

Attorney General's rates for Legal Representation as at 1 August 2018

Fact sheet

Attorney General's rates for Legal Representation

The Attorney General's rates (also referred to as **AG's Rates** or **Attorney's rates**) are rates which have been set by the Attorney General and are payable to legal representatives (Solicitors, Junior and Senior Counsel) engaged by and on behalf of Government departments and agencies and public officials.

What matters do the Attorney General's rates apply to?

The Attorney's rates for Senior Counsel apply to all matters.

The Attorney's rates for Junior Counsel and Solicitors apply to matters such as:

- representation of Ministers, public officials or public sector employees who have been approved for *ex gratia* assistance under Premier's Memorandum 99-11;
- representation before ICAC, Police Integrity Commission or similar Commission proceedings; and
- in respect of costs associated with certificates under the *Suitor's Fund Act* and with the *Costs in Criminal Cases Act*.

The Attorney's rates include all overheads, secretarial, legal and administrative assistance but not out of pocket disbursements. The rates are GST exclusive.

What are the Attorney's rates?

The current Attorney's rates (as at 1 August 2018) are:

Solicitor - \$290 per hour with a daily maximum of \$2,900 plus GST

Junior Counsel - \$290 per hour with a daily maximum of \$2,175 plus GST

Senior Counsel - \$480 per hour with a daily maximum of \$4,800 plus GST

The daily maximum for Solicitors and Senior Counsel is based on a 10 hour day.

The daily maximum for Junior Counsel is based on a 7.5 hour day.

The daily rate is a maximum rate. There is no entitlement to the maximum daily rate. Work performed over a day can be charged at the hourly rate up to but not exceeding the stated daily maximum per calendar day or 24 hour period.

These are maximum daily and hourly rates, agencies can negotiate lower rates with Junior and Senior Counsel and Solicitors.

Are all government agencies required to apply the Attorney's rates?

The Attorney's rates for Senior Counsel are to be applied by all government departments and agencies for all matters unless approval has been granted by the Attorney General to apply higher rates.

The Attorney's rates for Junior Counsel and Solicitors are to be applied to the matters listed above. The Attorney's rates are also provided as a guide for Junior Counsel and Solicitor engagements in all other matters.

Agencies are expected to negotiate an appropriate Junior Counsel/Solicitor fee having regard to the matter, the experience of the practitioner and the need to keep legal costs to government reasonable.

Who do the Attorney's rates 'Solicitor rates' apply to?

The Attorney's rates for Solicitors **do not apply** to Panel law firm solicitors engaged under the NSW Government Legal Services Panel, the Treasury Managed Fund Panel (TMF) or the Health Panel. Fees for these solicitors have been set under the relevant Panel agreements.

The Attorney's rates for Solicitors **do not apply** to applications for assistance referred to the Legal Representation Office (LRO). Where an application is approved for LRO representation by private solicitors the conditions and the rates of representation payable are those known as the LRO rates.

The Attorney's rates for Solicitors **do apply** to external solicitors engaged (outside any panel and LRO arrangement) to act on behalf of a government department in such matters as outlined above, and as a guide for all other matters.

Can higher rates be applied for Senior Counsel?

In accordance with Premier's Memorandum 2009-17, the Attorney General can approve a higher Senior Counsel rate after considering all the circumstances as to why a higher nominated rate should be approved. The agency seeking to apply the higher rate must seek approval from the Attorney General.

Absent the Attorney's approval, Senior Counsel are to be paid the hourly rate as stated above.

Can higher rates be applied for Solicitors and/or Junior Counsel

For the matters listed above, the Attorney General's rates are to be applied for Junior Counsel and Solicitors. To ensure consistent rates are being applied across government it is recommended that agencies use the Attorney's rates for Junior Counsel and Solicitors for all such matters.

Those briefing Junior Counsel in respect of matters to which these rates apply would be expected to negotiate an appropriate Junior Counsel fee having regard to the matter, the

experience of counsel and the need to keep legal costs to government reasonable¹.

Higher rates can be applied in circumstances where specialised Junior Counsel are limited in a particular area of law or the complexity of the matter gives rise to justification for a higher rate.

Do the Attorney's rates apply for indirect briefings by panel law firms?

The NSW Government Legal Services Panel Firms, the TMF Panel and the Health Panel are required to apply the Attorney's rates when they engage Senior Counsel on behalf of a government agency (unless approval has been granted by the Attorney General to apply higher rates in accordance with Premier's Memorandum 2009-17).

What is the difference between the Attorney's rates and the Crown Solicitor's Rates?

The Attorney's rates for Solicitors do not apply to the Crown Solicitor or the Crown Solicitor's Office.

The Attorney's rates for Senior Counsel apply to counsel briefed by the Crown Solicitor.

The Crown Solicitor's Rates are the rates for engagement for Junior Counsel set by the NSW Crown Solicitor. For consistency, the Crown Solicitor has applied the Attorney's rates as the maximum payable to Junior Counsel in all matters.

How often are the Attorney's rates reviewed?

The Attorney's rates were reviewed in July 2018 and will be reviewed again in July 2019.

For more information visit the [Attorney's rates info page](#)

¹ "reasonable" (in relation to legal costs) means legal costs that the NSW Government is prepared to tolerate having regard to comparable rates in the prevailing Sydney legal market at any point in time, with the expectation that legal services will meet 'value for money' criteria taking into account quality and price.