



LEGAL AID
WESTERN AUSTRALIA

**INFORMATION FOR
PRISONERS -
LEGAL AID WA SERVICES**

April 2018

Information for Prisoners

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Accuracy of this publication

Every effort is made to ensure the information contained in this publication is correct, however, law, policies and procedures may change at any time. You should use this publication as a guide only and be aware that if it is some time since this publication was reviewed, it may contain out of date information.

This publication was last reviewed on 19 April 2018.

Obtaining current version

If your copy of this publication has not been reviewed for some time, you should contact Legal Aid WA's Infoline via the dedicated prisoner line (if calling from a WA prison) or on 1300 650 579 if calling from outside a prison, to ask if there is a more up to date version. If there is a more up to date version, you can request that it be sent to you.

Administration of this publication

This publication has been created by Legal Aid WA Client Services Division, Legal Resources and Content Unit.

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1. Part One – Introduction

1.1. Who is this information for?

This publication is for prisoners who want to know about the services and resources provided by Legal Aid WA and how they can access them while they are in custody.

1.2. What is covered here?

This publication contains general information about Legal Aid WA including the general nature of the assistance it provides to the public.

It also contains specific information about each of the services provided to prisoners by Legal Aid WA. It does not contain information about services that cannot be accessed by prisoners. For example, it does not include information about how to book an appointment to see a lawyer in person at a Legal Aid WA office. However, it does include information about how to see a lawyer at the prison or speak to a lawyer over the phone from prison.

If you want more information about the services provided by Legal Aid WA to the public generally and not just to prisoners, you can contact Legal Aid WA's Infoline and you will be provided with this information.

As well as information about the services available to prisoners, this publication also provides practical information about how you can access each of the services. This is important information for you, as knowing the service exists is of little use to you unless you also know how to access it.

To assist you in communicating with Legal Aid WA, this publication also contains some standard letters, for example, a letter you can use to ask Legal Aid WA to reconsider its decision to refuse you legal aid.

This publication also contains information about resources produced for the public by Legal Aid WA and how you can access them.

2. Part Two – Legal Aid Western Australia

2.1. What is Legal Aid WA?

Legal Aid WA is an independent statutory body. It is not a government department. Legal Aid WA may be able to help you if you have a legal problem and cannot afford to pay for legal advice or representation from a lawyer. However, Legal Aid WA is not able to help everyone. The more serious your legal problem or the more complicated or difficult your situation, the more likely Legal Aid WA will be able to help you.

Legal Aid WA has a head office at 32 St George's Terrace in Perth. It also has seven regional offices around the state. There is a list of all Legal Aid WA's regional and metropolitan office locations and contact details at the end of this publication.

Head office in Perth deals with all the administration for the organisation. Also at head office is the Client Services Division, which contains the section of Legal Aid WA that provides the Infoline and processes applications for legal aid, as well as the Legal Practice Development Division, which contains the section that provides legal information to the public through the website, information sheets, kits and by providing legal education to people in the community.

There are also three main legal divisions at head office – the Civil, Family and Criminal Divisions. These divisions have a mixture of lawyers and administrative staff and each of them is dedicated to providing legal services to the public in their particular area of law. The three divisions try to work together to ensure that members of the public are referred to the appropriate place in Legal Aid WA for help with their particular problem.

The regional offices also provide legal services to the public and are staffed by lawyers and administrative staff who deal with a range of legal problems. They are supported by head office as required.

3. Part Three – Services provided by Legal Aid Western Australia

3.1. What services are provided by Legal Aid WA?

Legal Aid WA provides a wide range of services to the public. These services are designed to mainly assist people who cannot afford their own lawyer and who have a difficult or serious legal problem or their circumstances make it difficult for them to solve their legal problem on their own.

The three general areas of law in which Legal Aid WA provides assistance are the criminal, family and civil areas of law. These areas of law can be described as follows:

- Criminal Law - where you have been charged with a criminal offence and you are appearing in the criminal jurisdiction of the Magistrates Court, District Court or Supreme Court, or you are appealing against a decision of one of these courts.
- Family Law – where you have a dispute with your partner that involves children and/or property and which may include engaging in mediation or appearing in the Family Court. Family law also covers “protection and care” matters, where there is an issue with the Department of Communities - Child Protection and Family Support over the care of one or more of your children, as well as applications for a restraining order
- Civil Law – where you have a legal issue that is not a criminal law or family law problem, such as debt, housing, tenancy, social security, personal injury, criminal injuries compensation, motor vehicle accidents, amongst many others.

The services that Legal Aid WA provides vary according to the legal problems that people have. For example, in the area of criminal law, most help is needed in court, while in the civil law area, most help is needed in the drafting of letters and documents.

