

Legal Aid ACT



SCALES OF COSTS

Revised May 2023

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SCALES OF COSTS PAYABLE TO PRIVATE LEGAL PRACTITIONERS**Notes**

1. These Scales are determined pursuant to s31C *Legal Aid Act 1977*.
2. "Commission" includes where the meaning is appropriate "Review Committee" and the Chief Executive Officer of the Commission, his or her delegate or nominee, but will generally mean the Commission carrying on business as Legal Aid ACT.
3. These Scales should be read subject to the obligations and rights of the Commission under the *Legal Aid Act 1977*, subject to the Terms and Conditions of Referral of Legal Assistance and to the Guidelines and Determinations of the Commission.
4. Date of Effect
Unless otherwise stated these Scales apply to grants, or extensions to grants of legal assistance made on and after 1 June 2023.

SCALES OF PAYMENTS TO COUNSEL

GENERAL NOTES

These General Notes form part of each Scale. All items are exclusive of GST.

1. **Brief fees**

- (a) Include payment of all preparation including normal reading, pre-arraignment conferences and preparation (in criminal matters) and a preliminary conference and the first day of trial. In matters of exceptional complexity a further reading fee may be approved.
- (b) In these Scales chamber work includes advising, conferences, views and similar work.
- (c) No separate allowance in the nature of care, skill and attention shall be paid.
- (d) In an exceptional case as determined by the Commission being a case where two or more junior counsel are engaged, the senior of those counsel may, in the discretion of the Chief Executive Officer be allowed a fee not exceeding a fee allowable to a senior counsel.

2. **Additional Days/Refreshers**

- (a) Additional days after the first day includes all conferences, preparation and day in Court.
- (b) Additional half day includes all conferences, preparation and half day in Court.

Note: Where the hearing concludes early, the fee will be calculated and paid up to and including the date of conclusion.

3. **Senior counsel or equivalent**

In exceptional circumstances permission may be granted to brief Senior Counsel or equivalent. The fee allowable will be that allowed for junior counsel plus 50%.

4. **Non-Resident Counsel**

Non-resident counsel may not be briefed except with the prior permission of the Chief Executive Officer

5. Travel and Accommodation for Counsel

Reasonable expenses necessarily incurred and where necessary airfares at economy class and standard rate nonluxury accommodation will be paid in addition to any other fee prescribed. No other fee by way of loading will be permitted. Receipts must be produced.

6. Counsel's Accounts

When counsel is briefed at an hourly rate the account should include details of the time spent on the matter.

7. Marking of Briefs

Counsel is requested not to accept unmarked briefs. It is essential that the fee payable and the fact that the matter is a Legal Aid matter be established when the brief is handed to Counsel.

8. Matters in which Counsel may not be briefed

- (a) Criminal matters in Magistrates (including Childrens) Court and Sentence Administration Board unless in the opinion of the Chief Executive Officer, the proceedings (whether committal or summary) are extraordinarily complex and involve a serious charge.
- (b) Family law and civil matters in the ACT Magistrates (including Childrens) Court and the Federal Circuit and Family Court, unless in the opinion of the Chief Executive Officer the proceedings are of such complexity or otherwise involve an issue of such substance that counsel should be briefed.
- (c) Generally, in all jurisdictions, in mentions and like appearances unless the briefing of counsel would procure a saving of costs or prior approval has been obtained from the Chief Executive Officer.

9. Reading/Preparation/Conferences/Apearances

- (a) The lump sum grant covers all preparation, conferences, reading time and appearances for the stage. Payments of additional fees outside the fee scale will only be approved in exceptional circumstances.
- (b) Additional reading/prep/conference/appearances will be remunerated at standard hourly rate for the jurisdiction. It must be pre-approved by the Client Services Unit. Approval will be given only if in the opinion of the CEO it is reasonable in the particular circumstances.

