

**LEGAL AID
REVIEW PANEL**

**APPLICATION FOR REVIEW
TO LEGAL AID REVIEW PANEL**

Te Poari Arotake i te Awhina Ture

The Legal Aid Review Panel (the "Panel") is **independent** of the Legal Services Agency (the "Agency")
(A copy of this form can be obtained from the Agency's website at: www.lsa.govt.nz)

INSTRUCTIONS FOR COMPLETING THIS FORM

PLEASE PRINT LEGIBLY

Applicant to provide:

[1] full name;

[2] postal address;

[3] phone and fax number (including area code).

[4] An Applicant must be one of these five people; tick the box that applies to you.

[5] You must identify, by date, the Agency's decision that you want reviewed and the date you received it. If you want more than one decision reviewed, list them all and the dates you received them.

[6] **ATTACH a copy of the Agency's decision(s).**

[7] The Panel can review an Agency decision only if it is either manifestly unreasonable, wrong in law, or both. Please tick the appropriate box (you can tick both boxes).

[8] List the documents you think are relevant to the Review and attached copies (continue on a separate sheet if required).

TO: **The Administrator
Legal Aid Review Panel
1st Floor - Rear
40 Hurstmere Road
PO Box 33-837
Takapuna 0740
North Shore
DX BP66036**
Phone: (09) 489 - 1300
Fax: (09) 489 - 1301
Email: administrator@larp.govt.nz

FOR LARP USE ONLY

DATE REC'D: _____

LARP NO: ____ / ____

LEGAL AID NO: _____

I, [1] _____
applicant's name

of [2] _____
postal address

[3] **(0)** _____
phone number

(0) _____
fax number

- [4] an applicant for aid
 an aided person
 (if you are a listed provider filing on behalf of your client, include your details at #14)
 a listed provider
 a former listed provider
 a party who has applied for payment of costs under s 41 of the Legal Services Act 2000

[5] apply for a review of the Agency's decision dated _____
which I received on: _____.

[6] I attach a copy of the Agency's decision(s) that I want reviewed .

[7] I submit that the Agency's decision(s) was:
 manifestly unreasonable;
 wrong in law.

[8] I attach copies of the following documents which I think are relevant:

[12] Date you are signing this application.

[13] Sign and tick the description that best describes you.

[14] Complete this section if you are a Listed Provider filing on behalf of your client.

[12] Dated: _____

[13] Signed by: _____

- applicant for legal aid
- aided person
- listed provider on behalf of an applicant for legal aid/aided person
- listed provider
- former listed provider
- a party who has applied for payment of costs under s 41 of the Legal Services Act 2000

[14] _____
name

postal address

(0) _____
phone number

(0) _____
fax number

APPLICATION TO EXTEND TIME FOR FILING THE APPLICATION FOR REVIEW

[15] Insert the number of days (see definition of working day) late and set out the reasons for late filing.

The Panel will receive this Application more than 20 working days after I received notice of the Agency's decision.

Please extend the time for filing my application for review:

[15] I estimate the Application will be _____ working days late; and

I have filed this Application late because:

Signed by: _____ Date: _____

PRIVACY ACT 1993

In processing this application, the Panel will come into possession of personal information about you. This personal information will be held, together with copies of your legal aid file (where appropriate), by the Panel and/or Panel members appointed to review your application. The collection, use and disclosure of this information will be authorised by the Act. While provision of the information is voluntary, failure to provide this may mean your application cannot be processed. You have, however, the right to access and correct personal information held by the Panel.