Legal Aid WA cannot deal with every area of law nor every type of legal problem. Instead, it aims to help people who are most in need and aims to help with legal problems that are more complicated and where assistance from a lawyer is most needed.

If Legal Aid WA cannot assist you with a particular legal problem, where possible you will be referred to another organisation that Legal Aid WA believes will be able to assist you. For example, you may be referred to a community legal centre, a family relationship centre or to a private lawyer.

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Part Three – Services provided by Legal Aid Western Australia

3.1.1. Table of services

Here is a table of the services provided by Legal Aid WA that are available to you if you are in custody, as well as a note of the area of law that they cover:

Service name	Service type	Area of law
Infoline	Legal information and referral	All areas
Prison Visiting Service	Legal information and referral	Hakea – mainly criminal law Other prisons – all areas
Legal Advice, Legal Task	Legal advice and help from a lawyer or from a paralegal under the supervision of a lawyer	All areas
Duty Lawyer Service	Legal advice and representation from a lawyer, in the Magistrates Court only	Criminal law only
Drug Court Lawyer	Legal advice and representation from a lawyer in the Drug Court	Criminal law only
Family Court Duty Lawyer Service	Legal advice and representation from a lawyer at the Family Court	Family law only
Children’s Court (Protection) Services	Legal advice and representation for a parent appearing in court (subject to any conflict)	Protection and care only
Domestic Violence Legal Unit	Legal advice and representation for applicants on family violence restraining order matters	Domestic violence only
Grant of legal aid	Legal advice and representation from a lawyer	All areas

3.2. Can I still use these services if I already have a lawyer representing me?

If you already have your own lawyer for a particular legal problem, it is best to speak to them about that legal problem rather than trying to get help through one of the services provided by Legal Aid WA. This also means you are receiving advice from just one person and this is usually better because there is less chance of a misunderstanding about what is happening with your case.

However, you may have a lawyer in relation to one legal problem, for example for your criminal charges, but you have a family law problem for which you need separate help. Often, the lawyer looking after you for the criminal charges will not be in a position to give you family law advice because they are very different areas of law, so you will need to seek assistance elsewhere. In this case, you are welcome to seek help as usual through any of the services offered by Legal Aid WA.

Also, you may have a lawyer appointed to represent you under a grant of legal aid but there is a good reason you need to change to a different lawyer. In this case you will need to speak to someone from Legal Aid WA to get assistance with a transfer of aid to the new lawyer. There is more information about grants of aid and transferring aid to another lawyer later in this publication.

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3.3. Infoline

The Infoline is a telephone service available to all members of the public. It is staffed by people called Information Officers who can provide basic information about the law. This means they can give you information such as the maximum penalty for a particular criminal offence, but as they are not lawyers they cannot provide specific legal advice about your situation, such as the likely penalty you will get for the offence you are facing.

If you need specific legal advice, Information Officers can refer you to the appropriate service within Legal Aid WA that can assist with your particular legal problem. If it is not a type of legal problem that Legal Aid WA can assist you with, you will be referred elsewhere, such as to a community legal centre.

The Infoline is in high demand and in the past it has been very difficult for prisoners to get through on the generally advertised number. As a result, there is now a dedicated telephone line from all prisons in WA to make it easier for you to get through. To ring the Infoline you simply need to advise your Unit Manager and you will be put through. The Legal Aid WA number does not need to be added to your call list.

The Infoline is open from 9.00 am to 4.00 pm each weekday. It is not available on weekends or public holidays. If your legal problem is not urgent, it is best to contact the Infoline on a Wednesday, Thursday or Friday when it is not so busy. It is also best not to ring around lunch time as this is a busy time and you may have to wait for your call to be answered.

If the Infoline officer is unable to answer your query immediately, they will ask you to call back, either later that day or the next day. Your name and the details of your query will be noted and sent to all Information Officers to ensure that when you call back, whoever takes your call will know who you are and the nature of your query. Sometimes proper investigation of your query will take time which is why you may be asked to call back the following day. If you have been asked to call back it is important that you do so as it is not possible for the Information Officer to call you.

3.4. Prison Visiting Service

This service enables a representative from Legal Aid WA to attend certain prisons in the State to provide information and assistance to you if you do not have a lawyer already looking after you.

The representative from Legal Aid WA cannot provide you with legal advice but can:

- Help you with an application for legal aid if appropriate;
- Help you to ask for your application for legal aid to be reconsidered or reviewed;
- Help you to ask for your grant of legal aid to be transferred to another lawyer;
- Contact your lawyer for you if you are having difficulties contacting them;
- Provide general information about the law eg basic processes for appealing against conviction or sentence or both, maximum penalties for common offences;
- Refer you to other services within Legal Aid WA eg Duty Lawyer Service (can take information from you to pass onto the duty lawyer);
- Provide you with Legal Aid WA information sheets and kits eg Appeal Kits, Representing Yourself at a Magistrates Court Trial Kit;
- Refer you to other services provided by external organisations such as community legal centres and family relationship centres.

