Schedule 2 Commonwealth priorities

1 Commonwealth priorities

- (1) Commonwealth funds may only be used to provide legal assistance for a matter that is a Commonwealth priority.
- (2) Commonwealth priorities are set out in this Schedule.

2 Family law priorities

- (1) A matter arising under the Family Law Act 1975, the Child Support (Assessment) Act 1989 or the Child Support (Registration and Collection) Act 1988, is a Commonwealth priority if it relates to any of the following:
 - separate representation of children;
 - parenting plans and orders;
 - location and recovery orders;
 - any other orders relating to children;
 - injunctions relating to family violence;
 - child support;
 - · child and spousal maintenance;
 - dissolution and nullity of marriage;
 - property proceedings.
- (2) Generally, these matters are of equal priority.
- (3) However, consideration must be given to whether the matter is urgent.

Priority for urgent matters

- (4) In deciding whether to grant legal aid for a family law matter, the highest priority must be given to protecting the safety of a child, or a spouse, who is at risk.
- (5) Urgent legal assistance should be granted in relation to an application for an interim order or injunction if:
 - (a) a child's safety or welfare is at risk; or
 - (b) the applicant's safety is at risk; or
 - (c) there is an immediate risk of removal of a child from Australia or to a remoter geographic region within Australia; or
 - (d) there is a need to preserve assets; or
 - (e) other exceptional circumstances exist.

Priority for non-urgent matters

- (6) If a matter is not urgent, legal assistance should not be granted until the parties have separated for a sufficient period of time to enable them to be sure that there are real issues in dispute (referred to by some Commissions as the six-week rule).
- (7) Legal assistance may be granted for an application for an interim order or injunction if the Commission considers that the application is warranted.

Processes other than litigation must be considered

- (8) Consideration must be given to resolving family law matters through the use of a primary dispute resolution process.
- (9) A primary dispute resolution process (*PDR process*) means a procedure or service for the resolution of disputes out of court, and includes the following:
 - (a) counselling;
 - (b) mediation;
 - (c) conferencing, including in-house conferencing;
 - (d) arbitration; and
 - (e) other means of conciliation or reconciliation.
- (10) In appropriate circumstances, applicants for legal assistance should be required to use a PDR process before any grant of legal assistance is made for court proceedings.
- (11) If the applicant for assistance is strongly opposed to participating in a PDR process:
 - (a) the applicant must be given the opportunity to give reasons; and
 - (b) the Commission should have regard to the reasons when considering whether to require the applicant to use a PDR process.
- (12) A PDR process is usually appropriate if:
 - (a) the issues for resolution are substantial and there has not been a court order, registered parenting plan, or PDR process in relation to the issues in dispute in the last 2 years, unless there has been a material change in circumstances; and
 - (b) the matter does not have an urgency priority.

Note For priority for urgent matters, see clause 2.

- (13) A PDR process is usually not appropriate where:
 - (a) there are investigations or proceedings about child abuse; or
 - (b) a party's safety or ability to negotiate effectively is jeopardised by behaviour such as violence, intimidation, control or coercion, or a history of such behaviour; or
 - (c) there is documentary or other clear evidence establishing the refusal or unwillingness of the other party to attend; or
 - (d) there are practical difficulties which cannot be overcome, such as the geographical distance between the parties or the non-availability of a PDR process in the applicant's region.
- (14) If there have been previous investigations or proceedings involving violence or child abuse:
 - (a) the Commission must determine if a PDR process is appropriate in the particular case; and
 - (b) if the Commission determines that it is appropriate, it must attempt to ensure that it is reasonable to proceed and that a party's safety or ability to effectively negotiate will not be jeopardised.

3 Criminal law priorities

- (1) The representation of a person to defend a charge arising under a Commonwealth Act (including the Corporations Law of any State or Territory) is a Commonwealth priority if:
 - (a) the charge is to be dealt with on indictment; or
 - (b) the charge is to be dealt with summarily and:
 - (i) the applicant has a reasonable prospect of acquittal; and
 - (ii) there is a real prospect that the applicant, if convicted:
 - (A) would be imprisoned; or
 - (B) would not be able to continue in his or her usual occupation.
- (2) If a charge mentioned in subclause (1) is brought together with a charge under a State or Territory law, Commonwealth funds may be used to fund a grant of legal assistance on a pro rata basis.
- (3) Pleas of guilty, in the circumstances set out in clause 1.2, Part 3.

4 Civil law priorities

A matter arising under a Commonwealth Act is a Commonwealth priority if it relates to any of the following:

- (a) a decision affecting the receipt or amount of:
 - (i) Commonwealth employees' compensation; or
 - (ii) a Commonwealth pension, benefit or allowance (including a pension, benefit or allowance under Commonwealth legislation relating to war veterans):
- (b) a decision or action by a Commonwealth authority in relation to a person that has a real prospect of affecting the person's capacity to continue in his or her usual occupation;
- (c) discrimination;
- (d) migration, but only in the circumstances set out in guideline 3, Part 4;
- (e) consumer protection.

5 Other matters taken to be Commonwealth priorities

- (1) A matter that is not a Commonwealth priority within clause 2, 3 or 4 is taken to be a Commonwealth priority if:
 - (a) The matter arises under Commonwealth law and Commonwealth funds are available for the grant of legal assistance for the matter; and
 - (b) either:
 - (i) the matter is a kind of matter for which the Commonwealth Minister or his or her delegate has previously given written approval for the grant of legal assistance; or
 - (ii) the Commission considers that one or more special circumstances set out in subclause (2) exist in relation to the matter.
- (2) A special circumstance is any of the following:
 - (a) the applicant has a language or literacy problem;
 - (b) the applicant has an intellectual, psychiatric or physical disability;

- (c) it is difficult for the applicant to obtain legal assistance because the applicant lives in a remote location;
- (d) in relation to family law matters there is, or is a likelihood of, domestic violence (especially if allegations of domestic violence have been made).

Schedule 3 Commonwealth guidelines

Part 1 General

1 Applying the guidelines, means test and merit test

- (1) Legal assistance may be granted for applications that:
 - (a) arise under Commonwealth law and are within a Commonwealth priority set out in Schedule 2;
 - (b) meet any guidelines set out in this Schedule that may be relevant to the application;
 - (c) meet the means test (unless otherwise specified in the guidelines); and
 - (d) meet the merits test (unless otherwise specified in the guidelines).
- (2) In usual cases, the criteria specified in subclause (1) should be applied in that order.
- (3) If a matter is within the criteria, the Commission must determine, in accordance with the guidelines, whether legal assistance is to be granted, and if so, the nature and extent of the assistance.
- (4) The Commission must also consider available funds and competing priorities in making the decision.
- (5) If there is no Commonwealth guideline relating to a Commonwealth priority, the Commission may grant assistance in the manner, and to the extent, it considers appropriate in that priority area.
- (6) In cases involving domestic violence in relation to an applicant or a child, any decision made by the Commission about whether to grant assistance, and the level of assistance, should have regard to any guidelines or procedures used in determining grants of assistance for domestic violence matters under relevant State or Territory legislation.

Note This guideline is not intended to pick up matters which are properly classed as State or Territory matters. The intention is to ensure consistency of treatment for domestic violence matters, whether State/Territory or Commonwealth.

(7) The Commission must conduct litigation, to which these guidelines apply, in a cost-effective manner.

2 The means test

Unless specifically varied by the Commonwealth, the means test to be applied is the means test used by the Commission at the date of the application for legal assistance.

