



Contract for Services

PROVIDER CONTRACT FOR THE PROVISION OF LEGAL AID SERVICES AND SPECIFIED LEGAL SERVICES

The Parties to this Contract

The Secretary for Justice

(the Secretary)

And

(the Provider)

The Secretary and the Provider are each a Party to the Contract and are together the Parties.

The Contract

Background

- A. The Secretary is required to establish, maintain and purchase high-quality legal services in accordance with the Legal Services Act 2011 (section 68(1)(a) of the Act).
- B. The Act requires the Secretary to approve providers before they can provide Legal Aid Services or Specified Legal Services (section 75(a) of the Act).
- C. The Secretary has approved the Provider to provide, from time to time, the Legal Aid Services or Specified Legal Services set out in Schedule 1.
- D. The Provider has agreed to provide the Legal Aid Services or Specified Legal Services set out in Schedule 1 on the terms set out in this Contract.

Contract documents

This Contract consists of:

- | | |
|--|-------------------|
| 1. These pages | Pages 1-2 |
| 2. Contract Details and Description of Services | Schedule 1 |
| 3. Terms and Conditions | Schedule 2 |
| 4. Firm's Undertaking | Schedule 3 |
| 5. Any other attachments described at Schedule 1 | |
| 6. The terms of any Accepted Assignments or Rostered Duties. | |

This Contract sets out the Parties' rights and obligations. Together the above documents form the Contract.



Acceptance

The date of execution of this Contract is the later of the two dates below.

In signing this Contract each Party acknowledges that they have read it and agree to be bound by it.

For and on behalf of the **Secretary:**

For and on behalf of the **Provider:**

Signature

Signature

Name: **Jacquelyn Shannon**

Name:

Position: **General Manager Legal Aid Services**

Position:

(Acting pursuant to a delegation from the Secretary under section 41 of the State Sector Act 1988)

Date:

Date:



Schedule 1

Contract and Approval Details

Start Date		Reference Schedule 2 clause 1
End Date	30 November 2019	Reference Schedule 2 clause 1

Provider to amend if incorrect

Contract Managers Reference Schedule 2 clause 13		Secretary's Contract Manager	Provider's Contract Manager
	Name:	Penny Hoy-Mack	
	Title / position:	Team Leader Provider Services, Legal Aid Services	
	Address:	Level 6, Justice Centre 19 Aitken Street SX 10125 Wellington	
	Phone:	04 496 6164	
	Email:	legalaidprovider@justice.govt.nz	

Provider to amend if incorrect

Provider Details Reference Schedule 2 clause 12		
	Provider Name	
	Name of firm/practice the Provider is <ul style="list-style-type: none"> • principal/partner/sole practitioner of or • employed by 	
	Provider's status within the firm/practice	
	Name of Employer (if different from above)	
	GST No. (if applicable)	
	Bank A/C No. (into which payments are to be paid)	
	Nominated Alternate/s (see clause 4.4)	



Approval Details

The Provider is approved by the Secretary to provide the following Services:

Legal Aid Services	Lead Provider			
	Litigation Experience Level			
	Type:	Approval/s:	Approval Period:	
			Start Date	End date
Condition/s	This approval is subject to the following condition/s:			

Legal Aid Services	Supervised Provider			
	Type:	Approval/s:	Approval Period:	
			Start Date	End date
Condition/s	<p>This approval is subject to the following condition/s:</p> <p>The Provider must comply with the supervision arrangements and service delivery systems in place at the time of approval. If there is any material change to the supervision arrangements or service delivery systems, the Provider must advise the Secretary of the change at least 10 Working Days prior to the change taking effect or, if the Provider does not have sufficient advance notice of the change, within 5 Working Days of becoming aware of it. Advice of the change will be considered as a new application for approval.</p> <p>Supervisor:</p>			

Specified Legal Services	Type	Approval/s	Approval Period:	
			Start date	End date
	Condition:			
Condition/s	This approval is subject to the following condition/s:			

Provider Number	Your provider identification number is . This number is used for correspondence purposes and assignment of cases. This number may also be required for provider authentication in the future as electronic business transactions are developed.
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Schedule 2

Terms and Conditions – Services

1. Consideration and operation of contract

- 1.1. In consideration for the Provider entering into this Contract and being bound by its provisions, the Secretary will also be bound by the provisions of the Contract.
- 1.2. This Contract will commence on the date of execution by both Parties. It will continue until **30 November 2019** (“expiry date”) unless earlier terminated in accordance with this Contract.
- 1.3. This Contract does not guarantee that the Provider will:
 - 1.3.1. receive any Assignments or be offered a minimum number of Assignments;
 - 1.3.2. be placed or remain on a Roster for Specified Legal Services.
(section 77(3)(e) of the Act)
- 1.4. This Contract does not give the Provider reason to expect that the Secretary will enter into another agreement with the Provider, or that another agreement (if any) will have similar terms to this Contract.
- 1.5. In reading this Contract:
 - 1.5.1. unless the context requires otherwise, references to:
 - 1.5.1.1. schedules are to the schedules of this contract;
 - 1.5.1.2. clauses are to the clauses of the schedule in which the reference occurs;
 - 1.5.2. references to the singular include the plural and vice versa;
 - 1.5.3. headings are inserted for convenience only and do not affect the interpretation of this Contract;
 - 1.5.4. references to provisions of the Act in brackets are inserted for convenience and do not affect the interpretation of this Contract, although the provisions of the Act will prevail in the event of any inconsistency with the Contract;
 - 1.5.5. “including” and similar words do not imply any limitation;
 - 1.5.6. a reference to any Act or Regulation, or any provision of an Act or Regulation, includes any replacement or equivalent Act, Regulation, or provision;
 - 1.5.7. a reference to policies generally, or to any particular policy, includes any related guidance, instructions, or procedures, however named, published on the Ministry’s website, and refers to those documents as amended, supplemented or replaced from time to time;
 - 1.5.8. where a word or expression is defined, other parts of speech and grammatical forms of that word or expression have corresponding meanings.