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Remember that if you already have your own lawyer for a particular legal problem, it is best to speak to them about that legal problem rather than speaking to someone from the Prison Visiting Service, unless you need help with a different legal problem or need help with a transfer of legal aid to another lawyer.

The Prison Visiting Service operates in a number of prisons in WA, but the service is a bit different depending on the prison you are in. For example, some prisons are visited regularly because of the high demand for assistance (for example Hakea), while other prisons are visited less regularly or only at the request of a prisoner. The service is provided by Legal Aid WA staff from head office or the regional offices, depending on the location of the prison.

Currently, a representative from Legal Aid WA visits the following prisons regularly:

- Acacia Prison
- Albany Regional Prison
- Bandyup Prison
- Banksia Hill Detention Centre
- Casuarina Prison (every Wednesday)
- Hakea Prison (in person every Monday and Thursday)
- Rangeview Detention Centre
- Melaleuca Prison
- Wooroloo Prison

At Hakea Prison the prison visiting service is in high demand. Therefore, the service gives priority to prisoners who have a court date coming up soon. Your name will automatically be put on the list to see the Legal Aid WA representative if you have a court date coming up soon.

If you are at Hakea and your court date is not soon (you may have a trial date that is some time away) or you do not have a court date (you may be a sentenced prisoner or your legal problem may not relate to your court appearance) but you need help, you should contact the Infoline. The Infoline officer can then book a telephone appointment for you or refer you to another service, depending on the legal problem you have. For more information see under the **Infoline** heading above and the **Legal Advice and Legal Task** heading below.

If you are at Casuarina and you want to see the Legal Aid WA representative, you should put your name down at the prison and you will be seen on a Thursday. If you have been in contact with the Infoline and they think you should be seen by the Legal Aid WA representative when they visit the prison, Infoline will contact the prison to ask for your name to be added to the list.

Currently, a representative from Legal Aid WA visits the following prisons on request:

- Boronia Pre-Release Prison for Women
- Broome Regional Prison
- Bunbury Regional Prison
- Eastern Goldfields Regional Prison
- Karnet Prison Farm

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In order to request a visit or a telephone appointment at one of these prisons, you can contact the Infoline and they will contact the Legal Aid WA office that provides the service to your prison and arrange the visit or appointment. The Infoline may put you on hold while they do this, or will ask you to call back to confirm the appointment. If you wish, you can contact your local Legal Aid WA office yourself - there is a list of all Legal Aid WA office locations and contact details at the end of this publication.

3.5. Legal Advice and Legal Task Services

There are certain services at Legal Aid WA that are designed to give basic legal advice and other limited assistance to you to help you deal with your legal problem yourself.

These services are generally means tested, so your available finances will be taken into account when deciding whether you can use these services. Your particular circumstances may also be taken into account when considering whether you may use these services.

If you are not in custody these services are available for a small fee of no more than \$20 for each session. If you are in custody, these services are provided free of charge.

3.5.1. Legal Advice

The Legal Advice service provides you with the opportunity to receive advice from a lawyer, or from a paralegal under the supervision of a lawyer. This may be done over the telephone or in person. When you are in custody, it is usually done by telephone, or if possible, by Skype or video link up, but on occasions the service is provided in person.

A Legal Advice appointment will always be arranged in advance – it is not possible to ring Legal Aid WA and immediately be put through to a lawyer or paralegal to get advice. The interview will usually last about 20 minutes.

The aim of this service is to give you some preliminary advice about your legal problem so that you are better able to deal with it yourself. It may also be an opportunity for a lawyer or paralegal to assess the nature of your legal problem and if appropriate, suggest that you apply for a grant of legal aid so that you have ongoing assistance from a lawyer (there is more information below about grants of legal aid).

This service deals with a wide range of legal problems in the criminal, family and civil areas of law, but it cannot cover every area of law nor every legal problem. If Legal Aid WA cannot assist you, you will be referred to another person or organisation that Legal Aid WA believes will be able to assist you.

To access the advice service you can contact the Infoline or speak to someone from the Prison Visiting Service. You should explain your legal problem to the Infoline Officer or the person visiting the prison so that they can assess whether it is something that Legal Aid WA can assist with. If it is, an advice appointment can be booked for you with a lawyer in Legal Aid WA who deals with that type of legal issue.

If you have contacted the Infoline, the Infoline Officer will usually ask you to call back later while they arrange this appointment for you. When you call back, they will be in a position to let you know the time and date of your appointment. If you have been asked to call back it is important that you do so as it is not possible for the Infoline Officer to call you.

