

Chapter 13

Scale of Costs

Part 1

General Notes

1. Fees Recoverable

Section 31 of the *Legal Aid Act 1991(NT)* prohibits a private practitioner from accepting any payment from a legally aided person or from any person on their behalf in relation to a legally aided matter other than those payments which may be authorised by the Commission.

2. Examination of Solicitor's Files

The Commission reserves the right to call for a solicitor's file on legally aided matters in relation to any account rendered for payment.

3. Deferred Payment

The Commission may defer payment of fees payable by it to a solicitor in connection with legally assisted proceedings until the Commission is satisfied the practitioner has taken reasonable steps to recover party/party costs to which the assisted person is entitled.

4. Protection of Costs

The Commission requires a solicitor to retain control of any money that comes into the solicitor's control or possession, until the Commission has assessed the assisted person's final contribution. See General Conditions of Referral to Private Legal Practitioners contained in the Guidelines.

5. Transfer of Solicitors

Where the Commission consents to a transfer of solicitors the legally aided person may be required to pay an additional contribution to cover all costs associated with that transfer. The consent of the Commission should be obtained prior to the transfer.

6. Reporting to Commission

No fee is payable for communications and correspondence with the Commission in respect of the administration of the grant of aid. This includes the initial application for legal aid and the letter of merit that should accompany it, any reports as to the progress of the matter, perusal of any letters from the Commission, preparation of any accounts and any telephone or facsimile communications.

7. Preparation of Accounts

The Commission does not pay for the preparation of solicitor's account. To enable the Commission to assess and pay accounts promptly, the accounts must be itemised, i.e. noted in chronological order and containing a description of the work performed together with the amount of time taken to perform the work.

8. Travelling Time

Unless there are exceptional circumstances the Commission will not pay a practitioner's travelling time to Court.

9.**Waiting Time**

Unless there are exceptional circumstances the Commission will not pay for waiting time at Court.

10.**Briefing Counsel**

Counsel should not be briefed in any jurisdiction without prior authorisation from the Commission. All Briefs to Counsel should be marked as a legally aided matter and disclose the fee.

If the fees for Counsel are not set out in the letter of referral, Counsel should not be briefed without first negotiating a fee with the Commission.

11.**Matters in Which Counsel may not be Briefed**

- (i) Criminal matters in the Local Court unless, in the opinion of the Commission, the proceedings are extraordinarily complex and involve a serious charge.
- (ii) Civil matters in the Local Court including Crimes Victims Assistance applications unless in the opinion of the Commission the proceedings are of sufficient complexity and involve quantum or an issue of such substance that Counsel should be briefed.
- (iii) 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 Commission

1. **Generally**

Prior approval is necessary for expenditure of all disbursements.

2. **Photocopying and Facsimile Messages**

Where prior approval is granted photocopying, printing and facsimiles will be paid at 60¢ per page.

3. **Office Sundries**

Standard postage, petties, local telephone calls and file administration fees are considered normal office overheads and are not payable. Reasonable STD telephone charges will be paid.

4. **Witness Expenses**

If remunerated in their occupation by wages, salary or fees the amount lost by the witness in attending Court is not to exceed \$150.00 without prior approval of the Commission.

5. Travel and Accommodation Expenses

In the absence of specific arrangements economy airfares will be made available for all approved travel. The Commission will meet reasonable, standard accommodation expenses.

Flights and accommodation will be booked and paid for by the Commission unless otherwise agreed.

Travel expenses incurred, as a result of road or bus travel will be met on an individual basis as agreed.

The Commission will not pay for luxury accommodation or ancillary expenses, eg. phone calls, bar tab, mini-bar, dry-cleaning etc.

6. Agents Fees

These charges are subject to the same terms and conditions of the grant of aid imposed on the principal solicitor and should be in accordance with Commission's Guidelines for payment. When engaging agents the principal solicitor should provide the agents with a copy of the appropriate scale.

The agent's account should be forwarded for payment to the Commission before or with the principal solicitor's final account. Where the agents account is received after the principal solicitor's final account, the commission reserves the right to refuse payment and to direct such payment to the principal solicitor.

7. Experts Reports

The cost of expert reports, e.g. doctors, engineers, property valuations, etc. are subject to the prior authorisation of the Commission.

1.

Criminal Law Matters

1.1 Local Court

MATTERS TO BE DEALT WITH SUMMARILY

Initial Grant on primary court file \$1625 (in custody);
\$1500 (not in custody)

- Includes all work to dispose of the matter by way of plea of guilty or to undertake initial preparation for a contested hearing.
- If the matter resolves as a plea, the grant includes Reporting back to NTLAC with sentence.

Initial Grant for each additional court file \$750 (in custody);
\$625 (not in custody)

- Includes all work to dispose of the matter by way of plea of guilty or to undertake initial preparation for a contested hearing.
- If the matter resolves as a plea, the grant includes reporting back to NTLAC with sentence.

Contested Summary Hearing Grant \$750 per day of hearing

- Requires merit assessment
- Includes balance of preparation for hearing; representing the client at hearing and if convicted, in relation to the sentence.