THE CRIMINAL LAW SCALE OF COSTS FOR COUNSEL

1.	<u>MAGISTRATES (INCLUDING CHILDRENS AND CORONERS) COURT (COMPLEX MATTERS)</u>	
(a)	Application for evidence to be taken at Committal Hearing	550
(b)	Committal proceedings and matters determined summarily Fee on brief includes all preparation, reading, conferences and first day in court	1,380
(c)	Additional day after the first day of hearing	1,380
(d)	Additional half day	830
(e)	Plea of Guilty, breach of recognizance, and similar Fee on brief includes all preparation, reading, conferences and court appearances	830
(f)	Bail applications fee on brief: (i) Opposed application (ii) Unopposed application	690 280
(g)	Necessary mentions, unopposed applications taking reserved judgments, Case Status Enquiries and similar (including additional preparation)	280
2.	<u>SUPREME COURT</u>	
(a)	Trials and conviction appeals Fee on brief includes: (i) Preparation, reading and conferences (ii) Pre-arraignment conferences and preparation (iii) First day of trial including pre-trial hearing in sexual and violent offences	2,210
(b)	Additional day after the first day of trial	1,380

(c)	Additional half day	830
(d)	Pleas and severity appeals Fee on brief includes all preparation, reading, conferences and court appearances	1,380
(e)	Breach of Orders Fee on brief includes all preparation, reading, conferences and court appearances	830
(f)	Bail applications fee on brief: (i) Opposed application (ii) Unopposed application	690 280
(g)	Applications not otherwise provided for Fee on brief includes all preparation, reading, conferences and court appearances (i) Opposed application (ii) Unopposed application	1,100 550
(h)	Necessary mentions, taking reserved judgments, and additional preparation	280
(i)	Criminal Case Conference Includes all preparation, reading, conference and court appearances	1,380
3.	<u>HIGH COURT AND ACT COURT OF APPEAL</u>	
(a)	Appeals (including any application for leave to appeal) Fee on brief includes all preparation, reading, conferences and court appearances	3,310
(b)	Necessary mentions and taking reserved judgments	280
(c)	Interlocutory applications fee on brief:	

	(i) Defended	1,380
	(ii) Undefended	550
4. <u>CHAMBER WORK</u>		
	per hour or pro rata	280
5. <u>SENTENCE ADMINISTRATION BOARD</u>		
	Fee on brief includes all preparation, reading, conferences and appearances	830

NOTE: -**1. CO-ACCUSED**

For each legally assisted person after the first, a brief fee not exceeding one-third of the brief fee prescribed for the first legally assisted person shall be paid.

2. MATTERS UNEXPECTEDLY NOT REACHED

Costs of the day to be paid at full additional day rate.

3. MATTERS WHERE CLIENT CHANGES TO GUILTY PLEA ON DATE OF TRIAL

Fee on brief for the trial day only plus half additional day for sentencing.

THE CIVIL LAW SCALE OF COSTS FOR COUNSEL

1.	<u>FEDERAL COURT AND ACT MAGISTRATES COURT</u>	
(a)	Fee on brief includes all preparation, reading, conferences and first day in court	1,660
(b)	Additional days	1,380
(c)	Additional half day	870
2.	<u>SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY</u>	
A.	<u>SINGLE JUDGE</u> (or where appropriate, Master or Registrar)	
(a)	Causes (including hearings, civil trials, appearances before a commissioner, an examination de bene esse, assessments and like proceedings)	
	(i) Fee on brief – inclusive reading, preparation, conferences and first day hearing	2,210
	(ii) Additional day	1,380
	(iii) Additional half day	830
(b)	Matters not covered by paragraph (a) above including but not limited to interlocutory applications, ex parte applications for injunctions or similar orders. Fee on brief – inclusive reading, preparation, conferences and all Court appearances	1,380
(c)	Appeals from another Court or tribunal. Fee on brief – inclusive reading, preparation, conferences and all Court appearances	1,930
(d)	Chamber work per hour or pro rata, and additional preparation	280
(e)	Necessary mentions and taking reserved judgment	280

3.	<u>HIGH COURT OF AUSTRALIA AND ACT COURT OF APPEAL</u>	
(a)	Appeals, (including any applications for leave to appeal) Fee on brief includes all preparation, reading, conferences and court appearances	3,310
(b)	Necessary mentions and taking reserved judgment	320
4.	<u>AAT AND ACAT</u>	
	Fee on brief includes all preparation, reading, conferences and first day of hearing	1,380
5.	<u>MENTAL HEALTH TRIBUNAL APPLICATIONS</u>	
	Fee on brief includes all preparation, reading, conferences and appearances	830

