

# Victoria Legal Aid

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## 1.1. Introduction

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Victoria Legal Aid (VLA) is an independent statutory authority established by the *Legal Aid Act 1978* (Vic).

We are a state-wide organisation that helps people with their legal problems. We focus on helping and protecting the rights of socially and economically disadvantaged Victorians.

We provide a range of legal services to the community, which are known as 'legal aid'. 'Legal aid' includes legal information and education, legal advice, duty lawyer services, alternative dispute resolution, legal assistance and any other legal services that a legal practitioner can provide (refer *Legal Aid Act*, s.2).

We help in areas of criminal law, family law and some civil law matters. We employ lawyers at VLA, who provide legal aid services to the public. We also fund private lawyers to provide legal aid services.

The objectives of VLA are (refer *Legal Aid Act*, s.4):

- (a) to provide legal aid in the most effective, economic and efficient manner
- (b) to manage its resources to make legal aid available at a reasonable cost to the community and on an equitable basis throughout the state
- (c) to provide to the community improved access to justice and legal remedies
- (d) to pursue innovative means of providing legal aid directed at minimising the need for individual legal services in the community.

## 1.2. Victoria Legal Aid offices

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VLA has offices throughout metropolitan and regional Victoria. We also provide services at courts, tribunals, prisons, hospitals and community centres throughout Victoria.

To find out more about the location and contact details of VLA's legal offices, please visit VLA's website at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) or call the VLA Legal Information Service on (03) 9269 0120 or 1800 677 402 (country callers only).

### 1.3. Victoria Legal Aid services

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VLA provides a range of legal services to the Victorian community, in accordance with the *Legal Aid Act*. Further information is set out about each of VLA's legal services below under the following headings:

- legal information and education services
- legal advice services
- duty lawyer services
- family dispute resolution services
- grants of legal assistance

For information about any of VLA's legal services please:

- contact VLA on **(03) 91269 0120** or **1800 677 402 (country callers only)**; or
- visit our website at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

When providing legal aid services, VLA gives priority to people who are socially and economically disadvantaged – those who are known to experience barriers accessing the justice system and cannot get other legal help. VLA also gives priority to certain “classes of matters” such as criminal matters, matters involving children, and family law matters.

#### 1.3.1. Legal information and education services

VLA's legal information and education programs are designed to educate members of the community about their legal rights and responsibilities.

##### ***Legal information over the phone***

The VLA Legal Information Service is a free, telephone based service that provides people with general information over the phone about the law and about how VLA can help them. The VLA Legal Information Service can also provide referrals to other legal and non-legal services.

The VLA Legal Information Service is available from 8.45am to 5.15 pm Monday to Friday. Legal information is available in English and 14 community languages. Interpreting services are available for other languages (refer to [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) for more information about languages and interpreters).

##### ***Publications***

VLA produces a range of free brochures and publications on legal issues relevant to VLA's clients. Some publications have been translated into community languages. VLA publications are available to download or order from VLA's website, or by contacting VLA.

***VLA Public law library***

VLA has a public law library located on the Ground Floor at 350 Queen Street, Melbourne.

The library has hard-copy and electronic legal resources – including legislation, law reports, loose-leaf services, general legal texts and law journals. The library is staffed by qualified librarians who can assist clients to locate available resources. Other services include free access to the internet (legal sites only) and photocopying (20 cents per page). VLA's public law library is open to from 9.00am to 5.00pm.

***VLA Website***

VLA's website has a 'Legal Issues' section which provides the public with plain-language explanations of common legal issues. It also has information on the courts and the legal system in Victoria.

***Workshops***

VLA provides free workshops to assist people to resolve their own legal problems, if they do not have a lawyer to represent them. Details of the dates and locations of VLA workshops are available on VLA's website.

***Seminars and speakers***

VLA staff are available to speak to community groups about legal aid and related topics when available.

**1.3.2. Legal advice services**

VLA offers free legal advice about criminal, family and some civil law matters. The legal advice service offers people a short, one off session with a VLA lawyer (longer appointments are available for clients with special circumstances).

Legal advice is available face to face, or by phone or video-conference in some circumstances. VLA does not provide legal advice by email or via its website.

VLA uses interpreters for people who cannot communicate effectively in English and require legal advice. There is no cost for using an interpreter for a legal advice session.

***Location of legal advice services***

VLA's lawyers provide legal advice at VLA's metropolitan and regional offices. VLA also provides visiting advice services to prisons, juvenile justice centres, psychiatric inpatient services, hospitals and other community locations.

***Eligibility***

The means test does not apply to legal advice services, and all legal advice services are provided free of charge.

***Guidelines***

In the provision of all legal advice services, VLA gives priority to people who would qualify for legal assistance because of their financial circumstances, and to children, and to criminal matters and family law cases.

Legal advice may include initial advice about a legal problem and help in preparing an application for legal assistance. It may also include advice and telephone calls, writing letters and drafting simple documents. In accordance with subsection 26(2) of the *Legal Aid Act*, if it appears likely that the legal work which the client needs cannot be completed within approximately one hour, VLA may ask the client to apply for legal assistance. If the client does not qualify for assistance, VLA may suggest other avenues of help.

