

Criminal Law Fee Scales - Commonwealth Fees up to 19 May 2024

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Children's Court

Defended hearings

Legal practioners		
State	Lump sum fee for matter	\$1,429
	Interpreter fees	\$200 maximum
	General disbursements	\$100 maximum
	Additional fee if DPP is prosecuting	\$585
	Gaol visit	\$390
	Additional court time for hearing if actual hearing runs for more than 5 hours, per hour	\$195
Commonwealth	Lump sum fee for matter	\$1,429
	Interpreter fees	\$200 maximum
	General disbursements	\$100 maximum
	Gaol visit	\$390
	Additional court time for hearing if actual hearing runs for more than 5 hours, per hour	\$195

		State	Commonwealth
Solicitor	Pre charge certification – Lump sum fee – Complex and non-complex matters	\$2,400	\$2,400
	Post charge certification – Lump sum fee – Non-complex matters	\$2,400	\$2,400
	Post charge certification – Lump sum fee – Complex matters	\$3,200	\$3,200
	Attendance at Case Conference and settling of the case conference certificate - Complex and non-complex matters	\$1,600	\$1,600
	Appearance at a hearing where the Children's Court has ordered a witness to attend to give evidence – Complex and non-complex matters	\$1,200	\$1,200
Junior counsel	Post charge certification – Lump sum fee – Non-complex matters	\$4,800	\$4,800
	Post charge certification – Lump sum fee – Complex matters	\$5,600	\$5,600
	Attendance at Case Conference and settling of the case conference certificate - Complex and non-complex matters	\$2,400	\$2,400
	Appearance at a hearing where the Children's Court has ordered a witness to attend to give evidence – Complex and non-complex matters	\$1,200	\$1,200
Senior counsel	Post charge certification – Lump sum fee – Complex matters	\$6,300	\$6,300
	Attendance at Case Conference and settling of the case conference certificate - Complex matters	\$2,700	\$2,700
	Appearance at a hearing where the Children's Court has ordered a witness to attend to give evidence – Complex matters	\$1,300	\$1,300

			State	Commonwealth
Solicitor	Merit investigation	Preparation on merit and drafting advice	\$2,925	\$2,925
	Hearing	Preparation	\$3,900	\$3,900
		Court appearance, per hour	\$195	\$195
Junior counsel	Merit investigation	Preparation on merit and drafting advice	\$2,992	\$2,992
	Hearing	Preparation	\$3,740	\$3,740
		Court appearance, per day	\$1,496	\$1,496
Senior counsel	Merit investigation	Preparation on merit and drafting advice	\$4,836	\$4,836
	Hearing	Preparation	\$6,045	\$6,045
		Court appearance, per day	\$2,418	\$2,418

		State	Commonwealth	
Solicitor	Brief counsel to obtain opinion on prospects of success or to prepare submissions	Sentence	\$975	\$750
		Interlocutory	\$585	\$450
		All grounds	\$1,170	\$750
		Other including Part 5, 7 or 8 of the <i>Crimes (Appeal and Review) Act 2001</i> or <i>Supreme Court Act 1970</i>	\$975	\$750
	Brief counsel to prepare submissions for Crown appeal		\$975	\$750
	Conference		\$177	\$136
	Mention, per hour		\$195	\$150
	Gaol visit		\$390	\$150
	Court appearance at appeal hearing, per hour		\$195	\$150
	Preparation		By negotiation	By negotiation
Junior counsel	Opinion on prospects of success or to prepare submissions	Sentence	\$1,496	\$1,150
		Interlocutory	\$897	\$690
		All grounds	\$2,393	\$1,840
		Other including Part 5, 7 or 8 of the <i>Crimes (Appeal and Review) Act 2001</i> or <i>Supreme Court Act 1970</i>	\$1,496	\$1,150
	Prepare submissions in Crown appeal		\$1,516	\$1,150
	Conference		\$256	\$197
	Gaol visit		\$390	\$150
	Mention		\$258 - 1 hour	\$199 - 1 hour
			\$371 - 2 hours	\$285 - 2 hours
			\$505 - 3 hours	\$388 - 3 hours
\$853 - all day			\$656 - all day	

