



LEGAL AID
WESTERN AUSTRALIA

PRIVATE PRACTITIONER MANUAL

For Legal Aid WA Panel and List members

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PART 1 PRELIMINARY

1 Interpretation

In this manual, unless the contrary intention appears:

Act means the *Legal Aid Commission Act 1976 (WA)*;

applicant means a person who is applying for a grant of aid;

assign or **assignment** means the allocation of a grant of aid or a disbursement grant to a practitioner to perform legal services;

assigned matter means a case matter that is the subject of a grant of aid from Legal Aid WA and which has been allocated to a practitioner for the provision of legal services;

assigned practitioner means a practitioner who has been allocated an assigned matter;

assisted person means a person who is receiving the benefit of a grant of aid;

audit means to collect, examine and evaluate information to determine compliance with specified requirements, procedures and standards;

contribution means the monetary amount required to be paid by an assisted person to Legal Aid WA, which goes towards the funding of legal services for the assisted person under a grant of aid;

Costs Rules means the *Legal Aid Commission (Costs) Rules 1990*;

DR means dispute resolution;

Duty Lawyer Service means duty lawyer services provided by Legal Aid WA in any jurisdiction;

GOL means the Grants Online system operated by Legal Aid WA for the purposes of the electronic management of grants of aid;

grant of aid means the funding of legal services by Legal Aid WA;

Guide to Claiming Payment means the Legal Aid WA Guide to Claiming Payment and any schedules, annexures or attachments, as published from time to time;

ICL means Independent Children's Lawyer;

in-house practitioner means a practitioner employed by Legal Aid WA;

Legal Aid WA means the Legal Aid Commission of Western Australia, established under the *Legal Aid Commission Act 1976 (WA)* and its delegates;

legal services means services provided by a practitioner that are funded by Legal Aid WA;

list means a list of private practitioners set up by Legal Aid WA to provide certain legal services and which is not governed by the requirements in s40 of the Act;

manual means this manual including any schedules, annexures and attachments;

matter type means the type of legal matter as described by Legal Aid WA, to which the grant of aid applies or will apply;

panel means a panel of private legal practitioners set up by Legal Aid WA to provide certain legal services to assisted persons in accordance with s40 of the Act;

practitioner means an Australian legal practitioner within the meaning of s3 of the *Legal Profession Act 2008 (WA)*, or a registered Family Dispute Resolution Practitioner;

private practitioner means a practitioner who provides legal services in a private capacity and who is not employed by a government agency, the Aboriginal Legal Service or by Legal Aid WA;

Professional Services Agreement means the agreement between the Practitioner and Legal Aid WA which makes provision for the terms upon which the Practitioner will engage with Legal Aid WA and provide legal services as a member of a panel or list;

restricted practitioner means a practitioner who is entitled to engage in restricted legal practice only, pursuant to s50 or s72 of the *Legal Profession Act 2008 (WA)*;

the Practitioner means a private practitioner who has entered into a Professional Services Agreement with Legal Aid WA to receive and conduct assigned matters.

2 Purpose of this Manual

This manual makes provision for the terms upon which the Practitioner will engage with Legal Aid WA and provide legal services as a member of a panel or list.

3 Professional Services Agreement

This manual is to be read together with the Professional Services Agreement.

4 Other guidelines

This manual is to be read together with any other policies, standards or guidelines referred to in this manual or that Legal Aid WA may specify by notice in writing from time to time.

5 Variation

The requirements in this manual or in any policies, standards or guidelines referred to in **clause 4**, may be varied by Legal Aid WA at any time.

Legal Aid WA will notify the Practitioner in a timely manner of any such variation.

6 Notices and communications

A notice or other communication required or permitted under this manual which is to be served on or provided to the Practitioner or to Legal Aid WA must be in writing.

6.1 To the Practitioner

Unless the notice or communication is provided through the GOL system or another electronic system specified by Legal Aid WA, a notice or communication to the Practitioner will be provided:

- a) by email to the address provided by the Practitioner for the service of notices; or
- b) by post or delivered to the business address of the Practitioner.

6.2 To Legal Aid WA

A notice or communication to Legal Aid WA must be provided:

- a) if required by this manual to be through the GOL system or another identified electronic system, then through that system; or
- b) if not required to be through the GOL system or another electronic system specified by Legal Aid WA, then by email to the address provided by Legal Aid WA for the purpose of such communication or notice.

If the notice or communication cannot be provided in accordance with **clause 6.2 a)** or **clause 6.2 b)**, then it must be provided by post or delivered to the Head Office of Legal Aid WA in Perth.

7 Practitioner responsible for accuracy

The Practitioner must take reasonable steps to ensure that all information provided to Legal Aid WA is accurate. This includes all information provided in support of an application for a grant of aid, a request for an extension, in support of a claim for payment and in any report.

Any information prepared or submitted to Legal Aid WA by staff on behalf of the Practitioner is taken to have been confirmed by the Practitioner as accurate.

PART 2 GRANTS OF AID

8 Grants of aid

A grant of aid or a disbursement grant may be made by Legal Aid WA:

- For the benefit of a specific individual who is involved in a legal process, referred to as an assisted person;
- For ICL/Child Representative services; and
- For DR Chairperson services.

9 Grant for benefit of assisted person

A grant of aid may be issued by Legal Aid WA to benefit a specific individual after an application for aid is lodged and certain eligibility guidelines and requirements have been met.

Grants of aid in these circumstances may be assigned to a practitioner on the relevant panel.

The processes for issuing and managing a grant of aid in these circumstances are detailed below.

9.1 Application must be through GOL

The Practitioner may apply for a grant of aid on behalf of an applicant. To do so, the Practitioner must complete and submit an electronic application form through the Grants Online system (**GOL**).

9.1.1 Access to GOL

To access the GOL system, the Practitioner and any of the Practitioner's administration staff nominated by the Practitioner, will each be issued with an individual user name and password.

User names and passwords must not be shared. Information submitted through GOL will be attributed to the person whose user name and password is used when submitting the information.

If the Practitioner, or a nominated staff member with GOL access, changes their employment or no longer requires access, the Practitioner must notify Legal Aid WA immediately.

Click here to access the [GOL login page](#).

For help with the GOL system, see **Part 8 Help and Contacts**.

