

Independent Children's Lawyer Panel

Private Legal Practitioner: Individual Certifier Application

Pursuant to s 29A of the *Legal Aid Act 1978*

When to use this form

Use this form to apply to be an Individual Certifier on the Independent Children's Lawyer (ICL) Panel.

This form should be read in conjunction with the Guidance Notes on pages 4–6.

Returning your form

Check that all required questions are answered and that you have included any attachments.

 Email your completed form and any attachments, including sample affidavits and written outlines, to panels@vla.vic.gov.au.

Key eligibility criteria

Before filling out this form, check that you meet these key eligibility criteria.

- Your firm is registered as a member of VLA's Panels, or has already applied to join VLA's Panels and is awaiting a decision,
- You hold a current Victorian practising certificate, which is not subject to a supervision condition,
- You have a current Working with Children's Check,
- You have successfully completed the Independent Children's Lawyer National Training Program,
- You have at least five years' post-admission experience in family law, and
- You have completed VLA's eLearning module 'Intersections: the links between crime, child protection, family law and family violence'.

And you meet one of the following criteria:

- You are an Accredited Specialist in family law, or
- You hold a master's degree (LLM) majoring in Family Law, or
- Within the last two years, you have had carriage of 30 or more family law matters in each of the past two years, and you have completed at least five Continuing Professional Development in units in family law, child development or family violence.*

** If you do not meet these criteria because of special circumstances, you may be able to apply for an exemption. See the Guidance Notes for information about exemptions.*

What are you applying for?

- Independent Children’s Lawyer Panel
- Family Violence Panel*
- Family Law Panel*

** Individual Certifiers on the Independent Children’s Lawyer Panel are automatically eligible for inclusion on the Family Violence Panel and the Family Law Panel.*

Practitioner details

1. Name

2. Email

3. Phone

4. Firm

5. Is your firm currently registered as a member of VLA’s Panels?

- Yes
- No
- Decision on firm registration is pending
- A Firm Registration Form accompanies this form

General entry requirements

6. Do you hold a current Victorian practising certificate which is not subject to a supervision condition?

- Yes
- No 

You do not meet the eligibility criteria. SEE GUIDANCE NOTES.

7. Does your practising certificate contain any other conditions?

- Yes
 -  Please attach a copy of your practising certificate showing the conditions
- No

8. Do you have a current Working with Children Check?

- Yes
- No 

You do not meet the eligibility criteria. SEE GUIDANCE NOTES.

9. Have you been subject to any findings of professional misconduct or unsatisfactory professional conduct made by the Legal Services Board, Legal Services Commission or Victorian Civil and Administrative Tribunal, or any similar findings in any other jurisdiction?

- Yes
 -  Please provide details and/or attach a copy of any relevant outcome or decision
- No

10. Are you subject to any current or ongoing complaints or investigations into professional misconduct or unsatisfactory professional conduct being handled by the Legal Services Board, Legal Services Commission or Victorian Civil and Administrative Tribunal?

- Yes
 -  Please provide details and/or attach a copy of any relevant outcome or decision
- No

11. Have you been found guilty of any criminal offence other than infringements?

- Yes
 -  Please provide details and/or attach a copy of any relevant judgment or decision
- No

Practice experience

12. Have you completed the Independent Children's Lawyer National Training Program run by the Law Council of Australia?

Yes

In which year did you complete the training?

No

You do not meet the eligibility criteria.
SEE GUIDANCE NOTES.

13. Have you completed VLA's eLearning module 'Intersections: the links between crime, child protection, family law and family violence'?

Yes

No

You do not meet the eligibility criteria.
SEE GUIDANCE NOTES.

14. Do you have at least five years' post-admission experience practising in family law?

Yes

No

You do not meet the eligibility criteria.
SEE GUIDANCE NOTES.

15. Are you an Accredited Specialist in family law?

Yes **► Skip to Declaration**

No

You do not meet the eligibility criteria.
SEE GUIDANCE NOTES.

16. Have you completed a masters degree (LLM) majoring in family law?

Yes

In which year was your degree awarded?

Which institution awarded your degree?

► Skip to question 19

No

17. How many family law matters have you had carriage of in each of the past two years?

30 or more per year

Less than 30 per year

You do not meet the eligibility criteria, but you may meet the criteria for an exemption.
SEE GUIDANCE NOTES.