	Preparation for court appearance	\$897	\$690	
	Court appearance, per half day	\$748	\$575	
	Additional preparation	By negotiation	By negotiation	
Senior counsel	Opinion on prospects of success or to prepare submissions	Sentence	\$2,418	\$1,860
		Interlocutory	\$1,450	\$1,116
		All grounds	\$3,868	\$2,976
		Other including Part 5, 7 or 8 of the <i>Crimes (Appeal and Review) Act 2001</i> or <i>Supreme Court Act 1970</i>	\$2,418	\$1,860
		Prepare submissions in Crown appeal	\$2,418	\$1,860
		Conference	\$374	\$288
		Gaol visit	\$390	\$150
		Mention	\$258 - 1 hour	\$199 - 1 hour
			\$371 - 2 hours	\$285 - 2 hours
			\$505 - 3 hours	\$388 - 3 hours
	\$853 - all day		\$656 - all day	
	Preparation for court appearance	\$1,450	\$1,116	
	Court appearance, per half day	\$1,209	\$930	
	Additional preparation	By negotiation	By negotiation	

District Court

Appeals from Local Court and Children's Court

		State	Commonwealth
Legal practitioner	Court appearance, per hour	\$195	\$150
	Mentions, per half hour to maximum 1 hour	\$95	\$75
	Conference with client	\$150	\$115
	Gaol visit	\$390	\$150
	View, per hour	\$195	\$150

		State	Commonwealth
Solicitor	Preparation including conference	\$390	\$300
	Gaol visit	\$390	\$150
	Court appearance, per hour	\$195	\$150
	Arraignment, where no prior approval for EAGP funding, per hour	\$195	\$150
	Mention, per hour	\$195	\$150
	Additional preparation	By negotiation	By negotiation
Junior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$804	\$619
	Preparation	By negotiation	By negotiation
Complex counsel Must be on the complex criminal law barrister panel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,077	\$829
	Preparation	By negotiation	By negotiation
Senior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour

		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$287	\$220
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,069	\$822
	Preparation	By negotiation	By negotiation
Solicitor advocate	Appearance on sentence, per day	\$878	\$675

		State	Commonwealth
Solicitor	Preparation	\$390	\$300
	Gaol visit	\$390	\$150
	Conference with accused or witness	\$177	\$136
	Arraignment, where no prior approval for EAGP funding, per hour	\$195	\$150
	Mention, per hour	\$195	\$150
	Attendance at court ordered case conference, per hour, to maximum 2 hours	\$195	\$150
	Court appearance, per hour, to maximum of 5 hours	\$195	\$150
	Additional preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$195	\$150
	View, per hour	\$195	\$150
Junior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,284	\$987
	Preparation	By negotiation	By negotiation
	Interlocutory application (per hour)	\$276	\$200
	View	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours

		\$853 - all day	\$656 - all day
Complex counsel Must be on the complex criminal law barrister panel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 all - day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance	\$1496 per day	\$1150 per day
	Preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour to maximum 5 hours	\$299	\$230
	View	\$258 - 1 hour	\$199 - 1 hour
\$371 - 2 hours		\$285 - 2 hours	
\$505 - 3 hours		\$388 - 3 hours	
\$853 all day		\$656 all day	
Senior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$287	\$220
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,872	\$1,440
	Preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$373	\$287

		\$258 - 1 hour	\$199 - 1 hour
	View	\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
Solicitor advocate	Preparation and appearance at first day of trial	\$2,383	\$1,684
	Mention, per hour	\$195	\$150
	Conference with accused or witness	\$195	\$150
	Appearance at subsequent days of trial, per hour	\$293	\$225

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Duty lawyer

		State	Commonwealth
Legal practitioner	Duty work per hour, to maximum hours approved on the duty purchase order	\$195	\$195

		State	Commonwealth
Solicitor	Preparation	\$1,365	\$1,050
	Conference	\$177	\$136
	Gaol visit	\$390	\$150
	Mention	\$195	\$150
	Court appearance, per hour	\$195	\$150
	Additional preparation	By negotiation	By negotiation
Counsel	Preparation for appeal	\$2,989	\$2,300
	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference	\$256	\$197
	Gaol visit	\$390	\$150
	Preparation for appearance	\$1,496	\$1,150
	Court appearance	\$1,496	\$1,150
	Additional preparation	By negotiation	By negotiation
Senior counsel	Preparation for appeal	\$4,836	\$3,720
	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference	\$374	\$288
	Gaol visit	\$390	\$150

	Preparation for appearance	\$2,418	\$1,860
	Court appearance	\$2,418	\$1,860
	Additional preparation	By negotiation	By negotiation