Subsequent Plea Hearing Grant \$250 per additional appearance after plea entered/ conviction made

- Report required providing reasons why plea was not finalised on previous appearance

STRICTLY INDICTABLE MATTERS

Initial Grant per court file \$1875 (in custody);
\$1750 (not in custody)

- Includes reviewing brief, conferring with client, all negotiations with DPP, all court appearances * to commit the matter to the Supreme Court by way of hand up brief or to commence preparing matter for oral committal.
- If the matter is resolved to be dealt with summarily, includes plea in the Local Court or commence preparation for summary hearing

Additional PEM grant \$125 per appearance

- *Available if more than 5 PEMs attended
- Provide report, including dates of previous attendances, with reason for further PEM

Oral Committal grant \$750 per day of hearing

- This grant is for the practitioner with carriage of the matter
- Includes appearing as counsel or instructing counsel (if instructor approved).

**Oral Committal counsel
(where counsel and instructor approved)** \$1650/\$2200
(Counsel rate/Senior Counsel rate) per day of hearing

- Includes preparing and appearing at the committal

Additional Oral Committal Preparation for Extraordinary Cases by negotiation
(eg voluminous material; complex legal issues; seriousness of charges; client requires interpreter)

LOCAL COURT BAIL APPLICATION

Straight forward/consent: \$375
Complex: \$625

1.2 Youth Justice Court

MATTERS TO BE DEALT WITH SUMMARILY

Initial Grant on primary court file: in detention - \$2000; not in detention - \$1875

- Includes all work to dispose of the matter by way of diversion or plea of guilty or to undertake initial preparation for a contested hearing.
- If the matter resolves by way of diversion or as a plea, the grant includes reporting back to NTLAC with sentence.

Initial Grant for each additional court file: in detention – \$750; not in detention - \$625

- Includes all work to dispose of the matter by way of diversion or plea of guilty or to undertake initial preparation for a contested hearing.
- If the matter resolves by way of diversion or as a plea, the grant includes reporting back to NTLAC with sentence.

Summary Hearing Grant – \$750 per day of hearing

- requires merit assessment
- Includes balance of preparation for hearing; representing the client at hearing and if convicted, in relation to the sentence.

Subsequent Plea Hearing Grant – \$250 per additional appearance after plea entered/conviction

- report required providing reasons why plea was not finalised on previous appearance

STRICTLY INDICTABLE MATTERS

Initial Grant per court file: in detention- \$2250; not in detention - \$2125

- Includes reviewing brief, conferring with client, all negotiations with DPP, all court appearances * to commit the matter to the Supreme Court by way of hand up brief or to commence preparing matter for oral committal.
- If the matter is resolved to be dealt with summarily, includes plea in the Youth Court or commence preparation for summary hearing.

Initial Grant for each additional court file: in detention – \$875; not in detention - \$750

- Includes all work to commit the matter to the Supreme Court by way of hand up brief or to commence preparing matter for oral committal.
- If the matter is resolved to be dealt with summarily, includes plea in the Youth Court or commence preparation for summary hearing.

Additional PEM grant - \$125 per appearance (* if more than 5 PEMs attended)

- Provide report, including dates of previous attendances, with reason for further PEM

Oral Committal grant - \$750 per day of hearing

- This grant is for the practitioner with carriage of the matter
- Includes appearing as counsel or instructor (where counsel and instructor approved).

**Oral Committal counsel (where counsel and instructor approved) - \$1650/
\$2200 (Counsel rate/Senior Counsel rate) per day of hearing**

- Includes preparing for and appearing at the committal

Additional Preparation for Extraordinary Cases (eg voluminous material; complex legal issues; seriousness of charges) – may be approved on a case by case basis upon application

YOUTH JUSTICE COURT BAIL APPLICATION

First bail application:	\$625
Subsequent application:	\$375
Bail variation (where separate and/or complex):	\$250

1.3 Supreme Court

Supreme Court Bail Application:

Straight forward:	\$550.00
Complex:	\$1100.00

Grant includes preparation, preparation of documents advising client, liaising with prosecutions and court appearances.

Supreme Court Plea: \$1320.00

Grant includes taking instructions, all preparation, negotiations with DPP, all court appearances including receiving sentence and reporting back to Legal Aid.

Supreme Court Trial and CCA:

Solicitor/Junior Counsel	\$1320.00- 1650.00/day
QC /SC	\$2200.00/day

Grant of aid is provided at a daily rate and will include a grant of aid for preparation at the same daily rate.

Barr Letter: \$412.00

Grant includes collating brief, providing a preliminary view of prospects of success and sending a BARR letter to DPP and the Court.

Local Court Appeal:

Investigation and advising Commission on merit:	\$440.00
Sentence:	\$880.00
Conviction:	\$1320.00
Both:	

Extensions: \$165.00 per hour or full day whichever is less.

2.

Family Law Matters

Family law fees are paid at an hourly rate of \$165.00/hour. Grants of aid are made in accordance with the Family Law Stage of Matter Funding Model (see Chapter 4, part 2, Guideline 20)

3.

Civil Law Matters

3.1 High Court and Federal Court

As negotiated with the Commission.

3.2 Supreme Court/Motor Accidents Compensation Tribunal

As negotiated with the Commission

3.3 Local Court

As negotiated with the Commission

3.4 Work Health Court

As negotiated with the Commission

3.5 Administrative Appeals Tribunal

As negotiated with the Commission

3.6 Veterans Matters

The Commission pays \$149.00 per hour.