

8th edition December 2009

Welcome to the December edition of the SGP newsletter. There are exciting times ahead for VLA and its panel practitioners. You will have received a brochure from VLA about ATLAS, our new web-based system for lodging and tracking applications, extensions and invoices. We are planning to introduce the system in 2010. We expect to see quicker turnaround times both for grants and extensions of assistance, and payments of accounts, especially for the members of the SGP.

I have been asked whether compliance officers are paid a commission or have to achieve performance targets for recovery of money. Please be assured that neither is the case. We work in partnership with you, the panel practitioners, with an emphasis on training and prevention. Whilst we do have an obligation to protect and preserve the VLA fund, commissions and monetary performance targets would not be in the spirit of VLA and specifically the SGP.

The compliance team wishes you, your staff and your families a merry Christmas and all the best for the new year.

**Gerda White**

VLA compliance coordinator

## Key contacts

### Assessments – Simplified Grants Process (SGP)

Tel: 03 9606 5353 Fax: 03 9269 0348

Email: [fab-assess-mailbox@vla.vic.gov.au](mailto:fab-assess-mailbox@vla.vic.gov.au)

### Compliance & Investigations

Tel: 03 9606 5355 Fax: 03 9269 0115

Email: [compliance@vla.vic.gov.au](mailto:compliance@vla.vic.gov.au)

### Legal & Policy – Full Assessment

Tel: 03 9606 5351 Fax: 03 9269 0250

Email: [fablpu@vla.vic.gov.au](mailto:fablpu@vla.vic.gov.au)

### Client Contributions

Tel: 03 9606 5356 Fax: 03 9269 0266

## ► Family law

### Paternity test worksheet

We find that practitioners frequently struggle with assessments of assistance for parentage testing. We have prepared a [worksheet to assist you with the assessment](#). Please ensure you complete the form and keep it on your file.

## ► Criminal law

### Summary Case conferences

Paul Jansen, senior lawyer at VLA, is currently working with the Brief Integration Project on the implementation of the new summary crime procedure in 2010. (You may have read his article in the December edition of the Law Institute Journal about the new act.)

Some of you will now be familiar with summary case conferencing. This will be further rolled out to more metropolitan courts as well as Geelong by January.

It is anticipated that Notice to Appear cases will commence at Heidelberg and Ballarat in January and after that at other metropolitan courts over the following months.

The introduction of Notice to Appear cases and the serving of Preliminary Briefs in non Notice to Appear cases will have a significant impact on your practice.

Paul Jansen is available to speak with you and your staff about the new procedures and answer any questions you may have. Please contact him if you would like him to come to your office to discuss these important changes. You can contact Paul directly at: [paulj@vla.vic.gov.au](mailto:paulj@vla.vic.gov.au)

You can also [provide feedback about the new summary crime procedure](#) via the VLA website.

## Forensic sample application

Applications for forensic samples per Section 464Z of the Crimes Act do not fall within VLA's guidelines. Whilst VLA will not usually provide funding, there may be special circumstances justifying a grant of assistance. Any application must be submitted via the traditional grants process for full assessment by VLA's Legal & Policy Unit (LPU). The applications are not subject to practitioner recommendation.

If a grant of assistance is made, a fee of \$301 will be allowed to cover both preparation and appearance.

## Breach offences

When acting for a client in a summary criminal matter, practitioners cannot include a breach of a court order (for example, breach of suspended sentence) in the guideline assessment unless the breach charge has been filed and is before the court. VLA does not fund prospective charges. If the charge is laid at court, counsel can claim a consolidated appearance fee (if the guidelines are met). The preparation component remains payable at the standard rate unless the assigned practitioner appears as advocate.

### ► Family Violence / Stalking intervention matters

## Applications filed by a member of the police

Where an application has been filed by a member of the police, VLA expects that the conduct of the case will remain with the police, including attendance at the contested hearing. VLA does not normally provide funding for these cases.

### ► Cost issues

## Family law matters – Itemisation of accounts

You will note that itemisation is required for all accounts per stage 3(d) and where a stage has not been substantially completed. Itemisation should be based on 80 per cent of the Family Court scale as applicable on 1 July 2006.