High Court

Special leave application

Appeal

High risk offender matters

			State	Commonwealth
Solicitor	Merit investigation	Preparation on merit and drafting advice	\$2,925	\$2,925
	Hearing	Preparation	\$3,900	\$3,900
		Court appearance, per hour	\$195	\$195
Junior counsel	Merit investigation	Preparation on merit and drafting advice	\$2,992	\$2,992
	Hearing	Preparation	\$3,740	\$3,740
		Court appearance, per day	\$1,496	\$1,496
Senior counsel	Merit investigation	Preparation on merit and drafting advice	\$4,836	\$4,836
	Hearing	Preparation	\$6,045	\$6,045
		Court appearance, per day	\$2,418	\$2,418

High Court

Special leave application

		State	Commonwealth
Solicitor	Brief counsel to obtain opinion on prospects of success	\$975	\$750
	Court appearance, per hour	\$195	\$150
Junior counsel	Opinion on merit of appeal	\$1496	\$1150
	Grounds and argument	\$2989	\$2300
	Court appearance	\$1496	\$1150
Senior counsel	Opinion on merit of appeal	\$2418	\$1860
	Grounds and argument	\$4836	\$3720
	Court appearance	\$2418	\$1860

		State	Commonwealth
Solicitor	Pre charge certification – Lump sum fee – Complex and non-complex matters	\$2,400	\$2,400
	Post charge certification – Lump sum fee – Non-complex matters	\$2,400	\$2,400
	Post charge certification – Lump sum fee – Complex matters	\$3,200	\$3,200
	Attendance at Case Conference and settling of the case conference certificate - Complex and non-complex matters	\$1,600	\$1,600
	Appearance at a hearing where the Local Court has ordered a witness to attend to give evidence – Complex and non-complex matters	\$1,200	\$1,200
Junior counsel	Post charge certification – Lump sum fee – Non-complex matters	\$4,800	\$4,800
	Post charge certification – Lump sum fee – Complex matters	\$5,600	\$5,600
	Attendance at Case Conference and settling of the case conference certificate - Complex and non-complex matters	\$2,400	\$2,400
	Appearance at a hearing where the Local Court has ordered a witness to attend to give evidence – Complex and non-complex matters	\$1,200	\$1,200
Senior counsel	Post charge certification – Lump sum fee – Complex matters	\$6,300	\$6,300
	Attendance at Case Conference and settling of the case conference certificate - Complex matters	\$2,700	\$2,700
	Appearance at a hearing where the Local Court has ordered a witness to attend to give evidence – Complex matters	\$1,300	\$1,300

Local Court

Summary matters

Legal practitioners		
State	Lump sum fee for matter	\$1,429
	Interpreter fees	\$200 maximum
	General disbursements	\$100 maximum
	Additional preparation fee if <ul style="list-style-type: none"> DPP is prosecuting or to defend breach of Extended supervision order 	\$585
	Additional court time for hearing if actual hearing runs for more than 5 hours, per hour	\$195
	Gaol visit	\$390
Commonwealth	Preparation	\$230
	Mention	\$150
	Hearing, per hour	\$150
	Gaol visit	\$150

See [Crime fee guidelines at 5](#) for information about recovery of costs in criminal matters.

Supreme Court

Sentence

Trial

Bail

		State	Commonwealth
Legal practitioner	Preparation	\$390	\$300
	Court appearance, per hour	\$195	\$150

			State
Solicitor	Preliminary hearing	Preparation	\$5,850
		Court appearance, per hour	\$195
	Final hearing	Preparation	\$3,900
		Court appearance, per hour	\$195
Junior counsel	Preliminary hearing	Preparation	\$5,984
		Court appearance, per day	\$1,496
	Final hearing	Preparation	\$4,488
		Court appearance, per day	\$1,496
Senior counsel	Preliminary hearing	Preparation	\$6,045
		Court appearance, per day	\$2,418
	Final hearing	Preparation	\$4,836
		Court appearance, per day	\$2,418

Terrorism high risk offenders

			State	Commonwealth
Solicitor	Preliminary hearing	Preparation	\$7,800	\$7,800
		Court appearance, per hour	\$195	\$195
	Final hearing	Preparation	\$5,850	\$5,850
		Court appearance, per hour	\$195	\$195
Junior counsel	Preliminary hearing	Preparation	\$8,976	\$8,976
		Court appearance, per day	\$1,496	\$1,496
	Final hearing	Preparation	\$7,480	\$7,480
		Court appearance, per day	\$1,496	\$1,496
Senior counsel	Preliminary hearing	Preparation	\$9,672	\$9,672

