

# Chapter 10

## Allocation of Lawyer

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### 1. Allocation of Lawyer

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Legal assistance is provided by lawyers on the Commission's staff and by lawyers in private practice acting on assignment from the Commission. The Commission will endeavour to appoint the solicitor chosen by the applicant but this will depend on the availability of funds and other circumstances.

The Commission reserves the right to assign a matter to an inhouse lawyer where the Commission determines that this is the most efficient use of public resources. In indictable criminal matters, the Commission will endeavour to ensure that the same lawyers are involved in the committal and trial.

1. A Legal Aid Committee or an officer of the Commission, in making available the services of a private legal practitioner or the services of an officer of the Commission, shall have regard to the following considerations:
  - (a) the funds then available to the Commission;
  - (b) whether a decision to make available the services of an officer of the Commission might give rise to a conflict of interest on the part of that officer or any other officer of the Commission;
  - (c) the degree of urgency of the matter in respect of which legal assistance is to be provided;
  - (d) any hardship which might be occasioned to the applicant arising out of the location of the office of the Commission or of a particular private legal practitioner; and
  - (e) where it is relevant because of the background of the applicant or the nature of the matter, whether or not an officer of the Commission or a particular private legal practitioner or any member of the staff of a particular private legal practitioner may be fluent in a foreign language.
2. (a) Subject to this clause, legal assistance shall generally be provided by making available the services of an officer of the Commission, in the following classes of matter:

- (i) Magistrates' Court Committals, indictable criminal trials and pleas in the Supreme Court;
- (ii) criminal appeals;
- (iii) proceedings for dissolution of marriage;
- (iv) applications under the Mental Health Act; and
- (v) Family Matters Court proceedings.

This does not preclude an officer of the Commission engaging the services of counsel in any matter where it is considered appropriate.

- (b) Where an applicant for legal assistance expresses a preference for the services of a particular private legal practitioner, and it is in the opinion of the Director, by reason of the existence of exceptional circumstances, desirable that legal assistance be provided by making available the services of that private legal practitioner rather than those of an officer of the Commission, legal assistance, if granted, may be provided by making available the services of that practitioner.
- (c) Legal assistance may be provided by making available the services of a private legal practitioner where, in the opinion of the Director:
  - (i) there is no officer of the Commission available to provide the assistance; or
  - (ii) to provide the assistance by making available the services of an officer of the Commission would be likely to result in a conflict of interest on the part of an officer of the Commission.

3. Subject to Clauses 1 and 2:

- (a) where a person, in a written application for legal assistance, expresses a preference for the services of a particular officer of the Commission, legal assistance, if granted, shall be provided by making available the services of that officer provided that she or he is available.
- (b) where a person, in a written application for legal assistance, expresses a preference for the services of a particular private legal practitioner, legal assistance, if granted, shall be provided by making available the services of the practitioner.

- (c) where a person, in a written application for legal assistance, expresses a general preference for the services of an unspecified private legal practitioner, legal assistance, if granted, shall be provided by making available the services of a private legal practitioner whose name is on the list maintained under section 30(1) to the *Legal Aid Act (NT)* and who shall be selected by the Director having regard to the interests of the legally assisted person, the nature of the legal practice of the private legal practitioner and the expertise of the private legal practitioner in the relevant field of law.
- (d) where a person, in an application for legal assistance, does not express any preference for the services of a private legal practitioner or an officer of the Commission, legal assistance, if granted, shall be provided by making available the services of an officer of the Commission in preference to those of a private legal practitioner.

## 2.

## Transfers

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- (a) Where the services of a private legal practitioner or of an officer of the Commission have been made available to a legally assisted person, and that person has notified the Director that she or he wishes to have her or his grant of aid transferred to another private legal practitioner or to an officer of the Commission, the Director shall only transfer the grant where it is appropriate in the circumstances to do so or no additional expense to the Commission is incurred as a result.
- (b) The Director or a Legal Aid Committee may transfer a grant of aid to a private legal practitioner or an officer of the Commission if, in the opinion of the Director or of the Committee, it is reasonable in all the circumstances to do so and may require the legally assisted person, as a condition of the transfer, to pay to the Commission a contribution or further contribution of a specified amount towards the costs of the Commission occasioned by the transfer.
- (c) A legally assisted person will not normally be entitled to have their grant of aid transferred to another private legal practitioner on more than one occasion.