Note The Commonwealth's strong preference is for the Commission to use the simplified means test developed for Legal Aid Queensland, and for this test to be adopted nationally.

3 The merits test

(1) The merits test is to be applied to all initial applications for assistance, extensions and appeals, except as specified in the guidelines.

- (2) The merits test has three elements:
 - (a) a test of the legal and factual merits (the reasonable prospects of success test);
 - (b) the prudent self-funding litigant test; and
 - (c) the appropriateness of spending limited public funds test.
- (3) All three tests must be met to satisfy the merits test.

4 The reasonable prospects of success test

The reasonable prospects of success test is met if, on the information, evidence and material provided to the Commission, it appears that the proposed action, application, defence or response for which legal assistance is sought is more likely than not to succeed.

5 The prudent self-funding litigant test

The prudent self funding litigant test is met only if the Commission considers that a prudent self-funding litigant would risk his or her funds in the proposed proceedings.¹

The appropriateness of spending limited public legal aid funds test

The appropriateness of spending limited public legal aid funds test is met only if the Commission considers that the costs involved in providing the assistance are warranted by the likely benefit to the applicant or, in appropriate circumstances, the community.²

7 Test Cases

The Commission must not grant legal assistance for a test case, relating to a Commonwealth matter, unless the Commission has first referred the request for

Legal aid is a benefit funded by Australian taxpayers. Many taxpayers who are above the means test threshold for the granting of legal assistance have their own access to justice constrained in whole or in part because of limited financial resources. To reduce the inequity between those who have access to assistance and those who are marginally excluded, the Commonwealth aims to have strategies adopted which will provide solutions to assisted clients' problems at minimum cost. The test of the "prudent self-funding litigant", one without "deep pockets", is one such strategy. It aims to put assisted litigants into an equal but not better position than private litigants without "deep pockets" who risk their own funds.

The Commonwealth has numerous competing interests for its legal aid resources. Accordingly, as part of its merits test, it needs to be satisfied that the matter for which an initial grant of legal assistance or an extension is sought, is an appropriate expenditure of public legal aid funds. Examples of what are likely to be considered inappropriate expenditure of legal aid funds, are:

Proposed applications to the Court to dispense with a spouse's consent to a passport, so that the applicant
and child can travel overseas. The Commonwealth considers that the contingent documentary costs of
overseas travel should form part of the overall expense of the trip, and is not an appropriate matter in which
to grant legal assistance.

[•] Some aspects of contact and property disputes, where the issue appears to be of such minor significance in relationship to the legal costs which will be incurred in providing assistance. For example, in a contact dispute, who will pay for the bus or taxi fare etc, who washes the clothes, or provides the morning or afternoon tea etc. Again, the Commission should decline to use its funds for such matters.

assistance to the Commonwealth Attorney-General's Department for consideration in accordance with the Commonwealth Public Interest and Test Cases Scheme.

8 Matters referred by Attorney-General under subsection 69 (3) *Judiciary*Act 1903

These guidelines apply to matters referred to Commissions by the Attorney-General under subsection 69 (3) of the *Judiciary Act 1903*.

Part 2 Family Law guidelines

Guideline 1 Separate representation of children

1.1 If all parties receiving legal assistance

- (1) Legal assistance may be granted for separate representation of a child in proceedings in relation to which all parties are receiving legal assistance if:
 - (a) a court requests the Commission to arrange the separate representation; and
 - (b) the Commission decides that it is reasonable to provide separate representation.

Note A court order that a child's representative be appointed in a matter does not impose an obligation on a Commission to grant legal assistance for separate representation.

(2) Assistance is not subject to the means test.

1.2 If a party is not receiving legal assistance

- (1) Legal assistance may be granted for separate representation of a child in proceedings in relation to which a party is not receiving legal assistance.
- (2) Assistance is not subject to the means test.
- (3) If legal assistance is granted for separate representation in proceedings in relation to which a party is not receiving legal assistance, the Commission must:
 - (a) notify each party not receiving legal assistance that each may be required to pay an equal portion of the total costs and disbursements of the separate representative; and
 - (b) unless the Commission decides to waive or reduce the payment, require each party to pay the amount in the manner decided by the Commission, having regard to the party's capacity to pay.

Note The requirement for payment does not apply to proceedings relating to special medical procedures (see guideline 9).

(4) If a party refuses or fails to pay the amount required by the Commission, legal assistance should continue to be provided on the condition that the separate representative seek an order for costs against the party at an appropriate time in the proceedings.

Guideline 2 Parenting orders

2.1 Application for parenting order

Legal assistance may be granted for an application for parenting orders if:

- (a) there is a dispute about a substantial issue; and
- (b) either:
 - (i) recent PDR processes have not resolved the dispute, or the other party has refused or failed to attend PDR processes on the issue; or
 - (ii) PDR processes are impractical or inappropriate.

For example, PDR processes may be inappropriate if there is a likelihood or history of violence or abuse to the applicant or a child. See subclause 2 (13) of Schedule 2 for other examples of when a PDR process is usually inappropriate.

2.2 Application to discharge or vary parenting plan or order

- (1) Legal assistance may be granted for an application to discharge or vary a registered parenting plan, or parenting order, if:
 - (a) there has been a material change in circumstances since the parenting plan was registered, or the order was made; and
 - (b) there is a dispute about a substantial issue; and
 - (c) either:
 - (i) recent PDR processes have not resolved the dispute, or the other party has refused or failed to attend PDR processes on the issue; or
 - (ii) PDR processes are impractical or inappropriate.

For example, PDR processes may be inappropriate if there is a likelihood or history of violence or abuse to the applicant or a child. See subclause 2 (13) of Schedule 2 for other examples of when a PDR process is usually inappropriate.

- (2) However, if the material change in circumstances was caused by the applicant, the Commission must consider the circumstances surrounding that change in determining whether it is appropriate to grant assistance.
- (3) Legal assistance may also be granted if there are additional circumstances which suggest that the application is likely to be successful.

For example, those circumstances may be:

- the likelihood of violence, or physical or mental harm, to the applicant or a child;
- the removal or risk of removal of a child from an applicant who has primary residence responsibilities;
- the removal or risk of removal of a child from the jurisdiction of the Court;
- the need for an applicant with primary residence responsibilities to move permanently overseas, interstate or elsewhere with a child, if consent is unreasonably refused by another person.

2.3 Third parties

Legal assistance may be granted to a party who is not a parent in proceedings relating to parenting orders if:

- (a) the party is significant to the care, welfare and development of the child; or
- (b) the Commission considers it to be in the child's best interests.

For example, it may be in the child's best interests if the child's safety or welfare is at risk.

2.4 Care and protection proceedings

Legal assistance may be granted for parenting orders under the *Family Law Act* 1975, even if there are current care or protection orders, or proceedings under a child welfare law, in respect of the child.

Guideline 3 Child maintenance and child support

3.1 Means tested assistance — stage 1 matters

- (1) A matter is a stage I matter if it:
 - (a) relates to a child born before 1 October 1989; and
 - (b) the parents of the child either never lived together or separated before 1 October 1989; and
 - (c) the child does not have a full blood sibling born on or after that date.
- (2) The following services may be provided for a stage 1 matter:
 - (a) if the applicant for assistance is on a low income seeking maintenance or increased maintenance a Child Support Unit or Service; and
 - (b) if the applicant for assistance is a liable parent making application for variation, discharge or suspension of maintenance a Liable Parents Information Service.
- (3) For the provision of these services, the matter is usually referred to one of the Commission's services or to a community legal centre service.
- (4) However, legal assistance may be granted for a stage 1 matter if the Commission decides that it is not appropriate to refer the matter to one of the Commission's services or a community legal centre service.

