Legal Profession Admission Board of New South Wales

# Admission Application fee waiver policy

This policy outlines the Legal Profession Admission Board's fee waiver policy including the application process and the eligibility assessment.

## Essential Summary

- This policy applies to those applying for admission as a lawyer in NSW who demonstrate that they are at a significant financial disadvantage
- The Board will take into consideration the income and assets of the applicant and may offer a partial or full fee waiver if they are satisfied that the applicant has demonstrated significant financial disadvantage

Printed copies of this document may not be up to date.
Ensure you have the latest version before using this document.

# Table of Contents


**1 Scope 2**

**2 Purpose 2**

**3 Background 2**

**4 Definitions 3**

**5 Criteria for granting a waiver 3**

**6 Application procedure 4**

6.1 When to apply 4

6.2 Delegation 4

6.3 Requests for further information 5

6.4 Full or partial waiver 5

6.5 Notification of decision 5

6.6 Review of decisions 5

6.7 Subsequent applications after refusal 5

**7 Indigenous applicants 6**

**8 Document information 7**

**9 Document history 7**


# 1 Scope

This policy applies to those seeking admission that are at significant financial disadvantage.

# 2 Purpose

The purpose of this policy is to:

- provide for the waiver of the application fee for admission as a lawyer, in exceptional circumstances and where waiver is necessary to address significant disadvantage, and
- specify the application process and the criteria to be applied in determining requests for waiver of the fee

# 3 Background

The functions of the Legal Profession Admission Board (the Board) include:

- Determining the eligibility and suitability of people seeking to be admitted as a lawyer in NSW
- Issuing a compliance certificate to the Supreme Court of NSW in respect of eligible and suitable applicants, and
- Arranging for every person who is approved for admission as a lawyer to attend a ceremony at the Court and take an oath or affirmation of office.

The obligation to pay the fee for this service is based on the principle that a user of a Court service should contribute to the cost of that service.

In addition, the Board is a self-funding statutory corporation which is substantially dependent on revenue from admission fees in order to fund its operations. A proportion of admission fees also contribute to the recurrent costs of the Legal Services council and the Commissioner for Uniform Legal Services Regulation, under the Intergovernmental Agreement between Victoria and NSW on the Legal Profession Uniform Framework.

For these reasons, waiver of an admission fee will only be granted in exceptional circumstances, and where such a waiver is necessary to address significant disadvantage and financial hardship.

# 4 Definitions

**The Board** *means the Legal Profession Admission Board.*

**Executive Officer** *means the delegate of the Board.*

**The applicant** *means someone seeking admission as a lawyer in NSW*

# 5 Criteria for granting a waiver

Before granting a fee waiver to any applicant, the Board must be satisfied that, in the particular circumstances:

1) it would be unreasonable to require the applicant to pay the usual fee and 2) waiver is necessary to address significant disadvantage and financial hardship, and 3) the applicant: lacks sufficient income and capital to pay the fee, and

a) is unable to obtain credit on reasonable terms, and

b) is unlikely to be gainfully employed at any time in the twelve-month period following the date of his/her application for admission as a direct result of either:

   i. A serious medical condition suffered by the applicant, or

   ii. Significant disadvantage suffered by the applicant, or

   iii. An equivalent and exceptional individual circumstance which was or is beyond the control or choice of the applicant.

For the purpose of criterion 3ciii), the employment market conditions for lawyers will not be considered as an exceptional circumstance.

# 6 Application procedure

An application must be made in writing and must attach a statement of financial circumstances by way of statutory declaration, which details:

- The applicant's reasons for seeking a fee waiver
- The applicant's current fortnightly income from all sources, and total income from all sources over the past twelve months
- Details of any social welfare or Centrelink payments the applicant is receiving or has received in the past 12 months
- Details of the applicant's assets, including real property, vehicles, household goods and furniture
- Details of any attempts to obtain credit on reasonable terms, and
- Reasons the applicant is unlikely to be gainfully employed in the twelve-month period following the date of his/her application for admission

The financial circumstances statutory declaration is available on the Board's website. This form must be completed by all applicants seeking a fee waiver.

## 6.1 When to apply

An application for admission as a lawyer cannot be accepted without either

a) payment of the prescribed admission fee, or

b) prior approval of a fee waiver.

For this reason, applicants who wish to seek a waiver of the admission fee should do so a minimum of two weeks before the deadline for the lodgement of applications and fees for admission as a lawyer.

## 6.2 Delegation

The Board has delegated the determination of applications for waiver of the admission fee to the Board's Executive Officer.

Applications for waiver of the admission fee will first be considered and determined by the Board's Executive Officer.

The Executive Officer may refer a particular application to the Board for determination.

## 6.3 Requests for further information

After receiving an application for fee waiver, the Board's Executive Officer may request the applicant supply further information and/or evidence, prior to making a decision. Further information may be required in a statutory declaration.

The applicant should be given reasonable time to supply the further information and/or evidence. If the applicant fails to do so within the time specified, the decision may be made in the absence of further information and/or evidence.

## 6.4 Full or partial waiver

The decision-maker will first consider whether or not a full waiver of the admission fee should be granted. If a full waiver is not considered appropriate, the decision-maker may consider granting a partial waiver.

A partial waiver, if granted, may be determined as any amount, below the standard admission fee, which is considered reasonable for the applicant to pay given their personal circumstances.

## 6.5 Notification of decision

Applicants will be notified of the decision in writing.

## 6.6 Review of decisions

An applicant who has been refused a fee waiver or granted a partial waiver may request in writing that the Board review the decision. The applicant may also provide any further information and/or evidence.

## 6.7 Subsequent applications after refusal

After a waiver of the admission fee has been refused, a subsequent application for such a waiver from the same person will not be considered unless the subsequent application:

- Provides significant new information which was not available prior to the refusal, or
- Demonstrates that there has been a significant change in the applicant's circumstances since the refusal

# 7 Indigenous applicants

Those seeking admission as a lawyer in NSW who identify as Aboriginal or Torres Strait Islander may be eligible for full or partial waiver of the admission fee. The Board uses the definition of Aboriginal people and Torres Straight Islanders as adopted by the High Court which is a three part test:

(i) a person must be of Aboriginal or Torres Strait Island descent

(ii) who identifies as an Aboriginal or Torres Strait Islander, and

(iii) who is accepted by the relevant community as an Aboriginal or a Torres Strait Islander.

Any applicant who meets the above criteria who wishes to seek a fee waiver must supply either

(a) a certificate of Aboriginality (if they hold one), or

(b) a letter of support from an Elder in their community.

An applicant who wishes to seek a fee waiver on these grounds must also complete a statement of financial circumstances form. The decision maker will take into account all available documentary evidence and may grant a full or partial waiver, or refuse the application. The applicant will be notified of the outcome of their application in writing.

(End)

# 8 Document information

| | |
|---|---|
| **Title:** | Admission Fee Waiver Policy |
| **Business Centre:** | Legal Profession Admission Board |
| | |
| | |
| **Date of Effect:** | 5 June 2018 |
| **Next Review Date:** | |
| **File Reference:** | |
| **Key Words:** | |

# 9 Document history

| Version | Date | Reason for Amendment |
|---|---|---|
| 1.0 | 5 June 2018 | |
| | | |