THE FAMILY LAW SCALE OF COSTS FOR COUNSEL

<u>FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA</u>		
AND		
<u>ACT CHILDRENS COURT</u>		
(a)	Appeals (Full Court and Single Judge) Fee on brief includes all preparation, reading, conferences and appearances	1,920
(b)	Short defended hearings Fee on brief includes all preparation, reading, conferences and appearances	1,440
(c)	Defended hearings/Less Adversarial Trial Fee on brief includes all preparation, reading, conferences and first day hearing	2,160
(d)	Additional day after the first day	1,440
(e)	Additional half day	960
(f)	Written submissions for final hearing	960
(g)	Short Interim or Final Hearing	1,440
(h)	Mentions and other appearances in Court or before the Registrar where authorised by the Chief Executive Officer (including undefended applications)	240
(i)	Chamber work per hour basis	240
(j)	Taking reserved judgement	240

Counsel shall not be briefed by an Independent Children's Lawyer unless the matter raises complex issues of fact or law or there are other exceptional circumstances.

SCALES OF PAYMENTS TO SOLICITORS

GENERAL NOTES

1. Lump Sum Grants

- (a) Lump Sum grants have been set on a stage of matter basis on most matters. Under such circumstances, solicitors are not paid on an hourly basis and will not be paid for actual time spent.
- (b) Where no lump sum has been set, solicitors will be paid on a pro rata basis for actual time spent.
- (c) There is no right of appeal against the decision to grant aid by way of lump sum grants. There can be no appeal against the amount of the lump sum grant or refusal to increase that lump sum grant.

2. Reading/Preparation/Conferences/Appearances

- (a) The lump sum grant covers all preparation, conferences, reading time and appearances for the stage. Payments of additional fees outside the fee scale will only be approved in exceptional circumstances.
- (b) Additional reading/prep/conference/appearances will be remunerated at standard hourly rate for the jurisdiction. It must be pre-approved by CLU. Approval will be given only if in the opinion of the CEO it is reasonable in the particular circumstances

3. Solicitor appearing as Counsel Uninstructed

Wherever a solicitor appears uninstructed as Counsel a higher rate shall be paid as appears in the Scale of Costs below.

4. Witness Expenses

Witnesses called because of their professional, scientific or other special skills or knowledge shall require the prior approval of the Chief Executive Officer at a negotiated fee.

5. Witnesses Generally

If remunerated in their occupation by wages, salary or fees, the amount lost by the witness by the attendance at Court, not to exceed \$300 per day, provided that the Chief Executive Officer shall have a discretion to allow a higher fee in appropriate circumstances. Documentary evidence will be required.

6. Clerks

Where a clerk performs payable work including instructing counsel, payment will be at \$70 per hour.

7. Photocopying/facsimiles

These Scales include payment for regularly anticipated photocopying and facsimiles. Extra necessary photocopying is payable at 75c per page copied. In similar circumstances facsimiles are payable at 75c per page sent. Bulk photocopying shall be paid at commercial printers' rates.

8. Co-accused in criminal matters

Where a solicitor appears for more than one legally assisted person an amount not exceeding one third of the amount prescribed for the first legally assisted person shall be paid.

9. More than one charge in legally assisted criminal matters

Where a grant of legal assistance covers a number of charges or counts the payments itemised in these Scales whether for counsel or solicitor may be paid for separate charges or counts only if in the opinion of the Chief Executive Officer it is reasonable that they be the subject of separate preparation and conduct.

10. Matters capable of summary determination committed to the Supreme Court

In the absence of reasonable justification the Commission shall pay the amount prescribed for the Magistrates Court.

11. Retained Agents

- (a) Prior to retaining solicitors as agents, the Commission requires that the practitioner be satisfied that those solicitors accept the Commission's Terms and Conditions of Referral and will accept payment pursuant to the Commission's relevant scale.
- (b) The grant for agent must be paid out of the assigned practitioner's lump sum fee for any Court attendances.