Further information about VLA's legal advice services is also available at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) or by calling VLA.

### **1.3.3. Duty lawyer services**

VLA arranges for lawyers to be 'on duty' at courts, tribunals and board hearings across Victoria. Duty lawyers give advice to, and sometimes represent, people who are at court and who have not had the opportunity to see a lawyer.

VLA believes that it is the right of every person charged with a criminal or traffic offence, answering an application which may result in the State intervening in a domestic situation, or who is subject to involuntary detention in a psychiatric inpatient service, to receive independent legal advice, and if it is in the interests of justice, to be legally represented at the hearing.

The objective of duty lawyer services is to ensure that these people are not denied legal advice and representation through ignorance, lack of financial resources or other disadvantage.

In carrying out this objective a duty lawyer will advise a person who is unrepresented, and where necessary, will apply for an adjournment or bail to enable this person to obtain legal representation.

In criminal matters if the accused person wants to plead guilty, or an adjournment cannot be obtained, or it is in the accused person's interests for the case to be heard on the same day, the duty lawyer may represent the person or (if the duty lawyer believes that she/he cannot provide adequate representation) arrange alternative representation.

#### ***Locations of duty lawyer services***

VLA co-ordinates a number of duty lawyer schemes in a range of courts throughout Victoria, including:

- Magistrates' Courts
- Children's Court
- Family Court
- Federal Magistrates' Court
- Federal Court
- Victorian Civil and Administrative Tribunal
- Administrative Appeals Tribunal
- Mental Health Review Board

These schemes are staffed by VLA lawyers, private lawyers funded by VLA or a combination of the two.

### **Eligibility**

The means test does not apply to duty lawyer services, and all duty lawyer services are provided free of charge.

### **Guidelines**

VLA has guidelines for duty lawyer services:

- (i) Duty lawyers may refuse to provide duty lawyer services (or give a low priority) to any person who:
  - (a) was aware of the need to be legally represented at the hearing and could afford a private lawyer, but without good reason has chosen to attend unrepresented in the expectation that the duty lawyer will appear;
  - (b) unreasonably refuses to accept, or unreasonably fails to act upon the duty lawyer's advice;
  - (c) threatens or attempts to intimidate the duty lawyer.
- (ii) Duty lawyers may decide not to act where there is a conflict of interest, or for other ethical reasons.
- (iii) A person who asks for advice before a hearing and is ineligible for legal assistance and cannot afford private legal representation should be informed about the duty lawyer service, but warned that access to this service will depend on the priority of other matters on the day.
- (iv) A person who asks for advice before a hearing and who can afford private legal representation should be informed that the duty lawyer will not help them.
- (v) Duty lawyers should exercise discretion if they think that there is potential for abuse of the service. In this situation, duty lawyers should measure the prejudice the accused might suffer if no service was provided against the extent of abuse that would occur if a full service was provided. In making a decision the person always should be given the benefit of any doubt.
- (vi) Priority for services will be given in the following order:
  - (a) persons in custody and children;
  - (b) persons whose liberty is in jeopardy;
  - (c) persons who would be more severely disadvantaged than others if duty lawyer services were not provided
  - (d) other persons, to whom VLA has accorded priority.

A person who does not fall within any of these priorities is not prevented from receiving duty lawyer services, however they should be given lower priority. Depending on other demands for the service, this may mean that she/he receives a limited service or no service at all from the duty lawyer.

- (vii) All duty lawyers should take an active role in identifying deficiencies in the justice system. This includes decisions of magistrates containing errors of law which may, unless corrected, have a significant effect on the way future cases are decided. Duty lawyers employed by VLA should report these matters to their general managers. Private duty lawyers should report these matters to their scheme coordinator who should either refer to them in the periodic report to VLA, or inform VLA immediately if earlier action needs to be taken.

#### ***Private practitioner duty lawyer scheme***

Private practitioner duty lawyer services are coordinated through regional law associations. Lawyers are paid by VLA on an hourly rate, and there are maximum hours limits. See 6.10 of this handbook for details of current rates.

Further information about VLA's private practitioner duty lawyer services is available at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) or by contacting VLA.

### **1.3.4. Family Dispute Resolution Service**

VLA has a family dispute resolution service called the Roundtable Dispute Management (RDM) Service. The RDM service is available at a range of metropolitan and regional locations across Victoria.

RDM is a confidential service, where trained professionals can assist people to reach their own agreements about family matters. The RDM service helps people to avoid costly court action, and assists people to sort out issues quickly and confidentially, in a safe and supportive environment.

RDM can help people make decisions about:

- where the children live
- who the children spend time with, including extended family members
- arrangements for the children's day-to-day care, welfare and development
- financial issues such as property and child support.

To use RDM, a person involved in the family dispute must apply and get a grant of legal assistance from VLA (see below).

Further information about VLA's RDM service is available at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) or by contacting VLA.

### **1.3.5. Grants of legal assistance**

A grant of legal assistance is funding given by VLA to pay for a lawyer to provide people with ongoing legal help to resolve their legal problems.

Chapters 2 - 8 of this Handbook (and related appendices) contain information about applying for a grant of legal assistance, the tests which determine eligibility for assistance, general and financial conditions of assistance and other information about grants of legal assistance.