THE PANEL'S JURISDICTION

1. The Panel is a tribunal independent of the Agency.

The Panel's jurisdiction (that is what it can or cannot do) is specific and set out in section 54 of the Legal Services Act 2000 (the "Act"). That section reads:

"54 Grounds for review

- (1) An aided person or an applicant for legal aid may apply to the Panel for a review of a decision of the Agency referred to in subsection (2) on the grounds that the decision is:
 - (a) manifestly unreasonable; or*
 - (b) wrong in law.**
- (2) The decisions that may be reviewed are decisions that affect the applicant for review and that relate to any 1 or more of the following:
 - (a) an application for legal aid;*
 - (b) any conditions imposed under section 15 or section 42 on a grant of legal aid;*
 - (c) any amount payable by an aided person, whether as an interim repayment or repayment, under a grant of legal aid;*
 - (d) the identity of any listed provider in a grant of legal aid;*
 - (e) the maximum grant under a grant of legal aid;*
 - (f) the withdrawal of, or amendment to, a grant of legal aid;*
 - (g) the enforcement of any condition imposed under section 15 or section 42 on a grant of legal aid;*
 - (h) any changes to, or dealings with, a charge on property arising out of a grant of legal aid;*
 - (i) an application under section 41.**
- (3) A listed provider or former listed provider may apply to the Review Panel for a review of a decision relating to the amount payable by the Agency to that provider, on the grounds that the decision is:
 - (a) manifestly unreasonable; or*
 - (b) wrong in law.**
- (4) A party who has applied to the Agency for payment of costs under section 41 may apply to the Review Panel for a review of the Agency's decision under section 41 on the grounds that the decision is –
 - (a) manifestly unreasonable; or*
 - (b) wrong in law.**
- (5) In this section, "decision" includes a failure or refusal to make a decision."*

2. Section 55 of the Act imposes a time limit for making an application. That section reads:

"55 Application for review

An application for review must be made in the prescribed manner to the Convenor of the Review Panel:

- (a) within 20 working days after the date on which notification of the relevant decision is given to the applicant; or*
- (b) within such further period as the Convenor, on application, allows."*

HOW TO COMPLETE AN APPLICATION FOR REVIEW FORM

When you fill out the review application you must complete up to 15 sections of the form. These notes are to help you.

The numbers in brackets [1] to [15] refer to the paragraphs [1] to [15] on the application form.

[1]

- If you are an applicant for aid or aided person, and are filing this review yourself, put **your** name where it says “applicant’s name”.
- If you are a “listed provider” completing the application for yourself (and not for an applicant for aid or aided person) put your full name where it says “applicant’s name”.
- If you are a “listed provider” or “former listed provider” completing the application on behalf of your client, put **your client’s name** as the “applicant’s name”.

[2]

- If you are an “applicant for aid” or “aided person” and are filing this review yourself, put **your** postal address.
- If you are a listed provider completing the form and filing it in on behalf of your client, put your postal address.

[3]

- If you are an “applicant for aid” or “aided person and are filing this review yourself, put **your** phone and fax numbers.
- If you are a listed provider completing the form and filing it in on behalf of your client, put in your phone and fax numbers.

[4] You must tick the box identifying yourself as one of four people:

- If you are an applicant for aid or aided person, tick either the first or the second box.
- If you are a listed provider or former listed provider completing the application for yourself (and not for an applicant for aid or aided person) tick the third or fourth box.
- If you are a listed provider completing the form and filing it on behalf of your client, then the person whose name appears as the “applicant” must either be an applicant for aid or aided person. You must put your name and contact details at [13] and [14]).

[5] You must enter the date of letter containing the Agency’s decision you want the Panel to review. This is important because the Panel is independent of the Agency and does not have a copy of your file. When you file your application, all the Panel has is what you give it. If you do not identify the decision you want reviewed, the Panel cannot guess at what you want reviewed.

[5] You must enter the date on which you received the Agency’s decision. This is important because section 55 of the Act requires an application for review to be made within 20 working days after the date on which you receive notice of the relevant decision, or within such further time as the Convenor of the Panel allows. A “working day” means Monday to Friday but excludes Good Friday, Easter Monday, the Sovereign’s birthday and Labour Day. It also excludes the period commencing 25 December in a year and ending with 2 January in the following year but if 1 January falls on a Friday, the following Monday, and if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.

