## Victoria Legal Aid precedent template

## Letter to neuropsychologist requesting new assessment & report for plea

This template had been developed in consultation with relevant expert report writers and is suitable for sentencing 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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Neuropsychological assessment and report for [Client's name]
Date of birth: [date of birth]
If client is in custody Custody location: [prison] – CRN: [CRN no.]

Assessment: [Appointment date] at [appointment time] OR To be arranged

Location: [location - prison location or address]
In personOR By video conference

Report due by: [date report required by]

Hearing: [next hearing date] at [court location] Magistrates'CountySupremeChildren's Court

Hearing type: [hearing type]

Para 1 I act for [client's title and surname] who is applying for bailfacing criminal proceedingspleading guilty to criminal charges[other - free text].

Para 2 Thank you for agreeing to assess my client and prepare a report for court. The report will be tendered at the plea hearing, to assist the sentencing court to understand my client’s mental functioning before, during and/or after the offending. You may be asked to give evidence of matters contained in your report. I will contact you if you are required at court.

Para 3 The report is needed by **[date report required]**. Please email the report to [email address] or fax it to [fax number if relevant] and send the original report to this office.

Para 4 Victoria Legal Aid has agreed to pay $[fee payable] (inclusive of GST) for the assessment and report.

**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 case is in Supreme Court Your report must comply with the enclosed Supreme Court [Practice Note SC CR 7 Sentencing hearings: 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). I particularly draw your attention to the matters set out in paragraphs 5 'Expert's duty to the Court' and 6 'Content of all expert reports'.

If case is in County Court Your report must comply with the enclosed [County Court Practice Note PNCR 1 - 2017 ‘Sentencing Hearings: Expert Reports on Mental Functioning of Offenders’](https://www.countycourt.vic.gov.au/files/documents/2018-08/pncr-1-2017-sentencing-hearings-expert-report-mental-functioning-offenders.pdf). I particularly draw your attention to the matters set out in paragraphs 5 'Expert's duty to the Court' and 6 'Content of all expert reports'.

If case is in Magistrates’ Court Your report should comply with the enclosed Supreme Court [Practice Note SC CR 7 ‘Sentencing hearings: 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). It represents best practice in relation to expert reports. I particularly draw your attention to the matters set out in paragraphs 5 'Expert's duty to the Court' and 6 'Content of all expert reports'.

**Issues to be addressed in the report**

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

* [client's title and surname]’s current cognitive functioning, including assessment of premorbid functioning and performance validity.
* what neuropsychological conditions does [client's title and surname] have, now or at the time of the offending behaviour? Please include the likely cause of any neuropsychological conditions.
* does [client's title and surname] have any mental health conditions (including personality disorders), now or at the time of the offending behaviour? If so, what is the impact of hishertheir mental health condition/s on hishertheir cognitive functioning?
* how have any potential cognitive impairments affected (or is likely to affect) hishertheir daily functioning?
* does [client's title and surname] have an intellectual disability or other neurodevelopmental condition? Please include an assessment of hishertheir level of adaptive functioning and ability to carry out activities of daily living and function independently within the community.
* does [client's title and surname]'s neuropsychological condition make him disinhibited or affect hishertheir ability to understand the wrongfulness of hishertheir actions, to think clearly and make calm reasoned decisions, and appropriate judgments, or to control hishertheir emotions or faculties?
* what is the relationship, if any, between my client’s condition and the offending
* 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
* in relation to treatment currently or previously undertaken:
	+ what is the nature of the treatment
	+ how effective has the treatment been to date and what progress has been made
	+ please specify any recommendations or proposals for future treatment or future investigations.
* in relation to my client’s prospects of rehabilitation:
	+ what is my client’s prognosis with and without treatment
	+ whether there are any aspects of my client’s mental functioning which may impede rehabilitation or whether the condition is amenable to effective treatment
* in relation to risk of recidivism:
	+ whether there are any implications of the condition(s) and prognosis for the risk of future offending and if so how these might best be managed
	+ the risk of recidivism generally (expressed both as category of risk and by way of a comparison with other separate cohorts
* what was [client's title and surname]'s response to the offending and any cognitive factors relevant to remorse?

Enclosures

Para11 I enclose the following material to assist you: Delete if not enclosed.

* charges
* hand-up brief
* prosecution summary of offences
* recording of police interview
* transcript of police interview
* indictment
* prosecution opening
* depositions
* prior convictions
* victim impact statement(s)

Please note the following information may be requested by prosecution

* client’s personal history and background information
* client’s instructions about the offences
* previous psychiatric/psychological reports
* medical reports
* character references

Offence details

Para 12 [Details of the offence]

Para 13 Please notify me immediately if my client gives a different version of events or indicates a different plea.

**Background information**

Para 14 [Background information about client]

**Prior convictions**

Para 15 [details of priors inlcuding circumstances of offences and penalties]

**Contact details**

Para 16 Please contact me on [lawyer's telephone number] or (lawyer’s mobile no. often the preferred contact method), if you wish to discuss the matter.

Yours faithfully