

The Mental Health Advocacy Service's Back Up Duty Scheme

Information package for Practitioners

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This Information package outlines the Mental Health Advocacy Service’s Back Up Duty Scheme and the process of assigning practitioners to Sydney based duty work at the Mental Health Review Tribunal, a jurisdiction serviced by Legal Aid NSW’s Mental Health Advocacy Service.

Introduction to the Mental Health Advocacy Service’s Back Up Duty Scheme

The Mental Health Advocacy Service’s Back Up Duty Scheme (MHAS BUDS) commences on 30 September 2024. The scheme allocates Mental Health Review Tribunal I(MHRT) duty work in the Sydney metropolitan area.

The MHAS BUDS utilises an allocation system that will replace the MHAS’ existing allocation processes for Sydney based civil MHRT duty work and will provide a transparent and fair method of assigning work to private practitioners.

The MHAS BUDS is currently not being introduced for MHRT work outside of Sydney and the allocation system used by the scheme will not be utilised for assigning regional NSW MHRT work, **including in the Blue Mountains and Campbelltown regions**. The MHAS BUDS will also not be used for assigning Forensic work at the MHRT or in jurisdictions other than the MHRT, including the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT).

How to apply

Applications can be made by completing the MHAS BUDS – EOI Application form available on the [Legal Aid NSW website](#).

After the initial onboarding process, completed prior to the commencement of the scheme in September 2024, new applications may be reviewed at any anytime. There will however be a review of current MHAS BUDS practitioners and an intake process for new applications occurring in 2027.

Privacy

The information provided in an expression of interest application will be used to determine initial appointments to the MHAS BUDS and may be used in considering a practitioner's re-appointment during the review process every three years.

The expression of interest will be provided to the selection committee and to the Executive Director Civil Law or their delegate, where appropriate. It is not intended to disclose any personal information contained in expressions of interest to any other persons.

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Enquiries

General enquiries and any questions relating to the lodgment of expression of interest applications should be directed to:

Mark.evans@legalaid.nsw.gov.au

MHAS BUDS regions and included mental health facilities

The following table provides a list of the MHAS BUDS regions and the associated Mental Health facilities serviced by practitioners appointed to those regions. Practitioners will note which region(s) they wish to be appointed to during the onboarding process.

MHAS BUDS region	Included Mental Health facilities
Western Sydney	Blacktown Hospital Cumberland Hospital Nepean Hospital Westmead Hospital
South-Western Sydney	Bankstown Hospital Braeside Hospital Liverpool Hospital
Sydney Metro	Concord Hospital Royal Prince Alfred Hospital St Vincent's Hospital Sydney Children's Hospital
South-Eastern Sydney	Prince of Wales Hospital St George Hospital Sutherland Hospital
Northern Sydney	Greenwich Hospital Hornsby Hospital Macquarie Hospital Northern Beaches Hospital Royal North Shore Hospital

Initial Appointment to the MHAS BUDS

Practitioners will be appointed to the MHAS BUDS by the Legal Aid NSW Executive Director Civil Law or their delegate.

Practitioners wishing to be considered for appointment under the Scheme should submit an expression of interest by completing the Expression of Interest application form available on [the Legal Aid NSW website](#).

To be eligible for appointment under the scheme, a practitioner must be a principle or nominated associate of a Law Practice that is on the Legal Aid NSW Mental Health Panel or a Barrister on the Mental Health Panel. The Practitioner must satisfy certain other selection criteria nominated by Legal Aid NSW and set out in the application form.

Expressions of interest applications will be considered by a selection Committee consisting of:

- A nominee of the Legal Aid NSW Director Civil Law;
- A solicitor representative from the Private Lawyer Quality Standards Unit (PLQS);
- A nominee of the NSW Bar Association or Law Society of NSW

Duration and Review of Appointments to the MHAS BUDS

Appointments to the MHAS BUDS will be for a duration of three years. A review of current appointments and an intake for new applications will occur three years after the commencement of the scheme in 2027 by a similarly constituted selection committee.

