

# Law and Justice Groups: Community Court Approval Guidelines

Community Court Approval Guidelines

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| Acronyms & Key Terms | Full form or Definition                                   |
|----------------------|---|
| ACCO                 | Aboriginal Community Controlled Organisation              |
| AJA                  | Northern Territory Aboriginal Justice Agreement 2021-2027 |
| AGD                  | Department of the Attorney-General and Justice            |
| AJU                  | Aboriginal Justice Unit                                   |
| CC                   | Community Courts  |
| CM&C                 | Department of the Chief Minister and Cabinet              |
| CEO                  | Chief Executive Officer                                   |
| LAP                  | Local Action Plans  |
| LJG                  | Law and Justice Groups                                    |
| NT                   | Northern Territory  |
| NGO                  | Non-Government Organisation                               |
| NTG                  | Northern Territory Government                             |

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# 1. Commitment

The Northern Territory Department of Attorney-General and Justice (AGD) is dedicated to delivering the commitments in the Northern Territory Aboriginal Justice Agreement 2021 – 2027 (AJA) by supporting the establishment of Law and Justice Groups (LJG) and through greater community involvement in justice processes, including Community Courts (CC).

## 2. Overview

These Guidelines outline the process for the approval of LJG members as ‘approved members’ for the purposes of the CC sentencing procedure under the *Sentencing Act 1995* (NT).

The approval of LJG members as approved members will be determined having regard to their character, skills and experience, as well as the views of their community.

The functions of ‘approved members’ are outlined in the Sentencing Act and the *Youth Justice Act 2005* and include:

- providing input into CC sentencing procedure through the development and presentation of Aboriginal Experience Reports (AER);
- providing advice to Judges on local cultural and community matters; and

These Guidelines recognise that LJGs, in consultation with their community, are best placed to identify the appropriate people to represent their community in the CC processes and provide consistent principles for approvals, while also recognising the need for consultation with each community to ensure that applications and community recommendations are properly considered.

These Guidelines operate on the principles of common sense, consistency and natural justice that align with the AJA and Community Court Practice Directions, while also acknowledging that the Court has ultimate discretion and decision making power regarding who may participate in proceedings.

These guidelines apply to all LJGs established for approved places in accordance with the Sentencing Act.

## 3. Objectives

The primary objectives of these Guidelines are as follows:

- **Assisting LJGs:** the Guidelines are designed to provide LJGs with relevant and uncomplicated processes to follow when deciding to nominate their members for CC participation.

- **Credibility and character of applicants:** the Guidelines emphasise the importance of appointing individuals who are considered credible and of good character. This helps to ensure the protection and legitimacy of LJG and maintains the integrity of court procedures.
- **Ensuring LJGs support any applications for approval by their members:** the Guidelines aim to ensure that the application assessment panels obtain all information necessary to inform a recommendation for approval to the CEO, including that applicants have been nominated by their LJG to become approved members.
- **Enhancing traditional authority structures and conflict resolution:** the Guidelines recognise the important role of local community Elders and leaders as active participants in justice processes and commit to LJGs determining their own nomination processes.

## 4. Approval process

This process is presented diagrammatically at Appendix 2.

### 4.1. Application

#### Step 1.

A LJG may nominate one of its members to be approved to perform the functions of an 'approved member'. The nomination process will be determined by the LJG, in consultation with the relevant community.

#### Step 2.

Individual LJG members, with assistance as required, will:

- (a) complete the application form at Appendix 3 or available at (<https://justice.nt.gov.au/attorney-general-and-justice/northern-territory-aboriginal-justice-agreement>); and
- (b) submit the completed form along with a recent (within 6 months) National Police Check (available through [https://www.nationalcrimecheck.com.au/police\\_check\\_northern\\_territory\\_nt](https://www.nationalcrimecheck.com.au/police_check_northern_territory_nt)) and any other relevant information the applicant or the LJG wish to provide in support to:
  - i. the relevant Regional Director for the Department of Chief Minister and Cabinet (CM&C) in their area;
  - ii. a member of the Aboriginal Justice Unit (AJU); or
  - iii. to the AJU at [AGD.AJU@nt.gov.au](mailto:AGD.AJU@nt.gov.au).

### Step 3.

Once a completed application is received by the AJU, the Director of the AJU must, within three weeks, convene an assessment panel (the Panel) comprising:

- a community representative if requested by LJG members (for example an independent representative from a local justice agency or community organisation);
- a representative from the North Australian Aboriginal Justice Agency (NAAJA);
- the Director or Deputy Director of the AJU (Chair);
- the Regional Executive Director of CM&C for that area; and
- the Principal Registrar of the Local Court.

The Chair will endeavour to ensure at least one Panel member is Aboriginal.

### Step 4.

The Panel will review all information provided in the application and ensure it is supported by the LJG.

The application form encourages applicants to provide sufficient detail about their connection to community and the LJG and their responsibilities and standing in community to show they are credible and of good character with relevant knowledge and skills to be an 'approved member'. However, the panel may request more information from an applicant if required.