9.2 Application form – correct law type

There are different application forms for civil, criminal and family law matters in the GOL system.

It is important to use the correct form. The application will have to be re-submitted if the incorrect form is used.

Please note:

- a Family Law Application Form must be used for a Family Violence Restraining Order matter;
- a Civil Law Application Form must be used for a Violence Restraining Order matter.

9.3 Application must be complete

Every application for a grant of aid must be fully completed. If not, an application may be refused or pended for further information. If further information is not provided when requested, the application may be refused.

Other party or co-accused details must be included to facilitate conflict checks.

Significant aspects of the application should be summarised in the notes section at L1 of the GOL application form. Legal Aid WA must have sufficient information to decide:

- Whether an applicant is financially eligible for assistance;
- What, if any, contribution should be required from the applicant; and
- Whether the legal matter is one for which a grant of aid should be provided.

In considering financial eligibility, Legal Aid WA will take into account all of the applicant's significant assets and liabilities and those of any financially associated person. This information must be fully disclosed in the application form irrespective of whether the applicant or associated person's assets are the subject of confiscation proceedings or are included in the likely distribution of a deceased estate.

Information obtained in support of an application for a grant of aid must be retained by the Practitioner in accordance with the Reporting and record keeping requirements set out in **Part 5**.

9.4 Application must be accurate

Every application must be accurate. This includes providing the correct matter type to enable Legal Aid WA to consider whether to grant aid and if aid is granted, to consider the assignment of the grant to a practitioner on the appropriate panel.

The Practitioner must notify Legal Aid WA as soon as practicable after becoming aware of any inaccuracy in the information supporting an application for a grant of aid, including an inaccuracy in relation to matter type, in accordance with the Practitioner's reporting requirements in **Part 5**.

Certain inaccuracies cannot be corrected manually and will require the application to be resubmitted, namely where:

- the applicant's name has been entered incorrectly;

- the applicant's date of birth has been entered incorrectly;
- the applicant's title is incorrect, for example a female has been given the title Mr; or
- the incorrect application form has been used.

9.5 Address of applicant

9.5.1 Postal address

Written communications from Legal Aid WA to the applicant will be sent to the postal address if provided and if none is provided, to the home address provided.

If an applicant's safety is in issue, the Practitioner should ensure that the applicant understands how the postal address will be used by Legal Aid WA and prompt them to provide a safe postal address. If necessary for the safety of the applicant, the Practitioner may choose to allow them to use the Practitioner's business address as their postal address.

If an applicant is in custody, the address of the prison should be included as the postal address.

9.5.2 No current address

If the applicant does not have a current address the Practitioner should include their own business address as the postal address for the applicant.

9.6 Grants Guidelines

The Practitioner must be aware of Legal Aid WA's current Grants Guidelines when completing an application through GOL on behalf of an applicant.

These Guidelines will be applied by Legal Aid WA when considering an application for a grant of aid, subject to funding restrictions that may arise from time to time. Such restrictions may preclude grants of aid being made for certain matters at certain times.

The Grants Guidelines are available in the [GOL system](#) and on Legal Aid WA's website under [For lawyers – Managing grants of aid – Grant guidelines](#).

9.7 Urgent applications

If applicable, the Practitioner should indicate whether an application is urgent by including the details of the urgency in the notes section at L1 of the application form (where it states "Briefly describe your legal problem"). Examples of matters that will justify classification as urgent may include:

- Plea within seven days;
- Trial commencing within four weeks;
- Appeal nearing expiry date;
- Family law matter where:

- applicant or child is at immediate risk;
- recovery orders are required for the return of children;
- urgent injunctive relief is required.

In order to alert Legal Aid WA to the urgency of the application, the Practitioner should provide the Request ID associated with the application in GOL and the nature of the urgency either by email to ClientServicesAssessingTeamLeaders@legalaid.wa.gov.au or, if email is not practicable, by telephone to the Assessing section on 9261 6530.

The email address provided here must only be used for this purpose and must not be disclosed to an applicant, assisted person or any other party.

9.8 Work performed before application submitted

Pursuant to s 37(5) of the Act, Legal Aid WA may backdate the commencement date of an assignment of a grant of aid to the Practitioner for a maximum period of 30 days where:

- work in the assigned matter has been performed or partly performed prior to an application for a grant of aid being submitted; and
- Legal Aid WA is satisfied there are good reasons for the delay in submitting the application.

The Practitioner must provide the reasons for the delay in the application for the grant of aid. They may be included in the notes section at L1 of the GOL application form.

If Legal Aid WA agrees to backdate the commencement date of the assignment, the written notification of the assignment will include the approved date of commencement.

9.9 Multiple matters

Generally, where there are separate matters to be heard in different jurisdictions or in different courts and they cannot be brought together to be dealt with, separate applications for a grant of aid must be made. For example, two separate application forms must be submitted when there is a family violence restraining order matter and a related family law matter.

9.9.1 Exception in s32 criminal matters

An exception arises where summary criminal matters are able to proceed with matters on indictment, as the subject of a Section 32 Notice. In this case the matters on indictment and the matters the subject of the Section 32 Notice may be included in the same application for a grant of aid.

9.10 Duplicate applications

Where the Practitioner has previously submitted an application for a grant of aid for an applicant and a new matter arises, or there are multiple applications required for the same applicant, certain information is likely to be replicated in each new application.

As a result, the GOL system enables the Practitioner to create a duplicate of a previous application **within six months** of the previous application. This function is designed to assist the Practitioner by minimising the amount of new information that needs to be inputted into each new application form.

It is only appropriate to use a duplicate application where the new matter(s) cannot be dealt with by way of an extension to any existing grant of aid.

The requirements in **clause 9.3** and **clause 9.4** for completeness and accuracy in an application form apply equally to a duplicate application form. The Practitioner must take reasonable steps to ensure that all information in each duplicate application form is current, accurate and complete. This includes ensuring that the new application refers to the correct matter type.

Requisite evidence of the applicant's means and assets applicable at the time of each duplicate application must be obtained and retained in accordance with the reporting and record keeping requirements set out in **Part 5**.

9.11 Standard conditions of aid must be provided

Where an application is submitted by the Practitioner through GOL, the Practitioner must provide the applicant with a copy of the standard **Conditions of aid** applicable to an assisted person.