Removal from the MHAS BUDS

A practitioner will be removed from the MHAS BUDS by the Executive Director Civil Law or their delegate in the following circumstances:

- After a review of appointments is conducted and a determination is made not to re-appoint a practitioner.
- At the practitioner's request.
- For a breach of the MHAS' guidelines for Mental Health Panel Lawyers and/or Legal Aid NSW Quality Standards.

Prior to removal from the MHAS BUDS for breach of the MHAS' guidelines for Mental Health Panel Lawyers document or Legal Aid NSW Quality Standards, the practitioner will be advised of the intention to remove and the reason for removal and will be given an opportunity to address the issues raised.

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BUDSAS

The MHAS BUDS utilises an allocation system (BUDSAS) that sends work offers to private practitioners based on a defined “rolling logic”. The BUDSAS provides a fair and transparent allocating process that automates many steps that had previously required to be actioned manually.

Rolling Logic

Each of the MHAS BUDS Sydney regions outlined on page four have appointed private practitioners assigned to them. These appointments are defined during the onboarding process. The practitioners appointed to each region form a rolling list that receive work offers for legal advocacy work associated with MHRT applications or scheduled lists of MHRT inquiries/reviews at specific venues (usually mental health hospitals) located within each region. There is also a regional remote rolling list comprising all practitioners from all Sydney regions that the BUDSAS draws from to cover NSW regional work offers where attendance is to be via video link.

The practitioners within each rolling list are ranked subject to the rolling logic indicated below:

- Each work offer is sent to the top three ranked practitioners on that list, subject to availability (explained in the Availability section). The initial ranking is defined by the alphabetical order of the practitioners’ surnames.
- When a Practitioner accepts a work offer they move to the bottom ranking on that list.
- The top three ranked available practitioners receive three work offers before moving to the bottom ranking.
- The work offer stays open to those three practitioners for 30 minutes.
- If none of the three practitioners accept the work offer (either by rejecting the offer or by not responding) the offer will be sent to the next three available practitioners based on ranking. Those practitioners will also have 30 minutes to accept the work offer before the work offer progresses to the next three available practitioners, and so on.
- Any new practitioners joining a list will commence at the bottom ranking.

Availability

When a practitioner accepts a work offer the BUDSAS recognises that the practitioner is unavailable to receive other work offers for that period of time. Please note that if you are a member of Crime BUDS list that this feature is not part of the Crime system.

When the work offer is for an inquiry or review list, the system reads the practitioner as being unavailable for the two days associated with the work offer (if one off matters are received on the instructions day at the same venue, the system user still has the ability to allocate that work to the specific solicitor at the hospital – see work offer types on page 7).

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When the work offer is for a one-off matter, the system reads the practitioner as being unavailable from one hour prior to the start time of the matter till the estimated end of the matter plus a one hour buffer period after that duration (the duration is defined by the proceeding type).

When the BUDSAS reads a practitioner as unavailable they won't receive MHD work offers, regardless of region.

The rolling list ranking of that practitioner only changes subject to the movement of other practitioners on the list and isn't affected by not receiving work offers during periods of unavailability.

Practitioners should inform the MHAS when they are unavailable due to periods of leave or non MHRT work as we can temporarily inactivate practitioners on the system.

Work offer types

Work offers sent to practitioners will reference a work offer number with the following prefixes:

- MHD – Mental Health Duty offer – standard offer sent to a rolling list
- MHU – Mental Health urgent offer – work offer sent to a specific practitioner when the need to do so arises.

Some scenarios where an MHU offer may be made include:

- a. When a matter is adjourned, and the client would benefit from the previously representing solicitor continuing to represented them at the relisting.
- b. When a Practitioner will already be at a specific venue for other assignments. Assigning to the same solicitor reduces confusion for hospital and tribunal staff.
- c. When a hearing is listed at very short notice and there is a need to assign to either an in-house MHAS practitioner or to contact private practitioners directly to expediate the assigning process. In this case the work offer is still sent as the acceptance by the practitioner will trigger the confirmation email being sent to hospital and tribunal staff and the system will note that practitioner as covering the assignment in the work offer audit trail.