2. Provision of Legal Aid Services and Specified Legal Services

- 2.1. The Provider will:
- 2.1.1. only provide Legal Aid Services or Specified Legal Services that he or she is Approved to provide, as specified in Schedule 1;
 - 2.1.2. comply with any Condition/s specified in Schedule 1 in providing those Services; and
 - 2.1.3. undertake any Accepted Assignment in accordance with the terms of that Assignment and any Rostered Duty in accordance with the terms of that Duty.
- 2.2. If there is any conflict between Schedule 1 and the terms of an Accepted Assignment or Rostered Duty, the terms of Schedule 1 will prevail.

3. The Provider's general obligations

Quality of services and professional conduct

- 3.1. The Provider will provide any Legal Aid Services or Specified Legal Services in an effective and efficient manner.
- 3.2. The Provider will:
- 3.2.1. promote and maintain proper standards of professionalism in his or her public dealings with the Secretary, the Commissioner, and the Ministry; and
 - 3.2.2. conduct dealings with the Secretary, the Commissioner, and the Ministry with integrity, respect, and courtesy.
- 3.3. In providing any Legal Aid Services or Specified Legal Services, the Provider will comply with:
- 3.3.1. the Act and any regulations made under the Act, and all other applicable statutory obligations;
 - 3.3.2. relevant professional obligations, unless any provision of the Act states otherwise (section 81 of the Act);
 - 3.3.3. the Practice Standards (the General Practice Standards, General Responsibilities to Clients, and the applicable practice standards for the relevant area of law);
 - 3.3.4. policies relating to Legal Aid Services or Specified Legal Services issued by the Secretary and the Commissioner; and
 - 3.3.5. the obligations under this Contract.
- 3.4. The obligations in subclauses 3.3.1 to 3.3.5 are listed in order of precedence. If there is any conflict between those obligations, the obligation which appears first takes precedence.
- 3.5. The Provider will, during the term of this contract, maintain the standards required for Approval in the Legal Services (Quality Assurance) Regulations 2011 for each Approval listed in Schedule 1, including the requirements relating to competence (regulation 6), service delivery systems (regulation 9), and being a fit and proper person (regulation 9C).
- 3.6. In accordance with section 105 of the Act, the Provider must not take any payments relating to Legal Aid Services or Specified Legal Services unless those payments are authorized by or under the Act, or are authorised by the Commissioner acting under the Act or any regulations made under the Act.



Provider to protect Commissioner's interests in relation to charges and Proceeds of Proceedings

- 3.7. The Provider must comply with his or her obligations under section 107 of the Act to:
- 3.7.1. take all reasonable steps to protect the interests of the Commissioner under a charge, including not doing or permitting anything that would or might effect the transfer of the property without the charge being satisfied; and
 - 3.7.2. advise the Commissioner if he or she is aware that an aided person has, is, or is attempting, to avoid making payments to the Commissioner from Proceeds of Proceedings.

When the Provider must notify the Secretary

- 3.8. The Provider must notify the Secretary's Contract Manager in writing within 5 Working Days if:
- 3.8.1. the Provider's GST status changes;
 - 3.8.2. the Provider's contact or other details, including any Alternate/s, in Schedule 1 change;
 - 3.8.3. a Lawyers Standards Committee, the Legal Complaints Review Officer, or the Disciplinary Tribunal has made, upheld, or quashed a decision against the Provider. The notification must include the reasons and any sanctions imposed, varied or upheld (subject to any restrictions imposed on publication);
 - 3.8.4. a judicial officer has imposed a sanction on the Provider. The notification must include the reason and the sanction imposed.
 - 3.8.5. the Provider is charged with, or convicted of, an offence punishable by a term of imprisonment during the term of this Contract;
 - 3.8.6. the Provider has been declared bankrupt;
 - 3.8.7. the Provider's firm has been placed into liquidation.
- 3.9. If the Provider is a Supervised Provider, s/he must notify the Secretary's Contract Manager of any material change to the supervision arrangements or service delivery systems in accordance with the supervision condition.

When the Provider must notify the Commissioner

- 3.10. The Provider must notify the Commissioner in writing within 5 Working Days if the Provider becomes aware:
- 3.10.1. of any increase in the income or disposable capital of (or being treated as being of) an aided person they represent by an amount that could affect the aided person's eligibility for legal aid (section 25(1)(a) of the Act);
 - 3.10.2. that the aided person's address or other contact details have changed (section 25(1)(b) of the Act);
 - 3.10.3. that a court is considering making, or has made, an order relating to costs under section 45 of the Act;
 - 3.10.4. of any matter that materially decreases the prospects of success of the aided person's matter at first instance, or the merits of any appeal.
- 3.11. Sub-clause 3.10.4 does not apply to defence of criminal charges at first instance.

Record-keeping obligations

- 3.12. Subject to clause 3.13 and in accordance with clauses 11.1 to 11.4 of the Practice Standards, the Provider must endeavour to maintain a coherent file of each Accepted Assignment and ensure that all relevant documents are kept on the file, either electronically or in hard copy, including:
- 3.12.1. all information supporting the Application for Assistance;
 - 3.12.2. all correspondence, including correspondence with the Secretary, the Commissioner, and the client;
 - 3.12.3. a copy of all court documents filed, served, or issued;
 - 3.12.4. file notes of all material telephone conversations and personal attendances;
 - 3.12.5. records of all court attendances;
 - 3.12.6. receipts and records of disbursements;
 - 3.12.7. records of all time spent on the Assignment by the Provider and any other providers or non-lawyers; and
 - 3.12.8. records of any Proceeds of Proceedings.
- 3.13. Research, draft documents and disclosure documents do not need to be retained on the file. Where any of these documents are not retained the Provider must keep an index of the documents.
- 3.14. The Provider must retain an electronic or hard copy of all files for Accepted Assignments for a minimum of seven (7) years from the date of closure or the last activity on the matter.

No lien

- 3.15. The Provider will not, in any way, claim a lien against the Secretary or the Commissioner over a file for Legal Aid Services or Specified Legal Services.

