

Meet the Duty Barristers

Since 1996, the Duty Barrister Scheme has provided pro bono assistance to unrepresented defendants in the Downing Centre. More recently, the Scheme has expanded to assist unrepresented parties in civil matters at John Maddison Tower. More than 4000 people are assisted through the Scheme each year, making an enormous contribution towards the administration of justice in the Local Court. The Scheme is reliant on volunteer barristers participating in a rotating roster, with most attending on a monthly or quarterly basis. We invited some of our current Duty Barristers to share their experiences.

How long have you been volunteering for the Duty Barrister Scheme?

I signed up as soon as I completed the Bar Practice Course in September 2020. I have been attending the Downing Centre once a month ever since.

What made you want to volunteer for the Scheme?

It is very stressful for people to show up to court without lawyers: many people don't know they need a lawyer or more likely they can't afford one. Duty barristers provide a helpful service to both the Court and the community. I am pleased to give up a bit of my time to come and provide assistance to people who need it.

What sort of legal issues have you been dealing with at the Downing Centre?

You get things coming at you from all directions. One matter I dealt with today was a woman who came in with a parking ticket. She had a disability involving a chronic illness and was a public school teacher. The parking ticket was very stressful for her. She came into the office crying and had a big pile of letters that she had written to and from Revenue NSW in an attempt to resolve the issue. For her it was more about her disability than the fine itself, she felt like she was always getting the fuzzy end of the lollipop. It was quite rewarding to reassure her and offer to present the case on her behalf. Sure enough, the magistrate very happily gave her a Section 10. It was a good outcome, the client was so happy and the whole appearance only took five minutes of my time.

What sort of a response have you had from the magistrates that sit in the Downing Centre?

They are so happy that we are here – every time I have appeared they acknowledge us and thank us for our time. I also think it is a good way to get to know the magistrates and to establish a presence in the courts, especially if a lot of your other work is based in Chambers.



EVA BUZO

BLACK CHAMBERS

Would you recommend the Scheme to other new readers and juniors?

Yes, absolutely! Participating in the Duty Barrister Scheme is a great way to get out of your comfort zone: anything can come through the door while you are on duty so it is a great way to sharpen your skills and deal with matters that you wouldn't ordinarily get in Chambers.

It is also the best way to get in your advocacy practice which you might not be getting if you're doing a lot of devilling. Whether you're dealing with parking tickets, pleas or mentions it is good to jazz things up!

How long have you been volunteering for the Duty Barrister Scheme?

I came to the bar in August 2020 and signed up to volunteer straight away.

What was it that made you want to volunteer for the Scheme?

Prior to coming to the Bar, I was a prosecutor. I spent three years with NSW Police and a couple of years as a regulatory prosecutor within a private firm.

During my time at the Downing Centre as a police prosecutor, I had come into contact with lots of unrepresented litigants. I always thought that they would be better off with representation, that the courts would be better served, and that the matters would run a lot more smoothly. When I heard about the Scheme, I jumped at the opportunity to return to Downing Centre, this time to assist defendants who cannot afford a lawyer to convey their arguments.

Could you give us an example of a defended matter you have assisted with?

I had a gentleman come in who had been charged with intentional choking, which carries a ten year maximum penalty of imprisonment in the District Court. He came into the office saying the hearing was starting right away and that he didn't have anyone to represent him. I tried to persuade him to seek an adjournment but he said that an adjournment wouldn't help, because his application for Legal Aid was knocked back and he wouldn't be able to afford a private lawyer later on either.

We went ahead with the contested matter – the police called five witnesses. All of the cross examination and debate over the evidence was done on the fly. It was a full day of fun..... and stress.

What about the more run of the mill cases?

The most frequent are traffic matters. I know that these sound minor on the calendar of criminal offences, but they are often people's first interaction with the legal system. It can be a good opportunity to dispel stigmas around lawyers and the criminal justice system, while making justice more accessible, particularly to unrepresented litigants.

