



SEXUAL OFFENCE EXPERT EVIDENCE PANEL

SCHEME RULES and CODE OF CONDUCT

February 2025

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1. Introduction

- 1.1. The Department of Justice (DoJ), in response to recommendations of the Women's Safety and Justice Taskforce *Hear Her Voice: Report Two* will establish a Sexual Offence Expert Evidence Panel (Panel) which will be piloted in specified courts in Brisbane and Townsville.
- 1.2. The role of experts on the Panel will be to give evidence about either of the following:
 - a. the **defendant's cognitive or mental health impairment** and its impact on their ability to say or do something to determine whether another person provided affirmative consent to sexual activity (Stream 1); or
 - b. (*subject to commencement of the relevant provisions*) the **nature of sexual offences and the social, psychological, and cultural factors that may affect the behaviour** of a victim or alleged victim of a sexual offence (Stream 2).
- 1.3. Experts are witnesses to criminal proceedings relating to sexual offences who will be provided upon the request of the parties to the proceedings or the court (in specified circumstances) through a matching service operated by the Sexual Offence Expert Evidence Panel Program Team, DoJ.

2. Review and development of the Scheme

- 2.1. The Scheme will be monitored by DoJ to assess whether the objectives and intent of the Scheme are being met. Modifications may be made at any time at the DoJ's discretion.
- 2.2. Amendments to the Scheme Rules and Code of Conduct can be approved by the Assistant Director-General, Supreme, District and Land Courts Service.
- 2.3. The Program Team will periodically collect data on the program to assess its performance and to inform procedural changes and recommendations to the Executive.

3. Definitions for the purposes of this document

<i>Applicant</i>	a person who has submitted an application for appointment to the Panel
<i>Application</i>	a written application for appointment to the Panel
<i>Assessment Panel</i>	the panel established to assess and evaluate the incoming applications for appointment to the Panel
<i>Cognitive impairment</i>	an ongoing impairment in adaptive functioning; an ongoing impairment in comprehension, reason, judgment, learning or memory so as to affect functioning in daily life to a material extent; and the impairment results from damage to or dysfunction, developmental delay or deterioration of the person's brain or mind, as defined by s348B of the <i>Criminal Code</i>



Consent	free and voluntary agreement
Criminal history	the person's criminal history as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , other than spent convictions
Expert	a person appointed to the Panel who provides expert evidence under the Scheme
Mental health impairment	a temporary or ongoing disturbance of thought, mood, volition, perception, or memory; the disturbance would be regarded as significant for clinical diagnostic purposes; and the disturbance impairs the emotional wellbeing, judgment, or behaviour of the person so as to affect functioning in daily life to a material extent, as defined by section 348C of the <i>Criminal Code</i>
Panel	the list of Panel experts assessed as being suitable for appointment to the Panel by DoJ
Principal Expert	an expert employed by the DoJ who works in the Program Team
Program Manager	the manager of the Program Team
Program Team	Sexual Offence Expert Evidence Panel Program Team, DoJ
Scheme	the Sexual Offence Expert Evidence Panel Scheme owned by the Program Team and administered by DoJ

4. Applications for appointment to the Panel

- 4.1. Applications must be completed in the prescribed application form.
- 4.2. Applications must be delivered in accordance with the delivery instructions set out in the application form.
- 4.3. Only those applications which satisfy the requirements set out in these Scheme Rules and Code of Conduct, and the application form will be considered by the Assessment Panel.

5. Applicant's Acknowledgement

- 5.1. In applying for the Scheme, the applicant agrees to the Scheme Rules and Code of Conduct and acknowledges that they will be required to sign the Scheme Rules and Code of Conduct on appointment to the Panel.

6. Application/Evaluation Process

- 6.1. The Assessment Panel will assess the suitability of a person's appointment to the Panel. Final approval of a person's appointment to the Panel will be the responsibility of the Chief Executive or their delegate.
- 6.2. The Panel to be formed under the Scheme will be composed of applicants who are deemed to be suitably qualified persons with the necessary experience required for the role in accordance with the Scheme Rules and Code of Conduct and applicable legislative requirements.
- 6.3. After the initial intake of the applications by the Assessment Panel to establish the Panel, applications can be made at any time and will be processed as they are received.
- 6.4. Applicants will be advised in writing of the outcome.

