

## **Criminal Law Duty Lawyer Handbook**

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# Foreword

Legal Aid Queensland is responsible for updating and distributing the *Criminal Law Duty Lawyer Handbook*, and for duty lawyer accreditation throughout Queensland.

This is the fifth edition of the handbook. As such, I acknowledge the Legal Aid Queensland officers who researched and revised the text to provide an up-to-date and concise publication.

We have produced the handbook in ebook and online formats to improve access and updates to content.

I also acknowledge the Communication and Community Legal Education team, who project managed, designed and formatted the handbook and Kylee Bristow of Lexi Corporate Publishing, who edited it.

Since the Criminal Law Duty Lawyer Program was introduced in Queensland in 1974, practitioners appearing in the magistrates or childrens court have seen the various complex and difficult issues that confront the duty lawyer.

The *Criminal Law Duty Lawyer Handbook* is a succinct theoretical and practical guide for these practitioners, particularly those less experienced in this jurisdiction. It highlights most of the issues they are likely to encounter. However, it does not attempt to resolve all these issues or solve all the problems that a duty lawyer will encounter.

Legal Aid Queensland believes that the handbook helps ensure the Criminal Law Duty Lawyer Program's successful operation. All duty lawyers should thoroughly familiarise themselves with the topics and procedures outlined in the handbook. This will not only assist duty lawyers, but maintain the high standard that the Criminal Law Duty Lawyer Program has achieved throughout Queensland.



**Anthony Reilly**  
Chief executive officer  
Legal Aid Queensland

# Preface

The production of this fifth edition of the *Criminal Law Duty Lawyer Handbook* was necessary due to substantial legislative changes and case law developments.

Legal Aid Queensland commissioned Legal Aid Queensland's in-house counsel and lawyers to revise the text.

Several Legal Aid Queensland staff contributed to the text, including Kylie Bell, Joseph Briggs, Nadia Bromley, Darin Clearwater, Amber Crowley, Claudia Davies, John Dean, Tracey de Simone, Peter Delibaltas, Mark Dixon, Sue Ganasan, Len Handley, Nicholas Hanly, David Law, Jakub Lodziak, Craig May, Justin O'May, Howard Posner, Laura Reece, Laura Rouse, Leigh Smith, Rachel Smith, Susan Stockwell, David Thompson, Kate Volk, Robyn Wilkinson and Penny Williams.

Their efforts have ensured that the *Criminal Law Duty Lawyer Handbook* will remain an essential tool for duty lawyers.

Unless otherwise stated, this edition reflects the law as it applied at December 2012.

Legal Aid Queensland is responsible for Queensland criminal law duty lawyer accreditation. Please direct all queries about the *Criminal Law Duty Lawyer Handbook* and the accreditation process to Legal Aid Queensland.

## Priorities

Legal Aid Queensland has determined the following priorities regarding the provision of duty lawyer services.

No person charged with a criminal or serious simple offence should, through ignorance, lack of financial resources or other disadvantage, be denied legal advice and representation before the court at either the initial appearance or a subsequent remand.

Within its financial constraints, one of Legal Aid Queensland's long-term priorities is to provide a free duty lawyer service to all defendants appearing unrepresented before magistrates courts and childrens courts in Queensland.

Legal Aid Queensland will establish duty lawyer schemes, using the services of salaried lawyers of Legal Aid Queensland and private practitioners, to provide legal advice and legal representation on pleas of guilty or applications for remand and bail.

### Legal Aid Queensland