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If you have difficulty speaking or understanding English, the Infoline Officer will make every effort to organise an interpreter to assist you during your appointment with a lawyer or paralegal. It is still possible to be assisted by an interpreter even if your appointment is over the telephone.

3.5.2. Legal Task Services

Once you have seen a lawyer or paralegal for an advice appointment, that person may consider that you need some further help with your legal problem. Particularly, you may need help in drafting some documents or letters to help you get on the right track with your legal problem.

You will be advised if the lawyer or paralegal is able to provide these services to you.

3.5.3. Child support

The area of child support is a specialist area of law in which Legal Aid WA can assist you. If you have issues with payment of child support, you should indicate this when you contact Legal Aid WA. A telephone appointment can then be arranged for you to receive legal advice. As this is a specialised area of law, it is difficult for a lawyer or paralegal who is assisting you in relation to another legal problem, to also assist you with a child support query, so they will usually refer you to someone who has knowledge of this area of law.

3.6. Duty Lawyer Service (criminal charges)

Legal Aid WA provides a Duty Lawyer Service in most Magistrates Courts and Children's Courts in WA. This service ensures that there is a lawyer available to advise and represent anyone appearing in the Magistrates Court or Children's Court on most criminal charges.

This service is provided to anyone, no matter how much they earn. If you are not in custody you can use this service for a small fee of no more than \$20. If the appearance is in the Children's Court or you are in custody, the service is provided free of charge.

In the Perth Magistrates Court and many metropolitan Magistrates Courts, there is a duty lawyer available every day. There is also a duty lawyer available at the East Perth lockup each weekend. At some metropolitan courts and in regional areas, a duty lawyer may not be available every day. To find out which day the duty lawyer will be at a particular regional or metropolitan court, you should contact Legal Aid WA's Infoline, ask a Legal Aid WA representative at the prison, contact your local Legal Aid WA office, or contact the court where you are appearing. There is a contact list for Legal Aid WA offices and a list of the location and contact details for metropolitan courts in WA in this publication. If there is no duty lawyer available on the day of your court appearance, you can ask the court to adjourn your case to a day when a duty lawyer is available at that court.

The duty lawyer provides advice and assistance on the morning of your court appearance. If you want help from the duty lawyer, you must attend court in good time and put your name down to see the duty lawyer. If you are in custody and have been transported to court to appear in person, you should ask the detention staff to put your name down to see the duty lawyer and the lawyer will come and speak to you in detention. If you are appearing by video link you should let the prison staff know that

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you want to speak to the duty lawyer before your appearance and arrangements will be made for you to speak to them over the telephone (see further under **Video link** below).

Duty lawyers work “on the day”. This means that you may get a different lawyer each time you use the service, however, each duty lawyer makes a note of what has happened when they represent you and these notes are available to the next duty lawyer who may represent you.

3.6.1. Video link

If you are in custody, instead of being brought to court in person, you may be put on the video link list. This means you will remain at the prison and appear in court via a video link up between the prison and the court. This means the magistrate and everyone else in the court can see you and hear you on a screen in the court room and you can hear what people are saying in court.

You can still use the Duty Lawyer Service, even if you are appearing by video link. The process for getting in contact with the duty lawyer on the morning of court may vary depending on the prison you are in and the court you are appearing in.

If you are appearing in the Perth Magistrates Court on any weekday via video link from Hakea, Casuarina or Bandyup, there is a set process for getting legal advice and representation from a duty lawyer. Basically, before you are due to appear, the prison will contact the duty lawyer at an interview room near the court and you will have an opportunity to talk to the lawyer. If the lawyer is going to represent you, they will go into the court and speak on your behalf when you are called up.

You should be able to hear what everyone is saying in court – the prosecutor, the magistrate and the duty lawyer will all say things about you and about your case and it is important that you hear and understand what is being said. If you cannot hear properly or you do not understand what is happening you should say so, so the court can fix the problem.

If you have your own lawyer, they may also appear for you in the video link court. The prison does not contact your lawyer for you before court so if you need to, make sure you have spoken to your lawyer about your case as early as possible before your video link court appearance.

The order in which people are called to appear by video link is controlled by the court and not by the prison or by the duty lawyer so you may be required to wait for your appearance. If you are expecting to be represented by the duty lawyer but when you are called up in court the lawyer is not there, tell the court you would like to wait for the duty lawyer to assist you.

3.6.2. Limits to Duty Lawyer Service

There are limits to the Duty Lawyer Service. Most importantly, the duty lawyer is only available in the Magistrates Court or Children’s Court and not the District or Supreme Court.

