

Whole-of-Government Legal Services Panel

Briefing Barristers Policy

Policy title	Whole-of-Government Legal Services Panel – Briefing Barristers Policy
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Version 1	New Policy for implementation of new Legal Services panel
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Purpose

1. This policy sets out the process for Queensland Government Legal Services Panel Suppliers to engage barristers on behalf of panel Customers that are Queensland Government departments.
2. This policy applies to the engagement of barristers from 1 June 2020.
3. The policy does not apply to panel Customers that are 'opt in' agencies.
4. The policy refers to, and aligns with, the whole-of-Government policy for **Barristers Undertaking Legal Work for Queensland Government Departments** and should be read in conjunction with that document.

Background

5. The whole-of-Government Legal Services Panel is a formal Standing Offer Arrangement (SOA) between the State of Queensland (acting through the Department of Housing and Public Works as Principal) and law practices (Suppliers) selected to provide external legal services to Queensland Government departments and other eligible entities (Customers).
6. The panel commences on 1 June 2020, for an initial term of four (4) years until 31 May 2024. There is a mid term review in 2022, and an option to extend the arrangement beyond 31 May 2024 for a further two (2) years.
7. The panel has been established to:
 - a. provide high quality legal services that meet a broad range of legal needs
 - b. better value for money by simplifying procurement and tendering, providing more competitive pricing for aggregated legal services, and facilitating alternative fee arrangements in appropriate circumstances
 - c. provide greater visibility of engagements
 - d. establish an outcome focused legal services panel
 - e. ensure appropriate diversity in the supply base, including clear consideration for Small businesses, Aboriginal businesses and/or Torres Strait Islander businesses and localised delivery of services where capability exists
 - f. enable buyers to contribute to key Government priorities through more contemporary procurement practices
 - g. simplify the market's dealings with Government and reduce 'cost to service'
 - h. generate and share meaningful performance and expenditure data
 - i. understand and deliver 'value' to stakeholders, and
 - j. advance the Government's continued role in providing growth, employment and skilling opportunities within Queensland.
8. A centrally coordinated Panel Manager manages performance and monitors and reports on the panel arrangement to drive continuous improvement. The Panel Manager is the Director, Legal Services Coordination Unit, Strategic Policy and Legal Services in the Department of Justice and Attorney-General.
9. The SOA has been established for Queensland Government departments and agencies and other eligible Customers who use the panel or Crown Law for requirements for external legal services from solicitors. Other eligible Customers may 'opt in' to the panel arrangement with the approval of the Panel Manager, but are not required to use the panel exclusively to access external legal services.

10. The Queensland Government adopted the Law Council of Australia's 2016 Equitable Briefing Policy in March 2019.
11. Capitalised terms in this Policy are defined terms under the whole-of-Government SOA for Legal Services. The meanings of these terms are as per the SOA documentation.

Process for panel Suppliers to brief counsel on behalf of departments

12. When a panel Supplier is engaged by a department and the matter requires the services of a barrister, the panel Supplier must comply with the **Whole-of-Government Policy for Barristers Undertaking Legal Work for Queensland Government Departments**, which stipulates that:
- a. Only barristers who have expressed interest in performing Queensland Government work and nominated a Government rate may be engaged by departments, unless the department's Director-General approves another barrister being engaged, but only if their rates are at or under the maximum fee caps specified below.
 - b. The Queensland Government has adopted the Law Council of Australia's Equitable Briefing Policy. In selecting barristers for Queensland Government customers, all reasonable endeavours should be made to:
 - i. Identify female barristers in the relevant practice area
 - ii. genuinely consider engaging such barristers
 - iii. regularly monitor and review the engagement of female barristers, and
 - iv. periodically report on the nature and rate of engagement of female barristers.
 - c. Barristers may express interest in performing Government work at any time by completing an 'expression of interest' form and emailing it to the Legal Services Coordination Unit (LSCU), Department of Justice and Attorney-General (DJAG) at LSCU@justice.qld.gov.au.
 - d. Barristers may nominate rates for Government work up to maximum fee caps (exclusive of GST) of:
 - i. \$300 per hour up to a daily maximum of \$3000 per day for junior barristers, and
 - ii. \$500 per hour up to a daily maximum of \$5000 per day for senior barristers.
 - e. Barristers may nominate higher rates up to these maximum fee caps at any time by completing a new expression of interest form.
 - f. Fees above a barrister's nominated Government rate but below the maximum fee caps can be approved by a department's Director-General for complex, sensitive or urgent matters.
 - g. Departments may also seek to negotiate fees lower than the barrister's nominated rate for a particular matter.
 - h. The Attorney-General may approve fees above the maximum caps for one-off or ongoing arrangements if the matter is highly sensitive, important or urgent, and/or requires scarce or highly specialised skills and expertise, and
 - i. The LSCU maintains a list of barristers available to do Government work and their nominated Government rates.

13. Panel Suppliers:

- a. must only brief barristers who have expressed interest in performing Government work at their nominated Government rate, which must be under the maximum fee caps unless the relevant briefing department has obtained approval to brief a barrister who is not on the list at a rate that is under the maximum fee caps. The list of barristers but not nominated rates can be provided by the Customer or the Panel Manager.
- b. may obtain a barrister's nominated Government rates from the relevant briefing department, and
- c. may only brief barristers at rates above the maximum fee caps if the relevant briefing department has obtained the approval of the Attorney-General.