7. Evaluation Criteria

- 7.1. Applications will be assessed against the following core criteria across both Stream 1 and Stream 2, whereby the applicant:
- a) consents to a national Criminal History check being conducted;
 - b) agrees to sign and abide by the Scheme Rules and Code of Conduct (this document);
 - c) agrees to abide by the practices in the Procedure Manual;
 - d) agrees to attend or participate in any training identified by the Assessment Panel or the Program Team;
 - e) completes and satisfies the Ethical Supplier Threshold document; and
 - f) has not been subject to any professional discipline.
- 7.2. In addition to 7.1, to be assessed as being suitable to give relevant evidence about a defendant in a proceeding regarding the affirmative consent safeguarding provision (Stream 1) the applicant must demonstrate specialised knowledge, gained by training, study and experience in:
- a) psychiatry; or
 - b) neuro-cognitive psychology; or
 - c) a field of knowledge relevant to assessing:
 - i. the cognitive or mental health impairment of a person within the meaning of sections 348B and 348C the Criminal Code; and
 - ii. the effect of any cognitive or mental health impairment on the defendant's ability to communicate, including whether the impairment was a substantial cause of the person not saying or doing anything to affirm consent for the act
- 7.3. In addition to 7.1 (and subject to passage and commencement of legislative amendments), to be assessed as suitable to give relevant counterintuitive evidence about the nature of sexual offences and evidence about the social, psychological and cultural factors that may affect the behaviour of a person who has been the victim, or who alleges that they have been the victim of a sexual offence (Stream 2), the applicant must demonstrate specialised knowledge gained by training, study or experience of a matter that may constitute evidence about a sexual offence.

8. Interview for appointment

An applicant may be required to attend an interview with members of the:



- 8.1. Assessment Panel as part of the process for appointment to the Panel.
- 8.2. Decisions as to the need for an interview are at the complete discretion of the Assessment Panel.

9. Notification of Assessment Outcome

- 9.1. The Assessment Panel may accept an application (with or without limitation) or reject the application. Only suitably qualified and experienced applicants will be submitted for approval to the Chief Executive or delegate to be appointed to the Panel.
- 9.2. DoJ will notify all applicants of the outcome of their application in writing.
- 9.3. On appointment, failure to return the signed acknowledgement of the obligations and undertakings at the end of this document as requested may mean that the application will be considered withdrawn by the applicant.

10. Confidentiality

- 10.1. The DoJ is collecting your personal information from you including your contact information, professional and educational history, and criminal history information. The DoJ collects this information to assess determine your suitability for the role of Panel expert under section 103ZZH of the *Evidence Act 1977* (Evidence Act). Criminal history reports are permitted under section 103ZZJ of the Evidence Act and information collected from these reports are confidential and can only be disclosed as permitted by section 103ZZK(3) of the Evidence Act.
- 10.2. Information submitted with an application may be subject to investigation, reference checking, searches, interviews, enquiries, and confirmation. Applicants are deemed to have authorised any such action by lodging their application.
- 10.3. Additionally, officers from the Program Team seeking to engage a Panel expert can view the Panel expert's resume submitted with the application to assist in determining a Panel expert's suitability for a specific engagement.
- 10.4. Your personal information will not be disclosed to any other third parties, unless authorised or required by law.

11. Disclaimer

- 11.1. Acceptance and rejection of applications and the revocation of Panel appointments are all governed by provisions in Part 6B, Division 4 of the Evidence Act.
- 11.2. The DoJ will not be held liable for any costs or damages incurred by the Panel experts in the exercise of the Evidence Act provisions.



12. Training

- 12.1. Applicants may be required to undertake training courses and programs provided and paid for by the Program Team that gives them an understanding of the expert's role, the criminal justice system, trauma-informed practice, the nature and impacts of domestic, family and sexual violence and cultural awareness, so they have the confidence and ability to perform the role of the expert.
- 12.2. The Assessment Panel will identify which, if any, training components at 12.1 are indicated during the Application Evaluation process. These decisions will be informed by the capabilities and experience highlighted in the application.
- 12.3. The Program Team will advise the applicants of the requirement to complete any identified training when they inform the applicant of their appointment to the Panel. Failure to complete the identified training may limit the Program Team's capacity to allocate matters to the expert. Continued failure to complete training will mean that the application may be considered as withdrawn by the applicant.
- 12.4. The Program Team may advise experts of a requirement to participate in further training as relevant and appropriate.