If a copy of the Conditions of aid cannot be provided to the applicant, they must instead be read to the applicant.

The Conditions of aid are available in the [GOL system](#).

9.12 Applicant Declaration – verification and acceptance of conditions of aid

Where an application is submitted by the Practitioner through GOL, the Practitioner must ensure the applicant signs the Applicant Declaration to verify the content of the application and to accept the conditions of a grant of aid.

If the applicant is unable to sign the Applicant Declaration the Practitioner must read the Declaration to the applicant and make a written record of the applicant's verbal declaration and acceptance of the conditions of the grant of aid.

The Practitioner must retain a copy of the signed Applicant Declaration or the written record of the applicant's verbal declaration, in accordance with the record keeping requirements in **Part 5**.

9.13 Solicitor Declaration - certifying legal merit

The Practitioner must properly consider the merit of the legal matter(s) the subject of the application and complete the Solicitor Declaration accordingly. It is sufficient for the Practitioner to insert their name, address and the date, without inserting a signature, before submitting the form.

Administrative or other staff submitting an application on behalf of the Practitioner may only certify legal merit if specifically instructed to do so by

the Practitioner. The Practitioner is responsible for the certifying of legal merit in any application submitted by them or on their behalf.

9.14 Notification of grant

If aid is granted, Legal Aid WA will provide written notification of the grant to the assisted person and the practitioner to whom the grant of aid has been assigned. This written notification will set out the terms of the grant of aid.

9.15 Terms of grant of aid

Where aid is granted, the terms of the grant of aid are set out in the written notification of the grant. These terms will specify:

- the legal services that may be undertaken under the grant of aid;
- the **payment limit**, being the limit of costs and disbursements that may be claimed by the assigned practitioner for performing those legal services;
- the amount of any **contribution** payable by the assisted person;
- any other condition to which the grant of aid is subject;
- the aid effective date, being the date from which the assigned practitioner may claim payment for legal services performed or costs incurred in the assigned matter, in accordance with **Part 6**.

9.16 Payment limit

Generally, Legal Aid WA will not pay costs and disbursements in respect of a grant of aid that are in excess of the payment limit stated in the grant letter.

However, the assigned practitioner may obtain prior approval from Legal Aid WA for an extension to the terms of the grant of aid, to cover additional legal services or costs that are reasonably required in the particular matter the subject of the grant of aid (refer to **clause 12**).

9.17 Contribution from assisted person

A contribution from an assisted person may be set in an amount that covers all or part of the costs of the grant of aid.

A contribution may be secured by a memorial registered against the assisted person's property, pursuant to s 44A of the Act.

9.17.1 Notification of contribution

The assisted person and the assigned practitioner will be notified of any contribution payable by the assisted person and, if relevant, the time frame for payment.

Where a contribution is secured by a memorial registered against the assisted person's property, this will be indicated in the grant letter. The grant letter will also indicate that the amount of the contribution secured by a memorial will be determined once the assisted person's matter is finalised.

9.17.2 Practitioner must collect contribution where no memorial

The assigned practitioner must collect the full contribution amount from the assisted person within the time frame specified in the grant letter,, unless the contribution is secured by a memorial registered on the assisted person's property, in which case the contribution does not need to be collected.

As payment of a contribution is a condition of a grant of aid, if the assisted person fails to pay the contribution when required to do so, or fails to enter into a satisfactory payment arrangement with the Practitioner, the Practitioner must notify Legal Aid WA immediately and the grant of aid may be terminated.

In exceptional circumstances, such as when the grant of aid is issued close to the matter being finalised, Legal Aid WA may enter into a direct payment arrangement with the assisted person. Legal Aid WA will not enter into a direct payment arrangement with the assisted person simply because the Practitioner does not wish to collect the contribution.

Where a contribution must be collected, unless notified otherwise, Legal Aid WA will assume the assigned practitioner has collected it and will automatically deduct the amount from the Practitioner's claim, as provided in **clause 15 Guide to Claiming Payment**.

10 Disbursement grant for DR Chairperson services

The services of a DR Chairperson are funded by Legal Aid WA by way of a disbursement grant, which is attached to a grant or grants of aid for the benefit of the parties. The disbursement grant itself is not created as a result of an application form, it is allocated at Legal Aid WA's discretion.

For example, where the services of a Chairperson are required to facilitate a family dispute resolution conference, Legal Aid WA may allocate funds under a disbursement grant to secure the attendance of a suitable practitioner to act as Chairperson.

Such disbursement grants will be assigned to practitioners on the Dispute Resolution Chairperson (Children's Matters) List or the Dispute Resolution Chairperson (Property Settlement) List.

The process for selecting the Chairperson is dealt with under **Part 3 Assigning grants of aid**.

11 Grant of aid for ICL/Child Representative

Legal Aid WA may issue a grant of aid for ICL/Child Representative services in response to a request from the Family Court or the Children's Court, that an ICL or Child Representative be appointed in the proceedings.

The process of applying for a grant of aid, referred to in **clause 9**, does not apply to grants for these services.

Grants of aid in these circumstances may be assigned to a private practitioner on the ICL/Child Representative List at the discretion of Legal Aid WA.

The process for selecting the ICL/Child Representative is dealt with in **clause 15**, under **Part 3 Assigning grants of aid**.

11.1 Notification of ICL/Child Representative grant

The Practitioner who has been assigned the grant of aid will be provided with written notification of the grant. This written notification will set out the date of commencement and the terms of the grant of aid.

11.2 Terms of ICL/Child Representative grant

The terms of the grant of aid as set out in the written notification will specify:

- the legal services that may be undertaken under the grant of aid;
- the **payment limit**, being the limit of costs and disbursements that may be claimed by the assigned practitioner for performing those legal services; and
- the aid effective date, being the date from which the assigned practitioner may claim payment for legal services performed or costs incurred in the assigned matter, in accordance with **Part 6 Claiming Payment from Legal Aid WA** and the **Guide to Claiming Payment**.

11.3 Payment limit for ICL/Child Representative grant

Generally, Legal Aid WA will not pay costs or disbursements in respect of a grant of aid that are in excess of the payment limit stated in the written notification of the grant.

