or indemnification available to cover some or all of your legal costs
- » we will provide the contact details of your lawyer to the Police Prosecution Service and/or the Department of Corrections so that your lawyer can receive disclosure and for their offices to be the address for service of any documents on your behalf to progress your case
- » you consent to having your details provided to the court, and receiving text messages from the court about the date and time of your appearances
- » If a lawyer is signing this application where the applicant appeared via audio visual link, the applicant has consented to me signing this form on their behalf; though I am not signing as agent for the applicant, nor do I provide any undertakings. I confirm this is a correct record of the information provided to me by the applicant today.

Signature of applicant/representative

Date

dd / mm / yyyy

Has this application been signed by a duty lawyer or someone other than the applicant?

Yes

No

Name

Relationship

## More information

If you have any questions call 0800 2 LEGAL AID (253 425) or go to: [www.justice.govt.nz/legal-aid](http://www.justice.govt.nz/legal-aid)

### You can email the completed form to:

- » [wgncriminallegalaid@justice.govt.nz](mailto:wgncriminallegalaid@justice.govt.nz)
- » [aklcriminallegalaid@justice.govt.nz](mailto:aklcriminallegalaid@justice.govt.nz)

### Or post it to:

- » Legal Aid Services  
SX10146, Wellington
- » Legal Aid Services  
BX10660, Auckland