13. Special Requirements

Membership of the Panel under the Scheme is subject to the following conditions:

- 13.1. The Panel expert must comply with the Scheme Rules and Code of Conduct.
- 13.2. For each matter for which the Panel expert is engaged, the Panel expert will receive a letter of engagement unless other arrangements are specified by Program Team.
- 13.3. Experts on the Panel may be called to give evidence in court. Due to the time-sensitive nature of court proceedings it is important that experts keep the Program Team, and the requesting party, up to date with their availability including scheduled leave or other commitments and their availability and capacity for engagement in Brisbane and Townsville jurisdictions.
- 13.4. The Panel expert may be subject to criminal record and financial status (bankruptcy) checking at any time. The Panel expert has a responsibility to disclose any change in circumstances in this regard.
- 13.5. Any potential conflict of interest arising for the Panel expert in relation to an individual engagement is to be declared prior to engagement or as soon as possible after the conflict has been identified.
- 13.6. DoJ reserves the right to temporarily suspend Panel membership if any investigation is required.
- 13.7. In Queensland you must have a blue card or exemption card to work or volunteer in regulated child-related employment or operate a regulated child-related business. If any experts have contact with children as part of their role, they will require a valid blue card or exemption card.




- 13.8. Panel experts must comply with the Charter of victims' rights in the *Victims' Commissioner and Sexual Violence Review Board Act 2024*. All witnesses will be treated with courtesy, compassion, respect, and dignity and have their privacy protected.
- 13.9. The Panel expert will be bound by the requirements of the *Information Privacy Act 2009* and Information Privacy Principles in relation to information shared with or by the Scheme. Experts must treat information received verbally or in writing due to their involvement with the Scheme with utmost confidentiality in accordance with the law, the Scheme Rules and Code of Conduct and any training received.
- 13.10. Pursuant to sections 103ZZG and 103ZZGF of the Evidence Act, a Panel expert may ask a prosecutor to provide them with copies of documents relevant to the matter (such as indictments / bench charge sheets, witness statements and transcripts of proceedings) and the Panel expert must not disclose or make use of the information obtained under the provisions, other than for the purpose of giving relevant evidence under the Scheme. Failure to comply with this requirement is an offence that carries a maximum penalty of 100 penalty units or 2-year imprisonment. However, despite being empowered to seek information from the prosecution, this is not encouraged in cases where the requesting party is a defence legal representative or the defendant. Instead, this information should be requested and obtained from the requesting party.

14. Code of Conduct

- 14.1. The Panel expert has a paramount duty to assist the court. The expert is not an advocate for party to a proceeding and must not accept instructions from any person to adopt or reject a particular opinion.
- 14.2. The Panel expert duty to the court overrides any obligation the expert may have to any party to a proceeding or the Program Team who is liable for the Panel expert's fees or expenses.
- 14.3. There is an obligation held by the Panel expert to inform the requesting party and/or the court promptly if and when the expert's opinion changes from that contained in the written report provided to the requesting party or given in evidence during a proceeding.
- 14.4. The Panel expert must comply with an order made, or a direction given by the court.

15. Courtroom Etiquette

- 15.1. An expert must comply with courtroom etiquette and protocols.
 - 15.2. Panel experts will be provided with training and guidance in relation to these protocols, if required.
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16. Appointment to the Panel no guarantee of work

- 16.1. The applicant must be aware that appointment to the Panel does not guarantee:
- continued appointment to the Panel for the duration of the Scheme; or
 - engagements or work of any kind or quantity will be offered.

17. No employment relationship

- 17.1. Membership of the Scheme does not give rise to any form of employment relationship or access to any form of employee related entitlements.

18. Response time

- 18.1. To maintain efficient conduct and resolution of a proceeding, if an expert is contacted by a member of the Program Team via email, it is expected that the expert will endeavor to respond within 48 hours or within 24 hours if contacted by telephone.
- 18.2. An expert is not to accept a referral from the Program Team if their availability to prepare and complete a report is likely to cause undue delay to the efficient conduct and resolution of a proceeding.
- 18.3. If an expert's availability changes after being matched to a relevant proceeding, they must immediately notify the Program Team.
- 18.4. Experts are to provide their reports to the requesting party as specified in communication with the Program Team.