However, the assigned practitioner may obtain prior approval from Legal Aid WA for an extension to the terms of the grant of aid, to cover additional legal services or disbursements that are reasonably required in the particular matter the subject of the grant of aid (refer to **clause 12**).

12 Extension to grant of aid

If necessary, an extension to a grant of aid may be requested to allow for the cost of further legal services to be provided under the grant of aid or for further disbursement costs to be incurred.

The **Guide to Claiming Payment** details the costs that may be covered by the terms of a grant of aid and the additional costs and disbursements that may be the subject of an extension request.

Extensions cannot be requested on disbursement grants issued for DR Chairperson services.

12.1 Request extension in advance

A request for an extension must be made prior to performing the further legal services or incurring the further disbursement.

12.2 Request must be complete and accurate

Every request for an extension must be complete and accurate, to enable Legal Aid WA to determine whether to approve the extension. This includes providing the correct matter type(s) for any new matters.

The Practitioner must notify Legal Aid WA as soon as practicable after becoming aware of any inaccuracy in the information supporting a request for an extension, including an inaccuracy in relation to matter type, in accordance with the Practitioner's reporting requirements in **Part 5**.

12.3 Extension request – grant for assisted person

Where the grant of aid is for the benefit of an assisted person every request for an extension:

- must comply with **clause 12.1** (request in advance) and **clause 12.2** (be complete and accurate);
- must be made by or on behalf of the practitioner to whom the grant of aid has been assigned;
- must be submitted through the GOL system;
- cannot be submitted by email;
- must relate to legal services or disbursements that are not already covered under the terms of the grant of aid;
- for criminal law matters where there are multiple charges, must comply with **clause 12.3.2**; and
- must include the following information:
 - whether the matter continues to have merit;
 - the progress and current status of the matter;
 - details of the additional legal services sought to be covered by the extension request and the reasons they are required;
 - any change to the matter type(s) the subject of the grant of aid;
 - any new matter type(s) requested to be the subject of the grant of aid;
 - the amount of any additional disbursement sought to be incurred and the reason it is required;
 - any change in the assisted person's financial situation; and
 - for family law matters, the details noted in **clause 12.3.1**.

12.3.1 Family law – requirements for every extension request

In addition to the requirements in **clause 12.3**, when requesting an extension to a grant of aid for family law matters the Practitioner must provide Legal Aid WA with the following details through GOL:

- the orders sought by the assisted person and the other party;

- the likelihood of the assisted person obtaining the orders they seek;
- details of all offers and counter offers made;
- suitability for Dispute Resolution;
- which track the matter has been assigned to; and
- if relevant, details of any settlement offers that have been made or received.

12.3.2 Criminal law – extension for multiple charges

12.3.2.1 Further offences

Where an assisted person is charged with further offences that will proceed together with the matter(s) the subject of the original grant of aid, the Practitioner must request an extension to the original grant of aid to cover the additional charges.

12.3.2.2 Multiple matters brought together

Where an assisted person has separate grants of aid for matters being dealt with in different courts and all charges are then brought together to be dealt with in one court, the Practitioner must request an extension to the substantive grant of aid to enable Legal Aid WA to take into account that the Practitioner will be dealing with all matters together. The substantive grant of aid is the grant attached to the matter that has remained in its original court and not been transferred.

12.4 Extension request - grant for ICL/Child Representative services

Where the grant of aid is for ICL/Child Representative services the request for an extension must be made by or on behalf of the practitioner to whom the grant of aid has been assigned and the request:

- must be in writing;
- must comply with **clauses 12.1** (request in advance) and **clause 12.2** (be complete and accurate);
- must relate to legal services or disbursements that are not already covered under the terms of the grant of aid; and
- must include the following information:
 - details of the additional legal services sought to be covered by the extension request and the reasons they are required; and
 - the amount of any additional disbursement sought to be incurred and the reason it is required.

12.5 Notification of extension decision

The practitioner requesting the extension will be given written notification of the decision to approve or refuse the extension to the grant of aid.

If the extension is approved, the written notification will set out the date of commencement and the terms of the extension, namely, the further legal services and applicable payment limit that applies as a result of the extension.

A tax invoice, in the amount of the payment limit specified in the terms of the approved extension, will be included with this written notification.

Where an extension is approved to brief counsel or an agent or engage an instructing solicitor, Legal Aid WA may inform the counsel, agent or solicitor of the terms of the extension.

PART 3 ASSIGNING GRANTS OF AID

13 Requirements for assigning grants of aid

Once a grant of aid is made, Legal Aid WA will assign the performance of legal services under that grant either to an in-house practitioner, or to a private practitioner.

To facilitate the assignment of grants of aid to private practitioners, Legal Aid WA operates panels and lists of private practitioners who are eligible to receive relevant assigned matters.

The process followed by Legal Aid WA in the assignment of grants of aid and the allocation of funds as disbursement grants varies depending on whether there is an assisted person involved. There are different processes applicable to the assignment of grants for an assisted person as opposed to grants for DR Chairperson or ICL/Child Representative services. These are set out below.

13.1 Assigned practitioner must be member of relevant panel or list

Legal Aid WA will not assign a grant of aid to a private practitioner unless that practitioner is a member of the panel or list relevant to the matter type the subject of the grant of aid or disbursement grant.

13.2 Suspension of assignments

Legal Aid WA may suspend the assignment of new grants of aid to the Practitioner where it considers it is necessary in the interests of an assisted person, or to ensure the effective, efficient and economical provision of legal services in any assigned matter.

14 Assigning grant for assisted person

The following applies only to the assignment of a grant of aid for the benefit of an assisted person. Such assignments take into account the practitioner of choice provisions in the Act, as provided in the following guidelines.