18. Have you completed at least five Continuing Professional Development units in family law, child development or family violence within the last two years?

Yes

No

You do not meet the eligibility criteria, but you may meet the criteria for an exemption.
SEE GUIDANCE NOTES.

Skills and capacity

You are required to demonstrate your skills and capacity.

 Please attach a separate document that outlines how you have acted in previous matters, addressing the following:

19. For two complex matters, please outline:

- the specific issues involved; and
- where you acted as ICL, how you handled those issues as the matter progressed, or
- where you acted as a family lawyer, how you would have handled those issues had you acted as ICL.

(2000 words total; 1000 per matter)

20. For one matter which you prepared for final hearing in the Family Law Courts, please outline:

- the orders you sought and how you prepared for the hearing. *(250–750 words)*

21. For one matter of which you had carriage and which settled, or substantially settled, by negotiation, please outline:

- how you prepared for and conducted the negotiation. *(250–750 words)*

Please also provide a copy of any minutes and orders.

Exemptions

22. Are you seeking an exemption from any of the Practice Experience requirements?

Yes



Please attach an outline of the exemption you seek which meets the requirements of the Guidance Notes.



Please attach two sample affidavits which meet the requirements of the Guidance Notes.

No

Declaration

In submitting this application to VLA

I acknowledge that:

- all information disclosed is true,
- I have read and understand my rights and obligations arising from the entry requirements, and
- I understand that VLA will check internal and publicly available records to verify information provided or requested as part of the application process.

I authorise:

- VLA to place all materials submitted as part of the application process before a designated Panel assessor.

Guidance Notes

General entry requirements

Practising certificate

i Refer to questions 6 and 7

If your practising certificate is subject to a supervision condition, you are not eligible for inclusion on the Independent Children's Lawyer Panel. We recommend that you apply to the Panel after the condition has been removed.

Working with Children Check

i Refer to question 8

You must have a current Working with Children Check to be eligible for inclusion on the Independent Children's Lawyer Panel. You must maintain a Working with Children Check for the duration of your membership on the Panel.

Misconduct

i Refer to questions 9, 10 and 11

When assessing any finding of professional misconduct or unsatisfactory professional conduct VLA will consider whether the conduct:

- indicates 'a material risk of harm to [legal aid] consumers of legal services', and
- undermines VLA's obligation in section 7(1)(a) of the *Legal Aid Act 1978* to ensure that legal aid is provided in a manner which dispels fear and distrust.

VLA 'may give consideration to the honesty, open candour and frankness demonstrated by [the] person in their disclosure' (Legal Services Board's RRP 017 Fit and Proper Person Policy – V2, Dec 2011).

Practice experience

Independent Children's Lawyer National Training Program

i Refer to question 12

Practitioners must have successfully completed the Independent Children's Lawyer National Training Program run by the Law Council of Australia to be eligible for the ICL Panel. First-time applicants must have completed the training program no earlier than five years before applying.

Information about the training program is available on the National ICL website (<https://icl.gov.au>).

Intersections eLearning module

i Refer to question 13

You must have completed VLA's eLearning module, 'Intersections: the links between crime, child protection, family law and family violence' to be eligible for the Panel.

You can access the module free of charge on VLA's website.

Post-admission experience

i Refer to question 14

You must have at least five years' post-admission experience in family law to be eligible for inclusion on the Panel.

When determining years of post-admission experience, you should count time during which family law has constituted a significant proportion of your workload.

Accredited Specialist in family law

i Refer to question 15

Practitioners who have been accredited by the Law Institute of Victoria as an Accredited Specialist in family law are eligible for a streamlined application process. They are not required to address the Practice Experience Requirements, Skills and Capacity and Exemption Requirements (*questions 16–22*) in their applications.

Masters degree (LLM) majoring in family law

i Refer to question 16

Practitioners who have been awarded a masters degree (LLM) majoring in family law are eligible for a streamlined application process. They are not required to address the Practice Experience Requirements (*questions 16 and 17*) in their applications.

Carriage of family law matters

i Refer to question 17

To be eligible for inclusion on the Panel, you must have had carriage of at least 30 family law matters each year, for the past two years.

You have carriage of a matter if you have 'continuing control and responsibility for overseeing the handling of a legal matter for a client.' (Australian Law Dictionary, 2010)

If you are unable to meet this requirement because of parental or other leave, flexible work arrangements, or because you practise in a regional or rural area, consider whether you are eligible for an exemption.