		Court appearance, per day	\$2,418	\$2,418
	Final hearing	Preparation	\$7,254	\$7,254
		Court appearance, per day	\$2,418	\$2,418

Variation or revocation application

			State	Commonwealth
Solicitor	Merit investigation	Preparation on merit and drafting advice	\$2,925	\$2,925
		Hearing		
		Preparation	\$2,925	\$2,925
		Court appearance, per hour	\$195	\$195
Junior counsel	Merit investigation	Preparation on merit and drafting advice	\$4,488	\$4,488
		Hearing		
		Preparation	\$3,740	\$3,740
		Court appearance, per day	\$1,496	\$1,496
Senior counsel	Merit investigation	Preparation on merit and drafting advice	\$7,254	\$7,254
		Hearing		
		Preparation	\$6,045	\$6,045
		Court appearance, per day	\$2,418	\$2,418

Interlocutory application – Crimes or Terrorism high risk offenders

		State	Commonwealth
Solicitor	Preparation for hearing	\$488	\$488
	Appearance at hearing, per hour to maximum 5 hours per day	\$195	\$195
Counsel	Preparation for hearing	\$748	\$748
	Appearance at hearing, per day	\$1,496	\$1,496

Emergency detention order application – Crimes or Terrorism high risk offenders

		State

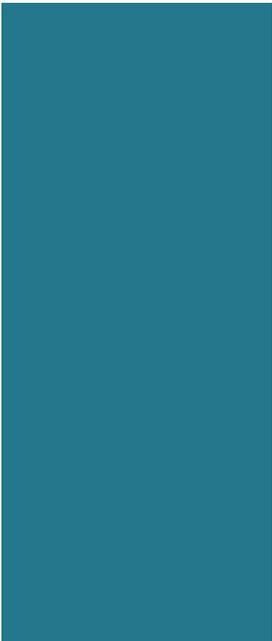
Solicitor	Preparation for hearing	\$975
	Court appearance at hearing, per hour	\$195
Counsel	Preparation for hearing	\$1,496
	Court appearance at hearing, per day	\$1,496

		State	Commonwealth
Solicitor	Preparation	\$390	\$300
	Gaol visit	\$390	\$150
	Court appearance, per hour	\$195	\$150
	Mention, per hour	\$195	\$150
	Additional preparation	By negotiation	By negotiation
Junior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,069	\$822
	Preparation	By negotiation	By negotiation
Complex counsel Must be on the complex criminal law barrister panel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,077	\$829
	Preparation	By negotiation	By negotiation

Senior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$287	\$220
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,439	\$1,106
Preparation	By negotiation	By negotiation	

		State	Commonwealth
Solicitor	Preparation	\$390	\$300
	Gaol visit	\$390	\$150
	Conference with accused or witness	\$177	\$136
	Arraignment, where no prior approval for EAGP funding, per hour	\$195 per hour	\$150 per hour
	Mention, per hour	\$195	\$150
	Attendance at court ordered case conference, per hour, to maximum 2 hours	\$195	\$150
	Court appearance, per hour	\$195	\$150
	Additional preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$195	\$150
	View, per hour	\$195	\$150
Junior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,482	\$1,140
	Preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$295	\$227
	View	\$258 - 1 hour	\$199 - 1 hour

		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
Complex counsel Must be on the complex criminal law barrister panel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$195	\$150
	Gaol visit	\$390	\$150
	Court appearance, per day	\$1,496	\$1,150
	Preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$299	\$230
	View	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
Senior counsel	Mention	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day
	Conference with accused or witness	\$287	\$220
	Gaol visit	\$390	\$150

	Court appearance, per day	\$2,148	\$1,860
	Preparation	By negotiation	By negotiation
	No Bill / Notice of Motion / other Interlocutory application, per hour, to maximum 5 hours	\$484	\$372
	View	\$258 - 1 hour	\$199 - 1 hour
		\$371 - 2 hours	\$285 - 2 hours
		\$505 - 3 hours	\$388 - 3 hours
		\$853 - all day	\$656 - all day

Crime fee guidelines

1. Local Court and Children's Court summary crime

1.1 Lump Sum Fee

The lump sum fee includes **all**

- preparation time
- court time (including mentions), and
- conferences with the client and witnesses.