If you file your application more than 20 working days after you receive the Agency’s decision you will need the Convenor’s permission and to secure that, you must **complete** [15]. If you file your application within 20 working days of receiving the Agency’s decision you **can ignore** [15].

[6] You must tick the box and attach a copy of the Agency’s decision to the application. If the Agency’s letter contained more than one decision, **you must also identify in the blank space provided, which decision or decisions you want reviewed.**

[7]

- You can select either one, or both. This is very important because the Panel can review a decision made by the Agency only on two grounds: that it was **manifestly unreasonable** or **wrong in law**.

- **Look carefully at section 54 of the Act (above) which sets out the Panel’s jurisdiction** and which decisions it can review. It must be one of those described in section 54(2) of the Act if you are an applicant for aid or aided person, or comes within section 54(3) of the Act if you are a listed provider or former listed provider. The Panel cannot review every decision the Agency makes.
- What do the expressions “manifestly unreasonable” and “wrong in law” mean?
 - A decision is “manifestly unreasonable” if it is shown “clearly and unmistakably” that the Agency’s decision “went beyond what was reasonable or was irrational or logically flawed” (Legal Services Agency v Fainu [2002] 17 PRNZ 433).
 - A decision may be wrong in law for a variety of reasons. It may be wrong in law, for example, “if it derives from an inaccurate application or interpretation of a statute, or is wrong in principle. It may be wrong in law if a decision-maker has failed to take into account some relevant matter or takes into account some irrelevant matter, or if the decision depends on findings which are unsupported by the evidence” (Legal Services Agency v Fainu (supra)).

[8] List the documents that you think are relevant and have attached to the application. The Panel may ask the Agency to supply a copy of all the correspondence and documents that passed between the parties.

[9] Explain why the Agency’s decision was manifestly unreasonable. You can use a separate sheet of paper if you need more space. Give a detailed explanation.

[10] Explain why the Agency’s decision was wrong in law. You can use a separate sheet of paper if you need more space. Give a detailed explanation.

For example:

The Agency refused you criminal legal aid because it considers the charges you face were not serious enough to justify a grant of aid. If you think that decision was manifestly unreasonable, you will need to explain very carefully why the charges are serious for you. It might be that you would lose your licence or your job unless you get a “limited” (i.e. work) licence. You may suffer some serious consequence which is not obvious unless you explain it.

[11] Tick the box to indicate that you want the Agency’s decision **reversed** or **modified**. If you want it modified you must say what you think the decision ought to have been.

[12] Put the date you signed the form.

[13] Sign the form and tick your status.

[14] If you are a listed provider completing the application on behalf of your client put your details here.

[15] If the Panel receives the application more than 20 working days after you received the Agency’s decision you must fill out this section. You must explain why the application is late. If the Applicant is an aided person or applicant for aid, it is **his** or **her delay** that is important, not that of his or her lawyer. Saying that you were “busy” does not help the Convenor understand why you fitted other pressing obligations in but failed to comply with a statutory time limit. The definition of a “working day” is set out in the notes at paragraph [5] and on the application itself. The Convenor looks at the length of the delay, the reasons for it, the merits of the application itself and whether the Agency will suffer any prejudice because you have delayed in filing the review application.

Research Tools:

You might like to consider the following research tools when making submissions to the Panel:

- Brookers Legal Services edited by Harding & Rowan.
- The Panel’s database of decisions which can be found on the Agency’s website using the direct link: <http://lsa.infospecs.co.nz/larp.htm>

A copy of this form can be obtained from the Agency’s website at: **www.lsa.govt.nz**

Please Note: When the Panel completes the review, it will send you a copy of its decision with information about your appeal rights. A copy of the decision will then be entered on the Panel’s database. While the decision will not identify you by name or legal aid number the database is accessible to the public at (<http://lsa.infospecs.co.nz/larp.htm>).