Continuing Professional Development (CPD)

i Refer to [question 18](#)

You must have completed at least five CPD units in family law, child development or family violence within the last two years to be eligible for the Panel.

CPD units must fall within the 'substantive law' field, meaning they must deal primarily with matters related to your practice of law or must extend your knowledge and skills in areas that are relevant to your practice needs or professional development (see *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015*, rules 7.1.1 and 7.1.3).

You may be asked to provide your CPD record.

If you are unable to meet this requirement because of parental or other leave, flexible work arrangements, or because you practise in a regional or rural area, consider whether you are eligible for an exemption.

Skills and capacity

i Refer to [question 19](#)

You should select matters which have been legally finalised within the last two years, where an Independent Children's Lawyer has acted. Matters can include those where you acted as ICL or where other ICLs have acted.

Examples of factors which make a matter complex include:

- the matter ran to trial,
- significant Department of Human Services involvement (ie s 91B Order or s 69ZW Report of the *Family Law Act 1975* (Cth) from DHHS),
- the matter was in the Magellan list,
- the matter involved interstate or international relocation,
- the matter involved the Hague Convention,
- an application for a special medical procedure,
- appointment of a case guardian,
- a parent with a significant mental health issue, drug issues, alcohol issues and/or cognitive issues,

- concurrent relevant criminal proceedings or significant, relevant prior convictions,
- allegations of family violence involving the children and/or requiring police involvement,
- significant jurisdictional argument,
- a child or children with significant medical needs and/or a significant psychological or psychiatric condition,
- the matter involved self-represented litigants,
- the matter involved issues directly related to a culturally and linguistically diverse (CALD) party or child, and
- surrogacy or donor issues.

When assessing your response, VLA will consider you:

- understanding of relevant laws, including where relevant the application of s 60CC of the *Family Law Act 1975* (Cth),
- knowledge of relevant procedures,
- understanding of the Guidelines for Independent Children's Lawyers,
- identification of the issues involved in the matter,
- response to the issues, and
- understanding of how to manage a meeting with a child, where a meeting is appropriate.

i Refer to [question 20](#)

When assessing your response, VLA will consider how you:

- prepared for the hearing or prepared counsel for the hearing,
- considered and made appropriate referrals (including reasons for choosing the referral service),
- managed negotiations or prepared counsel to manage negotiations,
- prepared submissions or enabled counsel to prepare submissions, where required, and
- provided a view based on evidence (where you acted as ICL) or provided submissions in line with the client's instructions (where you acted as a family lawyer).

i Refer to *question 21*

You may choose a matter in which you acted as either an ICL or a family lawyer. This could include personally appearing in a prelitigation or litigation intervention roundtable dispute management attendance, prelitigation or litigation intervention settlement conference or mediation.

Matters can include:

- family law matters,
- family violence matters, and
- ICL matters.

When assessing your response, VLA will consider how you:

- prepared for the attendance,
- considered and made appropriate referrals (including reasons for choosing the referral service),
- managed negotiations, and
- provided a view based on evidence, where the practitioner acted as ICL.

Exemptions

i Refer to *question 22*

VLA will consider exempting practitioners from one or more Practice Experience requirements where:

- the practitioner has special circumstances warranting an exemption; and
- VLA is satisfied that the practitioner will meet the quality standards required of panel members.

Special circumstances warranting an exemption may include, but are not limited to:

- recently taking extended leave,
- part-time or other flexible work arrangements, or
- practicing in a geographic area where there is a particular need for legal aid practitioners, and/or where the nature of available work impacts a practitioner's ability to meet the Practice Experience requirements.

If you are seeking an exemption, you must attach a written outline of no more than 750 words. In your outline, please address:

- the exemption you seek,
- the special circumstances warranting the exemption, and
- your capacity to meet VLA's Practice Standards.

Information which may be relevant includes:

- the dates, duration and nature of any relevant leave,
- the nature and duration of any relevant part-time or other flexible work arrangements, the geographical area of your practice (and its impact on your work volume and mix), and need for legal aid practitioners,
- the number of Summary Crime matters of which you have had carriage in the last two years,
- your experience acting in Summary Crime matters in the last five years, and
- indicators of the quality of your work.

If an exemption is granted, VLA will stipulate any conditions of the exemption. These will be decided on a case-by-case basis in consultation with the applicant.