For example, referral may not be appropriate because:

- the case is very complex;
- the applicant needs urgent orders;
- it is impractical for the applicant to use a Commission or community legal centre service;
- the applicant will not benefit from attending a Commission or community legal centre service because of a language or literacy problem, or an intellectual, psychiatric or physical disability;
- legal assistance has been granted for other proceedings and maintenance is ancillary to, but cannot be separated from, those proceedings;
- the child is over the age of 18;
- the applicant is defending an application for a child maintenance order or increased maintenance, and the case is complex or urgent;
- paternity is in dispute.

3.2 Stage 2 matters

- (1) A matter is a stage 2 matter if it relates to:
 - (a) a child born on or after 1 October 1989;
 - (b) a child born before 1 October 1989 and whose parents separated after that date; or
 - (c) a child who has a full blood sibling born on or after 1 October 1989.

- (2) Child support payments for these children are assessed and collected by the Child Support Agency, unless the payee elects otherwise under the Child Support (Registration and Collection) Act 1988.
- (3) Legal assistance may be granted in a stage 2 matter for an application for a departure order in circumstances where one of the Commission's services or a community legal centre is unable to assist, if:
 - (a) the applicant seeks departure from a review decision made before 1 July 1992;
 - (b) the applicant wishes to oppose an application for a departure order; or
 - (c) the applicant is not satisfied with the decision of a departure from assessment officer.

The grant of assistance should usually be limited to proceedings in State or Territory Magistrates' Courts and the Federal Magistrates Service, unless such proceedings are not available.

3.3 Applicant children

Legal assistance may be granted, for a stage 1 or 2 matter, to a child seeking maintenance, child support or variation of a maintenance or child support order, if the child is the most appropriate person to seek the order.

Guideline 4 Paternity

4.1 Application relating to paternity

- (1) Legal assistance may be granted to an applicant seeking or opposing a finding of paternity, or seeking an order for parentage testing, if:
 - (a) the Commission's Child Support Unit or Service or some other appropriate service cannot assist; and
 - (b) either party denies that the male party is the child's father; and
 - (c) the male party's whereabouts are known; and
 - (d) in a case where a finding of paternity is sought for child maintenance or child support matters there is good reason to believe that the other party has the capacity to pay maintenance for the child.
- (2) If a male applicant denies he is the father of the child, he must give the Commission adequate reasons to support the denial and agree to submit to parentage testing.
- (3) Legal assistance granted for parentage testing should be granted on the condition that the applicant seek an order for the costs of the testing, unless that other party is also receiving legal assistance.

Guideline 5 Spouse maintenance

5.1 Application for spouse maintenance

Legal assistance may be granted for an application for orders for spouse maintenance, or to increase spouse maintenance, if:

(a) the applicant cannot obtain the orders by consent; and

- (b) the other party's whereabouts are known or substituted service is likely to be successful; and
- (c) there is good reason to believe that the other party has the capacity, or is likely to have capacity in the future, to pay maintenance, or increased maintenance; and
- (d) the applicant cannot obtain appropriate assistance from another source; and
- (e) the application is likely to be successful.

5.2 Defending application for spouse maintenance

Legal assistance may be granted to defend an application for spouse maintenance, or for increased spouse maintenance, if:

- (a) it is unlikely that the court will make an order for the amount which the other party seeks; and
- (b) the applicant cannot adequately defend the application without legal assistance.

5.3 Application for reduction in spouse maintenance

Legal assistance may be granted for an application for reduction in spouse maintenance if:

- (a) the application is likely to be successful; and
- (b) the applicant cannot adequately prepare the application without legal assistance.

Guideline 6 Arrears of maintenance or child support

6.1 Proceedings for arrears of maintenance or child support

Legal assistance may be granted in proceedings relating to arrears of child or spouse maintenance, or child support, if:

- (a) the applicant cannot adequately prepare or present the case without legal assistance, and assistance cannot be obtained from a State or Territory Magistrates' Court, the Federal Magistrates Service, the Family Court, the Child Support Agency or any other appropriate organisation; or
- (b) another family law problem is involved.

For example, the parties may be seeking parenting orders.

Guideline 7 Dissolution (divorce) and nullity of marriage

7.1 Applications for dissolution or nullity of marriage

Legal assistance may be granted for an application relating to dissolution of marriage or nullity if:

- (a) the application is imperative; or
- (b) the applicant suffers particular hardship; or
- (c) certain aspects of the application warrant legal assistance, and because of this complexity it would not be reasonable to expect the applicant to conduct the proceedings without legal representation.

Examples:

An application may be imperative if the dissolution or nullity would end continued harassment or ill-treatment of the applicant.

An applicant may suffer particular hardship if the applicant has a disability or disadvantage that prevents self-representation.

The following may warrant legal assistance:

- difficulties in proving the marriage;
- a need to obtain recognition of overseas dissolution;
- · a need for substituted service;
- a need to dispense with service.

Guideline 8 Property

8.1 Assistance for certain property disputes

Legal assistance may be granted for the resolution of a property dispute in circumstances where there is evidence that the separation of the parties is final, if:

- (a) for a dispute relating to real estate:
 - (i) the applicant is likely to retain the matrimonial home; and
 - (ii) the applicant cannot borrow enough funds to both buy the other party's interest in the matrimonial home, and pay the anticipated legal costs of the proceedings (demonstrated by the applicant providing a letter from a lending authority, which confirms a loan application and advice of the authority as to the amount which can be borrowed); or
- (b) the dispute relates to the preservation of assets, or to funds from which the applicant can only receive a deferred benefit, such as superannuation benefits.

Note Final separation of the parties is normally demonstrated by the parties being separated for at least 6 months.

8.2 Limitations on assistance

- (1) For a dispute relating to real estate, legal assistance for representation is limited to proceedings where the applicant's equity in the matrimonial property in dispute is valued at less than \$100,000.
- (2) Assistance will usually be for proceedings in the State or Territory Magistrates' Court or the Federal Magistrates Service if that is the ordinarily appropriate forum.
- (3) Legal assistance for property matters, other than applications mentioned in paragraph 8.1 (b), may only be granted if the Commission has decided that it is appropriate for assistance to be granted for other related family law matters.
- (4) However, unless there is also a domestic violence issue involved, assistance should not be granted if the only other matter is spouse maintenance.

Guideline 9 Special medical procedures

9.1 Separate representation

- (1) Legal assistance should be granted for the separate representation of a child in any Family Court case relating to special medical procedures (including sterilisation).
- (2) Assistance is not subject to the means test.

(3) The Commission must not try to recover any of the costs of the child's representative from the child's parents, whether they are legally assisted or not.

9.2 Assistance for parents

Subject to the means test, legal assistance must be granted to the parents of a child in any Family Court case relating to special medical procedures (including sterilisation).

Guideline 10 Agreements, plans and consent orders

If the parties to a family law matter agree on arrangements, assistance may be granted to register an agreement, parenting plan or consent orders, if:

- (a) formal court orders are necessary; and
- (b) the applicant cannot obtain assistance in preparing and registering the agreement, plan or order, from one of the following:
 - (i) a registrar of the State or Territory Magistrates' Court, the Family Court or the Federal Magistrates Service;
 - (ii) a community legal centre; or
 - (iii) an advice service.