When the Provider must stop providing services

- 3.16. The Provider must immediately stop providing all Legal Aid Services or Specified Legal Services if the Provider is no longer entitled to practise as a lawyer under the Lawyers and Conveyancers Act 2006.
- 3.17. The Provider must stop providing Legal Aid Services or Specified Legal Services in respect of a particular Approval listed in Schedule 1:
- 3.17.1. immediately if the Provider is unable to comply with a Condition of the Approval, including if the Provider is a Supervised Provider but is no longer under the supervision of a Lead Provider (section 75(b) of the Act);
 - 3.17.2. on the date specified in any notice of suspension or cancellation of the Approval issued by the Secretary (section 75(a) of the Act).
- 3.18. Subclause 3.17.1 does not apply if the Secretary agrees to suspend or cancel the Condition.

Transfer of files

- 3.19. If the Commissioner reassigns one or more of the Provider's Assignments for any reason, the Provider will comply with any directions from the Commissioner for the transfer of the file/s, and will:
- 3.19.1. ensure that each file is up to date and complies with clause 3.12; and
 - 3.19.2. promptly transfer the file/s in a manner that ensures the interests of any legally aided persons are not prejudiced.

4. Delegation of work and arrangements when unable to provide services

Delegation of work

- 4.1. The Provider may only delegate work on an Accepted Assignment as authorised by, and in accordance with, the Delegation of Work policy in the Grants Manual.
- 4.2. Subject to any contrary or additional provisions in the Delegation of Work policy, if the Provider delegates work, the Provider:
 - 4.2.1. retains overall responsibility for the Assignment (unless and until it is reassigned) and any services supplied in respect of it;
 - 4.2.2. is responsible for appropriate supervision of any Supervised Provider that the Provider delegates work to;
 - 4.2.3. must seek prior approval from the Commissioner before delegating work to another Lead Provider, unless prior approval is not required under the policy;
 - 4.2.4. must ensure that any provider he or she delegates work to has the appropriate Approval/s to undertake such work and complies with any Condition/s of his or her Approval/s. This applies whether the delegated provider is to be paid or unpaid;
 - 4.2.5. must ensure that any work delegated to a non-lawyer is of a kind permitted by the policy, and must provide appropriate supervision.
- 4.3. Clauses 4.1 and 4.2 apply to an Accepted Assignment for Specified Legal Services as outlined in the policy for the relevant Service published on the Ministry's website.

Nomination of Alternate in event of unavailability

- 4.4. The Provider may, in accordance with the Alternate policy in the Grants Manual and with the agreement of the Commissioner, make standing arrangements with another Lead Provider ("Alternate") to undertake the work on their Accepted Assignments during periods when the Provider is unavailable to do so.
- 4.5. Subject to any contrary or additional provisions in the Alternate policy, if the Provider arranges for an Alternate to work on their Accepted Assignments:
 - 4.5.1. the Provider must ensure that the Alternate, at a minimum, holds the same Approval/s as the Provider in regard to any work the Alternate will undertake;
 - 4.5.2. the Provider retains overall responsibility for the Assignments and any services provided by the Alternate in respect of them;
 - 4.5.3. the Alternate may not accept any new Assignments on behalf of the Provider;
 - 4.5.4. the Alternate may, subject to any restrictions imposed by the Commissioner or the Provider, do anything relating to an Accepted Assignment that the Provider could do, except submit claims for payment to the Secretary under section 97 of the Act.

Transfer and termination of Accepted Assignments

- 4.6. The Provider may only transfer or terminate an Accepted Assignment to provide Legal Aid Services in accordance with the Reassignment and Termination policy in the Grants Manual and with the Commissioner's consent.
- 4.7. The Provider may only transfer or terminate an Accepted Assignment to provide Specified Legal Services in accordance with the relevant policy.



- 4.8. In clauses 4.6 and 4.7, the term transfer includes any transfer of the substantive management of an accepted assignment to another provider, but does not include delegation of work in accordance with clauses 4.1 – 4.3 or work undertaken by the Provider's Alternate in accordance with clauses 4.4 and 4.5.

Replacements for Rostered Duties or unavailability to provide Specified Legal Services

- 4.9. If a Provider is unable to undertake a Rostered Duty, or is otherwise unavailable to provide a Specified Legal Service, he or she must comply with the procedure in the relevant policy, including any requirements to inform the Secretary and find a replacement.

5. Secretary's obligations

- 5.1. The Secretary will, once the Secretary has all relevant information that has been requested from the Provider, promptly:
- 5.1.1. make decisions relating to Approvals;
 - 5.1.2. objectively and fairly deal with Legal Aid Complaints in accordance with clause 9 of this Contract, the Complaints Management policy in the Provider Manual, and the principles of natural justice;
 - 5.1.3. reply to correspondence about this Contract and answer any question raised by the Provider about an action taken or decision made by the Secretary under this Contract;
 - 5.1.4. refer claims for payment received from the Provider (if the Provider is a Lead Provider) to the Commissioner (section 99(1) of the Act); and
 - 5.1.5. pay all claims approved by the Commissioner for payment (section 100 of the Act), provided the Secretary has not placed a hold on payments under section 101(2)(a), suspended payments under section 92(4), or made a deduction under section 107(4) of the Act.
- 5.2. The Secretary will give reasonable notice to the Provider of intended or impending changes to relevant policies.

6. Payment

Entitlement to payment by Secretary

- 6.1. The Provider is only entitled to payment by the Secretary if:
- 6.1.1. the Provider is (or was) the Lead Provider for an Accepted Assignment (sections 22 and 97(1) of the Act) or has completed a Rostered Duty (including as a replacement for another provider); and
 - 6.1.2. the Commissioner has approved payment (section 99 of the Act).
- 6.2. The Provider is not entitled to payment by the Secretary if, and to the extent that:
- 6.2.1. the Commissioner has deferred or declined the payment under section 99(2) of the Act;
 - 6.2.2. the Commissioner has made deductions under section 107(4) of the Act;
 - 6.2.3. the Secretary has placed a hold on payments under section 101(2)(a) of the Act; or
 - 6.2.4. the Secretary has suspended payments under section 92(4) of the Act.