14.1 Guidelines for assigning grant of aid between in-house practitioner and private practitioner

Legal Aid WA will apply the following guidelines when selecting the practitioner to whom the grant of aid will be assigned:

- 1) A grant of aid will be assigned in a manner that ensures that legal services are provided in the most effective, efficient and economical manner;
- 2) A grant of aid will be assigned in a manner that is consistent with the interests of the assisted person;
- 3) A grant of aid may be assigned to an in-house practitioner or to a private practitioner who is a member of the Legal Aid WA panel relevant to the matter type the subject of the grant of aid;
- 4) Where a private practitioner is nominated as the practitioner of choice in an application for a grant of aid, Legal Aid WA may nevertheless assign the grant of aid to an in-house practitioner;
- 5) Where a private practitioner is nominated as the practitioner of choice in an application for a grant of aid and Legal Aid WA decides that the legal services under the grant of aid may be performed by a private practitioner, the grant of aid will be assigned to the nominated private practitioner, unless it is not in the interests of the assisted person to do so;
- 6) Where no practitioner is nominated in an application for a grant of aid, the grant of aid will be allocated to an in-house practitioner unless:
 - a) there is no in-house practitioner with capacity to accept the assigned matter;
 - b) the matter type the subject of the grant is not within the professional expertise of an available in-house practitioner;
 - c) there is likely to be a conflict of interest if the grant of aid is assigned to an in-house practitioner; or
 - d) having regard to all of the circumstances of the case including the interests of the assisted person, Legal Aid WA considers that the grant of aid should be assigned to a private practitioner.

14.2 Assigning grants for co-accused

Legal Aid WA will not ordinarily assign grants of aid to the Practitioner for more than one co-accused because of the potential for a conflict of interest.

If the Practitioner is assigned grants of aid for more than one co-accused it is on the basis that if a conflict arises, the assignment of the grant of aid for each co-accused will be transferred to other practitioners and the Practitioner will not be entitled to claim for legal services performed under any of the grants of aid.

Clause 35.9 Guide to Claiming Payment details the costs that may be claimed where the Practitioner is assigned grants of aid for more than one co-accused.

14.3 Assisted person interstate

Where a grant of aid is made for a matter to be dealt with in Western Australia but the assisted person resides interstate, the grant of aid will be assigned to a practitioner in Western Australia. The assigned practitioner may choose to engage an interstate agent to assist in preparation. If an extension to the grant of aid is required, the extension request must be in accordance with **clause 12**.

15 Assigning grant for DR Chairperson or ICL/Child Representative

Where there is a grant of aid for ICL/Child Representative services, or a disbursement grant for DR Chairperson services, Legal Aid WA will, at its discretion, select an in-house practitioner or a private practitioner who is a member of the relevant list, to perform those services.

16 Acceptance of assignment

16.1 Availability to accept assignments

The Practitioner is taken to be available to accept assignments of grants of aid unless assignments have been suspended by Legal Aid WA under **clause 13.2**, or the Practitioner has notified Legal Aid WA of their unavailability to accept assignments, in accordance with **clause 16.4**.

16.2 Acceptance may be confirmed

Legal Aid WA may contact the Practitioner prior to the assignment being made, to confirm whether they can accept the assignment, where:

- the assignment is for DR Chairperson or ICL/Child Representative services; or
- the Practitioner has not submitted the application for a grant of aid; and
 - the matter is urgent; or
 - the grant is for legal services to be provided outside the Perth metropolitan area.

16.3 Otherwise deemed acceptance

The Practitioner is deemed to have accepted the assignment unless, within 48 hours of the matter being assigned, the Practitioner:

- notifies Legal Aid WA that they have a conflict of interest; or
- shows to the satisfaction of Legal Aid WA, that there are reasonable grounds for not accepting the assignment.

16.4 Must notify of unavailability in advance

If the Practitioner is, or will become, unavailable to accept assignments of grants of aid for a period of time, they must notify Legal Aid WA as soon as practicable and indicate the period during which they will be unavailable.

The notification may specify unavailability to accept all assignments, or unavailability to accept just those assignments that are referred to the Practitioner by Legal Aid WA (**referred assignments**).

The Practitioner may, by further notice to Legal Aid WA, modify the nature or period of unavailability.

16.4.1 Extended unavailability - review of membership

If the Practitioner has not accepted any assignments, including referred assignments, for a continuous period of 18 months or more, Legal Aid WA may carry out a review of the Practitioner's eligibility for continuing membership of the panel or list that is relevant to their unavailability.

To facilitate the review, the Practitioner may be required to provide Legal Aid WA with information relevant to their continuing eligibility for membership of the relevant panel or list.

If Legal Aid WA is considering removing the Practitioner from the relevant panel or list, the Practitioner will be given an opportunity to show cause as to why they should not be removed.

16.4.2 Indefinite unavailability

As soon as the Practitioner becomes aware that they will be unavailable indefinitely to accept any assignments, they must notify Legal Aid WA. Such notification will be taken as a request by the Practitioner to be removed from the relevant panel, pursuant to **clause 14.1 PSA**.

17 Transfer of assigned matter

If necessary, Legal Aid WA will transfer an assigned matter to another practitioner. Due to the increase in costs to Legal Aid WA when a matter is transferred, transfers will not occur automatically on request. The transfer of any assigned matter to another practitioner must be approved by Legal Aid WA.

The assigned practitioner, the proposed new practitioner, or the assisted person may request a transfer, or a transfer may occur at the instigation of Legal Aid WA.

17.1 DR Chairperson services

The following requirements for transfers do not apply to DR Chairperson services. Where an appointed DR Chairperson is unable to provide the service, Legal Aid WA will re-assign the disbursement grant to a different practitioner on the relevant DR Chairperson list.

17.2 Requirements for transfer request

17.2.1 Transfer request from assigned practitioner

Before making a request to transfer an assigned matter, the assigned practitioner must consider the option of briefing another practitioner, if appropriate, rather than requesting a transfer to another practitioner.

A request by the assigned practitioner for a transfer from them to another practitioner must:

- be in accordance with the Transfer Guidelines at **clause 17.3**;
- include sufficient reasons for the transfer request, with reference to the Transfer Guidelines at **clause 17.3**;
- be submitted in writing;
- be submitted through the GOL system where the grant is being managed through that system;
- be made in good time; and
- include a full report of the progress of the matter the subject of the grant of aid.

17.2.2 Transfer request to Practitioner

Where an assisted person indicates there is an issue regarding the conduct of their matter by the assigned practitioner, the assigned practitioner should be afforded professional courtesy. The assisted person should be encouraged to:

- contact the assigned practitioner to resolve any issue they may have with that practitioner, or
- contact Legal Aid WA in writing, or through the Legal Aid WA prison visiting service, or the Legal Aid WA Infoline on 1300 650 579.