Guideline 11 Enforcement of final orders and appeals

11.1 Enforcement of final orders

- (1) Assistance may only be granted for enforcement proceedings that concern a Commonwealth priority or priorities.
- (2) When applying the merits test, the Commission must consider the behaviour of all of the parties since the making of the orders sought to be enforced.
- (3) For the purpose of calculating and applying the family law costs management guidelines, proceedings to enforce final orders are to be treated as a separate matter to previous proceedings.
- (4) Subject to clause 12.3, a grant of legal assistance for the costs of proceedings to enforce final orders is limited to \$2,000.
- (5) If assistance is granted for proceedings to enforce final orders, the applicant must seek a costs order against the respondent, unless the Commission considers that it would not be appropriate to do so.

11.2 Appeals

- (1) Legal assistance may be granted for appeals.
- (2) If the applicant is the respondent to an appeal, the appeal is to be treated as a new matter for the purposes of the costs management guidelines.

Note The provisions of the Federal Proceedings (Costs) Act 1981 must also be taken into account.

Guideline 12 Costs management – family law matters

12.1 General

(1) In this guideline:

a matter includes any dispute that involves the same parties about the same or substantially the same issue, if there has not been a material change in circumstances or if any such change would not materially affect existing orders.

costs of a matter are the total costs paid in the matter (taking into account the costs paid by any other legal aid body, if the matter has been transferred from one or more States or Territories), less any contributions paid or costs recovered.

stages of matter model means the stages of matter model for family law matters set out in clause 12.5.

(2) Costs management principles in this guideline apply to all Commonwealth family law matters for which the Commission grants aid, whether or not the matters are funded according to the stages of matter model.

12.2 Costs limitation

- (1) Payment of costs under the Commission's usual costs scales for legal assistance in family law matters (other than proceedings to enforce final orders) that are commenced after 1 July 1998, are limited to:
 - (a) party professional costs of \$10,000;
 - (b) child representative's costs of \$15,000.
- (2) The amounts in paragraphs (1) (a) and (b) include counsels' fees, expert reports and other disbursements (except interpreter and translator fees, rural travel and accommodation costs).

Note For limits to assistance for costs of proceedings to enforce final orders, see clause 11.1.

12.3 If costs likely to exceed limit

- (1) If it is likely that the costs in any grant of legal assistance will exceed the amounts in paragraph 11.1 (4) or clause 12.2, the case should be handled in-house if possible.
- (2) If the matter cannot be handled in-house, the Commission must consider alternative means of funding.

For example, using retained counsel or negotiating a fee package so that the matter may be handled by a private practitioner.

- (3) If, as an alternative means of funding, the Commission negotiates a fee package, it should be subject to a strict limit on costs settled with the service provider.
- (4) However, the Commission may extend the grant of legal assistance by an amount determined by the Chief Executive Officer after taking into account advice from the Family Court about the length of time required for the hearing of the matter.
- (5) The Chief Executive Officer is responsible for ensuring that costs are managed within the set limit.

12.4 Commission must provide quarterly reports

The Commission must provide a quarterly report to the Commonwealth in relation to cases in which the actual costs and commitment exceed the amounts in paragraph 11.1 (4) or clause 12.2.

12.5 Stages of matter model

General notes

This model aims to assist Commissions in the financial management of family law matters.

The model may not be appropriate for all family law matters (see paragraph 12.5 (6)), however it should be used as a guide for the management of family law matters for which the model may not be wholly appropriate (see paragraph 12.5 (8)).

Commissions may determine whether funding a particular matter in accordance with the model is appropriate.

Commissions may elect to use a lump sum or maximum amount basis for funding, where this option is provided for in the Table.

Application of the model

- (1) If assistance is to be granted for a family law matter, the Commission must grant aid in accordance with this model, unless the model is not appropriate for the matter.
- (2) If there is a change of solicitor, the model applies as if there were no change of solicitor and payments will be made on a pro rata basis for work completed for each stage.
- (3) If a legal aid client loses contact with the solicitor, payment for the work completed will be on a pro rata basis to be negotiated with the Commission.
- (4) If contact is re-established, funding already provided will be taken into account with the guidelines when considering any further grants of aid.
- (5) The stages of this model approximate the management of a matter in the Family Court of Australia, however the stages should be applied flexibly, and need not be applied chronologically.

Matters for which model may not be appropriate

- (6) Matters for which the model may not be appropriate include:
 - (a) matters considered complex by the Commission, taking into account advice from the Family Court of Australia or the Federal Magistrates Service;
 - (b) child representation cases;
 - (c) applications for enforcement of final orders;
 - (d) interlocutory duty list applications, such as Commonwealth information orders and location orders; and
 - (e) pilot projects such as the Magellan Project.

- (7) Matters for which the model is not appropriate must be identified as soon as possible.
- (8) If the model is not appropriate, the Commission may apply particular stages of the model or variations of the stages to the matter.

For example, the matter may be managed by early intervention reports, alternative PDR processes, or by expediting hearings of the matter. However, repeat interim hearings should be avoided and steps should be taken to narrow the issues early.

Stage 1 — Primary dispute resolution

- (9) The Commission may refer an applicant to a PDR process at any time.
 Note The Commission must give consideration to resolving family law matters by referring an applicant for legal assistance to a PDR process, unless it is clearly inappropriate (see Schedule 2).
- (10) Timing of referral will be affected by the nature of the dispute and any need for urgent intervention.
- (11) In many cases, the PDR process will be the first stage of funding for a matter.
- (12) Legal aid granted for a PDR process must be in accordance with Stage 1 (a) or 1 (b).
- (13) If agreement is reached as part of a PDR process, the grant of aid for the PDR process extends to preparation work and work in filing consent orders.

Stage 2 — Litigation

- (14) If a substantial amount of work is completed before a grant of legal aid in the litigation stages, the fees for the matter will be reduced on a pro rata basis.
- (15) The hearing length of a trial should be estimated, taking into account the estimate given by the court at the pre-hearing conference.
- (16) If a trial exceeds the original estimates for unforseen reasons, no additional payment will be allowed unless a decision not to make an additional payment would be clearly unjust, and a Judge certifies that up to 1 day of extra hearing time was required for the effective disposal of the case.
- (17) Any unused portions of stages before litigation can be raised only in relation to the trial (stage 5), and the unused portions may be taken into account at the discretion of the Commission.
- (18) If work is undertaken and the client cannot be found before all of the work covered by the grant of aid is completed, the solicitor may negotiate with the Commission for fees to be paid on a pro rata basis, at the discretion of the Commission.
- (19) If a matter is listed for hearing (final or otherwise) and not reached by the Court on the date set, funding outside the stage of matter grant under this model must be negotiated with the Commission.
- (20) The payment of fees for an agent used in any stage of matter must be negotiated with the Commission.

Stage 3 — Post Pre-Hearing Conference and pre release of Family Report

- (21) This stage will enable the early consideration of merit and funding for trial.
- (22) The Commission should seek early release of the Family Report if possible.

Stage 4 — Preparation for trial

- (23) This stage should be used for matters classified by the Family Court as direct, standard and complex matters, including for respondents under Hague Convention matters.
- (24) This stage is based on a negotiated maximum fee determined by the hourly rate of the Commission and the number of hours reasonably necessary to prepare for the trial.
- (25) Funding for this stage is subject to the guidelines and should be determined by the Commission on a case by case basis.