Rates of payment

- 6.3. An Assignment for Legal Aid Services will be paid at the rate specified in the Assignment, including any amendments. The rate may be set:
- 6.3.1. by reference to an hourly rate for legal aid providers set by the Secretary and published on the Ministry's website;
 - 6.3.2. by application of a fixed fee set by the Commissioner and published on the Ministry's website; or
 - 6.3.3. as otherwise specified in the Assignment.
- 6.4. The rate of payment for Specified Legal Services is that specified in the policy for the relevant Service published on the Ministry's website.
- 6.5. The rates of payment published on the Ministry's website may be varied from time to time.

Disbursements

- 6.6. The Provider is responsible for paying all Disbursements for Legal Aid Services or Specified Legal Services (unless otherwise authorised by the Secretary) but may claim for reimbursement of those costs under section 97 of the Act (section 106 of the Act).
- 6.7. Disbursements that will be reimbursed for Legal Aid Services, and the rate at which they will be reimbursed, are determined by the Secretary and specified in the Disbursements Policy in the Grants Manual, which may be varied from time to time.
- 6.8. Disbursements that will be reimbursed for Specified Legal Services, and the rate at which they will be reimbursed, are determined by the Secretary and specified in the policy for the relevant Service published on the Ministry's website, which may be varied from time to time.
- 6.9. The Secretary is not liable to pay for the office overheads of the Provider. Office overheads are the general costs associated with running a law practice, such as general stationary and phone rental, that cannot be attributed to a particular Accepted Assignment.

Claims and Method of Payment

- 6.10. All claims for payment for Legal Aid Services or Specified Legal Services submitted by the Provider (being a Lead Provider) must:
- 6.10.1. be accurate;
 - 6.10.2. be made in the manner prescribed by the Secretary (section 97(1) of the Act)
 - 6.10.3. comply with section 97 of the Act and regulation 19 of the Legal Services Regulations 2011; and
 - 6.10.4. comply with any other requirements of the Act, regulations made under the Act, and any applicable policies.
- 6.11. All claims for Disbursements submitted by the Provider must be accurate, directly attributable to the conduct of the Legal Aid Service or Specified Legal Service, actual and reasonable.
- 6.12. The Secretary will pay the Provider by direct credit, subject to a completed Schedule 3 undertaking (where applicable).

Responsibility for taxes, levies and other charges

- 6.13. The Provider is solely liable and responsible for all taxes, levies, premiums and any other charges imposed on the Provider in respect of the Cost of Services under this Contract or other fees and Disbursements incurred by the Provider. The Provider will file all necessary returns for such taxes, levies and other charges with the appropriate authority.
- 6.14. The Secretary will pay the Provider the GST (if any) claimed in respect of the Legal Aid Services or Specified Legal Services supplied by the Provider, subject to a completed Schedule 3 undertaking (where applicable).

Firm's undertakings and arrangements if the Provider leaves a firm

- 6.15. If the Provider is, or becomes, an employee, partner, or director of a law firm or incorporated law firm, the Provider must ensure that an authorised signatory of the firm's bank account signs the undertaking contained in Schedule 3.
- 6.16. If clause 6.15 applies, the Provider must not supply, and the Secretary is not liable to pay for, any Legal Aid Services or Specified Legal Services until the signed undertaking is received by the Secretary's Contract Manager.
- 6.17. Any payments for Legal Aid Services or Specified Legal Services supplied while the Provider was employed by, or a partner or director of, a firm will be paid to that firm's account as specified in Schedule 3 unless the Secretary and the Provider mutually agree to another arrangement.
- 6.18. If the Provider leaves a firm, the Provider must notify the Secretary of the date that they cease to be employed by that firm and nominate a new account for payment. This will require a new undertaking to be provided in accordance with clause 6.15 if the Provider has moved to another firm. Any Legal Aid Services or Specified Legal Services supplied after that date will be paid to the new nominated account.

Overpayments and underpayments

- 6.19. If the Secretary overpays the Provider for Legal Aid Services or Specified Legal Services, the Secretary must notify the Provider of the overpayment and may:
- 6.19.1. require repayment of the amount of the overpayment from the Provider; or
 - 6.19.2. deduct the amount of the overpayment from a later payment due to the Provider.
- 6.20. If the Secretary notifies the Provider under clause 6.19.1 and requires repayment of the amount of the overpayment, the Provider will pay the Secretary the amount of the overpayment within 20 Working Days after receipt of the notice.
- 6.21. If the Secretary underpays the Provider, the Secretary will pay the Provider the shortfall within 20 Working Days of becoming aware of the mistake.

Secretary's failure to pay

- 6.22. If the Secretary fails to pay any claim made by the Provider and:
- 6.22.1. the claim is due and properly payable in accordance with this clause 6;
 - 6.22.2. the payment is not made within 20 Working Days of the date the Commissioner approves payment; and
 - 6.22.3. the claim is not the subject of a good faith dispute between the Parties;
- then the Provider will notify the Secretary of the default and the Secretary will remedy the default within 10 Working Days of such notice.



7. Quality Assurance Checks, Audits, and Examinations

Quality Assurance Check

- 7.1. The Secretary may carry out a Quality Assurance Check of the Provider at any time under section 88 of the Act to ensure that services are delivered in an efficient and effective manner.
- 7.2. The Secretary will undertake any Quality Assurance Check in accordance with the Quality Assurance Check policy in the Provider Manual.
- 7.3. The Provider will comply with any reasonable request by the Secretary for information relevant to a Quality Assurance Check.

Audit

- 7.4. The Secretary may Audit the Provider at any time under section 91 of the Act.
- 7.5. The Secretary will undertake any Audit in accordance with the Audit policy in the Provider Manual.
- 7.6. The Provider must, in accordance with section 92 of the Act, provide all documentation and other information requested by the auditor. (Note that failure to comply with a request under section 92 may constitute an offence under section 113 of the Act).

