

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 of 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](#).

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Local Court fee scales

Children's Court fee scales

District Court fee scales

Supreme Court fee scales

Court of Criminal Appeal fee scales

Court of Appeal fee scales

High Court fee scales

Duty lawyer fee scales

Crime fee guidelines

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Acknowledgement of Country

Legal Aid NSW with our team at LawAccess NSW acknowledges Aboriginal and Torres Strait Islander people as the traditional custodians of the land and waters. We acknowledge and pay respects to their Elders, past and present. In our work, we are committed to advocating for the rights of Aboriginal and Torres Strait Islander people and communities.

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