

## Overview of proposed updates to Child Protection Duty Lawyer Service Manual 2022

Topic	Detail of change/addition
Clarification of professional responsibilities	Duty lawyers must not engage in negotiation, seek to obtain further information, or make representations in court until they have been engaged by a client to act for them.
Readiness to accept duty lawyer referrals	Adds the new process for Broadmeadows Court that duty lawyers are required to advise VLA triage officer of readiness to accept referrals by 9.30am and attend court within 30 minutes of accepting a referral.
Accepting referrals	Sets out time within which referrals should be accepted (maximum 10 mins for rostered schemes/'within a reasonable time' for non-rostered schemes).
Meeting with clients	<p>Maintains requirement that duty lawyers should meet face to face with children where possible.</p> <p>Added expectation that, where face to face is not possible, duty lawyers should follow the <a href="#">VLA Good Practice Guide for Meeting Children via Technology</a> to determine if an online meeting is appropriate.</p>
Capacity assessments	<p>Added section.</p> <p>All adult parties and children 10+ are presumed to have capacity. Where capacity is in doubt, a capacity assessment should be undertaken.</p> <p>Where a party referred is an involuntary patient, the duty lawyer should contact the hospital facility to speak to the person. If the person is unable to meet/speak to the lawyer at all, the duty lawyer will notify VLA and the referral will be withdrawn.</p> <p>Where the lawyer meets/speaks to an adult party they have been referred but assesses they do not have capacity to instruct, the lawyer will notify VLA and not appear in court or engage in negotiations on behalf of the person. VLA will notify the court. In these cases, the duty lawyer should submit an invoice for time spent arranging the meeting and undertaking a capacity assessment.</p> <p>Where a duty lawyer assesses a child does not have capacity, the lawyer should advise VLA and appear in Court to advise the outcome of the capacity assessment. If the Court makes an order</p>

	requesting appointment of a best interests lawyer, the duty lawyer should request the court make a notation identifying which duty lawyer undertook the capacity assessment (to assist VLA to allocate referral for best interests representation).
Party with multiple applications	Where a person has more than one matter listed in the family division on same day, the duty lawyer will provide legal assistance in all matters in accordance with relevant duty lawyer guidelines.
Delivery of services	<p>The duty lawyer service should be delivered by the lawyer who VLA makes the HALO referral to. If a duty lawyer becomes unable to deliver the service after accepting the service, they should advise VLA as soon as possible so a new referral can be made.</p> <p>The duty lawyer should assess the client's eligibility for a grant of legal assistance and assist the client to complete the application form.</p> <p>If the duty lawyer assesses that the person is unlikely to be eligible for a grant of legal assistance, they should:</p> <ul style="list-style-type: none"> <li>• advise the person of the option to apply and have VLA assess their application</li> <li>• provide the person with referral information of firms who may be able to assist the person on a private payment arrangement (if the duty lawyer's firm is unable to), in the event that the application for aid is not approved.</li> </ul>
Second duty lawyer service – clarification of process	<p>If a duty lawyer appears for a party and the hearing is adjourned within two business days for a reason beyond the party's control, the duty lawyer must assess whether their client is eligible for a grant of legal assistance.</p> <p>If the client is eligible for assistance, the duty lawyer should apply (or refer the client to another lawyer to apply) for a grant of legal assistance for the adjourned hearing.</p> <p>If the client is assessed as not being eligible for a grant of legal assistance, the duty lawyer should notify VLA as a matter of urgency so that VLA can assess eligibility for a second duty lawyer service. The duty lawyer should provide VLA with the reason for the adjournment.</p>
Clarification of invoicing requirements	A lawyer who provides duty lawyer services at more than one court location on the same day must submit one invoice for all services.
Extended leave from a rostered private practitioner scheme	<p>Added section.</p> <p>Where a private practitioner member of a rostered child protection short service scheme intends to take extended leave for parental, carer or health reasons, their firm should advise the relevant VLA scheme coordinator as soon as possible.</p>

	<p>The Firm will be given the opportunity to apply for another employee (a child protection individual certifier) to replace the practitioner taking leave for the duration of the leave period by submitting a new application form no later than six weeks before the proposed commencement of leave.</p> <p>If the new applicant is assessed as unsuitable or no application is made by the Firm, the Firm will forgo that roster position for the period of leave. In this circumstance, VLA may determine that the vacant rostered position will be shared among all members of the scheme, until the person on leave returns, or choose to open an application process for this time-limited position if warranted by demand.</p>
Departure from a rostered private practitioner scheme	<p>Added section.</p> <p>Where a private practitioner member of a rostered child protection short service scheme leaves their Firm, the Firm will be given the opportunity to apply for another employee (a child protection individual certifier) to join the scheme in their place.</p> <p>If the new applicant is assessed as unsuitable or no application is made by the Firm, the Firm will forgo one roster position.</p> <p>In this circumstance, VLA may determine that the vacant rostered position will be shared among all existing members of the scheme or choose to open an application process for this position if warranted by demand.</p> <p>Note that scheme positions are linked to a Firm, therefore a practitioner who moves to another firm or commences practice as a sole practitioner will not automatically retain their membership of the rostered scheme. They may re-apply for a position through their new firm when applications are opened by VLA.</p>