The Practitioner should not take instructions or visit the assisted person in custody in relation to the assigned matter unless they are the assigned practitioner.

A request by the Practitioner for a transfer to them from the assigned practitioner must:

- be in accordance with the Transfer Guidelines at **clause 17.3**;
- include sufficient reasons for the transfer request, with reference to the Transfer Guidelines at **clause 17.3**; and
- be submitted in writing.

17.3 Transfer Guidelines

- 1) Legal Aid will not transfer a grant of aid to a private practitioner unless that practitioner is a member of the panel or list relevant to the matter type the subject of the grant of aid;
- 2) A request by a private practitioner or assisted person for the transfer of an assigned matter from one private practitioner to another private practitioner must be for good reason. An issue with the grant of aid, such as the need to collect a contribution from the assisted person, does not constitute a good reason;
- 3) When considering a request from a private practitioner to have a grant of aid transferred from the assigned practitioner to them, Legal Aid WA may take into account whether the assigned practitioner was the assisted person's practitioner of choice, as nominated in their application for a grant of aid;
- 4) A request by a private practitioner for the transfer of an assigned matter may be approved where:
 - a) the private practitioner accepting the transfer agrees to do so at no extra cost to Legal Aid WA;
 - b) the private practitioner relinquishing the assigned matter:
 - i) ceases to practice;
 - ii) relocates to a new region;
 - iii) has a conflict of interest;
 - iv) with good reason refuses to continue to act for an assisted person;
 - v) can show, to the satisfaction of Legal Aid WA, that there are reasonable grounds for relinquishing the assigned matter;
 - c) it is shown, to the satisfaction of Legal Aid WA, that the assisted person:
 - i) for good reason no longer has confidence in the assigned practitioner; and
 - ii) is not refusing to accept reasonable advice from the assigned practitioner;
- 5) Where a private practitioner or assisted person requests the transfer of an assigned matter from an in-house practitioner to any, or a nominated, private practitioner and Legal Aid WA is satisfied that the assisted person, for good reason, no longer has confidence in the assigned practitioner, Legal Aid WA will transfer the assigned matter to another in-house practitioner unless:
 - a) no other in-house practitioner is available to deal with the grant;
 - b) the legal matter the subject of the grant is not within the professional expertise of any other available in-house practitioner; or

- c) there is likely to be a conflict of interest if the grant were assigned to another in-house practitioner,

in which case Legal Aid WA will transfer the assigned matter to the nominated private practitioner or if one was not nominated, to a private practitioner on the relevant Legal Aid WA panel or list.

- 6) Where an in-house practitioner resigns from Legal Aid WA and becomes eligible to have relevant grants of aid assigned to them as a private practitioner, that practitioner or the assisted person may request that specified grants be transferred to the practitioner in their new capacity as a private practitioner. However, such request will not be approved unless:
- a) there is no in-house practitioner available to attend to the grant;
 - b) the legal matter the subject of the grant is not within the professional expertise of an available in-house practitioner;
 - c) there is likely to be a conflict of interest if the grant is assigned to an in-house practitioner; or
 - d) having regard to all of the circumstances of the case including the interests of the assisted person, Legal Aid WA considers that the grant should be transferred to the practitioner in their new capacity as a private practitioner,

and where there is a transfer to the private practitioner for one or more of these reasons, the value of the grant of aid for any outstanding work will be reduced by the value of any claims previously made against the grant by the practitioner when they had conduct of the matter as an in-house practitioner.

- 7) Legal Aid WA will transfer an assigned matter where the assigned practitioner is not a member of the relevant panel or list for the matter type the subject of the grant of aid;
- 8) Legal Aid WA may transfer an assigned matter where it is satisfied that a transfer is appropriate in all the circumstances of the case, taking into account the interests of the assisted person or the effective, efficient and economical provision of legal services in any assigned matter.

17.4 Notification of transfer decision

Where the transfer request is approved, the assisted person, the previous assigned practitioner and the new assigned practitioner will be notified in writing. The written notification will set out the date of commencement of the transfer and the terms of the grant of aid.

18 Criminal – new or changed matter type after assignment

18.1 New charge and matter type

Where:

- a grant of aid has been assigned to the Practitioner, and

- a new charge results in a new matter type being added, and
- the new matter type falls under a different panel of which the Practitioner is not a member,

the grant of aid for the new matter will be assigned either to an in-house practitioner or a practitioner on the relevant panel for that matter type (the **new practitioner**).

In these circumstances, Legal Aid WA may also transfer the original assigned matter from the Practitioner to the new practitioner, in accordance with **clause 17.3, paragraph 8**.

18.2 Change to charge and matter type

Where:

- a grant of aid has been assigned to the Practitioner, and
- a change to the charge results in a change to the matter type, and
- the changed matter type falls under a different panel of which the Practitioner is not a member,

the grant of aid will be transferred either to an in-house practitioner or a practitioner who is a member of the relevant panel for the changed matter type.

18.2.1 GBH upgraded to murder

In the specific situation where an assisted person is charged with Grievous Bodily Harm (GBH) and it appears likely to Legal Aid WA that the charge will be upgraded to murder, if the matter is to be assigned to a private practitioner it will be assigned to a private practitioner who is a member of the Crime - Murder Panel.

Where an assisted person is charged with GBH without the likelihood of the charge being upgraded to murder, if the matter is to be assigned to a private practitioner, Legal Aid WA will assign the GBH charge to a private practitioner who is a member of the Crime - Serious Indictable Panel.

However, if the charge is subsequently upgraded to murder and the assigned private practitioner is not a member of that panel, Legal Aid will transfer the assigned matter to an in-house practitioner or to a private practitioner who is a member of the Crime - Murder Panel.

18.3 Must notify Legal Aid WA of new charge or changed matter type

The Practitioner must comply with the requirements in **clause 23.5** to notify Legal Aid WA as soon as practicable if:

- a charge changes such that the matter type the subject of the grant of aid changes, or
- a new charge arises that is to be dealt with together with the original charge the subject of the grant of aid, whether or not that new charge is itself the subject of a grant of aid.

PART 4 PRACTICE AND CASE MANAGEMENT STANDARDS

19 Must comply with standards

The Practitioner must act honestly, professionally and ethically and must comply with the following practice and case management standards in relation to every assigned matter.