Table

Total:

Stage 1 (a): PDR early intervention stage	
Allocation of hours	Up to
taking instructions and preparing for PDR process	2 hours
representing client at PDR process	4 hours
preparing consent orders, if appropriate	1 hour
Total:	7 hours
Stage 1 (b): PDR litigation intervention (at any stage)	Up to
• representing the client at PDR process	4 hours
 representing the chefit at 1 BK process preparing consent orders, if appropriate 	I hour
Total:	5 hours
Stage 2 (a): Initiating court proceedings - up to conclusion of directions hearings in the Family Court Allocation of hours	Lump sum*/up to
 taking instructions communications preparing documents attending to filing and service court attendance consent order, if appropriate 	

7 hours (Family Court)

5 hours (State or Territory Magistrates

Court)

Allocation of hours				
instructions for application and affidavit. court documents. obtaining short service.				
eourt attendance				
Totals:				
Documents etc.		Lum _e hours	sum*/up to 6	
Stage 2 (b): Initiating court proceedings - u directions hearing/s including Application f	p to conclu	sion of Relief	5 hours	
Court attendance A Stage 2 (b): Initiating court proceedings - u directions hearing/s including Application f in the Family Court (This is a combined grant for an Application Initia an Application for Interim Relief filed at the same time	ting Proceed	sion of Relief	5 hours	
Stage 2 (b): Initiating court proceedings - u directions hearing/s including Application fin the Family Court (This is a combined grant for an Application Initia an Application for Interim Relief filed at the same times.)	ting Proceed	sion of Relief	5 hours	
Stage 2 (b): Initiating court proceedings - u directions hearing/s including Application fin the Family Court (This is a combined grant for an Application Initia an Application for Interim Relief filed at the same time. Allocation of hours instructions for initiating court proceedings and court documents. obtaining short service.	ting Proceed me.)	ssion of Relief ings and	5 hours	
Stage 2 (b): Initiating court proceedings - u directions hearing/s including Application fin the Family Court (This is a combined grant for an Application Initia an Application for Interim Relief filed at the same time. Allocation of hours instructions for initiating court proceedings and court documents.	ting Proceed me.)	ssion of Relief ings and	5 hours	

Stage 2 (c): Interim or summary hearing - as a discrete event - in the Family Court

This stage applies to an interim application commenced as a discrete event, or a summary proceeding of a type not otherwise addressed in this fee structure. It does not include the stage 2 (a) or 2 (b) fee component. (Refer to Stage 2 (g) for application for recovery orders.)

Allocation of hours

- instructions for application and affidavit.
- court documents.
- · obtaining short service.
- court attendance ★

Totals:

Documents etc.

Lump sum*/up to 6 hours

Up to 5 hours

Court attendance A

Stage 2 (d): Up to conclusion of conciliation conference (if any) in the Family Court or the Federal Magistrates Service

Allocation of hours

Lump sum*/up to

- file management.
- instructions.
- court attendance ★
- consent orders, if appropriate.

Total:

3 hours

Stage 2 (e): Case review (if any) in the Family Court

Allocation of hours

Lump sum*/up to

- court documents if any.
- instructions.
- court attendance *
- consent orders, if appropriate.

Total:

3 hours

Stage 2 (f): Up to Conclusion of Pre-Hearing Conference in the Family Court

Allocation of hours

Lump sum*/up to

- · file management.
- · instructions.
- prepare client for Family Report process
- · read Family Report
- court attendance *
- consent orders, if appropriate.

Total:

5 hours

Stage 2 (g): Application for Recovery Order in the Family Court and the Federal Magistrates Service

This stage applies to an application for a recovery order where there is an existing Court order.

Allocation of hours

- · instructions.
- court documents.
- court attendance ★

Totals:

Documents etc.

Lump sum*/up to 3 hours

Court attendance A

Up to 3 hours

Stage 2 (h): Any subsequent appearance in the Federal Magistrates Service

Allocation of hours

- instructions for application and affidavit.
- · court documents.
- obtaining short service.

•court attendance ♠

Totals:

Documents etc.

Lump sum*/up to 6 hours

Court attendance *

Up to 5 hours

Stage 3: After pre-hearing	conference	and	before	release of
family report in the Family	Court			

Allocation of hours

Lump sum*/up to

- prepare client for family report process.
- read family report.
- advise client.
- consent order if appropriate.

Total:

3 hours

Stage 4: Preparation for trial in the Family Court and the Federal Magistrates Service

Allocation of hours

Negotiated maximum fee

- taking instructions.
- interviewing witnesses.
- preparing documents.
- prepare client for Family Report process
- · subpoena.
- case management guideline trial documents.
- preparing and delivering brief to counsel.
- · read Family Report
- · conference with counsel.
- attend list conference

Negotiated, based on estimated preparation time worked out using the Commission's hourly rate and the Commonwealth guidelines.

Stage 5: Trial costs for solicitor in the Family Court and the Federal Magistrates Service

Allocation of hours

Lump sum*/up to

- attendance each day of hearing.
- advocacy allowance, if any
- to take judgement.

Totals:

Each hearing date

6 hours

To take judgement and explain orders

1 hour

Stage 6: Appeals from the Family Court and the Federal Magistrates Service

This stage is based on the allocation of solicitor's time only. Counsel's fees are part of disbursements.

AI	location of hours	Lump sum*/up to
•	appeal to single judge of the Family Court	12 hours
•	appeal to the Full Court of the Family Court	10 hours

- ♠ court attendance includes waiting time and appearance in Court but excludes travel time. Mileage may be payable subject to the practices and rates of the Commission.
- * lump sum means a fixed amount for an item of work, and is calculated on the basis of the hourly rate determined by the Commission (only if the Commission elects to use lump sums).

Part 3 Criminal Law guidelines

Guideline 1 Summary criminal prosecutions

1.1 Trial in magistrates' courts

Legal assistance may be granted for a trial in a magistrates' court if the applicant has a reasonable prospect of acquittal; and

- (a) conviction would be likely to have a significantly detrimental effect on the applicant's livelihood or employment, actual or prospective; or
- (b) the applicant has a disability or a disadvantage which would prevent self-representation; or
- (c) conviction would be likely to result in a term of imprisonment, including a suspended term, being imposed.

1.2 Guilty pleas

Legal assistance may be granted for a plea of guilty if, because of complexity or other aggravating circumstance, the Commission determines that the matter should not be dealt with by a duty lawyer service.

For example, an aggravating circumstance may be:

- a likelihood that a lengthy sentence may be imposed; or
- a disability or disadvantage of the applicant, such as a language difficulty.

Guideline 2 Committal proceedings

- (1) Legal assistance may be granted for committal proceedings which are likely to contribute to reducing the duration and cost of any subsequent proceedings.
- (2) Assistance may be provided for:
 - (a) preparing for, or appearing at, a pre-hearing conference or a committal hearing;
 - (b) identifying issues not in dispute between the parties; or
 - (c) resolving issues in negotiation with the DPP.

Note: The aim of this guideline is to ensure that all material issues are identified as early as possible to reduce the duration and cost of subsequent proceedings. The fact that the committal may result in the prosecution having to disclose material aspects of its case is not intended to advantage the applicant over the prosecution.

Guideline 3 Superior court criminal prosecutions

3.1 Form of assistance

- (1) If an applicant meets the means test, some form of legal assistance must be granted for criminal matters in superior courts, and costs must be managed in accordance with this guideline.
- (2) The Commission must determine the form and extent of legal assistance to be granted according to the merits of the application.

(3) The Commission may limit assistance to a plea of guilty, to assistance to follow a specific defence argument, or to any other form of assistance considered appropriate in the circumstances.