19. Remuneration

- 19.1. Panel experts engaged on the Panel will be remunerated at the rates outlined in the table below.

Services rendered	Payment	Max hrs
<ul style="list-style-type: none"> <i>Development of a report that requires at least one interview with the defendant and/or the application of an assessment tool</i> 		
Psychiatrists	\$490/hr + GST	10
Psychologists	\$311/hr + GST	10
Other practitioners (dependent on qualifications)	\$250/hr - \$311/hr + GST	10
<ul style="list-style-type: none"> <i>Development of a report requiring document review and research only (i.e., no interview or assessment required)</i> 		
Psychiatrists	\$490/hr + GST	5
Psychologists	\$311/hr + GST	5
Other practitioners	\$250/hr + GST	5
<ul style="list-style-type: none"> <i>Attendance at a court</i> 		
Psychiatrist	\$490/hr + GST	
Psychologist	\$311/hr + GST	
Other practitioner (dependent on qualifications)	\$250/hr - \$311/hr + GST	
<ul style="list-style-type: none"> <i>Travel Reimbursement (for assessments/court appearances outside of the professional's selected geographical area)</i> 		



Air travel	Booked by the Program Team	
Accommodation/meals/incidentals	Per PSC directive	
Actual time travelling to and from examination and assessment or court	\$208/hr + GST	
<ul style="list-style-type: none"> • <i>Cancellation or deferment of hearing by the court</i> 		
Cancellations made within 48 hours of a scheduled court event where the expert is scheduled to appear	Time set aside	Time set aside
<ul style="list-style-type: none"> • <i>Non-attendance at appointment, or request to reschedule within 24 hours</i> 		
A defendant's failure to attend an appointment as scheduled, or a request to reschedule within 24 hours of the original appointment time	Time set aside	Time set aside
<ul style="list-style-type: none"> • <i>Complex matters and extraordinary costs</i> 		
If you anticipate that the invoice for any assessment or report will exceed the maximum billable hours, you will require prior approval from the Program Team to proceed. Please provide a fee estimate and breakdown of the work that will be required via email.		

- 19.2. The rates are exclusive of GST.
- 19.3. The Program Team may also request a quote on a lump sum, fixed price, maximum fee, or other basis from a Panel expert with respect to long or complex engagements.
- 19.4. The method of payment shall be against a tax invoice and an ABN.
- 19.5. The rates include **all** costs of the Panel expert including subsistence and travel costs to and within the geographical area of nominated work. Additional charges for printing, copying or paper will not be accepted. Invoices should be rounded up or down to the closest quarter of an hour interval.
- 19.6. Should a Panel expert be engaged outside their selected geographical area, subsistence and travel expenses outside the Brisbane or Townsville metropolitan areas are to be charged at actual cost or at the rates specified under the *Domestic Travelling and Relieving Expenses Directive (Directive 13/23)*, whichever is the lesser. All charges must be approved by the Program Team in advance of the expense being incurred and experts engaged may not be remunerated if travel is undertaken which has not been previously approved by the Program Team.

20. Performance Management and Reporting

- 20.1. The Program Team may establish a mechanism for reporting on the performance of the Scheme or on individual Panel experts. To assist with this, the Panel expert must comply with any request for data.

21. Quality assurance and complaints

- 21.1. Panel experts' performance monitoring and reporting may be conducted in accordance with the following principles:
- the mutual objective of the parties is to achieve continuous performance improvement; and
 - performance issues being promptly addressed by the parties concerned.



- 21.2. With regard to 21.1 each appointed expert may be required to:
- a) provide the Program Team with up to four (4) de-identified reports per year for quality assurance and evaluation purposes; and/or
 - b) adhere to a period of “supervised writing” whereby the expert is required to provide a copy of a report to the Principal Expert prior to submission to the requesting party.
- 21.3. With regard to 21.2b, the period of supervised writing will be determined by the Principal Expert in consultation with the Program Manager and may be based upon the expert either providing a specified number of reports for review, or the period enduring for a specified timeframe. The terms of the period of supervised writing will be clearly articulated to the expert in writing by the Principal Expert and/or the Program Manager.
- 21.4. Any complaints received about the expert’s performance will be managed by the Program Team in accordance with the Complaints Policy.

