

Introduction

Welcome to the third edition of VLA's E News.

E News has been designed as a communication medium to assist simplified grants panel practitioners to keep up to date with changes in guidelines, policies and procedures.

Practitioners are asked to regularly check the VLA website www.legalaid.vic.gov.au to make sure that they have a current copy of the **Notes on Guidelines**. Managing practitioners are also welcome to contact their firm's assigned Compliance Officer, to discuss specific training needs for their staff, or to get clarification about guidelines or if a ruling is sought in relation to funding a matter.

Transfer procedure

VLA has developed a transfer of aid protocol to help practitioners and VLA when a conflict or compelling reasons exist.

Where a practitioner seeks a transfer of assistance, VLA requires firstly that the following steps be taken:

1. The practitioner, after discussing the matter with the client and the previous practitioner, is satisfied that the complaint cannot be easily rectified/addressed by the previous practitioner.
2. Should the matter not be resolved, must provide the previous practitioner with a signed transfer authority.
3. Provide VLA with a signed transfer authority, with a written request for transfer, which includes:
 - (a) advice obtained regarding the progress in the matter
 - (b) whether the transfer of assistance is supported by the previous practitioner, or
 - (c) whether the previous practitioner is still willing to act in the matter.

Note: VLA will contact the previous firm to confirm the information provided.

4. Provide a written submission that specifically addresses the criteria as outlined in section 5.7.1 and/or 5.7.2 of the VLA Handbook.
5. Provide a completed checklist recommending assistance and certifying as to merits and proof of means.

Note: Where a practitioner takes over a matter after transfer, a copy of the client's application for assistance and proof of means (POM) **must** be retained on file.

Retaining documentary Proof of Means on file

Practitioners need to ensure that they retain copies of documentary proof of means (POM) on their client file. This policy extends to all matters, including transfers and direct applications referred to the practitioner by VLA. Practitioners cannot transfer the onus of checking POM to VLA by forwarding the material to VLA. The only exception to this is self-employed clients.

Source documentation for POM

Where an applicant and/or their Financially Associated Person (FAP) are employed, VLA requires:

- latest pay slip or letter from the employer showing earnings
- bank statements for three months indicating average income.

Note: ATM slips are not acceptable forms of documentary proof of means. Internet banking print outs are acceptable as long as the client can be identified as the account holder.

Checklists & Simplified Grants Process

If a practitioner identifies an item, such as a disbursement or extension of aid, which is not reflected on a checklist, a succinct memorandum should be forwarded to VLA outlining the request. Please do not amend or make insertions on checklists to incorporate your request. Amendments or variations to checklists can be confusing and unclear and will slow down the assessment process. If there is no provision on the checklist, the request is presumably not subject to practitioner recommendation.

Another important aspect of checklists is the practitioner certification as to guidelines and merit. If a checklist has been completed and signed by the practitioner, certifying that the application/extension meets the merit assessment and guideline requirements, it is then not acceptable for an accompanying letter to question this assessment.

If a practitioner cannot determine whether a matter qualifies for a grant of legal assistance under VLA's guidelines they are requested in first instance to refer to the [Notes on Guidelines](#). If the practitioner is still not able to determine if the matter qualifies for a grant of legal assistance they should [contact the Compliance Unit on \(03\) 9606 5355](#) for a ruling.

Recommending aid for a medical/expert report

Before deciding to recommend assistance for a medical/expert report, practitioners are asked to consider the most appropriate report. All efforts must be made to prevent the legal aid fund incurring avoidable costs by prudently identifying issues from the outset and selecting the most appropriate reports for the case.

Practitioners communicating with VLA

Changes to contact details

Any changes to firms' contact details, especially email addresses and electronic payment details need to be provided to VLA immediately. Increasingly, VLA is moving towards electronic communication with practitioners to streamline efficiency. Accordingly, to ensure electronic communication is effective your contact information needs to be current.

Reference Numbers

Please ensure that 'our reference number' is correctly quoted on all correspondence.

VLA's home equity means test

Practitioners should be aware that VLA's means test criteria changed as at 18 February, 2008. One of the changes related to a ceiling imposed on applicant's home equity value. As a result normally a grant of legal assistance will be refused if the applicant has equity of more than \$100,000.

What happens if the applicant is over 60 years and is in receipt of an income-tested pension or benefit?

If the person is over 60 years and in receipt of an income-tested pension or benefit and has lived in the property as the principal home for five years or more, **or** they have bought another home because of a disability or ill health, the client may ask VLA to consider the application. If the above mentioned criteria apply to the client an application must be accompanied with a letter outlining how the client meets the above mentioned criteria.

VLA fees applicable in child protection matters

The compliance process has recently identified that some practitioners claim the standard appearance fee of \$291 for all attendances at court. Please note that where an Interim Accommodation Order (IAO) is continued by consent **without** any substantial negotiations the directions fee of \$140 only is payable. This covers scenarios where the matter is adjourned for example, due to unavailability of Department of Human Services (DHS) reports or failure of a parent to attend court, with the practitioner not having received instructions.

VLA fees for the new Family Court Trial & Case Management Pathway

Confusion has arisen with the introduction of Fee Schedule 1L. The following information should assist:

A: Children pathway

It appears that the following steps can be expected:

1. A court event before a Registrar where an order will be made listing the matter before a judge (the Docket Judge). Other orders can be made by the Registrar and a docket Registrar will be appointed. VLA will pay \$310 call-over fee for this event. This is covered by stage 3(b) and can be claimed without an extension of aid in conjunction with grants of legal assistance under stage 2.
2. First Hearing before the Docket Judge. This is in the nature of a formal directions hearing and if called the first day of trial VLA will pay the fees in Stage 2(h).
3. After this first hearing before the Docket Judge, VLA will aid Stage 3(a). It is expected that there will be a first day of the formal continuation hearing. Should the matter continue after this, Stage 3(c) will be aided.

B: Magellan Pathway

The court events remain as described under points 1 and 2 above. Thereafter practitioners can seek stages 3(a) and (c) together where appropriate, for example, the matter has been listed for conclusion hearing – no continuation hearings.

Recovery Orders & Parenting Orders

Issues have arisen where practitioners have recommended proceedings for a Recovery Order, where no previous Parenting Orders were in place.

Wherever possible, VLA expects applications for recovery orders and the substantive matter (lives with/time spent) to be filed together. Only one lump sum fee would apply being the lump sum fee for the substantive application, for example stages 2(c) or 2(e).

Further information can be found in Section 6.3 (p.54) in the [Notes on the Guidelines](#).

Enforcement proceedings

As of 18 February, 2008 VLA no longer provides funding for enforcement/contravention applications. It is not appropriate to recommend assistance for variation of existing orders/an interim application, instead when the real issue is one of enforcement. The guidelines and the three-pronged merits test must be satisfied to justify a recommendation for varied/interim parenting orders.

Key Contacts

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