Where a national police check reveals a criminal history, the Panel will consider the following matters in determining whether to recommend the applicant for approval as an approved member:

- nature of and seriousness of any offences;
- levels of recidivism;
- period of time that has lapsed since the offence took place;
- age at which the offence was committed ;
- type and severity of any penalties/punishment imposed and whether the individual successfully completed the court order;
- mitigating or extenuating circumstances in relation to the offence committed (if provided);
- general character since offences were committed;
- degree of rehabilitation (may obtain further information with consent of the applicant); and
- any other factors that may impact the integrity of the community court sentencing process e.g., level of risk involved.

A criminal history will not automatically prevent an applicant from becoming an approved member.

#### **Step 5.**

The Panel may, by majority, determine whether or not to recommend an applicant for approval as an approved member. The Panel Chair will provide the Panel's recommendation to the CEO of the Department of Attorney General and Justice (CEO AGD) to decide whether to approve or not approve the applicant as an approved member.

The CEO AGD holds final authority on the application and can choose to agree or disagree with the Panel's recommendation.

Where the CEO AGD decides to approve an applicant as an approved member, the AJU will arrange for the approval to be published in the Northern Territory Government Gazette, following which the applicant will be notified in writing of their approval.

If an applicant is not approved, they will be notified by letter from the CEO AGD outlining the reasons for this decision.

## **5. Distribution**

These Guidelines will be available on the AGD Departmental internet site, and a copy sent to all potential and appointed members of Law and Justice Groups.

Approved by Gemma Lake  
Chief Executive Officer  
Department of the Attorney-General and Justice

July 2024

# Appendix 1 – Legislation Supporting Law and Justice Group Members

## ***Sentencing Act 1995***

### **Community Court Sentencing Procedure**

The *Sentencing Act 1995* provides for the making of sentencing and other orders (Part 6 of the Sentencing Act). The community court sentencing procedure is established under the Sentencing Act.

### **Establishment of Law and Justice Groups and places for community court sentencing**

A Law and Justice Group may be approved to be established for a place by the Minister (section 107C(1) of the Sentencing Act).

A Law and Justice Group for a place is a community group established by the community (section 107C(2)).

### **Appointing members of Law and Justice Groups for community court sentencing**

The CEO may approve a member of the Law and Justice Group for a place.

An approved member performs functions an approved member of the Group:

- for adults - under Part 6, Division 3A of the *Sentencing Act 1995*; and
- for youths - under Part 5, Division 4 of the *Youth Justice Act 2005*.

The approval of a member must be published in the *Gazette* (section 107C(3)).

Section 107C(4) says the CEO must be satisfied when approving a member that the member is an appropriate person to perform the functions of an approved member. This means considering the member's character, skills and experience.

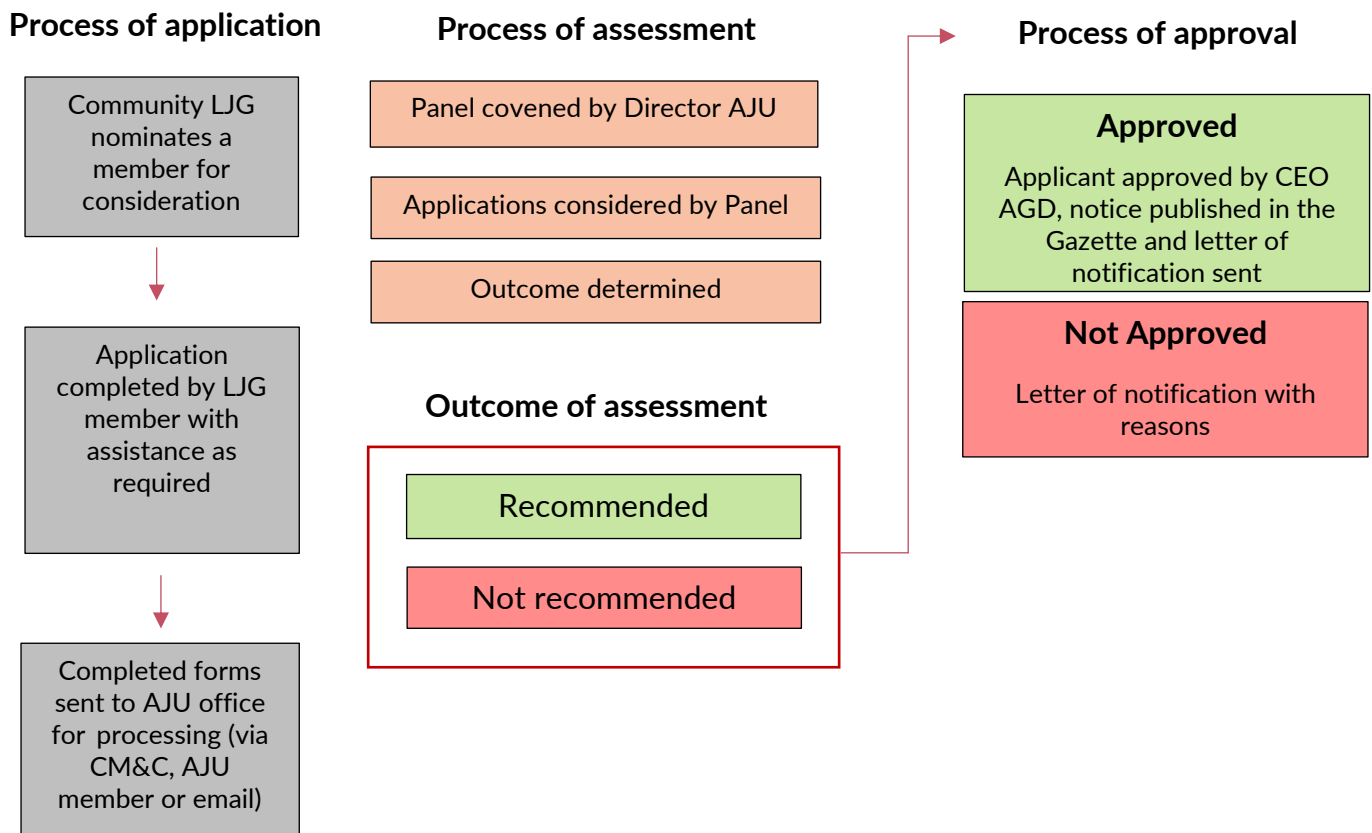
Section 107C(5) says the CEO may approve guidelines about approving members of a Law and Justice Group under subsections 107C(3) and (4). This document is the guidelines.