Work offer SMS and emails

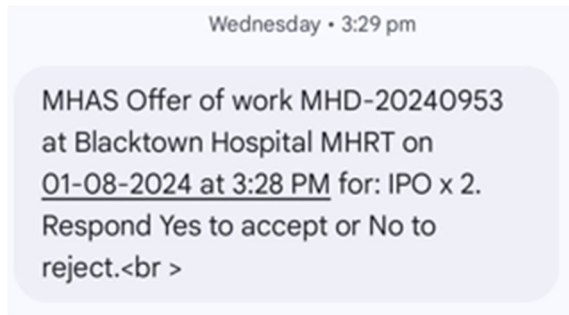
All system generated emails, including work offer emails, confirmation emails and reminder emails, will be sent from the following email address:

Civilbudsas@legalaid.nsw.gov.au

Work offers will be sent to practitioners via Mobile phone SMS. If a mobile phone number isn't included in the practitioner's grants online profile, offers will be sent to the email address of the practitioner (as indicated in their grants online profile).

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Example of an SMS:



- MHAS – Office
- MHD – Work offer type (see page 7)
- 2024113 – Offer number (year + sequential offer no.)
- Blacktown Hospital – venue
- MHRT - Jurisdiction
- 01-08-2024 – Date
- 3:28 PM – Start time
- IPO x 2 – Proceeding type (see page 12)

The SMS will allow a Yes or No response* indicating whether the work offer is accepted or rejected. The work offer will expire if another practitioner accepts the work offer or 30 minutes after an MHD offer is received or after 2 hours for MHU offers. The practitioner will receive an SMS (or email when the practitioner’s grants online profile doesn’t include a mobile number) indicating that the work offer has expired. If the work offer is accepted another SMS will be sent to the practitioner thanking them for accepting the work offer.

Where multiple active SMS offers are received, the most recent SMS invalidates other active SMS work offers and a yes or no response only applies to the most recent SMS.

*The system only recognises a one word response, yes or no. It does not matter if the Yes or No is capitalised.

Emailed work offers contain Accept and Reject buttons which can be clicked on.

Please select "Accept offer", or "Reject offer" to respond to this mail.



Once a Practitioner has clicked on either button, the system generates a draft pop up email that the practitioner will need to send in order to inform the MHAS if the work offer is accepted or rejected. Clicking on Accept or Reject button alone, without sending the email, does not provide a response.

Multiple work offers received by email can be responded to independently. Unlike SMS work offers, one offer doesn’t invalidate other active offers.

As previously indicated for SMS, If the work offer email is not responded to then the work offer will be considered declined by the practitioner 30 minutes after it is sent for MHD work offers and after 2 hours for MHU work offers, or until another practitioner has accepted the offer.

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The Work Offers will indicate the date(s), venue + jurisdiction (just MHRT at this stage), start time (only for one off matters) and proceeding type. List work offers have an assumed start time of 9am for the list date but any information provided to the practitioner from the hospital, Tribunal or from the MHAS separately that provides a different start time should be adhered to. List work offers feature two dates, the first date is the instructions day and the second date is the date of the hearings/reviews themselves.

The work offer SMS or email will not provide the MHRT application, list or any client information. Applications and occasionally lists will be attached to the confirmation emails which will be sent on acceptance of a work offer. If there is a conflict of interest apparent once the application is received, please inform the MHAS and the work offer will be reallocated.

Venues

Most venues noted in the Email and SMS work offers will be the Hospital names. Such work offers require in-person attendance. When a work offer allows for remote attendance (via PEXIP or other audio-visual connection) the proceeding type included in the offer will be followed by the words “by AVL” for instance “MHI list by AVL”. The PEXIP number for these assignments will be included in the application attached to the confirmation email received by the accepting practitioner.