Outcome of Audit or Quality Assurance Check

- 7.7. The results of a completed Audit or Quality Assurance Check will be reviewed by the Secretary. The Secretary will release the findings to the Provider.
- 7.8. If, as the result of an Audit or Quality Assurance Check, the Secretary has reasonable grounds to believe that the Provider is in breach of the Contract, the Secretary may take action under clause 8.

Examination of claims made by Provider

- 7.9. The Commissioner may examine a claim, or part of a claim, for payment by the Provider under section 89 of the Act.
- 7.10. The Provider must, in accordance with section 92 of the Act, provide all documentation and other information requested by the person undertaking the examination. (Note that failure to comply with a request under section 92 may constitute an offence under section 113 of the Act).
- 7.11. If, as the result of an Examination, the Secretary has reasonable grounds to believe that the Provider is in breach of the Contract, the Secretary may take action under clause 8.

8. Breach of contract

- 8.1. The Provider is in breach of this Contract if, in the Secretary's reasonable opinion, the Provider has not taken all reasonable steps to comply with any obligation under this Contract.
- 8.2. If the Secretary has reasonable grounds to believe that the Provider is in breach of the Contract, the Secretary may, depending on the circumstances, including the nature and seriousness of the breach:
 - 8.2.1. issue the Provider with a default notice;
 - 8.2.2. consider the matter as a Legal Aid Complaint under clause 9; or
 - 8.2.3. consider cancellation or variation of the Provider's Approvals under clause 10.

Default notice

- 8.3. A default notice issued under subclause 8.2.1 must:
- 8.3.1. specify the nature and seriousness of the breach; and
 - 8.3.2. if, in the Secretary's opinion, the breach is capable of being remedied and the Secretary requires the Provider to remedy the breach, specify:
 - 8.3.2.1. directions to remedy the breach; and
 - 8.3.2.2. the period within which the breach must be remedied, being a reasonable period taking into account the nature of the breach.
- 8.4. The Provider may seek a review of any first instance decision of the Secretary to issue a default notice. The Provider must notify the Secretary that the Provider requests a review in writing within 10 Working Days of receiving the default notice. The Secretary will notify the Provider of the outcome of a review, with reasons. The default notice remains in force pending the outcome of any review, but the Provider is not, in the absence of a specific direction from the Secretary, required to comply with any directions to remedy the breach in the interim.
- 8.5. If subclause 8.3.2 applies and the Provider fails to remedy the breach within the period specified in the default notice, the Secretary may:
- 8.5.1. give the Provider further directions to remedy the breach, with which the Provider must promptly comply;
 - 8.5.2. remedy the breach and recover the reasonable costs of doing so from the Provider;
 - 8.5.3. consider the matter as a Legal Aid Complaint under clause 9; or
 - 8.5.4. consider cancellation or variation of the provider's approvals under clause 10.

Effect of breach clause on other remedies

- 8.6. The Secretary may choose to utilize or not to utilize any remedy under this clause 8 without prejudice to, or waiver of, any other rights or remedies the Secretary may have under this Contract, the Act, or otherwise at law.

9. Legal Aid Complaints

- 9.1. The following process will apply to consideration of any Legal Aid Complaint, subject to any contrary or additional provisions in the Complaints Management policy in the Provider Manual:
- 9.1.1. The Secretary will notify the Provider of any Legal Aid Complaint received by the Secretary as soon as reasonably practicable, unless the Secretary does not intend to take the Complaint further;
 - 9.1.2. The Provider will, if s/he receives a Legal Aid Complaint directly and cannot resolve it with the complainant within 10 Working Days, provide details and a copy of the Complaint to the Secretary within 15 Working Days of the date of receiving the Complaint;
 - 9.1.3. The Secretary may ask questions, or seek further information, about a Complaint from the Provider. The Secretary must specify the timeframe for the Provider's response, which must be at least 10 Working Days from the date of the request. The Provider must respond within the timeframe or any extension agreed by the Secretary;
 - 9.1.4. The Secretary will give the Provider the opportunity to make submissions on the Complaint and will give fair and objective consideration to such submissions;



- 9.1.5. If the Secretary substantiates a Complaint, the Secretary may take any action the Secretary considers appropriate under the Act, the Complaints Management policy, or this Contract including:
- 9.1.5.1. issuing a notice;
 - 9.1.5.2. recommending to the Commissioner that a particular Accepted Assignment be reassigned to another provider;
 - 9.1.5.3. recommending to the Commissioner that the Provider be removed from a Rotational Assignment List;
 - 9.1.5.4. removing the Provider from a Roster;
 - 9.1.5.5. requiring repayment of money paid to the Provider;
 - 9.1.5.6. initiating a Quality Assurance Check or Audit;
 - 9.1.5.7. considering cancellation or variation of the Provider's Approvals under clause 10;
 - 9.1.5.8. referring the Provider to the New Zealand Law Society Complaints Service.
- 9.1.6. The Secretary will notify the Provider of the outcome, with reasons, of any Complaint as soon as reasonably practicable;
- 9.1.7. The Provider may seek a review of any first instance decision of the Secretary on a Complaint. The Provider must notify the Secretary that the Provider requests a review in writing within 10 Working Days of being notified of the outcome of a Complaint. The Secretary will notify the Provider of the outcome of a review, with reasons. The Secretary's decision remains in force pending the outcome of any review.

