

6th edition June 2009

Welcome, and thank you for your comments and queries in response to VLA's February newsletter.

Your feedback was valuable and while some issues require further consultation, most have been resolved, either directly with you or via this newsletter. We see the simplified grants process (SGP) as a work in progress. We know that you as practitioners are best positioned to identify what works in practice and what doesn't. We encourage you to provide regular feedback so that our shared goal of providing legal assistance to the community can be achieved efficiently and effectively. Use this as a forum to share problems with your fellow practitioners and offer solutions.

I invite you to contact me on 9606 5255 or [gerdaw@vla.vic.gov.au](mailto:gerdaw@vla.vic.gov.au)

And remember, you can always contact a member of the compliance team if you have any questions about policies, guidelines, merits, costs or general SGP issues (phone 9606 5355, fax 9269 0115 or email [compliance@vla.vic.gov.au](mailto:compliance@vla.vic.gov.au))

Thank you  
Gerda White  
Compliance coordinator

### ► Family law

#### Parenting orders where the applicant is in custody

All family law matters must satisfy the Commonwealth family law guidelines and merits test at the beginning of a matter and throughout the duration of a matter. See *VLA handbook, Part 1, Appendix 2D*.

Where the applicant is in custody, a practitioner should take into account all the relevant facts in each case including, but not limited to:

- Details of the offences for which the applicant is in custody (nature of offences: violence? sexual offences?)
- Length of sentence and anticipated release date
- Was the offence committed against the child/ren or the child/ren's mother?
- Relationship between the applicant and the child/ren prior to incarceration.

The practitioner must form the view that the applicant had a meaningful relationship with the child or children prior to incarceration, and that contact would assist in maintaining that meaningful relationship. It is unlikely that a court would find that cards and telephone contact would create a meaningful relationship.

If a location order is required in such a case, the long term merit of the substantive application must be assessed by the practitioner, based on the above considerations.

While the court may make a location order, VLA will only provide funding if the substantive children's matter satisfies the Commonwealth merits test.

#### Calculation of funding cap in family law matters

VLA takes into account costs paid on previous grants of assistance in the same family law matter when determining if a request for further funding will exceed the Commonwealth funding cap. This includes costs spent on previous files (file references 00H and after). See *Notes on VLA guidelines, chapter 6*.

VLA does not include in its calculations:

- GST amounts
- Costs of interpreters
- Circuit, overnight and distance fees
- Costs spent on enforcement, recovery and location/information order applications.

Contributions paid to VLA and costs recovered by VLA are taken into account and will effectively increase the amount available.

## ► Cost issues

### Costs to prepare for trial in the Federal Magistrates Court (FMC) – stage 3(d)

Grants to prepare for trial in the FMC are not provided on a lump sum fee basis but are a stage of matter limit. This means that you need to provide sufficient itemisation to justify the charge when submitting your account to avoid delays in payment.

### Preparation for trial – Family Court

Assistance is provided per stages 3(a) and 3(c). Grants include the appearances in court, with appearances limited to the number of days sought on the basis of procedural orders.

### Fees for sentence indications

**Magistrates court:** Standard appearance fee payable per Table A1 / A1(i) (\$301 or \$360).

**County court:** Assistance for sentence indications is included in the realm of a grant to prepare (Table D2). With this grant in place, you are entitled to bill costs at \$676 (= D3 plea fee) for the appearance together with 1 hour conference (\$144).

**Supreme court:** Assistance for sentence indications is included in the realm of a grant to prepare (Table H). Once such grant is in place, you are entitled to bill costs at \$958 (= Table J plea fee) for the appearance together with 1 hour conference (\$205).

### Acting for co-accused

VLA has revisited its policy on fees payable where you are acting for more than one accused.

See *Notes on VLA guidelines*, chapter 5.

## ► e-Lodge

### Document requirements

Some inconsistencies have been picked up in compliance checks which may indicate uncertainty among practitioners around the retention of documents in e-lodge matters.

Please refer to the practitioner manual Part 2B.2(a) where it states that practitioners must retain all documents as set out in the S29A practitioner manual. This means that a copy of the signed application form and, in some cases, checklists must be on file.

The following applies in e-lodge matters.

**Application form:** There must be objective evidence that the client knew what was in the form when he or she signed it. This can be done by one of two options:

- 1) A practitioner has their client complete and sign a traditional application form which is then retained on file. All information is transferred onto the e-lodge form.
- 2) A practitioner completes the e-lodge application form as per their client's instructions. This must then be printed, signed by the client, and retained on file.

**Checklists:** E-versions meet record keeping requirements if they are accessible to a compliance officer at the compliance check.

If a person other than the lawyer keys the data into e-lodge, there must be paper evidence that the lawyer has authorised this and has actually made the recommendation (guidelines/merits) and certification (proof of means). Paper evidence can be, for example, a signed hardcopy of the e-lodge checklist or a file note addressing guidelines/merits and proof of means certification.

## ► General

### VLA application form and SGP checklists

VLA application forms can be [ordered online](#) or, click through from 'publications' on the VLA homepage to 'online order form' and 'grants of legal assistance.'

Please remember to use the **most recent version of checklists**, as old checklists may not conform with amended fee stages or other SGP requirements. Where an out of date checklist is used, you may be advised that the application cannot be processed until the correct document is received.

Practitioners can avoid delays by keeping up to date with SGP documentation.

### VLA reference number

Please ensure that all correspondence includes our VLA reference number. While VLA can conduct searches based on client names, confusion and delay arises where clients share common names, aliases, or have different versions of first names etc.

### Certification of guidelines and merits

A recommendation is considered made once a practitioner has completed and signed a checklist, certifying that the application/extension meets the merit assessment and guideline requirements. As such, any accompanying letter questioning an assessment **cannot be considered**. The request will be processed without further assessment.

See [Notes on VLA guidelines, chapter 1](#).

If you are not sure if a matter qualifies for a grant of legal assistance, please refer first to the notes. If you are still uncertain, please contact a compliance officer on 9606 5355 for a ruling.

### Compliance rulings

We encourage you to obtain a ruling from a compliance officer in situations where you may not be confident that a case satisfies VLA's guidelines/merits test.

Tel: 9606 5355 or email [compliance@vla.vic.gov.au](mailto:compliance@vla.vic.gov.au)

Please note that requests for rulings received by post, with or without application forms or checklists attached, can sometimes be overlooked or delayed.

### Files required for compliance checks

You may have noticed an increase in requests for your files to be sent to our office for compliance checks.

To avoid delays and ensure the prompt return of your files, please ensure that they arrive on the appointed date (or earlier). If received after the appointed date, files may be deferred until other files received on time are checked.

### Email addresses

Please help us to keep our records up to date.

The compliance team communicates electronically with SGP panel members, so it is important that we are notified of any change in email address.

Please email changes to [compliance@vla.vic.gov.au](mailto:compliance@vla.vic.gov.au)

The email address nominated for SGP purposes can be different from your general office email address.

### New on the VLA website

- Stalking Intervention Orders Checklist
- Family Violence Protection Act Checklist

### Updated on the VLA website

- *Notes on VLA guidelines*
- *VLA handbook* (proof of means waiver provisions, Chapter 3)
- Checklists for the Simplified Grants Process

## Key contacts

### Assessments – simplified grants process (SGP)

Tel: 9606 5353 Fax: 9269 0348

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

### Compliance & Investigations

Tel: 9606 5355 Fax: 9269 0115

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

### Legal & Policy – full assessment

Tel: 9606 5351 Fax: 9269 0250

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

### Client contributions

Tel: 9606 5356 Fax: 9269 0266