If a work offer is for a Community Treatment Order application where the client is not in a mental health facility but in the community, the venue noted in the work offer may be one of the following:

- **MHRT / NSYD Community Centre** – Hearing being conducted at the MHRT (currently at Gladesville) with the client taking part via video link from a Community Centre located in Northern Sydney (the actual address of the Community Centre will be noted in the application attached to the confirmation email, received on acceptance).
- **MHRT / SESYD Community Centre** - Hearing being conducted at the MHRT (currently at Gladesville) with the client taking part via video link from a Community Centre located in South Eastern Sydney (the actual address of the Community Centre will be noted in the application attached to the confirmation email, received on acceptance).
- **MHRT / SWSYD Community Centre** - Hearing being conducted at the MHRT (currently at Gladesville) with the client taking part via video link from a Community Centre located in South Western Sydney (the actual address of the Community Centre will be noted in the application attached to the confirmation email, received on acceptance).

- **MHRT / SYDM Community Centre** - Hearing being conducted at the MHRT (currently at Gladesville) with the client taking part via video link from a Community Centre located in Metro Sydney (the actual address of the Community Centre will be noted in the application attached to the confirmation email, received on acceptance).
- **MHRT / WSYD Community Centre** - Hearing being conducted at the MHRT (currently at Gladesville) with the client taking part via video link from a Community Centre located in Western Sydney (the actual address of the Community Centre will be noted in the application attached to the confirmation email, received on acceptance).

The choice of whether the practitioner should take part in the hearing at the location of the tribunal or to take part in the hearing from the Community Centre with the client is a matter for the representing practitioner. Practitioners decide which location is appropriate based on providing the best possible service.

When no regional solicitors are available to cover a regional matter, remote work offers to be covered by AVL may be sent to the Sydney based practitioners. If the work offer is for a venue located outside of Sydney that can be covered by a Sydney practitioner via video link, the venue name indicated in the work offer will be:

Regional location by AVL

The specific regional hospital or community Centre details + PEXIP number will be included in the application attached to the confirmation email.

Confirmation emails and the provision of documentation

When a Practitioner accepts a work offer a confirmation email will be sent to that Practitioner with the relevant hospital and Tribunal contacts included. Any material provided by the Tribunal or Hospital will be attached to that email.

The assigned Practitioner and Hospital contacts should communicate with one another for the purposes of receiving additional client documentation or lists. The MHAS will not be the conduit for the provision of patient documentation to the assigned practitioner. There has been communication from the MHAS to the Hospitals indicating this.

Cancelling accepted work offers

Practitioners that need to cancel accepted work assignments should contact the MHAS on Civilmhas@legalaid.nsw.gov.au or (02) 9745 4277. Once the MHAS has been notified that a practitioner is unable to attend an accepted work assignment, the work offer will be cancelled, and the practitioner will be notified of the cancellation via SMS and email. Cancellation emails have the relevant hospital contacts copied in.

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Reminder emails

Reminder emails will be sent to assigned practitioners with the relevant hospital contacts included.

Reminder emails for inquiry and review list assignments will be sent a week before the instructions day of the assignment. If the offer was accepted less than a week before the date of the assignment, no reminder email will be sent.

Reminder emails for one-off matters will be sent the day before the date of the assignment. If the offer was accepted less than 24 hours before the time of the assignment, no reminder email will be sent.

Duty Purchase Orders and claiming payment

Duty Purchase Orders will be generated by the MHAS after the assignment has been completed. **Please email the MHAS Office Manager (MHASOfficeManager@legalaid.nsw.gov.au) once your assignment has finished, confirming your attendance and providing an approximation of the duration of the assignment (including instructions), and the number of clients represented if that number is more than one (see attached email template).**

The payrate for Legal Aid duty work is \$195 per hour. The duration of claimable time for a work assignment includes the time to take legal instructions but does not include travel time or any breaks including lunch. The email sent to the Office Manager should include any information pertaining to delays or other reasons why additional time was needed.

