



# Family Violence & Cross-Examination Scheme

## Guidelines for Lawyers

*The Family Law Act 1975* provides in s102NA that direct cross examination is prohibited in certain circumstances and must instead be conducted by a legal representative. The Commonwealth has established a **Scheme** to provide representation to parties subject to the ban on cross-examination who are not otherwise legally represented.

Funding for the **Scheme** is provided by the Commonwealth and administered in New South Wales by Legal Aid NSW.

The purpose of this funding is to prevent personal cross-examination at the final hearing of the matter. This means that funding will in most circumstances be limited to the work undertaken in the three months before the final hearing. Funding covers reasonable preparation from the time of allocation and full representation at the hearing (including counsel fees at legal aid rates). Solicitors must be ready to proceed on the trial date provided to them at the time they accept an **offer**.

Legal Aid NSW will arrange legal representation for parties who are subject to the ban on cross-examination who apply to the **Scheme**. Legal Aid NSW has established a **List** of solicitors to deliver legal services under the **Scheme**.

Allocation of work to a solicitor under the **Scheme** is not a grant of legal aid.

### Defined Terms

**Scheme:** The program funded by the Commonwealth to provide legal representation to parties subject to the ban on direct cross-examination under the measures in Division 4 of Part 11 of the *Family Law Act 1975*.

**Guidelines:** Any Guidelines developed by Legal Aid NSW for the delivery of legal services under the **Scheme**.

**Quality Standards:** The Legal Aid NSW [Service Agreement](#) and [Quality Standards](#) applicable to private lawyers whose law practices are appointed to a Legal Aid NSW panel and undertake any Legal Aid work.

**Solicitor:** A solicitor providing services under the **Scheme**.

**Offer:** An offer by Legal Aid NSW to engage the solicitor to deliver legal services under the **Scheme**.

**List:** The list of solicitors established by Legal Aid NSW to deliver legal services under the **Scheme**.

## Solicitor's Obligations

1. The **solicitor** will comply with the Legal Aid NSW Service Agreement, Quality Standards and these **Guidelines** and any applicable Legal Aid NSW policies or administrative requirements as amended (or as applicable) from time to time.
2. When delivering legal services, the **solicitor** will comply with the Legal Aid NSW Service Agreement and **Quality Standards** to the extent that they are relevant to legal services provided under the **Scheme**, as though the solicitor was representing the client under a grant of legal aid.
3. The **solicitor** is funded to provide services under a limited retainer. The retainer does not include the undertaking of any work to correct material already filed by the client. It does include reasonable preparation of the matter for the hearing during the period of the retainer. When delivering legal services, the **solicitor** will:
  - a. commence work on the matter on the date specified in the allocation letter.
  - b. continue with the matter as it has been prepared to that date.
  - c. be responsible for filing material that is due during the time of the retainer (including documents, case outlines and tender bundles).
  - d. Attend court events in the lead up to the final hearing.
  - e. Communicate with other legal representatives in the matter as the solicitor on the record for the client.
  - f. be ready to proceed on the trial date specified in the allocation letter.
4. The **solicitor** will promptly review an **offer** and respond after the solicitor carries out a conflict check and checks availability for the hearing dates.
5. The **solicitor** will file a Notice of Address for Service immediately following acceptance of an **offer**.
6. The **solicitor** will use Grants Online for submitting and receiving correspondence, invoices, and other documents in relation to work allocated under the **Scheme**.
7. The **solicitor** will respond promptly to requests for information from Legal Aid NSW.
8. The **solicitor** will accept payment of fees and reasonable disbursements from Legal Aid NSW in accordance with the applicable fee scale.
9. The **solicitor** will submit invoices within 14 days after the services to which those invoices relate are delivered by the **solicitor**.
10. The **solicitor** will notify Legal Aid NSW if the client's conduct affects their eligibility for funding

under the **Scheme** and, if funding is terminated, will promptly file a Notice of Ceasing to Act.

11. The **solicitor** will promptly transfer the file in a matter allocated under the **Scheme** if Legal Aid NSW reallocates the matter to a new **solicitor**.
12. The funding will end at the conclusion of the final hearing. If the hearing is not reached and is listed for a date more than three months in the future, the file should be closed, and the **solicitor** should go off the record and file a Notice of Ceasing to Act. The party should make a new application for funding and where possible Legal Aid NSW will allocate to the same **solicitor**.
13. The **solicitor** will submit the File Outcome Form applicable to matters allocated under the Scheme at the conclusion of the matter.

## Inclusion on the list

14. The **solicitor's** name will remain on the **List** until Legal Aid NSW takes the **solicitor's** name off the list.
15. Legal Aid NSW may take the **solicitor's** name off the list in any of the following circumstances:
  - a. at the request of the **solicitor**, unless Legal Aid NSW is satisfied that the **solicitor** must remain on the list until the conclusion of any current matter.
  - b. if the **solicitor's law practice** ceases to be a member of or they are deemed ineligible for any of the Domestic Violence, Family Law, or Independent Children's Lawyer panels, or ceases to be an accredited specialist in family law.
  - c. if the **solicitor's law practice** is removed from any Legal Aid NSW panel.
  - d. if Legal Aid NSW is not satisfied that the **solicitor** has complied with the **Quality Standards**.
  - e. if Legal Aid NSW is not satisfied that the **solicitor** is a suitable person to deliver services under the **Scheme**.

## Publication and Promotion

16. The **solicitor** agrees to Legal Aid NSW publishing their name and contact details in a list of solicitors participating in the **Scheme**.
17. The **solicitor** may promote that their name is on the **List** using a form of words approved by Legal Aid NSW.