3.2 Charges on indictment

Legal assistance may only be granted for the hearing of charges on indictment if such charges could be, and normally would be, heard summarily, and if the Commission is satisfied that compelling reasons as to why the charges will be heard on indictment have been given.

3.3 Funding where costs exceed \$40,000

- (1) If the costs to the Commission of a grant of legal assistance for any one trial will exceed \$40,000, alternative means of funding must be considered.

 For example, handling the matter in-house, using a Public Defender or retained counsel, or negotiating a fee package so that the matter may be handled by a private practitioner.
- (2) If, as an alternative means of funding, the Commission negotiates a fee package, it should be subject to a strict limit on costs, settled in advance with the service provider.
- (3) The Chief Executive Officer is responsible for ensuring that costs are managed within the set limit.
- (4) The Commission must inform the Commonwealth of cases in which it estimates that the actual net costs or commitment, or both, will exceed \$40,000.
- (5) However, the Commission need not supply names or other information that might identify the parties.

3.4 Matters involving Commonwealth and State or Territory law

- (1) Legal assistance may be granted to an applicant accused of breaches of both Commonwealth and State or Territory laws.
- (2) However, for such assistance:
 - (a) Commonwealth funds must be used if, in the nature of the charges and the course of the hearing, the matter is essentially Commonwealth;
 - (b) State or Territory funds must be used if in the nature of the charges and the course of the hearing, the matter is essentially State or Territory; and
 - (c) if there is a substantial mix of Commonwealth and other charges, Commonwealth and State or Territory funds must be used proportionately, as determined by the Commission.

Guideline 4 Appeals

4.1 Appeals against conviction or sentence

Legal assistance may be granted for an applicant to appeal against conviction or sentence, if there is a strong likelihood that the conviction would be quashed or the sentence materially reduced; and

(a) that if successful, the appeal would result in the applicant regaining his or her liberty, livelihood or employment; or

(b) the appeal involves an important question of law.

4.2 Response to Crown appeal

Legal assistance may be granted to respond to a Crown appeal, without regard to the merits test.

Guideline 5 Bail applications

(1) This guideline applies only to bail applications that form all or part of a grant of legal assistance.

Note This guideline does not apply to matters handled by the Commission's duty lawyer service.

- (2) Legal assistance may be granted for bail applications only if:
 - (a) bail is opposed by the prosecution and on the information provided there is a likelihood of bail being granted; or
 - (b) the applicant seeks to respond to an application for revocation of bail.

Guideline 6 Children's Court proceedings

Legal assistance may be granted for criminal matters in children's courts, as the Commission determines.

Guideline 7 Applications arising from the decision in Dietrich's Case

- (1) Assistance will not normally be granted to an accused person to conduct an application before a Court seeking, on the basis of the High Court's decision in *Dietrich's Case*, an adjournment or stay of the case until legal representation is available.
- (2) However, an application may be made by a Commission to the Expensive Criminal Cases Fund for an expensive criminal case, in accordance with guideline 8.
- (3) Legal assistance is not available for proceedings under section 360A of the Crimes Act 1958 (Vic.).

Guideline 8 Commonwealth Criminal Law – Expensive Cases Fund

8.1 Purpose of Fund

The Commonwealth Criminal Law – Expensive Cases Fund (the *Fund*) has been established to assist Commissions to cater for high, one-off costs associated with criminal cases, particularly where potential stays of Commonwealth criminal prosecutions may be granted under the High Court's decision in *Dietrich*'s *Case*.

8.2 Administration of Fund

(1) The Fund is administered by, and allocation is at the discretion of, the Commonwealth Attorney-General's Department (the *Department*).

- (2) Approval of an application for an allocation from the Fund is at the Department's discretion having regard to:
 - (a) the circumstances of the application;
 - (b) the likely impact that approval of the application would have on the resources of the Fund; and
 - (c) other applications to the Fund.
- (3) An allocation of funds may be made on such terms and conditions as the Department may require.

Application for funds 8.3

- (1) An application for an allocation from the Fund may only be made by a Legal Aid Commission (the applicant).
- (2) A separate application must be made to the Department for each allocation from the Fund.
- (3) Cases for which an application may be made include:
 - (a) a criminal conspiracy case;
 - (b) a criminal case arising under the Corporations Law; and
 - (c) a class of criminal cases which have like characteristics, and which have resulted from a change in Commonwealth legislation since 1 July 1999.

For example: people smuggling cases arising under the Migration Act 1958.

Note Paragraphs (a), (b) and (c) are examples, and not an exhaustive list, of the types of matters that the Commonwealth is prepared to consider in applications to the Fund.

- (4) An application may be made before commencement of proceedings in an expensive case.
- (5) An application must include sufficient information to satisfy the Department that:
 - the likely cost of the case is high, and is likely to significantly affect the capacity of the applicant to implement the Commonwealth's other legal aid priorities;
 - (b) in estimating the likely cost of the case, the applicant has included details of any consultation with the prosecution about the likely direction of the trial;
 - the applicant will take all necessary steps to manage the case in accordance with the Commonwealth cost management guidelines for Criminal Law matters specified in subclause 3.3 (1) of the Criminal Law Guidelines;
 - (d) the applicant has made estimates of likely expenditure on the case by financial year; and
 - (e) there is potential for a stay under Dietrich's Case to be granted if funds for the case are not provided.
- (6) Before making an application, the applicant must take into account its reserves of Commonwealth funds.
- (7) The Department must be satisfied that the applicant has, before the date of the application, been managing its funding in accordance with the Service Purchasing Agreement.

Guideline 9 Proceeds of Crime Act 1987

Legal assistance is not available for proceedings under the Commonwealth Proceeds of Crime Act 1987.

Part 4 Civil Law guidelines

Guideline 1 Civil law cases generally

1.1 Limited initial grant

A limited grant of legal assistance may be made available to:

- (a) investigate and report on the merits of a case; or
- (b) mediate a dispute.

1.2 Further legal assistance

Legal assistance may be granted to a party to an action if it is shown that, if the party is likely to receive damages or property if successful, the action could not reasonably be expected to be conducted under a conditional costs agreement or similar arrangement with a private practitioner, and no other scheme of assistance is available.

1.3 Appeals

Subject to the other civil law guidelines, legal assistance may be granted for appeals.

Guideline 2 Social Security and other Commonwealth Benefits Appeals

2.1 Representation at AAT

Legal assistance may be granted for representation at the Administrative Appeals Tribunal if:

- (a) the applicant may incriminate himself or herself; or
- (b) the case is complicated; or
- (c) the applicant, because of a disability or disadvantage, cannot adequately prepare or present the case without legal assistance; or
- (d) the appeal raises important or complex questions of law.

2.2 Appeals to AAT

Legal assistance may be granted to obtain instructions and necessary reports, and prepare submissions for appeals to the Administrative Appeals Tribunal if:

- (a) the case concerns an overpayment over \$5,000; or
- (b) the applicant is at significant risk of prosecution; or
- (c) the applicant cannot afford to pay for medical reports, and the appeal is about the health of the applicant or of someone for whom the applicant has parental responsibility; or
- (d) the applicant, because of a disability or disadvantage, cannot adequately prepare or present the case without legal assistance; or

(e) the appeal raises important or complex questions of law.