THE CRIMINAL LAW SCALE OF COSTS FOR SOLICITORS

<u>MAGISTRATES/CHILDRENS COURT</u>		
1.	a. Initial conference, preparation , reading, court attendances, representation to DPP, up to entry of plea	690
	b. Where there is an existing current grant and subsequent grant issued for other or new charges or breach of orders up to entry of plea	280
2.	a. Plea of Guilty includes all preparation, reading, conference and court attendances subsequent to entering of plea	410
	b. Defended hearing and full committal hearing includes all preparation, reading, conference and 1 day in court	690
3.	a. Committal Guilty plea (Hand up Brief)	140
	b. Committal Not Guilty (Hand up Brief)	280
4.	a. Subsequent half day in court	410
	b. Subsequent full day in court	690
5.	a. Applications including for evidence to be taken or mental health at ACAT include all preparation and appearances	280
6.	a. Mentions (after first 3 appearances in court post entry of plea) /taking Reserved Judgement	140
7.	a. Opposed Bail Application	280
	b. Unopposed Bail Application	140
8.	a. Exceptional preparation, reading and conferences, pro rata on hourly basis	140

	<u>SUPREME COURT</u>	
1.	Pleas and appeals including all preparation, reading, conferences and appearances	
	a. Solicitor appearing uninstructed as Counsel	1,240
	b. Solicitor instructing Counsel	830
2.	Applications/Motions and Breach of Orders applications including all preparation, reading, conferences and appearances	
	a. Solicitor appearing uninstructed as Counsel	830
	b. Solicitor instructing Counsel	410
3.	Trials including pre-trial hearing in sexual and violent offences, special hearings Including all preparation, reading, conferences, all interlocutory appearances and first day in Court	
(a)	(i) Solicitor appearing uninstructed as Counsel	2,070
	(ii) Additional day uninstructed as Counsel	1,040
	(iii) Additional half day uninstructed as Counsel	620
	(iv) Criminal Case Conference Solicitor appearing uninstructed as Counsel Solicitor instructing Counsel	1,240 830
	Includes all preparation, reading, conferences and court appearances.	
(b)	(i) Solicitor instructing Counsel	1,380
	(ii) Additional day instructing Counsel in Court	690
	(iii) Additional half day instructing Counsel	410
4.	Bail applications	
(a)	(i) Opposed – uninstructed as Counsel	550

	(ii) Unopposed – uninstructed as Counsel	210
(b)	(i) Opposed – instructing Counsel	280
	(ii) Unopposed – instructing Counsel	140
5.	a. Exceptional preparation, reading and conferences (\$140 per hour)	140
6.	Necessary mentions and taking judgement	
	a. Solicitor appearing uninstructed as Counsel	210
	b. Solicitor instructing Counsel	140

	<u>HIGH COURT AND ACT COURT OF APPEAL</u>	
1.	Appeals including leave applications, all conferences, reading time and all Court appearances	
	a. Solicitor appearing as Counsel	2,480
	b. Solicitor instructing Counsel	1,660
2.	Necessary mentions and taking reserved judgments	140
	<u>SENTENCE ADMINISTRATION BOARD AND TRIBUNALS NOT OTHERWISE PROVIDED FOR</u>	
1.	All preparation, conferences, reading and appearances	550

<u>CIVIL SCALE OF COSTS FOR SOLICITORS IN ALL COURTS</u>		
1.	Investigate and report	520
2.	Brief Counsel and initiate proceedings	690
3.	Negotiations and other preparatory work at \$160 p/h. (max 10 hours)	1,600
4.	Interlocutory Application including all preparation, conferences and Court appearances uninstructed	1,040
5.	Instructing Counsel \$140 per hour Max. 6 hours per day	840
<u>ACT MAGISTRATES AND CHILDREN'S COURT</u>		
1.	Matters under the Domestic Violence and Protection Orders Act	
	a. DV1A/DV1R – all preparation and attendance at Registrar's Conference	480
	b. DV2A/DV2R – all preparation, negotiations and Consent Orders after Registrar's Conference	480
	c. DV3A/DV3R – all preparation and attending at Final Hearing	690
2.	Care Proceedings	
	a. Initial instruction and first court attendance	520
	b. Case Management Conference including preparation, taking instructions and appearances	520
	c. (i) Hearing at \$140 per hour, Max. 6 hours per day	820
	(ii) Half day	460
3.	Victims of Crime Compensation Includes all preparation, conferences and appearances (as fixed by legislation) ¹	1,264
	<u>ALL ACAT PROCEEDINGS: MENTAL HEALTH, GUARDIANSHIP, FINANCIAL MANAGEMENT, AND TENANCY</u> Includes all preparation, conferences, all tribunal attendances	280

¹ *Victims of Crime (Financial Assistance) Act 2016 s 96; Victims of Crime (Financial Assistance) Regulation 2016 s 12*