In addition to helping with the offence they have been charged with, I routinely tell them about the Traffic Offenders Program which demonstrates to the court that an offender has taken steps to re-educate and rehabilitate. I always assess prospects of a Section 10 dismissal, and run those on the spot. I am glad to say that I have had a pretty good success rate. It is always fun doing a sentence on the spot and getting a positive outcome.



MAHMUD HAWILA

BLACK CHAMBERS

How do the magistrates and court staff respond to your involvement?

They appear to have an enormous amount of respect for the Duty Barristers – they particularly appreciate that we are giving up our time pro bono and also that we are taking on matters with little to no preparation. No-one else does this! Practically, we get a bit of leeway (for example to take instructions as the hearing progresses – which is definitely needed when running matters on short notice). Even the prosecutors, some of whom I know already, respond really well.

Would you recommend the Scheme to other Barristers?

Yes. Irrespective of how much experience you have as an advocate or practitioner, it is so important to get involved! It may not be because you need the advocacy experience or that exposure to the courts – it is providing a service that's very much needed in the courts and for the public. In the big picture, you are helping to make justice, the courts and the law more accessible.



FIONA SINCLAIR
 QUEEN SQUARE CHAMBERS

How long have you been volunteering for the Duty Barrister Scheme?

I have been with the Scheme since 2003, so it has now been more than 17 years at the Downing Centre for me.

That is remarkable. What is it that keeps you coming back?

It warms my heart to feel like I'm helping even in a small way, there are a lot of distressed people in the Local Court; sometimes you come away a little bit angry with the way the Court has dealt with a client but most of the time you come away feeling really warm and fuzzy. People are very grateful that somebody can appear for them in what is, to them an unknown and forbidding tribunal; they don't understand the rules, they don't understand how things work. It's a great service to the community, I think every barrister should be doing a few days a year as a Duty Barrister.

Could you tell us about some of the matters you have come across in the Duty Office?

I have appeared for a range of interesting characters! There was one gentleman who had unfortunately defrauded Centrelink, he was working in about five jobs while claiming benefits. I had appeared as a Duty Barrister and then he asked me if I'd appear at the sentence hearing. I remember speaking to him and saying, 'look do you realise you need to pack your toothbrush?'

He was an immigrant and I remember he turned up to Court with a backpack with all of his prized possessions. He had nearly \$2000 worth of tools and special medications with him which of course they wouldn't allow him to take in to prison. He was very, very sad, that was a difficult day.

There are a lot of people who are simply on the wrong side of the law with fairly standard matters – traffic offences and shoplifting for example. People might think of it as a simple thing but they appear in court and don't know how to plead or what to do. There are quite few assault charges which are very serious and a lot of Apprehended Violence Orders (AVOs). These can be very sad because sometimes you're not sure about the full facts and at times the charges alleged by the other side don't seem authentic. Of course some can be very serious – you really have to treat each one as a serious case.

Have you ever had to jump into a defended hearing while on duty?

There are plenty of cases where a defendant has already had multiple adjournments and the magistrate or judge in the District Court will say that the matter must be heard that day.

If you happen to be the Duty Barrister that day you might need to just jump in and run with it.

It really is the best experience that you can have – you have to think on your feet, you have to try and think ahead and just run the hearing with a moment to prepare. I have done a few on the spot defended police matters, several assault hearings and provided representation to children in AVO and domestic violence proceedings. I find it rewarding if I can provide representation for a client who would otherwise be completely lost if required to run the hearing for him or herself.

What sort of reception do the Duty Barristers get from the magistrates and court staff?

It is our duty as a barrister to assist the court and to promote the interests of justice. This duty is particularly poignant when acting as duty barrister as judicial officers work hard and appreciate the assistance of the duty barrister who almost always receives instructions on the run and is not fully prepared. Magistrates and court staff are appreciative and have no expectation that the duty barrister is an expert or entirely across the case before the Court.