Guideline 3 Migration cases

3.1 Assistance for limited migration matters

- (1) Legal assistance may be granted for proceedings in the Federal Court or High Court dealing with a migration matter, including a refugee matter, only if:
 - (a) there are differences of judicial opinion which have not been settled by the Full Court of the Federal Court or the High Court; or
 - (b) the proceedings seek to challenge the lawfulness of detention, not including a challenge to a decision about a visa or a deportation order.
- (2) Subclause (1) applies to a matter, even if the matter could also be characterised as falling within another Commonwealth priority or guideline.
- (3) In all other cases applicants should be referred to the Immigration Advice and Application Assistance Scheme (IAAAS) for possible assistance.

Guideline 4 Equal opportunity and discrimination cases

4.1 Assistance for certain matters if substantial benefit

Legal assistance may be granted for equal opportunity or discrimination cases if there are strong prospects of substantial benefit being gained by the applicant and also by the public or a section of the public.

Guideline 5 War Veterans' matters

5.1 Purpose

- (1) To acknowledge the special contribution made by war veterans to protecting Australian society in time of war, assistance may be granted to war veterans or their dependants in relation to appeals from decisions of the Veterans' Review Board about war-caused disability pension entitlement or assessment claims under Part II of the Veterans' Entitlements Act 1986.
- (2) Assistance is not subject to the means test, nor any contribution except costs recovered in the matter.

5.2 Non-complex matters – stage of matter limits

- (1) Unless the Commission determines the matter to be complex, funding may be granted in the following stages:
 - stage I funding for the following costs and disbursements only:
 - (a) a maximum of 10 hours for work up to and including the second preliminary conference (including all attempts to settle the matter); and
 - (b) up to 2 medical reports, if necessary.

stage 2 — funding for the following costs and disbursements only:

- (a) a maximum of 12 hours work for the hearing (including all preparation and either the costs of a solicitor or the fees of a barrister for appearing at the hearing); and
- (b) witness expenses.
- (2) The total amount of funding that may be made available for disbursements for a non-complex matter is \$2,500.
- (3) Funding at each stage is subject to:
 - (a) merits assessment; and
 - (b) compliance with the Commonwealth's Checklist for Administration of War Veterans' Matters and the Administrative Appeal Tribunal's General Practice Direction.

5.3 Complex Matters

- (1) The Commission may determine the most appropriate assistance to provide for complex matters.
- (2) The Commission may determine that a matter is complex at any time during the administration of a matter.
- (3) In determining whether a matter is complex, the Commission may have regard to:
 - (a) whether several conditions are being claimed, and reports are required from 3 or more areas of medical expertise;
 - (b) whether there is a complex link between Statements of Principle and the condition claimed; and
 - (c) whether unresolved issues of law are involved.
- (4) In making its determination, the Commission may consult with:
 - (a) the applicant for assistance;
 - (b) the national office of the Department of Veterans' Affairs; and
 - (c) the Administrative Appeals Tribunal.

Guideline 6 Other Federal and High Court proceedings

6.1 Assistance for certain matters if substantial benefit

Subject to the other civil law guidelines, if the Commission considers that there are strong prospects that the applicant would gain a substantial benefit, legal assistance may be granted for:

- (a) appeals from decisions of the Administrative Appeals Tribunal;
- (b) original proceedings in the Federal Court, the Federal Magistrates Service and the High Court; and
- (c) appeals in the Full Court of the Federal Court and the High Court.

Proceeds of Crime Guideline

- (1) If the applicant meets the means test, legal assistance may be granted in relation to proceedings under the *Proceeds of Crime Act 2002* where the applicant seeks to:
 - (a) prevent a restraining order or confiscation order from being made;
 - (b) exclude some or all of the applicant's property from a restraining order or confiscation order;
 - (c) prevent an examination in relation to a restraining order; or
 - (d) be represented at an examination in relation to a restraining order.
- (2) For the purposes of assessing an applicant's eligibility under the means test, any assets subject to a restraining order or confiscation order shall be disregarded.
- (3) Pursuant to section 292 of the *Proceeds of Crime Act 2002*, the costs of providing assistance to the applicant will be reimbursed to the Commission from the applicant's restrained assets. If the costs of providing assistance exceed the value of the restrained assets, the balance of the costs will be paid from the Confiscated Assets Account established under the *Proceeds of Crime Act 2002*.

National Security Guideline

- (1) Subject to paragraph (2), in any matter relating to Australia's national security, legal assistance may be granted to engage legal representatives only if the representatives hold, or obtain before the grant is made, security clearances at the appropriate level.
- (2) If the applicant's representatives do not hold security clearances at the appropriate level when the application for assistance is made, assistance may be provided under paragraph (1) only while:
 - (a) the matter is an urgent matter; and
 - (b) access to information relating to national security is not required for the proper conduct of the applicant's case; and
 - (c) lack of representation may seriously prejudice the applicant's interests.

Examples for sub paragraph (c)

The applicant would be unrepresented in making a bail application, or the Court might stay the matter until representation could be arranged.

(3) The Attorney-General, or his delegate, may determine at the request of the Commonwealth or the Commission and for the purposes of this guideline whether a matter is or is not a matter relating to Australia's national security.

Blue Mountains Community Legal Centre	KATOOMBA	NSW
Macarthur Legal Centre	CAMPBELLTOWN	NSW
Consumer Credit Legal Centre (NSW)	SURRY HILLS	NSW
Court Support Scheme of CRC Justice Support	BROADWAY	NSW
Western NSW Community Legal Centre	DUBBO	NSW
Environmental Defender's Office (NSW)	SYDNEY	NSW
Hunter Community Legal Centre	NEWCASTLE	NSW
Illawarra Legal Centre	WARRAWONG	NSW
Immigration Advice and Rights Centre	SURRY HILLS	NSW
Inner City Legal Centre	DARLINGHURST	NSW
Kingsford Legal Centre	KINGSFORD	NSW
South West Sydney Legal Centre	LIVERPOOL	NSW
Macquarie Legal Centre	MERRYLANDS	NSW
Marrickville Legal Centre	MARRICKVILLE	NSW
Public Interest Advocacy Centre	SYDNEY	NSW
Redfern Legal Centre	REDFERN	NSW
Hawkesbury Nepean Community Legal Centre	RICHMOND	NSW
Tenants Union of New South Wales	MILLERS POINT	NSW
The Aged Care Rights Service Inc	SURRY HILLS	NSW
Welfare Rights Centre (NSW)	SURRY HILLS	NSW
Women's Legal Resource Centre NSW	LIDCOMBE	NSW
HIV/AIDS Legal Centre NSW Inc	SURRY HILLS	NSW
NSW Disability Discrimination Legal Centre	REDFERN	NSW
National Children's & Youth Law Centre	RANDWICK	NSW
Central Coast Legal Centre	WYONG	NSW
Northern Rivers Community Legal Centre	LISMORE	NSW
North & North West Community Legal Centre	ARMIDALE	NSW
Mt Druitt and Area Community Legal Centre	ROOTY HILL	NSW
Broadmeadows Community Legal Service	BROADMEADOWS	VIC
Central Highlands Community Legal Centre	BALLARAT	VIC