Otherwise, duty lawyers can:

- give you legal advice;

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- represent you on remands;
- represent you for bail applications;
- represent you when you plead guilty or not guilty;
- represent you when you are sentenced;
- help you with an application for legal aid if appropriate; and
- refer you to other services as required.

Duty lawyers cannot:

- represent you at a trial after you have pleaded not guilty;
- represent you at hearings where evidence is to be called, such as some bail hearings;
- represent you on an application for an extraordinary driver's licence, restraining order, prohibitive behaviour order or an impounding or confiscation order;
- represent you when you enter a plea of guilty or not guilty to an offence that is going to be dealt with in the District or Supreme Court.

If you already have your own lawyer, the duty lawyer will not be able to do much for you and will usually suggest that you speak to your own lawyer about what needs to happen in your case. The duty lawyer will, however, be able to help you put your case off to another date to give you a chance to speak to your lawyer.

3.7. Drug Court Lawyer

Legal Aid WA provides a dedicated lawyer to advise and represent people appearing on criminal charges in the Perth Drug Court. This service is available to you if you do not otherwise have a lawyer representing you.

The Legal Aid WA Drug Court lawyer can make submissions for you to encourage the court to let you join a Drug Court program and can make submissions about the appropriate bail conditions that should be imposed on you while you are participating in a Drug Court program. They can also advise and represent you while you are participating in the program, including attending case meetings on your behalf.

If you are in the Drug Court, you will see the same lawyer each time, however, approximately every 3 months a new Legal Aid WA lawyer takes over the role of Drug Court lawyer and you may then be assisted by someone new. There is always a hand-over of files from the old lawyer to the new one to ensure that the new lawyer understands your case.

3.8. Family Court Services

Legal Aid WA's Family Court Services provide services to people appearing in the Family Court of WA. The service helps people with immediate family law needs, who need urgent advice or who have a court date that day and are not able to access a lawyer in time. The focus of Family Court Services is on parenting arrangements and child contact, including advice on recovery orders. It may help with property settlement issues where families are experiencing family violence.

Family Court Services also provides FASS (Family Advocacy and Support Service). FASS provides:

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- legal and social support services for families who are experiencing family violence; and
- advice, and in some cases court representation, to help families manage their legal matters in family court, protection and care and family violence restraining order proceedings

FASS duty lawyer and social support services are provided by Legal Aid WA on Family Court Magistrates Circuits in regional areas including Geraldton, Kalgoorlie, Broome, Albany and Bunbury.

If you are not a party to proceedings in the Family Court or you are but your problem is not urgent, it is better for you to contact Legal Aid WA's Infoline or speak to the Legal Aid WA representative visiting the prison and request a telephone appointment for family law legal advice.

3.9. Children's Court (Protection) Services

This is a service that is designed to help parents who are dealing with an application brought by the Department of Communities -- Child Protection and Family Support (the Department) in relation to the care of their child or children. These applications to place children into care or under the supervision of the Department are brought in the Children's Court.

This service operates in the Perth Children's Court each weekday. The service is provided by lawyers and they can:

- give legal advice;
- represent you in court, including applying for adjournments, appearing for you on at least the first and second dates in court (this may include interim applications about contact with your children, or where the children will live or be placed before a trial of the case);
- provide minor help, including negotiations for you with the Department and other parties to the proceedings;
- help prepare court documents such as applications for interim contact, placement, and minutes of consent;
- make referrals to private lawyers and services;
- help you with an application for legal aid if appropriate;
- assist with accommodation, social security and other issues that may arise once protection proceedings begin.

If you want assistance from the Children's Court (Protection) Services duty lawyer, you should contact the Infoline as early as possible before the court date and they will ensure your details are passed to the staff who run this service. When you speak to the Infoline Officer, it is helpful if you provide the names of all the people, including the children, involved in the court proceedings. This means the staff who run the service can find out more about your case before they contact you. If you are in custody, someone from the service will contact you to let you know what you need to do and what will happen next. Alternatively, they may send you a message through the Prison Visiting Service.

You should make contact as early as possible before your court date. If you are in custody and you leave it until the day of court, you will not have an opportunity to speak to a lawyer from the service because you will be appearing by video link at 9am and there is no time for

the lawyer to see you or speak to you before then. It is therefore very important to make contact well before your court date. There is then a greater likelihood that you will be represented by a lawyer when you appear in court.

If you appear in court without a lawyer, the court may adjourn the case and request that Legal Aid WA assist you with representation. You will then be contacted by Legal Aid WA.

On the day of court, if you have previously been in contact with the service, you may appear by video link and be represented by the duty lawyer.