1.2 Payment of fees above the lump sum amount

Additional court time

- Additional court time will be paid for time spent on the actual hearing or sentence, after the first 5 hours. Additional court time will be allowed at 5 hours per day.
- No extra time will be allowed for mentions.
- Waiting time will not be paid and must not be counted as time spent on the matter.

Additional preparation

- Additional preparation (3 hours) will be allowed where the matter is prosecuted by the ODPP.
- Additional preparation (3 hours) will be allowed where the legally aided client is charged with breaching an Extended Supervision Order.

2. Early Appropriate Guilty Pleas (EAGP) - committal matters

2.1 The Fee Scale applies to:

- complex and non-complex strictly indictable matters
- complex and non-complex Children's Serious Indictable offences
- indictable offences listed in Table 1 to Schedule 1 of the *Criminal Procedure Act 1986* where an election has been made by the prosecution to proceed on indictment
- indictable offences listed in Table 1 to Schedule 1 of the *Criminal Procedure Act 1986* where an election has been made by the defence to proceed on indictment where Legal Aid NSW is satisfied that election is appropriate in the circumstances of the case, and
- indictable offences listed in Table 2 to Schedule 1 of the *Criminal Procedure Act 1986* where an election has been made by the prosecution to proceed on indictment.

2.2 What is a complex matter?

A complex criminal matter includes:

- All Supreme Court trials and pleas
- Manslaughter trials and pleas
- Matters where the trial is complex because of the nature of the charge or the defence. For example: sex slavery, fraud or money laundering charges where there are more than 30 counts and/or the total value is more than \$500,000
- Matters where the maximum penalty is life imprisonment
- Trials identified by the trial judge as requiring significant case management pursuant to *s141 Criminal Procedure Act 1986*
- Where the trial length is estimated at 20 days or more
- Where the brief of evidence is more than 5,000 pages
- All terrorism matters, and
- Sexual assault trials where there are multiple complainants and/or multiple defendants.

2.3 Pre-charge Certification

2.3.1 Lump sum fee

The lump sum fee covers all necessary work involved at the pre-charge certification stage of proceedings which may include (but is not limited to):

- Perusal of the brief
- All conferences with client including gaol visits
- Taking instructions
- Negotiations with the prosecution, and
- All court appearances including mentions, summary hearing and summary sentence.

Note: the lump sum fees for pre-charge certification includes a component for preparation and reading the brief. These components will be deducted from any trial preparation fee should the matter proceed to trial.

2.4 Post-charge Certification

2.4.1 Lump sum fee

The lump sum fee covers all other necessary work involved in the committal matter post charge certification which may include (but is not limited to):

- All conferences with client
- Perusal of any additional brief material
- Briefing counsel (when approved)
- Negotiations with the prosecution
- Any application for an order for a witness to attend court to give evidence
- All court appearances including mentions, summary sentence, summary hearing and arraignment, and
- All preparation.

Note: the lump sum fees for post-charge certification include a component for preparation and reading the brief. These components will be deducted from any trial preparation fee should the matter proceed to trial.

2.5 Approval to Brief Counsel

Approval to brief counsel at committal for case conferencing will only be granted if:

- A Crown Prosecutor has carriage of the matter, and it is anticipated they will attend the case conference, or
- The matter is a complex criminal matter, or
- The matter is a Children's Court committal involving a serious children's indictable offence.

All other applications to brief counsel at committal will be considered on a case-by-case basis considering factors which include whether:

- The brief involves issues of legal or evidentiary complexity
- The client has a mental illness or an intellectual disability
- The defence is complex
- The solicitor, particularly in remote locations, lacks the requisite skill or experience to conduct the matter without Counsel
- The case involves multiple co-accused, or
- The client has given instructions he or she will give evidence against a co-accused.

Note: Briefing of Counsel prior to charge certification will not be approved.

2.6 Rules for Briefing Counsel

A practitioner authorised by Legal Aid NSW to brief a barrister will brief:

- A Public Defender, or
- If a Public Defender is not available, a barrister with appropriate experience.

Note: Legal Aid NSW may determine from time to time the circumstances in which it is not appropriate to brief a Public Defender: for example, at District Court Circuit Sittings not serviced by a Public Defender.

For a **complex criminal matter**, a barrister with appropriate experience is a barrister who has been appointed to the Complex Crime Barrister Panel (complex criminal matter), unless there are exceptional circumstances as determined by the Director Grants or the Director Criminal Law or their delegate.