<u>DUTY LAWYER SERVICE AT COURTS AND TRIBUNALS</u>		
1.	Domestic Violence	240
2.	a. Contested bail application	280
	b. Uncontested bail application/subsequent other bail applications on same day	140
3.	Mental Health	240
4.	Legal advice (family /DV where authorised prior)	150

FAMILY LAW SCALE OF COSTS FOR SOLICITORS

	Stage 1: Investigate and Report and Further limited legal assistance	
(i)	Take instructions, advising and reporting including considering FDR or initiating proceedings	320
(ii)	Further limited legal assistance to progress matter where FDR or litigation is not appropriate (per hour for up to 4 hours)	160
	Stage 2: Family Dispute Resolution (FDR)	
(i)	Representing assisted person in a FDR conference and preparing Parenting Plan or Consent Orders (no court proceedings)	800
(ii)	Taking instructions, providing legal advice, preparing documents for FDR in accordance with Family Law Rules (at any stage of Court proceedings) and representing client in FDR,	960
(iii)	Finalising a matter that has settled with Final Consent Orders after a litigation FDR conference or other negotiations. Includes settling Final Consent Orders, preparing associated Court forms in accordance with relevant Family Law Rules and filing documents with the Court	320
(iv)	Completing financial exchange in preparation for a property FDR Conference or Court Conciliation Conference in accordance with any relevant Family Law Rules (per hour for up to 4 hours)	160
(v)	FDR at Court with Registrar and Family Consultant Conference Part A Conference Part B	480 960
	Stage 3: Litigation – Interim Proceedings	
(i)	<i>When seeking interim and final orders:</i> Taking instructions, providing legal advice, drafting, filing, and arranging service of Court documents. Includes representation at the first court event before a Judicial Registrar Return list and at the first defended interim hearing.	1,600
(ii)	<i>When seeking final orders only:</i> Taking instructions, providing legal advice, drafting, filing and arranging service of Court documents in an application or response that seeks Final Orders only	800

(iii)	Taking instructions, providing legal advice, drafting and/or reviewing subpoena material, drafting, filing and arranging service of Court documents to initiate or respond to an application that seeks to bring a matter back before the Court for further Interim Hearing	1,440
(iv)	Preparing and representing in Court for a Mention – after the first Mention and/or the first Interim Hearing	480
(v)	Taking instructions, providing legal advice and conducting negotiations that resolve substantial interim issues or result in settling the matter on an interim or final basis (per hour for up to 2 hours)	160
(vi)	Taking instructions, providing legal advice, preparing and representing a client in a Court Conciliation Conference for property matters. Includes preparing Final Consent Orders during the Conciliation Conference	960
(vii)	Providing legal advice, negotiations, drafting and settling terms of reference for a Court ordered expert report	320
(viii)	Preparing a client for interviews in relation to Family, Expert Report and other Court ordered reports; reading the report; advising client in relation to the report and any of its recommendations	480
Stage 4: Litigation – Preparation for Final Hearing Proceedings		
	Taking instructions; reviewing materials from other parties, providing legal advice; drafting and/or reviewing subpoena material and other Court documents in accordance with Family Law Rules including a final affidavit, case outline and Minute of Final Orders Sought; interviewing witnesses and drafting witness affidavits	
	Parenting only or property only	1,760
	Parenting and Property	2,240
	Parenting only or property only (when briefing Counsel)	2,240
	Parenting and Property (when briefing Counsel)	2,720
Stage 5: Litigation - Final Hearing		
(i)	Each hearing day – when briefing Counsel	820
	Half day	410
(ii)	Each hearing day – Solicitor as Counsel	1,240
	Half day	620
(iii)	Undefended short final hearing	480
(iv)	Preparing written submissions when during the Final Hearing or at its conclusion, the Court makes a direction for written submission	620

	Stage 6: Litigation -Briefing Counsel for an interim or final short-defended hearing	820
	Stage 7: Appearance in Court to receive judgement and to explain orders to the client and provide final legal advice	160
	Appeals	
(i)	Appeal to single Judge of the Federal Circuit and Family Court of Australia, all preparation including 1 st day in court - when briefing Counsel - Solicitor as Counsel	1,320 1,670
(iii)	Appeal to Federal Circuit and Family Court of Australia – all preparation including 1 st day in court - when briefing Counsel - Solicitor as Counsel	1,100 1,450
	<u>Miscellaneous</u>	
	Outside Stage of Matter and exceptional preparation, reading and conferences on hourly basis	160