10. Cancellation, variation, and expiry of Approvals

Process

- 10.1. Clause 10.2 applies if the Secretary:
- 10.1.1. has reason to believe that one of the grounds for cancelling the Provider's Approval/s under section 103 of the Act applies; or
 - 10.1.2. refers the Provider to the Performance Review Committee.
- 10.2. The following process will apply, subject to any contrary or additional provisions in the Act or the Cancellation of Approvals policy in the Provider Manual:
- 10.2.1. The Secretary will notify the Provider as soon as reasonably practicable, if the Secretary:
 - 10.2.1.1. has reason to believe that one of the grounds for cancelling the Provider's Approval/s under section 103 of the Act applies; or
 - 10.2.1.2. refers the Provider to the Performance Review Committee, and of any interim restrictions that will apply under section 101 of the Act.
 - 10.2.2. The Secretary may ask questions or seek further information from the Provider. The Secretary must specify the timeframe for the Provider's response, which must be at least 10 Working Days from the date of the request. The Provider must respond within the timeframe or any extension agreed by the Secretary;
 - 10.2.3. The Provider will comply with any request for information from the Performance Review Committee;



- 10.2.4. The Secretary will give the Provider the opportunity to make submissions (unless the Performance Review Committee has given the Provider the opportunity to make submissions) and will give fair and objective consideration to such submissions;
- 10.2.5. The Secretary will cancel all of the Provider's Approvals if any of the circumstances outlined in section 103(1) of the Act apply;
- 10.2.6. The Secretary may, after considering the Performance Review Committee's advice on any matter referred to it:
- 10.2.6.1. take any of the actions in section 102 of the Act, including modifying or cancelling the Provider's Approval/s, requiring the Provider to be supervised by another provider, or barring the Provider from applying for Approval for a period between 3 months and 2 years;
- 10.2.6.2. take any other action the Secretary considers appropriate under this Contract or the Cancellation of Approvals policy in the Provider Manual, including any of the actions listed in clause 9.1.5;
- 10.2.7. The Secretary will notify the Provider of the Secretary's decision, with reasons, as soon as reasonably practicable (section 103(3) of the Act);
- 10.2.8. If the Secretary cancels one or more of the Provider's Approvals, the Provider must, in relation to the cancelled Approval/s:
- 10.2.8.1. cease providing the Legal Aid Services or Specified Legal Services from the date the cancellation takes effect (section 75(a) of the Act);
- 10.2.8.2. transfer the relevant files in accordance with clause 3.19;
- 10.2.8.3. advise the Secretary of any files with securities requiring registration that are yet to be registered; and
- 10.2.8.4. forward any client repayments or Proceeds of Proceedings outstanding to the Secretary;
- 10.2.9. Under section 82 of the Act, the Provider may apply to the Review Authority for a review of any decision of the Secretary to impose interim restrictions under section 101, impose a sanction under section 102, or cancel the Provider's Approvals under section 103 of the Act. The Provider must lodge any application for review with the Review Authority within 20 Working Days of being notified of the Secretary's decision. The Secretary's decision remains in force pending the outcome of any review.

Effect of cancellation, variation, or expiry of Approvals

- 10.3. If the Secretary cancels any of the Provider's Approvals, or any of the Provider's Approvals expire, the person ceases to be Approved to provide the relevant service and the Secretary is not obliged to pay for any services of that kind provided after the date of cancellation or expiry (section 103(2) of the Act).
- 10.4. If:
- 10.4.1. the Secretary cancels all of the Provider's Approvals under section 102 or 103 of the Act;
- 10.4.2. all of the Provider's Approvals expire; or
- 10.4.3. the Provider advises the Secretary that the Provider will no longer be providing any Legal Aid Services or Specified Legal Services and requests the Secretary to cancel their Approvals,



the Secretary will provide written notice to the Provider that the Contract is terminated and the Contract terminates on the date specified in the written notice.

- 10.5. If the Secretary has modified one or more of the Provider's Approvals under section 102 of the Act (including requiring the Provider to be supervised by another Provider):
- 10.5.1. the Provider must immediately comply with the modified Approvals;
 - 10.5.2. this Contract must, from the date of the Secretary's decision, be read as if Schedule 1 had been varied accordingly, regardless of whether the Provider has been provided with a copy of the varied Schedule 1.

11. Disputes

Application of this clause

- 11.1. Unless otherwise agreed by the Parties, clauses 11.3 to 11.6 do not apply:
- 11.1.1. where a right to apply for a review or appeal of a decision made by the Secretary under this Contract or the Act exists; or
 - 11.1.2. to any Audit or Quality Assurance Check.
- 11.2. Clauses 11.3 to 11.6 do not apply to any decision or function of the Commissioner. For the processes applying to disputes relating to decisions of the Commissioner see the Act and the Grants Manual.

Process for dealing with disputes

- 11.3. Subject to clause 11.1, the Parties will take all reasonable steps to resolve promptly and in good faith any dispute that may arise in connection with this Contract.
- 11.4. The following process applies to disputes:
- 11.4.1. The Party claiming a dispute will give written notice detailing the nature of the dispute. Both Parties will then try their best to settle the dispute by negotiation.
 - 11.4.2. If the Parties have not resolved the dispute within 10 Working Days of the notice, the Parties may participate in mediation with a mutually accepted mediator. If they cannot agree on a mediator within 20 Working Days of the notice, the Chairperson of LEADR New Zealand Incorporated will appoint the mediator.
- 11.5. Each Party agrees to pay its own costs of mediation under clause 11.4.2.
- 11.6. The Parties agree to continue to perform their respective obligations under this Contract pending the resolution of any dispute.

12. Provider's details

- 12.1. The Provider's Details are recorded in Schedule 1 as they are at the date of signing this Contract.
- 12.2. The Provider must notify the Secretary's Contract Manager of any change to the Provider's Details in accordance with clause 3.8.

13. The Secretary's contact details

Matters relating to this Contract

- 13.1. The Provider must address all correspondence regarding this Contract to the Secretary's Contract Manager.



- 13.2. The Provider must give all notices required to be given under this Contract to the Secretary's Contract Manager.
- 13.3. The Contract Manager's details may be updated from time to time by publication on the Ministry's website. The format and delivery requirements of clause 14 do not apply to this clause.

Matters relating to Accepted Assignments or Rostered Duties

- 13.4. Any queries or correspondence relating to Accepted Assignments should be addressed to the relevant grants officer (for Legal Aid Services) or person specified in the relevant policy (for Specified Legal Services).
- 13.5. Any queries or correspondence relating to a Roster or to Rostered Duties should be addressed to person specified in the relevant policy.

