



SIMPLIFIED GRANTS PROCESS

**Victims of Crime Assistance Tribunal
(VOCAT)
(In-House VLA practitioners)**

NOTES ON VLA GUIDELINES

January 2011

1 Victims of Crime Assistance Tribunal (VOCAT)

(In-House VLA practitioners)

This section provides definitions and guidance for VLA In-House practitioners submitting applications for assistance for applications to the Victims of Crime Assistance Tribunal (VOCAT). (This section should be read in conjunction with Guideline 5a of Part 7 of the VLA Handbook. Any matter that is not the subject of commentary has been deemed sufficiently clear not to need such commentary.)

1.1 Allocation of Work Guideline

VLA will provide assistance for representation by the in-house practice or CLCs only. The guideline does not allow VLA to provide assistance to a private practitioner as they will be able to recover costs through an award of the Tribunal. Where a conflict of interest is identified and referral to a private practitioner is required, the grant of assistance will not continue.

1.2 VOCAT Guideline

Assistance may be provided for an application to the Victims of Crime Assistance Tribunal with representation by an in-house practitioner or a Community Legal Centre where the matter meets the State Merit Test.

Practitioners can recommend a grant of assistance, if they are satisfied that the proceeding will determine in a manner favourable to the applicant. Cost/ benefit issues do not need to be considered as all costs will usually be awarded by the Tribunal.

Example 1

A client claims to be the victim of an assault. The matter was reported to the police. In the absence of any witnesses no one has been charged. The client was admitted to hospital as a result of the assault. He wishes to make an application to VOCAT. Assistance can be recommended.

Example 2

A client claims to be the victim of an assault. He has not reported the incident to police. He did not seek medical attention for injuries. There are no witnesses. He wishes to make an application to VOCAT. Assistance should not be recommended at that time. If you advise the client to report the incident to police immediately and s/he does, you can consider the matter further taking into account the burden of proof (balance of probabilities).

Example 3

A client states that he slipped in a supermarket on a spill and broke his leg. He considers this unacceptable wants to make an application to VOCAT. As no crime has been committed, assistance cannot be recommended.

COMPLIANCE REQUIREMENTS

A practitioner's file must include:

A reference to the relevant Guideline;

Full details of the client's case and relevant documentation.

The practitioner's assessment of the likely outcome.

In assessing the likely outcome, practitioners should note:

- Was there a crime?
- Was it reported to police?
- What is the nature of the injuries?
- What is the supporting evidence?

1.3 Means

Child applicants are exempt from the means test in VOCAT matters. No proof of means is required.

Whilst adult applicants are not exempt from the means test, no contribution or equitable charge will be sought. VLA will either fund if the means test is satisfied or refuse if outside the eligibility criteria.

1.4 Costs

Costs are limited to those awarded by the Tribunal. Where the tribunal refuses to award costs, VLA will bear the costs of all disbursements and counsel fees.

The fee fixed in Table V(i) can only be claimed where advice is given to the client and the matter does not proceed to VOCAT.

USE OF EXTERNAL COUNSEL

The vast majority of this work, including appearances, will be done in-house, save for the occasional matter where Counsel is briefed to appear.

- Where counsel is briefed for a preliminary appearance / directions hearings, counsel should be briefed at a fee of \$301
- Where counsel is to be briefed for the final hearing, counsel will be paid the fee as fixed by the tribunal.

DISBURSEMENTS

An amount of \$1,000 for disbursements is included in the initial grant. Assistance for disbursements once the \$1,000 is exceeded must be sought before incurring the cost.

- Where the costs of the individual disbursement is below \$1,500, the grant will be confirmed based on practitioner recommendation alone.
- Where the costs of the individual disbursement is over \$1,500, you must provide details and reasons why the costs are necessary. (Which link will the report establish / confirm?)

Where a practitioner recommends disbursements for the matter, it must be clear from the practitioner's file why the disbursement (eg report) is required.