3.10. Domestic Violence Legal Unit

This Unit provides assistance to people who are experiencing family violence. This includes providing legal advice and representation to applicants in relation to family violence restraining order matters. In particular, it provides duty lawyer services in the Magistrates Court to assist people applying for family violence restraining orders. It also provides lawyers who can represent people in relation to restraining orders and family violence issues generally.

The Unit also offers legal assistance in family law and criminal injuries compensation where it is associated with family violence.

This Unit also provides non-legal advice and referrals in relation to emergency housing, financial support and safety planning.

If this unit is assisting someone in relation to family violence issues and you are the other person involved, this unit cannot also assist you. This is called a conflict of interest. If this unit cannot assist you, you should contact the Infoline so that you can be referred to another service provided by Legal Aid WA or to an external organisation.

3.11. Grant of legal aid

A grant of legal aid is where Legal Aid WA decides to pay for all or part of the cost of a lawyer to assist you with your legal problem.

Just because you may need a lawyer to assist you, does not mean you will automatically get a grant of legal aid. Whether you get a grant of legal aid or not will depend on:

- your financial situation;
- whether your legal problem is a priority matter under Legal Aid WA's funding guidelines; and
- whether Legal Aid WA has sufficient funds available to grant aid.

If you get a grant of legal aid, it means you will have a lawyer to assist you with the legal problem that is the subject of the grant of aid. It does not mean that lawyer can assist you with every legal problem you may have. If you have more than one legal problem, you should apply for a grant of aid separately in relation to each one.

For example, if you are charged with Grievous Bodily Harm and need a lawyer to represent you at a trial in the District Court and at the same time, you are appearing in the Children's Court in a care and protection matter, you will have to apply separately for a grant of aid in

Information for Prisoners
Part Three – Services provided by Legal Aid Western Australia

relation to each. Similarly, if you had a grant of aid to represent you at a trial, you will need another grant of aid for consideration of an appeal against your sentence or conviction.

3.11.1. How do I apply for a grant of legal aid?

In order to get a grant of legal aid, a Legal Aid WA Application Form must be completed and submitted.

You may submit a Legal Aid WA Application Form in the following ways:

- through a Legal Aid WA representative visiting the prison;
- through a Legal Aid WA Duty Lawyer at court;
- through your own private lawyer;
- by 'phoning the Legal Aid WA Infoline.

If you want Legal Aid WA to communicate with you at the prison make sure you put the prison as your mailing address in the application form.

3.11.2. How does Legal Aid WA decide who will receive a grant of legal aid?

Whether you get a grant of legal aid or not will depend on whether you meet the eligibility criteria set out in Legal Aid WA's funding guidelines. These guidelines include:

- A Means Test to assess your financial situation;
- A Matter Type Test to assess whether your legal problem is a priority matter under the funding guidelines.

Legal Aid WA will also consider whether it has sufficient funds available before it makes the decision whether to grant aid.

3.11.2.1. Means Test

The means test will look at:

- What you own and earn and any other income you have or are likely to get (your income and assets)
- What you spend on yourself and on other people who depend on you for money (expenses)
- Any income, assets and expenses of a financially associated person (eg your wife, husband or de facto partner).

3.11.2.2. Matter Type Test

Some types of legal matters are given priority over others. For example people on criminal charges in the District or Supreme Court usually have more chance of getting legal aid than those in the Magistrates Court and in family law there is more chance of getting aid where a child is at risk and where there are substantial legal issues.

Generally, for a grant of aid to be considered, your legal problem needs to be too complicated or serious to be dealt with under the Legal Advice or Legal Task Service.

3.11.3. How long will it take for Legal Aid WA to make a decision?

It usually takes Legal Aid WA about 14 days to decide if you will get a grant of legal aid. If your matter is urgent, tell Legal Aid WA as soon as possible as urgent matters can be dealt with more quickly. For example, if you have an important court date coming up soon, such as an appearance in the District or Supreme Court.

3.11.4. How will I know if I have been given legal aid?

Legal Aid WA will write and tell you if you have been granted or refused legal aid. If you have been refused, the reasons will be in the letter. The letter will also include information about seeking a reconsideration of the decision to refuse you a grant of aid.

3.11.5. Who will my lawyer be if I am given a grant of legal aid?

In your application for legal aid, you can nominate who you want your lawyer to be if you are granted legal aid. If you have nominated a particular lawyer to represent you and you are granted aid, Legal Aid WA may appoint that lawyer to assist you if that lawyer is eligible to take on your case and is available. If that lawyer cannot take on your case, or you have not nominated a particular lawyer to represent you, Legal Aid WA will appoint a lawyer to assist you. This lawyer will either be from within Legal Aid WA, or will be a private lawyer who is recognised as working in the area of law in which you need help.

If the lawyer is from Legal Aid WA, they will be from the criminal, civil or family divisions in Perth, depending on the type of legal problem, or they will be from a regional office and have experience in the area of law in which you need help.