14. Format and delivery of notices and communications

- 14.1. The Parties will communicate with each other and provide any notices in relation to this Contract or the Act electronically, in accordance with the Electronic Transactions Act 2002. Specifically (but without limitation), the Secretary and the Provider:
- 14.1.1. will send and receive all notices and communications with the other that are required by this Contract and the Act by email;
 - 14.1.2. agree that any document required by this Contract or the Act to be signed by one or both Parties, will be signed using an "electronic signature" as defined by the Electronic Transactions Act 2002;
 - 14.1.3. may choose the particular form of electronic signature for their own use, which may, without limitation, be a typed name or scanned manuscript signature.
- 14.2. Clause 14.1 applies, with any necessary modifications, to any communication from the Provider to the Commissioner.
- 14.3. The Provider will use the Provider's email address nominated in Schedule 1 to send and receive email.

15. The relationship between the Parties

- 15.1. Nothing in this Contract constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment. The Provider is responsible for his or her own salary, wages, holiday or redundancy payments, and for such payments to his or her personnel. This includes any GST, corporate, personal and withholding taxes, ACC premiums or other levies attributable to the provision of the Legal Aid Services or Specified Legal Services.
- 15.2. The Provider is responsible for payment of any fees, expenses and Disbursements claimed by any Supervised Providers who have provided Legal Aid Services or Specified Legal Services on behalf of the Provider under an Accepted Assignment or from any other subcontractors engaged by the Provider.
- 15.3. Both Parties will act in good faith in the exercise of their rights and the performance of their obligations under this Contract.
- 15.4. Neither Party has authority to bind or represent the other Party in any way or for any purpose.
- 15.5. The Secretary and the Provider will, at all times, conduct dealings with integrity, respect, and courtesy.



16. Entire agreement

- 16.1. This Contract records everything agreed between the Parties relating to the provision of Legal Aid Services or Specified Legal Services by the Provider. It replaces any previous agreements and communications between the Parties relating to the provision of Legal Aid Services or Specified Legal Services by the Provider, whether verbal or in writing.

17. Variations to the Contract

- 17.1. The Secretary has the right to unilaterally vary this Contract in accordance with this clause 17 by giving written notice to the Provider. Otherwise, the provisions of this Contract may only be varied by mutual agreement, in writing, and signed by the authorised representatives of the Parties.

Variations to the Contract by the Secretary

- 17.2. The Secretary may unilaterally amend or delete any provisions of this Contract to achieve consistency with a relevant change in the Act, Regulations, government policy or a change in appropriation. Any such amendment or deletion must be consistent with the Act.
- 17.3. If the Secretary intends to vary the Contract under clause 17.2, the Secretary will notify the Provider in writing of the intended variation and the date it takes effect.
- 17.4. If the Provider's Approvals or the conditions on the Provider's Approvals change, the Secretary may unilaterally vary Schedule 1 from time to time to reflect the changes.
- 17.5. If the Secretary varies the Contract under clause 17.4, the Secretary will issue the Provider with a revised Schedule 1. The revised Schedule will replace the existing Schedule 1 from the date of issue by the Secretary and will form part of this Contract from that date.

18. Transfer of rights under this Contract

- 18.1. Neither Party has the right to assign or transfer, in whole or in part, its rights, obligations or benefits under this Contract to any third party.

19. Liability

- 19.1. The Secretary will not be liable to any third party as a direct or indirect result of anything done or omitted to be done by the Provider in connection with providing Legal Aid Services or Specified Legal Services.

20. Authorisation for collection and disclosure of personal information

- 20.1. The Provider authorises the Secretary to collect personal information about the Provider from the New Zealand Law Society or any other organisation responsible for regulating the Provider if this is necessary for the Secretary to meet his or her obligations under the Act or any other legislation. The Provider also authorises the Secretary to disclose such personal information to these organisations, if necessary.
- 20.2. The Secretary will comply with the Privacy Act 1993 in collecting, storing and disclosing the Provider's personal information under clause 20.1.
- 20.3. The Secretary is subject to the Official Information Act 1982, including in relation to personal information about the Provider.



21. Force majeure

- 21.1. Neither Party will be liable for any act, omission or failure to fulfil its obligations under this Contract if such act, omission or failure arises from any cause reasonably beyond its control. The Party unable to fulfill its obligations will immediately notify the other in writing of the reasons for its failure to fulfill its obligations; any damage or loss caused (or likely to be caused); and any proposed remedial action.
- 21.2. The Parties will seek to reach agreement on the extent of any such damage or loss and any remedial action to be taken.

22. Privity of contract

- 22.1. No third party may enforce any of the provisions of this Contract. The provisions of section 4 of the Contracts (Privity) Act 1982 do not apply to this Contract.

23. Governing law

- 23.1. This Contract is governed by New Zealand law.

24. Severance

- 24.1. If any part or provision of this Contract is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Contract will be binding on the Parties.

25. Continuing provisions

- 25.1. The clauses in this Contract that are capable of surviving the expiry or termination of this Contract will continue beyond the termination or expiry of this Contract.

26. Definitions

- 26.1. When used in this Contract, the following words in bold have the meaning beside them, unless the text clearly states that a different meaning is intended:

Accepted Assignment	means an assignment to the Provider as a Lead Provider and in respect of which the Provider has not notified the Commissioner (or the Secretary, if applicable) that he or she declines or withdraws from the Assignment.
Act	means the Legal Services Act 2011.
Application for Assistance	means an application for a grant of legal aid or for the provision of any Specified Legal Services that require an application to be made.
Approval	means the instrument signed by the Secretary which specifies that a provider is approved under the Act to provide a particular type of Legal Aid Services or a particular Specified Legal Service, as may be amended by the Secretary from time to time. A provider may have multiple Approvals.
Assignment	means: <ul style="list-style-type: none"> (a) a written decision by the Commissioner to allocate the provision of Legal Aid Services to a provider as a Lead Provider and which specifies: <ul style="list-style-type: none"> – the name and contact details of the legally aided person; – the details of the grant of legal aid to that person (including the maximum amount of the grant); – the basis for payment of the Provider's fees; and