20 Professional standards

20.1 Legal practitioners

Legal practitioners must comply with the *Legal Profession Conduct Rules 2010* (WA).

20.2 Independent Children’s Lawyers and Child Representatives

ICLs must comply with the *Guidelines for Independent Children’s Lawyers 2013* and associated *Checklist* and must ensure that at least two Continuing Professional Development (CPD) points in each CPD year are related to the work of an ICL.

Child Representatives must comply with any *Guidelines for Child Representatives in Protection Proceedings* as may be required by Legal Aid WA, and, to the extent that they are relevant to the work undertaken by a Child Representative, the *Guidelines for Independent Children’s Lawyers 2013* and associated *Checklist*.

20.3 DR Chairpersons

Practitioners acting as Chairpersons in dispute resolution must comply with the ongoing obligations associated with their registration as a Family Dispute Resolution Practitioner or their accreditation under the National Mediator Accreditation System.

20.4 Practitioners acting in dispute resolution

Practitioners acting for an assisted person in dispute resolution must:

- ensure that the assisted person is adequately prepared to participate effectively in the DR Conference;
- take instructions, exchange required documents and provide necessary disclosure in a timely manner, to prepare for the DR Conference;
- comply with the ‘Best Practice Guide for Legal Representatives at Legal Aid WA Family Dispute Resolution’ located in the [GOL system](#) under Enclosures, Family Law – DR;

- utilise and complete as necessary, Legal Aid WA's Family Law Dispute Resolution materials located in the [GOL system](#) under Enclosures, Family Law – DR.

21 Legal Aid WA standards

In addition to the standards noted at **clause 20**, the Practitioner must comply with the following standards set by Legal Aid WA.

21.1 Dealing with Legal Aid WA

The Practitioner:

- must act honestly and in good faith towards Legal Aid WA;
- must comply fully with the requirements in the **Professional Services Agreement** and this **manual**;
- must deal with Legal Aid WA staff in a courteous and professional manner; and
- must not engage in conduct or make comment that is of an offensive or adverse nature towards Legal Aid WA.

21.2 Dealing with assisted person and parties

The Practitioner must treat the assisted person with dignity and respect and act professionally towards all parties involved in an assigned matter.

21.2.1 Communications

The Practitioner must communicate with the assisted person and any parties involved in the assigned matter:

- in a timely manner; and
- in a manner that ensures that the person is capable of understanding the communication, taking into account relevant factors such as:
 - their age;
 - their mental capacity; and
 - their ability to understand written or spoken English.

21.2.2 Initial contact with assisted person

The Practitioner must:

- communicate or attempt to communicate with the assisted person as soon as practicable but otherwise within 7 days from the date of commencement of the assignment, or, in the case of an assisted person who is in custody, within 3 days from the date of commencement of the assignment;
- meet, or substantially interact with the assisted person as soon as practicable but otherwise within 14 days from the date of commencement of the assignment; and

- ensure that the assisted person knows how to contact the Practitioner.

21.2.3 Providing advice

The Practitioner must advise the assisted person of the following:

- the progress of the assigned matter;
- the outcome of all court and court related hearings, conferences and mediations;
- any delay in the handling of the assigned matter, including reasons for the delay; and
- at the conclusion of the assigned matter:
 - the final outcome;
 - an assessment of the final outcome including any right of appeal or review;
 - any further action the assisted person should take, including obtaining further advice;
 - any time limits still relevant, such as for appeals or commencing litigation; and
 - that the Practitioner's file will be stored in accordance with **clause 22**.

21.3 Obligations when providing legal services

The Practitioner must, in every matter assigned to them:

- ensure the number and nature of matters undertaken are within the Practitioner's professional capacity;
- ensure legal services are performed in an effective, efficient and economical manner;
- act on instructions in a professional and timely manner;
- perform legal services in a professional and timely manner;
- meet key dates, actions and undertakings;
- only adjourn or re-schedule court hearings or conferences for good reason;
- ensure that any work performed by staff on behalf of the Practitioner is properly supervised; and
- ensure that Legal Aid WA is provided with a report as to the nature of legal services performed and by whom, in accordance with reporting requirements in **Part 5 Reporting and Record Keeping**.

21.4 Responsibility for legal services

The Practitioner is responsible to Legal Aid WA for the conduct and performance of all legal services in matters assigned to them.

21.4.1 Who may perform services in assigned matter

In this clause:

panel practitioner means a practitioner who is a member of the panel or list relevant to the assigned matter, according to the [Register of Members](#).

non-panel practitioner means a practitioner or restricted practitioner who is not a member of the panel or list relevant to the assigned matter

prior approval has the meaning given in **clause 21.4.1.2**.

All legal services in an assigned matter must either be performed by the assigned practitioner, or by another practitioner as provided in the following table:

Person providing service	Service they may provide
Assigned practitioner	Any service in assigned matter
Any other panel practitioner	Any service in assigned matter, as instructed by assigned practitioner
Any non-panel practitioner	<ul style="list-style-type: none"> • Attend a prison, detention centre or other place of detention to: <ul style="list-style-type: none"> ○ complete an application for a grant of aid; ○ collect or deliver documents; or ○ take a statement, • Appear in criminal courts as provided by clause 21.4.1.1 Allowable non-panel practitioner appearances in criminal courts
Any non-panel practitioner, with prior approval from Legal Aid WA (see clause 21.4.1.2)	Service(s) as approved by Legal Aid WA

21.4.1.1 Allowable non-panel practitioner appearances in criminal courts

The following criminal court appearances may be performed by a non-panel practitioner on instructions from the assigned practitioner, without the need for prior approval from Legal Aid WA:

- simple adjournment in any court which is uncontested, where no plea is entered, no plea in mitigation is presented and there is no legal or factual argument,
- bail variation in the Magistrates Court (including Stirling Gardens) or Children's Court which is uncontested and where there is no legal or factual argument,
- listing for a trial, directions hearing or status conference in the Magistrates Court (not including Stirling Gardens), Children's Court or District Court, where there is no legal or factual argument,
- adjournment of an unscheduled arrest appearance in the Magistrates Court (not including Stirling Gardens), Children's Court or District Court, where no bail application is made,

- appearance in the Sentence Mention List in the District Court where there is no legal or factual argument.

