

## Schedule 4

# Compliance terms and conditions

### Background

The Compliance terms and conditions apply to Providers and to Panel Certifiers. These standards specify Providers' and Panel Certifiers' obligations as providers of legal aid services subject to the Simplified Grants Process.

### Definitions

**Legal Aid Act** means the *Legal Aid Act 1978 (Vic)*.

**Legal Assistance** has the meaning given to the term 'Legal Assistance' in the Legal Aid Act

**Panel Certifier** means a member of Provider Personnel who is approved in writing by VLA to certify grants of legal assistance.

**Provider** means a private law practice or Independent Children's Lawyer who is a member of the Panel.

**Provider Personnel** means:

- (a) where the Provider is a Private Law Practice, the Australian legal practitioners who are partners, directors or employed Australian legal practitioners of the Private Law Practice; and
- (b) where the Provider is an Australian legal practitioner who is an Independent Children's Lawyer, that Australian legal practitioner.

**Simplified Grants Process** means the method of processing a request for a grant of legal assistance based on a Panel Certifier's recommendation, applying VLA's funding guidelines and merits tests, and certification of documentary proof of matter and means.

**VLA Guidelines** means the guidelines made by VLA pursuant to sections 8, 9 and 12 of the Legal Aid Act.

**VLA Handbook** means the VLA Handbook for Lawyers as amended from time to time and as published on VLA's website at <http://handbook.vla.vic.gov.au/handbook> which contains the VLA Guidelines, VLA Fee Schedules and written directions regarding the proper interpretation of the VLA Guidelines and VLA Fees Schedules.

## 1. Legal Assistance application assessment requirements

- 1.1 Providers and Panel Certifiers must conduct an assessment of each matter and make recommendations to VLA as to whether a client's application for Legal Assistance should be approved or refused in accordance with:
  - a. the VLA Handbook including VLA Guidelines and any written directions given by VLA as to the proper interpretation of those guidelines

c. applicable Commonwealth or State merits tests.

1.2 In conducting a merits and guideline assessment, Panel Certifiers must:

- a. obtain and retain all documentation and information reasonably necessary for the forming of an opinion as to the merits of a matter
- b. obtain and retain all documentation and information reasonably necessary for the forming of an opinion as to how the matter meets the relevant guideline
- c. continue to assess eligibility for Legal Assistance based on guidelines and merit, while the file is open and before each new extension request
- d. apply for Legal Assistance on behalf of a client at least 14 days before the next court event or other significant event, unless there are reasonable grounds for the late application.

1.3 Where a Panel Certifier makes a recommendation to VLA the Certifier must:

- a. inform the client of the nature and extent of the recommendation and document those reasons on the file
- b. keep all documents relied upon in the making of the recommendation on the file, including copies of all material forwarded to VLA.

## **2. Reporting and record keeping requirements**

2.1 Panel Certifiers must:

- a. maintain separate files (or separate folders within a client's file) for each matter and keep generic material (such as proof of means) on both files or cross reference the files for easy location of documentation;
- b. ensure that all documentation relevant to a specific grant of Legal Assistance is clearly identifiable such as the signed application form (or signed print out from Atlas), worksheets, proof of means and proof of matter;
- c. before finalising the matter in ATLAS ensure that all documentation required by VLA is clearly identifiable in the file;
- d. before finalising a matter in ATLAS, ensure that all necessary steps have been taken, including (where appropriate):
  - i. disbursing any trust monies to the client or VLA in accordance with the client's written instructions;
  - ii. disbursing any trust monies to VLA in accordance with the terms of the grant of Legal Assistance
  - iii. disbursing any trust monies in accordance with the Legal Profession Uniform Law and the rules governing solicitors' trust accounts.

## **3. Certification of documentary proofs**

3.1 Panel Certifiers must:

- a. obtain and retain on file current documentary proof of means and documentary proof of matter, including but not limited to:
  - i. (where applicable) government benefit card, current payslips, bank statements and any other documents evidencing the client's income, assets and liabilities
  - ii. charge sheets, originating process or other initiating documents, affidavits, witness statements, copy exhibits, and notices of hearingat the commencement and during the course of a legally aided matter
- b. be responsible for certifying to VLA the existence of documentary proof of means and documentary proof of matter and that documentation's substantiation of the information provided to VLA, including:
  - i. comparing the information contained in the documentary proof of means with the information provided by the client on the application form
  - ii. satisfying themselves that the documentary proof of means substantiates the information provided on the application form
  - iii. retaining on file copies of documents relating to and substantiating disbursements paid by VLA including but not limited to, expert reports, service fees and interpreter fees
  - iv. satisfying themselves that the documentary proof of matter relates to the current matter for which assistance is sought
- c. not claim fees from VLA for a matter if documentary proof of means is not on file.