I think every young barrister should spend some time volunteering with the Duty Barrister Scheme which is good training and experience but also personally rewarding and stimulating.

How long have you been volunteering for the Duty Barrister Scheme?

I began volunteering for the Duty Barrister Scheme in 2019, and I usually take a rostered shift there once a fortnight, primarily on AVO List days.

I plan to continue for many years to come, and there are many reasons for that commitment. Firstly, and most of all, I feel an obligation that the privilege that comes from serving at the Bar is something that should be accessible to all, including those with only limited funds. Secondly, I relish being on my feet in order to assist those that find themselves suddenly in desperate need of advocacy. Additionally, there has never been a day where I haven't learnt something, and there is always so much to do – I remember one day where I think I assisted with 16 matters before lunch.

You volunteer to mentor new Duty Barristers – what is the benefit of this?

A busy list day at the Downing Centre has the potential to be pretty wild and chaotic if you're not used to it. I remember seeing another barrister on her first day at the Duty Desk completely beleaguered – she was unaware of the need to triage matters and the urgency of thoroughly, but rapidly, gaining a forensic view of the facts sheet. I think it was tough on her, and she never came back. It's invaluable to have people come along with someone who has become accustomed to the ebb and flow at the start. It takes the pressure away so they can learn how to deal with the pace and the workflow of the Desk. I am always happy to help anyone who would like to participate.

How do the magistrates and court staff respond?

It's a great environment, the courtrooms on Level 4 and 5 are fantastic places to work with skilled magistrates and tremendous court officers. There are quite a few magistrates who, after we announce, send people to us for assistance. Last week, there were three or four that came to the desk at a magistrate's request. The more you are there, the more efficiently you work through matters, and there's a tangible effect on the resolution and/or progress of matters. The magistrates of the Court, the court officers and the police that attend, are skilled professionals. I can only compliment all participants in the court process on list days for transforming the 'chaos' into the process of justice.

Has it sharpened your skills as an advocate?

Absolutely, and by a significant quantum. The reason I got involved in the Scheme was as a result of a nexus of two unrelated events, both of which occurred during my Bar Practice Course. Firstly, I was fortunate to have David Jordan, a tremendous criminal barrister, as one of my advocacy coaches in the Bar Practice Course. I admired his advocacy and outlook as counsel, and I remembered thinking at the time that I wanted to do whatever it took to get to be that good an advocate. Then, Deputy Chief Magistrate Allen also spoke at the course. He said not to assume that it was only the superior courts that required our services, and with our skillset and knowledge, barristers are also very much valued in the Local Court. These two factors had a profound impact on me, and it is what I came to the Bar for: to do good work and to help people. When I heard about the Duty Barrister and LARS scheme it all seemed to fall into place. The



KEITH FRANCIS

EDMUND BARTON CHAMBERS

Duty Barrister Scheme presents a unique experience for junior counsel. I was able to achieve the satisfaction of having delivered advocacy to those who desperately needed it, was able to hone my skills by being on my feet (which is particularly important in your first couple of years at the Bar), and it's a continual learning and improvement process.

And what about some of the people you have helped?

AVO day can be highly emotional. I have had to request that the desk be stocked with tissue boxes on more than one occasion. So often, people are adrift in a sea of emotion and the experience can be a stark reality check; the tears a sad by-product of some poor life choices. You can come across people who have done something really stupid, without thought for the effect and consequence of their actions. They find themselves in a court room all of a sudden, faced with some pretty difficult decisions. We are able to take away the confusion of the court process and provide sensible advice at this critical yet difficult time in their lives. **BN**

The Bar Association is accepting expressions of interest from members who would like to participate in the Scheme.

Applications may be submitted online at <https://nswbar.asn.au/forms/legal-assistance-referral-scheme-and-duty-barrister-scheme>. Enquiries may be directed to legalassist@nswbar.asn.au