	<ul style="list-style-type: none"> - the conditions attaching to the grant of legal aid to the legally aided person; <p>(b) a request by a client for Specified Legal Services (other than as part of a Rostered Duty or as allocated pursuant to a Roster) that a provider is authorized to accept directly on application from the client and has accepted.</p>
Audit	means an audit of the Provider undertaken on behalf of the Secretary under section 91 of the Act.
Commissioner	means the Legal Services Commissioner appointed under section 70 of the Act and includes any person duly delegated by the Commissioner to undertake his or her functions.
Conditions of Approval	means the conditions (if any) imposed by the Secretary under section 77(2) of the Act on the Approvals given to the Provider.
Contract	means this Contract including all the attached Schedules, all Accepted Assignments and Rostered Duties, and any documents referred to in this Contract (whether attached or published on the Ministry's website), and includes all variations to it and any such documents.
Cost of Services	has the same meaning as in section 4 of the Act.
Disbursements	means costs, other than professional fees of a Lead Provider, incurred in relation to the provision of Legal Aid Services or Specified Legal Services, that are specified in the Disbursements policy in the Grants Manual or in the policy for a Specified Legal Service.
Examination	means an Examination carried out by or on behalf of the Commissioner under section 89 of the Act.
Grants Manual	means the Legal Aid Services Grants Handbook issued by the Commissioner and updated from time to time (which can be found on the Ministry's website)
Legal Aid Complaint	means a complaint made to the Provider or the Secretary, Commissioner or Ministry about the Provider (whether made by staff of the Ministry or a person outside of the Ministry). The complaint must relate to the Legal Aid Services or Specified Legal Services provided or which should have been provided to an aided person, but excludes a Request for Examination.
Legal Aid Services	has the same meaning as in section 4 of the Act.
Lead Provider	means the provider who is allocated (paragraph (a)) or accepts (paragraph (b)) an assignment under the definition of Assignment.
Ministry	means the Ministry of Justice and its successors.
Parties	means the Secretary and the Provider.
Practice Standards	has the same meaning as in section 4 of the Act and are as documented and published on the Ministry's website (as amended from time to time).
Proceeds of Proceedings	has the same meaning as in section 4 of the Act.
Provider's Details	means the Provider's details set out in Schedule 1 or as otherwise notified by the Provider under clause 12.2.
Provider Manual	means the Legal Aid Provider Manual issued by the Secretary and updated from time to time (which can be found on the Ministry's website)
Quality Assurance	means a Quality Assurance Check of the Provider carried out by the Secretary under section 88 of the Act.



Check	
Reassignment	means the process by which the Commissioner transfers the management of an Accepted Assignment from one Lead Provider to another Lead Provider.
Request for Examination	means a request for examination under section 90 of the Act.
Review Authority	means the Review Authority appointed under section 84 of the Act.
Roster	means a list, maintained by the Secretary, of providers approved to provide a particular Specified Legal Service in a particular location and who have applied for and been granted a place on the list for the purpose of scheduling and allocating the Specified Legal Services.
Rostered Duty	means the period on a specified date that the Provider is scheduled to be available to provide Specified Legal Services and in respect of which the Provider has not notified the Secretary that he or she is unavailable or arranged a replacement (depending on the requirements of the policy for the relevant Service)..
Rotational Assignment List	means a list, maintained by the Commissioner, for the purposes of making assignments to providers on a rotational basis.
Secretary	means the Secretary for Justice and includes any person duly delegated by the Secretary to undertake his or her functions.
Secretary's Contract Manager	means the Secretary's Contract Manager named in Schedule 1 or any other person notified in accordance with clause 13.3 from time to time.
Specified Legal Services	has the same meaning as in section 4 of the Act.
Supervised Provider	means a provider whose Approval is subject to a condition that s/he is supervised by a Lead Provider.
Working Day	means any day other than a Saturday, Sunday or statutory public holiday.



Schedule 3 - Firm's Undertaking

Provider to Complete – required where providers are employees, partners or directors of law firms or incorporated law firms

Provider		Reference Schedule 1 c
Firm name (nominated)		Reference Schedule 1
Firm's No.		Reference Schedule 1
Authorised signatory of Firm's account		Reference Schedule 1

The Provider has nominated the **Firm's account** to be the account into which payments for Legal Aid Services or Specified Legal Services provided by the Provider are to be paid by the Secretary.

The authorised signatory of the **Firm's account** undertakes, on behalf of the **Firm**, the following:

1. The Firm will receive all payments from the Secretary for Legal Aid Services and Specified Legal Services provided by the Provider by direct credit only. On receipt, the Firm will promptly pay all approved providers and disbursements incurred in the course of supplying the Services. The Firm will not make any claim for payment in any other manner (for example, by cheque).
2. The Firm will maintain and retain all files and information relating to the Provider's Accepted Assignments in accordance with clauses 3.11 to 3.13 of this Contract for a period of at least seven years from the date of closure or the last activity on the matter. This does not apply to Accepted Assignments that are Reassigned under clause 4.6 or 4.7 of this Contract, or to any files or information that the Provider has taken with them.
3. If an Accepted Assignment is Reassigned to another provider outside the Firm, the Firm will comply with any directions from the Commissioner for the transfer of the file/s, and will:
 - 3.1 ensure that the file is up to date and complies with clause 3.12 of Schedule 2; and
 - 3.2 promptly transfer the file/s in a manner that ensures the interests of any legally aided persons are not prejudiced.
4. At the written request of the Secretary, the Firm will make available for assessment, Examination or Audit the files and information in clause 2 and any other information the Secretary is entitled to assess, Examine or Audit under the Act.
5. The Firm will take all reasonable steps to protect the interests of the Commissioner under a charge, including not doing or permitting anything that would or might effect the transfer of the property without the charge being satisfied.
6. The Firm will advise the Commissioner if it is aware that an aided person has, is, or is attempting, to avoid making payments to the Commissioner from the Proceeds of Proceedings.

Acceptance

In signing this Schedule, the authorised signatory acknowledges that they have read it and agree to be bound by it.

For and on behalf of the Firm : _____ Signature With full authority to bind the Firm with this Undertaking	Name: Position: Date:
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