2.7 Compliance with Indictable Panel Quality Standards

Where counsel is briefed at the EAGP (committal) stage for case conferencing, it is expected that they will be retained in the matter if it proceeds to trial or sentence.

2.8 Additional Preparation (Solicitors and Counsel)

Additional preparation in an EAGP (committal) matter will only be approved where Legal Aid NSW is satisfied that the volume of the brief warrants additional preparation.

Additional preparation will only be granted in extremely exceptional matters. The amount of extra preparation payable will be determined by the Director Grants, Director Criminal Law or their delegate.

Note: Any additional preparation approved will be deducted from any trial preparation fee should the matter proceed to trial.

3. Matters committed to the District Court – sentence

3.1 Hearing

The appearance fee for the plea (making submissions on sentence) will be paid at the half day rate.

3.2 Arraignment, Mentions, Taking Sentence

A fee will be paid for attending at arraignment, and for every necessary mention.

This fee applies where the matter is listed for sentence but does not proceed. This fee also applies where sentence is adjourned for judgment and the practitioner attends to take sentence.

3.3 Briefing Counsel

Under the terms of the grant of legal aid, a practitioner can only brief counsel where Legal Aid NSW has given approval.

Legal Aid NSW will only approve a solicitor to brief counsel in sentence proceedings where there are exceptional circumstances.

Approval for counsel to appear on sentence is at the discretion of the Director Grants or Director Criminal Law or their delegate.

3.4 Direct Access Brief to Counsel

Legal Aid NSW may approve assigning a grant of aid for a District Court Sentence directly to counsel in accordance with the Quality Standards. In such circumstances counsel will be paid in accordance with the solicitor fee rate for District Court Sentence matters.

3.5 Counsel Fees

The Fee Scale for the Complex Criminal Law Barrister Panel (**the Panel**) only applies where:

- The matter is complex, and
- The barrister is a member of the Panel.

4. Indictable trials

4.1 Solicitor

Following EAGP (committal), a legal practitioner may seek additional preparation in relation to material not served prior to EAGP (committal).

Approval is subject to the Additional Preparation Guidelines [See Crime Fee Guideline 1.4.4].

4.2 Counsel

A fee for reading the brief will be paid to counsel once only. Counsel engaged at EAGP (committal) either on a direct access basis, or instructed by a solicitor will not be paid a further fee for reading the brief.

Preparation in addition to the initial trial grant will not be considered before arraignment unless there are exceptional circumstances. Approval is subject to the Additional Preparation Guidelines: See Crime Fee Guideline 1.4.4.

4.3 Senior Counsel

Under the terms of the grant of legal aid, a practitioner must can only brief senior counsel where approval has been given by Legal Aid NSW.

Senior Counsel will only be approved where there are exceptional circumstances.

4.4 Client Conferences during trial

Both solicitor and counsel will be funded for two client conferences each week of the trial.

4.5 Guidelines for Additional Preparation

An application for payment of fees for additional preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) are subject to the following guideline:

4.5.1 Before additional fees for preparation will be considered, Legal Aid NSW will require:

- an estimate of the amount of time it will take to read and prepare the case
- details of the nature and extent of preparation, including the nature of documents to be perused
- where counsel is briefed, details about which preparation is to be undertaken by counsel and which preparation will be undertaken by the solicitor, and
- an estimate of the court time if the matter goes to hearing/trial.

4.5.2

If necessary, Legal Aid NSW will independently examine the documents and may require further and better particulars about the amount of preparation necessary.

4.5.3

Requests for additional preparation must be made within sufficient time for the request to be considered by Legal Aid NSW.

4.5.4

A practitioner must comply with the file management procedures outlined in the Quality Standards.

4.5.6

A practitioner is presumed to know the law. A fee will not be paid for researching the law.

4.5.7

Additional fees for preparation will only be allowed where the preparation is necessary and in exceptional circumstances.

5. Recovery of costs in criminal matters

Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when:

- An order for costs is made in favour of the legally aided accused person under the *Crimes (Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
- An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
- The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*, or
- An order for costs is made in favour of the legally aided person in proceedings under:
 - the *Crimes (High Risk Offenders) Act 2006* or *Terrorism (High Risk Offenders) Act 2017*
 - the *Child Protection (Offenders Registration) Act 2000*, and the *Child Protection (Offenders Prohibition Orders) Act 2004*
 - the *Criminal Code 1995* (Cth)
 - the *Crimes (Serious Crime Prevention Orders) Act 2016*, and
 - the *Crimes (Criminal Organisations Control) Act 2012*.