22. Removal from the Panel

- 22.1. An expert’s appointment to the Panel will be reassessed and may be terminated if the expert has:
- a) breached the Scheme Rules and Code of Conduct;
 - b) breached the Ethical Supplier Threshold;
 - c) been declared bankrupt or found to be insolvent;
 - d) been the subject of substantiated reports of unsatisfactory performance;
 - e) been the subject of professional discipline;
 - f) experienced an adverse change in capacity or capability;
 - g) experienced an adverse change in business status;
 - h) been proven to be in serious breach of his or her obligations under any legislation;
 - i) failed to declare a conflict of interest when allocated a Scheme matter;
 - j) otherwise failed to meet the standards required of the Scheme in terms of its project outcomes and ethical business practices;
 - k) been removed or suspended from the relevant professional accreditation society/board; and/or
 - l) has had a change in criminal history which indicates a lack of suitability to give expert evidence.

23. Publicity

- 23.1. Panel experts must not advertise, promote, or publicise their appointment to the Panel without the written consent of the Program Team.

24. Human Rights

- 24.1. Under the *Human Rights Act 2019*, decision makers have an obligation to act and make decisions in a way that is compatible with human rights. Decisions made under the Scheme and with regards to the Panel will give proper consideration to human rights under the Act.
- 24.2. If the Panel Expert considers that a relevant human right has not been considered in making decisions under the Scheme Rules and Code of

Conduct, they may make a complaint using the Department's process for making a human rights complaint.



Panel Member's Obligations and Undertaking

I, _____ acknowledge the following conditions of my appointment to the Sexual Offence Expert Evidence Panel.

I have read the Sexual Offence Expert Evidence Panel Scheme Rules and Code of Conduct and understand my responsibilities to abide by the guidance provided in this document.	<input type="checkbox"/>
I have read the Sexual Offence Expert Evidence Panel Procedure Manual and understand my responsibilities to abide by the guidance provided in this document.	<input type="checkbox"/>
I will treat victims of crime with courtesy, compassion, respect, and dignity in accordance with Charter of Victims' Rights as set out in the <i>Victims' Commissioner and Sexual Violence Review Board 2024</i> .	<input type="checkbox"/>
I acknowledge the work of the Sexual Offence Expert Evidence Panel may expose me to material containing offending behaviours and criminal activity.	<input type="checkbox"/>
I acknowledge some obligations of the Scheme Rules and Code of Conduct remain in force should my engagement cease with the Expert Evidence Panel (e.g., copyright, privacy, disclosure of official and personal information).	<input type="checkbox"/>
I understand that persons seeking to be approved as an expert on the Sexual Offence Expert Evidence Panel are required to disclose their criminal histories (including convictions which are not recorded) and/or charges.	<input type="checkbox"/>
I give my consent for the Sexual Offence Expert Evidence Panel Program Team to seek a national criminal history check on me through the Queensland Police Service and the Australian Police Services as allowed by s103ZZJ of the <i>Evidence Act 1977</i> .	<input type="checkbox"/>
I also give consent for disclosure of any criminal history information, including charges laid against me awaiting determination, to the Program Team. I understand the disclosure of information about my criminal history will be subject to applicable Commonwealth, state, and territory legislation.	<input type="checkbox"/>
Under the provisions of the <i>Work Health and Safety Act 2011</i> , I understand I have an obligation to act in a manner that reduces the risk of harm, including communicating identified risks to the Program Team in a timely manner.	<input type="checkbox"/>
I agree not to disclose any information obtained in the course of my engagement other than for the purpose of giving evidence under s103ZZF and s103ZZGB of the <i>Evidence Act 1977</i> .	<input type="checkbox"/>
I agree not to use any information obtained in the course of my engagement for any personal benefit or gain or disclose it to any unauthorised person.	<input type="checkbox"/>
I agree to notify the Sexual Offence Expert Evidence Panel Program Team should I become aware of any real or apparent conflict of interest.	<input type="checkbox"/>
I agree to comply with requirements in the <i>Information Privacy Act 2009</i> and Information Privacy Principles in relation to information shared by and with the Scheme	<input type="checkbox"/>
Should I not abide by the conditions of my engagement, I understand this may give rise to my removal from the Panel.	<input type="checkbox"/>
Signature: _____ Date: _____	

