## Victoria Legal Aid precedent template

## Letter to psychiatrist requesting mental impairment assessment & report

This template had been developed in consultation with relevant expert report writers and is suitable for hearings in Supreme, County or Magistrates’ Court.

Note: The prosecution may seek disclosure of this letter of instruction and enclosures.

### Instructions for completing this letter

This document contains instructions to help you select the content options for the letter:

* shaded ‘[form fields]’ - enter or check data in each form field. Use the F11 key to move to the next form field.
* hidden text - to show/hide hidden text (and other formatting marks) press **Control+Shift+\*** or, click , the paragraph symbol, in the **Paragraphs** section of the Home tab.

The hidden text should not be visible in the printed letter. If it is, change the print settings. Go to: File > Print > Page set up > Paper > Print options > Printing options. Unselect ‘Print hidden text’.

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Mental impairment assessment and report for [Client's name]  
Date of birth: [date of birth]   
If client is in custody Custody location: [prison] – CRN: [CRN no.]

Para 1 I act for [Client's name] whose case is listed for a (next hearing type) in the CountySupreme Court on [next hearing date].

Para 2 Thank you for agreeing to assess my client and prepare a report on their mental state at the time of the alleged offending. The report will assist me to advise [Client's name] on the availability of a defence of mental impairment. You may be asked to give evidence in court of matters contained in your report. I will contact you if you are required at court.

Para 3 Victoria Legal Aid has agreed to pay $[fee payable under Table S of the Handbook for Lawyers] (inclusive of GST) for the assessment and report. [Link to Table S](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/disbursements/table-s-expert-reports-and-court-attendances-by-psychologists-and-psychiatrists-in-criminal-matters).

Para 4 The report is needed by **[date report required]**. Please email the report to [email address] or fax it to [lawyer's fax number] and send the original report to this office.

**Assessment arrangements**

Para 5 If client is IN CUSTODY [Client's title and last name] is in custody at [prison]. Please advise if you will conduct the assessment by video conference or at the prison, so that I can notify my client. Most prisons require several days’ notice of a professional visit or to book a conference. You can contact me if you require assistance with arranging the conference or permission to enter the prison.

Para 6 If client is NOT in custody An appointment has been made you to see my client:

When: [appointment date and time]

Where: [appointment location] OR online assessment by video conference

Include if client is NOT in custody and appointment has not been arranged. Please advise me of the assessment arrangements, so that I can notify my client. If you will be conducting the assessment online, I can assist with arranging a video conference.

Para 7 Please notify me if the assessment arrangements change.

Para 8 Include if client needs an interpreter My client requires an interpreter for the assessment, which I will arrange.

Para 9 Report guidelines

If matter is in the Supreme Court Your report must comply with [Practice Note SC CR 3 Expert Evidence in Criminal Trials](https://www.supremecourt.vic.gov.au/law-and-practice/practice-notes/sc-cr-3-expert-evidence-in-criminal-trials). Please note the matters set out in paragraphs 4 ‘Expert’s duty to the Court’ and 6 ‘Content of all expert reports’. Reports prepared for a sentence hearing must comply with the requirements of [Practice Note SC CR 7 Expert reports on mental functioning of an offender](https://www.supremecourt.vic.gov.au/law-and-practice/practice-notes/sc-cr-7-expert-reports-on-mental-functioning-of-offenders). These Practice Notes are attached.

If matter is in the County Court Your report must comply with [Expert Evidence in Criminal Trials Practice Note](https://www.countycourt.vic.gov.au/files/documents/2018-08/practice-note-expert-evidence-criminal-trialsfinal-june-20140.pdf). Please note the matters set out in paragraphs 2 ‘Expert’s duty to the Court’ and 4 ‘Content of all expert reports’. Reports prepared for a sentence hearing must comply with the requirements of [County Court Practice Note PNCR 1 - 2017](https://www.countycourt.vic.gov.au/files/documents/2018-08/pncr-1-2017-sentencing-hearings-expert-report-mental-functioning-offenders.pdf). These Practice Notes are attached.

If matter is in the Magistrates Your report should comply with [Practice Note SC CR 3 Expert Evidence in Criminal Trials](https://www.supremecourt.vic.gov.au/law-and-practice/practice-notes/sc-cr-3-expert-evidence-in-criminal-trials) ,where relevant. Please note the matters set out in paragraphs 4 ‘Expert’s duty to the Court’ and 6 ‘Content of all expert reports’. The Practice Note is attached.

**Issues to be addressed in the report**

Para 10 Please state your opinion as to the following matters, so far as applicable:

* any psychiatric conditions my client has or had when the offending behaviour occurred, how long they have had the condition and whether the condition is of a temporary or permanent nature
* the nature, extent and effect of the condition experienced by my client at the time
* the relationship, if any, between my client's condition and the offending
* how is the condition likely to affect my client in the future
* whether the condition would be likely to affect adversely the ability of my client to cope with imprisonment
* whether the condition would be likely to deteriorate as a result of my client being imprisoned
* treatment of the condition currently or previously undertaken and its effectiveness
* in relation to my client’s prospects of rehabilitation:
  + whether there are any aspects of their mental functioning which may impede rehabilitation
  + whether there are any implications of the condition(s) for the risk of future offending and if so how these might best be managed
* my client’s response to the offences and any psychiatric factors relevant to remorse
* any other matters you consider relevant.

Para 11 Mental impairment defence

My client has not entered a plea to the charges at this stage. I seek your opinion as to whether my client meets the criteria under section 20 of the *Crimes Mental Impairment and Unfitness to be Tried Act 1997.* That is, at the time of the alleged offence, was my client suffering from a mental impairment so that they:

* did not know the nature and quality of the conduct; or
* did not know that the conduct was wrong, in that they could not reason with a moderate degree of sense and composure about whether the conduct, as perceived by reasonable people, was wrong.

Details of the offending

Para 12 [Details of the alleged offences and the client's behaviour or mental state at that time, which might be relevant to a defence of mental impairment].

Please notify me immediately if my client gives a different version of events.

**Background information about the client**

Para 13 [Client's personal information, including previous episodes of mental illness, diagnosis and treatment received, substance addiction, cognitive impairment or other matters which might affect the client's mental state].

**Prior convictions**

Para 14 [details of priors including circumstances of offences and penalties].

Enclosures

Para 15 I enclose the following material to assist you: Delete if not enclosed

* indictment
* depositions
* prosecution opening
* prosecution summary of offences
* recording of police interview
* prior convictions

NOTE: This information may be requested by prosecution

* client’s personal history and background information
* client’s instructions about the offences
* previous psychiatric, psychological and medical reports
* [other enclosed material].

Contact details

Para 16 I look forward to receiving your report. Please contact me on at my office on [lawyers's contact number] or mobile (lawyer’s mobile no. which is often the preferred contact method) if you want to discuss the matter.

Yours faithfully