## Video links

Occasionally we receive requests to fund the cost of a video link. VLA will only provide assistance if:

- the costs are reasonable, and
- VLA would have covered the cost of travel saved by the video link.

For example: an expert witness from interstate will give evidence via video link. The costs will be covered as they save travel expenses otherwise incurred.

Where VLA does not reimburse the cost of travel the cost of video conferencing will not be funded.

For example: cost of a video link to save a solicitor having to travel to gaol to speak to the client in an indictable matter. The solicitor must meet that cost out of the professional costs allowed (usually from a lump sum). VLA likewise would not pay for a video link saving an applicant the costs of travelling to court.

### ► Means

## Self-employed applicants

Assessment of income and proof of means for self-employed applicants can be onerous and difficult. In those cases, VLA will make the assessment. Please send all documentary proof of means to VLA for assessment and determination. We will contact you if we need further documents or advice.

### ► General

## VLA caveats

Practitioners will encounter situations where a property settlement is agreed between the parties, which will require withdrawal of VLA's caveat. You must ensure that the settlement is not made without regard to VLA's right to costs secured by the caveat.

(For example, an agreement that the party receiving legal assistance will transfer all of her/his interest to the other party without any compensation.)

## Queries

When you have a query about a matter within the SGP, please consider who you need to speak to:

- for all processing questions please call the assessment team on 03 9606 5353 or email FAB-Assess-Mailbox@vla.vic.gov.au
- for all questions about documentary requirements, guideline and merits assessment, fees etc please call the compliance team on 03 9606 5355 or email Compliance@vla.vic.gov.au

This will avoid the chance of miscommunications. For example you may ask an assessment officer whether it is okay to brief counsel and incur travel costs. You may be told 'yes' but purely on the basis that yes, there is a provision for travel costs. More than likely however, the answer did not include an assessment whether the criteria for it are met, which is what you are really asking. Such question must be put to a compliance officer.

## Retrospective grants of assistance

VLA does not provide grants of assistance where the request is made after the event. As a rule you must ensure that a request for assistance is made before incurring costs. Whilst there is a limited discretion to allow such requests, this applies in exceptional circumstances and must not be taken for granted.

If you need to apply for a retrospective grant, please:

- advise why the request is made after the event (the reason provided must explain the lateness of the request)
- provide some information as to guidelines / merits as assistance will only be considered if it had been granted were it not for the late request.

For a case outside the urgent grant provisions assistance will not be granted retrospectively where first contact with VLA is made after the event.

The urgent grant provisions allow you to submit an application up to 14 days after the hearing. Once the 14 days are exceeded, a retrospective grant is required.

## Payment of fees to Counsel

It is a requirement of the SGP panel membership that counsel's fees are paid within a reasonable time of receiving payment from VLA (Parts 2A.2(i) and (p) of the S29A Practitioner Manual). Not paying counsel or causing payment to be unreasonably delayed may be a reason for removal from VLA's panel (see chapter 5, section 5.3.3(12) of the VLA handbook). For members of the SGP it can be grounds for a Notice to Suspend (Part 7.2.1 of the S39A Practitioner Manual) and Notice to Remove (part 7.3.1(e)(iv)).

Please ensure that all counsel fees are paid to counsel without delay once payment has been received from VLA. Compliance officers may ask you for proof of payment of counsel fees when conducting a compliance check.

## Accounting to VLA

It is a requirement of the SGP panel membership that final accounts (and reports) are submitted within 30 days of completion of the matter (Parts 2A.2(i) and (p) and 4.2(h) of the S29A Practitioner Manual).

Apart from the obvious benefit to you of early payment of fees, it is especially important for VLA in preparation for change over to the ATLAS system in February 2010 that all finalised cases can be closed and need not be carried over as active cases. Please put in place measures to account to VLA for costs as early as possible.

### ► Have your say in the VLA website survey

Victoria Legal Aid invites you to participate in a survey about the [Victoria Legal Aid website](#). The survey is an opportunity to provide feedback on:

- whether VLA's website meets your needs
- how we can improve the website to better support you.

Whether you are a frequent, occasional or non-user of the website, your input will help us improve our service.

The survey is only six questions long and should take less than five minutes to complete. All responses are completely anonymous.

Thank you for your support.