If the amount needed to be added to a Duty Purchase Order exceeds the delegation of the Office Manager, the MHAS' Solicitor in Charge must review the claim and there may be a small delay in the Duty Purchase Order being generated.

Once a Duty Purchase Order has been generated by the MHAS an email will be sent to the practitioner providing the Duty Purchase Order number. The practitioner can then claim payment through grants online.

If a practitioner hasn't received a Duty Purchase Order number two business days after the assignment, a query should be made to the MHAS Office Manager at the email address provided above.

Proceeding types

SMS and email work offers sent by the BUDSAS will refer to the work offer proceeding type by the following names and acronyms:

Application noted on MHRT Application form	MHAS BUDSAS proceeding type
s34 Mental Health Inquiry	MHI (MHI list for s.34 list)
s37(1)(a) Initial review after mental health inquiry	IPO (IPO list for review list)
s37(1)(b) 3 mthly review within first 12 months	IPO
Multiple s37(1) applications	IPO x 2, IPO x 3, IPO x 4
Multiple s34 applications	MHI x 2, MHI x 3, MHI x 4
s51 Community Treatment Order	CTO
s9 Review of voluntary patient	Misc review
s101(1) Consent to surgery	s.101 hearing
s46 NSW TGA Application for financial management order	FMO
s151(4) Preliminary hearing re disclosure of evidence	Misc review
s44 Appeal against a refusal to discharge	Appeal
s37(1)(b) 6 mthly review after first 12 months	IPO
s37(1A) Review at any other time	IPO
s63 Review of detained person on CTO	CTO
s103 Consent to special medical treatment	s.101 hearing
s48 NSW TGA Review of interim FMO	FMO
S156 Application to limit access to medical records	Misc review
s94 (2 and 2A) ECT administration	ECT
s34 Mental Health Inquiry and s44 Appeal against a refusal to discharge	MHI + Appeal
s34 Mental Health Inquiry and s94 (2 and 2A) ECT administration	MHI + ECT
s34 Mental Health Inquiry and s51 Community Treatment Order	MHI + CTO
Combination of different applications not covered by the above	Misc hearings

Inhouse MHAS practitioners

The current Legal and Client support Officer practice of emailing the team with one-off work offers will continue

When an inhouse practitioner accept an offer via email response, the admin team will need to send that practitioner an MHU work offer (see proceeding types on page 6) through the BUDSAS system which the practitioner will then need to accept.

Where an inhouse practitioner has put their name against a list, the admin team will also need to send a BUDSAS work offer for that assignment which will then require the inhouse practitioner to accept.

All MHU work offers received will allow two hours to respond. If the practitioner has not responded within that time the BUDSAS offer may need to be resent.

The provision of client documentation and lists will be provided by the hospital and not by the MHAS. The confirmation email will include the tribunal application but lists and patient reports, progress notes, etc. will come directly from the hospital to the assigned inhouse solicitor. The assigned Solicitor is responsible for getting all relevant documents from the MHRT or relevant facility.

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Relevant Contacts

MHAS contact phone number:
(02) 9745 4277

MHAS contact email address:
civilmhas@legalaid.nsw.gov.au

MHAS Office Manager:
Reegan Rasmussen
(02) 9068 1746
Reegan.rasmussen@legalaid.nsw.gov.au or
MHASOfficeManager@legalaid.nsw.gov.au

Questions or queries about the Scheme:
Mark Evans
(02) 8746 2615
Mark.evans@legalaid.nsw.gov.au

Technology issues:
Legal Aid NSW Service Desk
servicedesk@legalaid.nsw.gov.au
(02) 9219 5988

MHAS Solicitor in Charge:
Todd Davis
(02) 8746 2623
Todd.davis@legalaid.nsw.gov.au

MHAS Senior Civil Solicitor:
Anna Goulston
Anna.Goulston@legalaid.nsw.gov.au