As soon as legal aid is granted, Legal Aid WA will write and tell you who your lawyer is.

3.11.6. How do I ask for my application for legal aid to be extended?

In some circumstances you may get a grant of aid for one thing but then the situation changes and you need to ask for that grant of aid to be extended to cover the new situation. For example, you may apply for a grant of aid to plead guilty to a criminal charge in the District Court, but then it becomes clear you have a defence and need to go to a trial. You would then need your grant of aid extended so that you have representation at the trial.

Legal Aid WA cannot consider an application for extension that comes directly from you. The request must come from the lawyer who is already representing you under the grant of legal aid.

3.11.7. How do I ask for my application for legal aid to be reconsidered?

If you have been refused legal aid, you can write and ask Legal Aid WA to reconsider that decision. You should do this within 28 days. You can use the **Reconsideration Letter** at the end of this kit.

Your **Reconsideration Letter** should address all the matters raised in the letter of refusal and include any further information that has not already been considered by Legal Aid WA. If you have a court date pending, you should also indicate when that next court date is and what is going to happen on that date.

Legal Aid WA usually takes 14 to 21 days for your case to be reconsidered and will write to you to tell you what it has decided.

3.11.8. How do I ask for a review of a decision to refuse legal aid?

If you are refused legal aid on reconsideration, you can write to Legal Aid WA and ask for this decision to be reviewed by an independent Review Committee. You should do this within 28 days. You can use the **Review of Decision to Refuse Legal Aid Letter** at the end of this kit.

Your letter asking for review should address all the matters raised in the letter of refusal and include any further information that has not already been considered by Legal Aid WA. If you have a court date pending, you should also indicate when that next court date is and what is going to happen on that date.

It usually takes between 4-8 weeks for your case to be reviewed. Legal Aid WA will write and tell you what the Review Committee has decided.

3.11.9. How do I request a transfer of an existing grant of legal aid?

Once you have been granted legal aid you can ask to be transferred to another lawyer. Legal Aid WA does not have to give you a transfer and does not give them to everyone who asks because there is often extra costs when another lawyer takes over. If you want to ask for a transfer, you can use the **Application for Transfer of Legal Aid** at the end of this kit.

Your **Application to Transfer Legal Aid** must state why you want another lawyer and which lawyer you want. Legal Aid WA will write and tell you whether your application for a transfer has been granted.

4. Part Four – Legal Aid WA resources for the public

4.1. What resources does Legal Aid WA produce for the public?

Legal Aid WA produces a range of resources for the public. These resources include pamphlets, information sheets, kits and web pages, all of which provide information about the law or about services provided by Legal Aid WA.

4.1.1. Information about the law

The **kits** produced by Legal Aid WA are designed to help you solve your legal problem on your own. For example, there are appeal kits to assist you in appealing against your conviction or sentence or both. There are also kits to help you understand prison offences, parole and to assist you in having your licence disqualification removed or to have old convictions declared spent.

A range of **information sheets** are designed to give you information about a particular area of law or a particular service offered by Legal Aid WA. For example, there is an information sheet about Traffic Offences.

Legal Aid WA's public **website** has a very wide range of information covering many legal topics. For example, there are a range of criminal law topics including information about appearing in court, appeals, criminal records and spent convictions, police powers, fines and infringement notices, bail and surety, traffic offences and driver's licences. There are also a range of family law and protection and care topics including going to the Family Court, family dispute resolution and issues involving children. Civil law topics include motor vehicle accidents, personal injury, social security, dealing with debts, housing, discrimination and immigration, amongst many others.

If you have access to the website, you will also have access to the information sheets and kits referred to above, under Resources.

4.1.2. Information about Legal Aid WA Services

The website has extensive information about Legal Aid WA services, including information about applying for a grant of aid.

4.2. How do I access these resources?

Information sheets and kits may be accessed by:

- requesting a copy from any Legal Aid WA office or Legal Aid WA representative;
- contacting the Legal Aid WA Infoline to have a copy sent to you;
- going onto the Legal Aid WA website and finding them under Resources.

The Legal Aid WA website may be accessed at www.legalaid.wa.gov.au. To view the legal topics, see under Find Legal Answers and click on the area of interest. There are also links to relevant information sheets and kits from these pages. To view information about services provided by Legal Aid WA, see under Get Legal Help.