Section 107C(6) says that the guidelines may include criteria that are to be considered in making a decision under subsections 107C(3) and (4).

Guidelines must be published on the website (section 107C(7)).



## Appendix 2 – Flow Chart of Application, Assessment and Approval Process



## Appendix 3 – Application Form

| 1. Applicant Details  |   |
|---|---|
| Full name   |   |
| Phone number  |   |
| Email address   |   |
| Postal address  |   |
| Occupation  |   |
| Approved Place (community)  |   |
| <b>Criminal History Check</b><br>Have you completed a National Criminal History Check within the last 6 months? | <b>Yes / No</b><br>If Yes, please attach. <sup>1</sup>                      |
| <b>Ochre Card</b><br>Do you have a valid Working with Children Card (Ochre Card)?                               | <b>Yes / No</b><br>If Yes, please attach. <sup>2</sup>                      |
| <b>Good Character</b><br>Can you provide examples of your standing in your community?                           | <b>Yes / No</b><br>If yes, please attach.                                   |
| 2. LJGs funded under the NT Government's Law and Justice Group Grants Program                                   |   |
| a) Name of LJG  |   |
| b) What is your role in the LJG?  |   |
| 3. LJG not funded by the NT Government  |   |
| c) Name of LJG  |   |
| d) Is your LJG an incorporated legal entity?  | <b>Yes / No</b><br>If yes, please provide the details of your organisation. |

<sup>1</sup> If not, please apply here and provide copy once received: [https://www.nationalcrimecheck.com.au/police\\_check\\_northern\\_territory\\_nt](https://www.nationalcrimecheck.com.au/police_check_northern_territory_nt). Please contact the Aboriginal Justice Unit if assistance with payment is required.

<sup>2</sup> If not, please apply here and provide copy once received: <https://nt.gov.au/emergency/community-safety/apply-for-a-working-with-children-clearance>. Please contact the Aboriginal Justice Unit if assistance with payment is required.

|   |   |              |          |
|---|---|--------------|----------|
| e) Is your LJG an unincorporated group supported or auspiced by a non-government organisation?  | Yes / No<br>If yes, please provide the details of the organisation. |              |          |
| I declare that all information in this form is complete and correct.  |   |              | Yes / No |
| I declare I have read this application and the Law and Justice Groups: Community Court Approval Guidelines and understand that incomplete applications may not be considered.   |   |              | Yes / No |
| I declare that I respect the Court, victims, witnesses and informants and acknowledge and agree those people should not face any repercussions for participating in the community court sentencing procedure under the <i>Sentencing Act 1995</i> . |   |              | Yes / No |
| I declare that in my role as a LJG member I am willing to work with government, including police, courts, Territory Families and corrections.   |   |              | Yes / No |
| If third party details have been provided, the third party is aware and consents to their details being provided.   |   |              | Yes / No |
| I consent to my name and contact details being published by the NT Government online.   |   |              | Yes / No |
| Name:   |   |              |          |
| Signature:  |   |              |          |
| Date:   |   |              |          |
| <b>Office use only*</b>   |   |              |          |
| Name*   |   |              |          |
| Organisation*   |   | Email/phone* |          |

For further information, please contact the AJU on (08) 8999 7724 or your relevant DCMC regional office:

**Darwin, Palmerston and Litchfield:**  
(08) 89 995159  
**Top End:** (08) 89515781  
**East Arnhem:** (08) 89870536

**Big Rivers:** (08) 89624434  
**Barkly:** (08) 89624434  
**Central Australia:** (08) 89515781

Email completed forms to the AJU and DCMC: [agd.aju@nt.gov.au](mailto:agd.aju@nt.gov.au)