6. Gaol visits

Payment for gaol visits is only paid when a legal practitioner attends the Correctional Facility in person.

	Psychological assessment and report	Neuropsychological assessment and report *	Psychiatric assessment and report
Local Court (Including summary matters, Table 1 and Table 2 matters (without election) and District Court appeals)			
Applications under s 14 of the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i>	\$1000	\$2000	\$1000
Sentencing	\$1,000	\$2,000	\$1,000
Evidentiary reports	\$1,000	\$2,000	\$1,000
District Court (Including EAGP/committal matters at the Local Court stage. Excluding District Court Appeals)			
Sentencing	\$2,000	\$2,000	\$2,000
Evidentiary report	\$2,000	\$2,000	\$2,000
Supreme Court (Including EAGP/committal matters at the Local Court stage and CCA appeals)			
Sentencing	\$3,000	\$3,000	\$3,000
Evidentiary report	\$3,000	\$3,000	\$3,000
Additional fees for all courts			
Treating expert's report	\$300	\$300	\$300
Supplementary report	\$400	\$400	\$400
Court attendance to give evidence, per hour	\$250	\$250	\$250

Psychologist and Psychiatrist fee guidelines

Reports for Applications under s14 Mental Health and Cognitive Impairment Forensic Provisions Act 2020

Funding for s 14 application reports by psychologists, neuropsychologists and psychiatrists will only be approved when:

- there is a reasonable prospect of success of the application, as assessed by the requesting practitioner
- the practitioner certifies that a report from a local diversion program (e.g. Justice Health or Justice Advocacy Service) is either not available or not sufficient, and
- the practitioner has attempted to obtain sufficient material (e.g. Community Treatment Orders, existing reports) from treating community mental health service/team where applicable.

Reports for sentencing

Funding for sentencing reports by psychologists, neuropsychologists and psychiatrists will only be approved when Legal Aid NSW is satisfied that the proposed report or attendance is likely to materially affect the outcome of the sentencing hearing taking into account at least the following factors:

- The current procedural stage of the matter
- Whether there is a real possibility of a term of imprisonment being imposed for the matter
- Whether the client's mental state contributed to the commission of the offence in a material way
- Whether the offender was not fully aware of the consequences of their actions because any mental health or cognitive impairment
- The client's mental health and intellectual disability status
- The seriousness of the offence/s
- The relevance of ongoing risk assessment
- Whether or not the offence carries a standard non-parole period
- The criminal history of the client, and
- The availability of appropriate alternative ways to introduce subjective evidence.

And additionally for requests for reports and attendance in Local Court matters:

- Whether the matter is a Table 1 offence under Schedule 1 of the *Criminal Procedure Act 1986 (NSW)*
- Whether the matter is being prosecuted by the DPP
- Whether Legal Aid NSW has already funded a s 14 report
- Whether there are exceptional circumstances when considered against other legally aided clients in summary sentencing matters, and
- Whether the practitioner has attempted to obtain sufficient material (e.g. Community Treatment Orders, existing reports) from treating community mental health service/team where applicable.

Evidentiary reports

Evidentiary Reports are reports from an expert to establish an evidentiary basis for a defence (e.g. not criminally responsible for an offence on the basis of mental health impairment or a cognitive impairment, substantial impairment) or an evidentiary issue (e.g. fitness to plead or stand trial or leave application).

Before funding for an evidentiary report will be approved there must be explicit factual material confirming a reasonable expectation of a relevant condition.

Approval of requests for funding above the fee scale

In exceptional circumstances Legal Aid NSW may need to negotiate an increase in the fee scale rates. The criteria that will be used to assess exceptional circumstances in this regard include:

- Whether there are exceptional circumstances when considered against other legally aided clients in similar matters
- Whether there is a large volume of relevant material required to be read by the expert
- The objective seriousness of the offence/s
- The circumstances of the accused, in particular the extent of their mental health or cognitive impairment, and
- Whether the report requires multiple assessment sessions by the expert.

Travel expenses

Payment for travel will only be paid where a Sydney-based expert is travelling to a client assessment located outside the Sydney metropolitan area. Travel will be paid on the same basis as for a legal practitioner in a state criminal law matter. See [travel rates](#) and [travel guidelines](#).