5. Part Five – Legal Aid WA offices and contact details

Telephone Infoline: Dedicated prisoner number (ask for this from prison staff) or **1300 650 579** if calling from outside prison

Translating and Interpreting Service: 131 450

National Relay Service (for hearing and speech impaired): 133 677

Legal Aid WA Website: www.legalaid.wa.gov.au

Perth Office

32 St Georges Terrace, Perth, WA 6000
1300 650 579
(08) 9261 6222

Southwest Regional Office

7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230
(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330
(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430
(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 7, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530
(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722
(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725
(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743
(08) 9166 5800

Christmas/Cocos Islands Office

Administration Building, 20 Jalan Pantai,
Christmas Island, Indian Ocean, WA 6798
(08) 9164 7529

Information for Prisoners

Part Six – WA metropolitan court locations and contact details

6. Part Six – WA metropolitan court locations and contact details

METROPOLITAN COURTS	
Perth Supreme Court Stirling Gardens Barrack Street PERTH WA 6000 Tel: 9421 5333 Fax: 9221 4436	Perth District Court 500 Hay Street PERTH WA 6000 Tel: 9425 2128 Fax: 9425 2268
Perth Magistrates Court Central Law Courts 501 Hay Street PERTH WA 6000 Tel: 9425 2222 Fax: 9425 2777	Armadale Magistrates Court 109 Jull Street ARMADALE WA 6112 Tel: 9399 0700 Fax: 9497 1488
Fremantle Magistrates Court 8 Holdsworth Street FREMANTLE WA 6160 Tel: 9431 0300 Fax: 9430 4464	Joondalup Magistrates Court 21 Reid Promenade JOONDALUP WA 6027 Tel: 9400 0700 Fax: 9300 2005
Mandurah Magistrates Court 333 Pinjarra Road MANDURAH WA 6210 Tel: 9583 1100 Fax: 9581 1842	Midland Magistrates Court 24 Spring Park Road MIDLAND WA 6056 Tel: 9250 0200 Fax: 9274 6676
Rockingham Magistrates Court 15-17 Whitfield Street ROCKINGHAM WA 6168 Tel: 9527 6433 Fax: 9592 3077	

Information for Prisoners
Part Seven – Letters to Legal Aid WA for grants of aid

7. Part Seven – Letters to Legal Aid WA for grants of aid

If you would like Legal Aid WA to:

- Reconsider your application for legal aid (after legal aid has been initially refused);
- Review its decision to refuse you legal aid on reconsideration;
- Apply to transfer an existing grant of legal aid to another lawyer;

You may use the sample letters contained in the following pages.

You should provide the letter to Legal Aid WA by:

- posting it to *The Director, Legal Aid WA, GPO Box L916, Perth, WA 6842*;
- handing it to a Legal Aid WA representative at the prison or court; or
- handing it to your own private lawyer for them to send on to Legal Aid WA.

Letter of Reconsideration

(Name of Prison)

(Reference Number from Legal Aid WA Letter)

The Director of Legal Aid WA
Legal Aid Western Australia
GPO Box L916
Perth WA 6842

(Today's Date)

Dear Sir,

Reconsideration of legal aid - _____
(Your Name and Date of Birth)

I applied for legal aid in relation to _____
(eg Family Law Application, Criminal Law Matters, Appeal)

I have been advised that I have been refused legal aid because (reasons from refusal letter):

Please reconsider my application for legal aid because (make sure you address the matters raised in the letter of refusal here):

Review of decision to refuse legal aid (Reconsideration letter unsuccessful)

(Name of Prison)

(Reference Number from Legal Aid WA letter)

The Director of Legal Aid WA
Legal Aid Western Australia
GPO Box L916
Perth WA 6842

(Today's date)

Dear Sir,

Review of Refusal of legal aid - _____
(Your Name and Date of Birth)

I applied for legal aid in relation to _____ on _____
(eg Criminal Law matters, Appeal) (Date)

I was refused legal aid and wrote a Letter of Reconsideration on _____
(Date)

I was advised on _____ that my Letter of Reconsideration was unsuccessful.
(Date)

I am writing to seek a review by the Review Committee of Legal Aid, of the two previous decisions to refuse me legal aid.

In reviewing my application, would you please consider the following (make sure you address the matters raised in the letters of refusal here):

Application for Transfer of legal aid

(Name of Prison)

(Reference number from Legal Aid WA letter)

The Director of Legal Aid WA
Legal Aid Western Australia
GPO Box L916
Perth WA 6842

(Today's Date)

Dear Sir,

Grant of legal aid _____
(Your Name and Date of Birth)

I was granted legal aid on _____ for _____
(Date) (eg Family Law, Criminal Law matters, Appeal)

My current lawyer is _____
(Name of lawyer currently representing you)

I request a transfer of my legal aid to _____
(Name of new lawyer)

because:

I have to go to court in relation to this matter on the dates set out below (you should also tell us what will be happening on those court dates):

(Include any other information here – use extra paper if you need to)

Yours faithfully

(Your name)

(Sign here)