Coburg & Brunswick Community Legal & Financial Counselling Centre	COBURG	VIC
Consumer Credit Legal Service Inc	MELBOURNE	VIC
Casey Cardinia Community Legal Service Inc	DANDENONG	VIC
Essendon Community Legal Centre	ASCOT VALE	VIC
Fitzroy Legal Service	FITZROY	VIC
Flemington & Kensington Community Legal Cntr	KENSINGTON	VIC
Footscray Community Legal Centre	FOOTSCRAY	VIC
Peninsula Community Legal Centre Frankston Branch	FRANKSTON	VIC
Geelong Community Legal Service	GEELONG WEST	VIC
Monash-Oakleigh Legal Service	CLAYTON	VIC
Darebin Community Legal Centre	NORTHCOTE	VIC
Environmental Defenders Office (VIC)	NORTH MELBOURNE	VIC
North Melbourne Legal Service	NORTH MELBOURNE	VIC
Eastern Community Legal Centre	BLACKBURN	VIC
Peninsula Communities Legal Centre Bentleigh Brch	BENTLEIGH EAST	VIC
The Legal Centre - Community Connections (VIC) Ltd	WARRNAMBOOL	VIC
Springvale Monash Legal Service Inc	SPRINGVALE	VIC
St Kilda Legal Service Co-op	ST KILDA	VIC
Brimbank Community Legal Centre	DEER PARK	VIC
Tenants Union of Victoria	FITZROY	VIC
Welfare Rights Unit (VIC)	COLLINGWOOD	VIC
Werribee Legal Service	WERRIBEE	VIC
Western Suburbs Community Legal Service	NEWPORT	VIC
West Heidelberg Legal Service	HEIDELBERG WEST	VIC
Women's Legal Service Victoria	MELBOURNE	VIC
Disability Discrimination Law Advocacy Service	MELBOURNE	VIC
Murray Mallee Community Legal Service	MILDURA	VIC
Environmental Defenders Office of Northern Queensland	CAIRNS	QLD
Welfare Rights Centre Inc	STONES CORNER	QLD
Cairns Community Legal Service	CAIRNS	QLD

Caxton Legal Centre	NEW FARM	QLD
South West Brisbane Community Legal Centre	INALA	QLD
Environmental Defenders Office (QLD)	BRISBANE	QLD
Highway Legal Service and Citizens Advice Bureau	SOUTHPORT	QLD
Logan Youth Legal Service	SLACKS CREEK	QLD
Petrie Community Legal Centre (C/- Pine Rivers Welfare Association)	LAWNTON	QLD
Prisoners' Legal Service Inc	SOUTH BRISBANE	QLD
Roma Community Legal Service	ROMA	QLD
South Brisbane Immigration & Community Legal Service Inc.	WEST END	QLD
Suncoast Community Legal Service	COTTON TREE	QLD
Tenants Union of Queensland Inc.	FORTITUDE VALLEY	QLD
Toowoomba Community Legal Service	TOOWOOMBA	QLD
Townsville Community Legal Service	TOWNSVILLE	QLD
Women's Legal Service Inc (QLD)	ANNERLEY	QLD
Youth Advocacy Centre	WOOLOOWIN	QLD
North Queensland Women's Legal Service	TOWNSVILLE	QLD
Central Queensland Community Legal Service	ROCKHAMPTON	QLD
Southern Community Justice Centre Inc.	CHRISTIES BEACH	SA
Northern Community Legal Service	SALISBURY	SA
Welfare Rights (SA) Inc	ADELAIDE	SA
Environmental Defender's Office SA	ADELAIDE	SA
Women's Legal Service SA	ADELAIDE	SA
Welfare Rights and Advocacy Service	PERTH	WA
Bunbury Community Legal Centre	BUNBURY	WA
Consumer Credit Legal Service WA	PERTH	WA
Community Legal and Advocacy Centre	FREMANTLE	WA
Geraldton Resource Centre	GERALDTON	WA
Gosnells Community Legal Centre	GOSNELLS	WA
Multicultural Services Centre of Western Australia Incorporated	NORTH PERTH	WA
Sussex Street Community Law Service	EAST VICTORIA PARI	K

WA

Tenants' Advice Service Inc	EAST PERTH	WA
Pilbara Community Legal Service	SOUTH HEDLAND	WA
Environmental Defender's Office WA	PERTH	WA
Women's Law Centre Inc WA	INGLEWOOD	WA
Youth Legal Service Inc	PERTH	WA
Northern Suburbs Community Legal Centre Inc	MIRRABOOKA	WA
North West Community Legal Centre Inc	DEVONPORT	TAS
Launceston Community Legal Centre	LAUNCESTON	TAS
Tenants Union of Tasmania	HOBART	TAS
Environmental Defenders Office (Tas) Inc	HOBART	TAS
Women's Legal Service (Tas) Inc	HOBART	TAS
Welfare Rights and Legal Centre	TURNER	ACT
Environmental Defenders Office ACT	CANBERRA	ACT
Women's Legal Centre ACT	TURNER	ACT
Darwin Community Legal Service	DARWIN	NT
Environmental Defender's Office, NT	DARWIN	NT
Central Australian Women's Legal Service	ALICE SPRINGS	NT
Katherine Women's Information & Legal Service	KATHERINE	NT
Springvale Community Aid and Advice Bureau (CAAB)	SPRINGVALE	VIC
Albany Community Legal Service	ALBANY	WA
Shoalcoast Community Legal Centre	NOWRA	NSW
Kimberley Community Legal Services	KUNUNURRA	WA
Albury/Wodonga Community Legal Service	WODONGA	VIC
Western Queensland Justice Network	MT ISA	QLD
Southern Communities Advocacy Legal & Education Services Inc (SCA	LES) ROCKINGHAM	WA
Far West Community Legal Centre	BROKEN HILL	NSW
Gippsland Community Legal Service	MORWELL	VIC
Riverland Community Legal Service	BERRI	SA
South East Community Legal Service	MT GAMBIER	SA
Goldfields Community Legal Centre	KALGOORLIE	WA

Hobart Community Legal Service Inc.	OBART	TAS
Central Community Legal Service M	IEDINDIE GARDENS	SA
YouthLaw (Young People's Legal Rights Centre)	MELBOURNE	VIC
Top End Women's Legal Service Inc D.	ARWIN	NT
Central Community Legal Centre M	MEDINDIE GARDENS	SA
Westside Community Lawyers Inc.	ORT PIRIE	SA
Westside Community Lawyers Inc.	ANGLE PARK	SA

Financial Assistance Program

Statutory schemes

- 1. Aboriginal and Torres Strait Islander Heritage Protection Act 1984 s.30(2)
- 2. Aboriginal Land Rights (NT) Act 1976 ss.54C &74A
- 3. Administrative Appeals Tribunal Act 1976 s.69
- 4. Defence Force Discipline Appeals Regulations reg 11
- 5. Federal Proceedings (Costs) Act 1981 s.16
- 6. Freedom of Information Act 1982 s.66
- 7. Human Rights and Equal Opportunity Commission Act 1986 s.46PU
- 8. Judiciary Act 1903 s.69(3) and s.78B
- 9. Jurisdiction of Courts (Cross-Vesting) Act 1987 s.6(5)
- 10. Australian Crime Commission Act 2002 s.27
- 11. Native Title Act 1993 s.183
- 12. Privacy Act 1988 s.63
- 13, Proceeds of Crime Act 1987 s.102
- 14. Trade Practices Act 1974 s.170
- 15. War Crimes Act 1945 s.19
- 16. Workplace Relations Act 1996 s.324

Non-statutory schemes

- 1. Commissions and Inquiries Scheme
- 2. Commonwealth Public Interest and Test Cases Scheme
- 3. HIH Royal Commission Scheme
- 4. Building and Construction Industry Royal Commission Scheme
- 5. Overseas Custody (Child Removal) Scheme
- 6. Special Circumstances Scheme
- 7. Special Circumstances (Overseas) Scheme
- 8. Special Circumstances (Native Title) Scheme
- 9. Common Law (Native Title) Scheme