

January Legal Aid News

Opening message

Happy New Year and Welcome to the first Legal Aid News of 2015

Clarifying the defence lawyer's role in restorative justice

The new section 24A of the Sentencing Act, that took effect on 6 December 2014, requires the district court to adjourn proceedings before sentencing to assess whether restorative justice is appropriate if certain criteria are fulfilled.

If you have a client who intends to plead guilty to an offence where there is an identifiable victim:

- You should advise them about restorative justice and seek their views on being involved
- You should inform the registrar of your client's willingness, or not, to participate in restorative justice
- If requested, provide the court with contact details for your client to go on the referral form
- If the case is adjourned for assessment for restorative justice the court will inform you of your client's sentencing date
- If a restorative justice conference does not go ahead your client will be required to attend on the sentencing date
- If a restorative justice conference goes ahead the court will inform you of a new sentencing date
- Once the service is completed you will receive a copy of the restorative justice conference report and may refer to it in your sentencing submission.

It is still early days and we understand that in some courts the increases in referrals to restorative justice have been high. We're closely monitoring the impact of the changes to ensure the legislation works as intended.

Restorative Justice fixed fees

The criminal legal aid fee schedules have always included a fee for restorative justice, for costs associated with briefing a restorative justice provider and consideration of the subsequent report.

Additionally, since 15 December 2014, when an appearance is adjourned for investigation of restorative justice, legal aid providers have been able to claim for, via an amendment to grant, preparation for that adjourned appearance and for the actual time of the adjourned appearance(s).

Legal aid providers can seek an amendment to grant of –

- a flat fee of \$120 for preparation for the second and/or subsequent appearance or, if the provider makes a case that the re-preparation work has taken more than an hour of their time, an appropriate number of hours
- actual time at the second or subsequent appearance at the rate of \$48 per half hour.

The amendment to grant can be applied for either before the event or retrospectively and reasonable applications for an amendment to grant for these reasons will not require additional evidence.

These fees and arrangements will be reviewed as part of the Legal Services Commissioner's review of criminal legal aid fee schedules.

Reminder about punctuality when meeting clients

There have been a small number of recent legal aid cases where assigned legal aid lawyers have not turned up for their clients or made arrangements for an agent to assist them. Generally, these have either been breach of bail matters (possibly involving an opposition to further bail) and/or new charges, where it is clear the same lawyer will be assigned.

Legal aid practice standards state that lawyers must be punctual or arrange alternative counsel for clients if for some reason they're unable to appear.

Unless there is a good reason, it is not appropriate to refuse to assist an active client or not arrange for an agent to do so, especially in the case of Crown matters and matters involving a possible custodial remand.

So please in the interest of legal aid clients where-ever possible attend court or arrange an agent.

New legal aid fees - public safety (Public Protection Orders)

The Public Safety Act 2014 came into force on 12 December 2014. It is a mechanism by which particularly high risk people under the authority of Corrections can be moved to a secure civil environment after they have completed their sentence.

PPOs will be Civil orders made in the High Court, and will be sought only against those with a serious sexual or violent history who have finished or are about to finish their sentence or placement. In a proceeding under this piece of legislation, Corrections will be the applicant while the respondent will be the person against whom the Order is sought.

The Civil (PPO) Fees Schedule is available [here](#) and an updated Civil disbursements policy to support these new proceedings can be found [here](#).

New legal aid fees – Employment (Employment Relations Authority)

This is a reminder that Legal Aid Services has reviewed the fees for proceedings under the Employment Relations Act 2000, and has agreed on a fees schedule for Employment matters to be introduced from 1 March 2015.

The new Employment (Employment Relations Authority) Fees Schedule is available [here](#) and a new Civil disbursement policy that supports this movement to a fee schedule can be found [here](#).

0800 2 LEGAL AID

Legal Aid Services has launched an 0800 number to support legal aid lawyers and clients.

0800 2 LEGAL AID (253425) is an exciting next step towards achieving our aim to improve the accessibility, coverage and consistency of Legal Aid Services. The number can be used as a first port of call for any type of legal aid query.

Calls will be answered by legal aid staff in the Wellington office during office hours (8am - 5pm) Monday to Friday. The number is toll free for both landlines and mobiles.