These allowable appearances are also provided below in table form. A tick denotes that the service may be performed in that court by a non-panel practitioner without requiring prior approval from Legal Aid WA. **All other appearances by non-panel practitioners require prior approval.**

Task	Children's Court	Magistrates Court	District Court	Stirling Gardens
Simple adjournment – uncontested, no plea, no plea in mitigation, no legal or factual argument	✓	✓	✓	✓
Bail variation - uncontested and no legal or factual argument	✓	✓	X	✓
List for trial, directions hearing or status conference - no legal or factual argument	✓	✓	✓	X
Adjourn unscheduled arrest appearance where no bail application	✓	✓	✓	X
Sentence Mention List where no legal argument	N/A	N/A	✓	N/A

21.4.1.2 Prior approval

Prior approval means approval, obtained by the assigned practitioner in writing from Legal Aid WA, to instruct a specified non-panel practitioner to perform specified services in the assigned matter.

Prior approval may be requested by completing the relevant [approval request form](#) and emailing it to compliance@legalaid.wa.gov.au. If Legal Aid WA considers it appropriate and necessary in the circumstances to provide approval verbally, a written record of that approval and the date it is provided must be made and retained by the assigned practitioner.

In determining whether to provide approval, Legal Aid WA will consider:

- whether it is possible to brief another panel practitioner and any reasons for not doing so, and
- whether the non-panel practitioner has the minimum post-admission experience applicable to members of the relevant panel.

21.4.1.3 Consequences of breaching clause 21.4.1

Where any legal service in an assigned matter is performed in breach of **clause 21.4.1**, Legal Aid WA may treat the breach as a compliance issue as defined in the Professional Services Agreement and may decline to meet the assigned practitioner's claim for payment for that legal service.

21.4.1.4 Obligation on panel practitioners when accepting instructions

A practitioner who is a member of a panel or list must not accept instructions to perform legal services in an assigned matter unless they are entitled to perform the legal services under **clause 21.4.1**.

21.5 Briefing agent or counsel or engaging instructing solicitor

When briefing an agent or counsel the Practitioner must comply with **clause 21.4.1**.

When briefing an agent or counsel, or engaging an instructing solicitor, the Practitioner must:

- advise the assisted person of the need to do so;
- ensure the assisted person is consulted as to the selection of the agent, counsel or instructing solicitor;
- if additional costs are to be incurred, ensure an extension to the grant of aid is obtained prior to engaging the agent, counsel or instructing solicitor, in accordance with **clause 12**;
- if applicable, ensure the agent, counsel or instructing solicitor is willing to be engaged at the rate or fee approved by Legal Aid WA;
- brief the agent or counsel in writing;
- brief the agent or counsel in sufficient time and provide sufficient information, to enable them to give proper consideration to the matter;
- only brief the Legal Aid WA Duty Lawyer Service where there is no other suitable agent available to be briefed;
- where the Legal Aid WA Magistrates Court Duty Lawyer Service is being briefed, do so in accordance with the Duty Lawyer Scheme Protocol, available on the Legal Aid WA website under [For lawyers – Practitioner standards and compliance](#).

21.6 Engaging an expert

The Practitioner must, when engaging an expert to assist in an assigned matter:

- advise the assisted person of the need to engage an expert;
- ensure an extension to the grant of aid is obtained prior to engaging the expert, in accordance with **clause 12**;
- ensure the expert is willing to be engaged at the fee approved by Legal Aid WA;
- ensure the assisted person is consulted as to the selection of the expert.

21.7 Handling money

The Practitioner must ensure that money relevant to the assigned matter is handled:

- efficiently and without delay;
- in a manner that ensures that it can be traced; and
- according to the assisted person's instructions or, in the absence of those instructions, by payment as soon as reasonably possible into the appropriate revenue account or trust account.

21.8 File management

The Practitioner must maintain a separate file in relation to each assigned matter which:

- records the terms of the grant of aid and any approved extensions to the grant of aid;
- records the status of the matter;
- clearly and prominently records instructions, advice, key dates, actions and undertakings;
- records, in sufficient detail, the nature of the legal services performed and by whom;
- includes copies of all documents and materials relevant to the matter and to the legal services performed;
- is maintained in a manner that ensures the information contained in it is identifiable and accessible; and
- is stored in accordance with **clause 22**.

PART 5 REPORTING AND RECORD KEEPING

22 Applicable time frame

22.1 Generally

The reporting and record keeping requirements referred to in this Part, apply to the Practitioner during the conduct of an assigned matter and for a period of seven years after an assigned matter is finalised.

22.2 Life or indefinite imprisonment

In the case of an assigned matter that results in the assisted person being given a life or indefinite sentence of imprisonment, the reporting and record keeping requirements referred to in this Part apply to the Practitioner during the conduct of the assigned matter and for the period of the life imprisonment or indefinite period of imprisonment.

In this case, Legal Aid WA will provide storage facilities for the records relevant to the assigned matter, as soon as the matter is finalised. To make arrangements for such storage contact info@legalaid.wa.gov.au.

23 Reporting and record keeping requirements

The Practitioner must comply with the following reporting and record keeping requirements as far as they are relevant to the Practitioner.

Clauses referring to submitting an application for a grant of aid or to recording information about an assisted person, do not apply to the Practitioner when providing services as a DR Chairperson or an ICL/Child Representative.

23.1 Request to provide information

If requested, the Practitioner must provide information relating to the legal services provided in the assigned matter to Legal Aid WA as soon as possible and otherwise within 21 days of the request.

23.2 Practitioner changing firm

If the Practitioner is proposing to change the firm in which they practice, they must notify Legal Aid WA as soon as practicable of the following:

- the details of the new firm;
- the date when they will commence work in the new firm;
- the assigned matters that they will be retaining;
- the assigned matters that they will not be retaining and that are the subject of a transfer request.

23.3 Information supporting application for grant of aid

In submitting an electronic application for a grant of aid through GOL, the Practitioner must:

- a) Retain copies of any documents provided to the Practitioner by the assisted person that verify the assisted person's means and assets;
- b) If requested by Legal Aid WA, as soon as practicable obtain documents from the assisted person that verify the assisted person's means and assets;
- c) Retain the signed Applicant Declaration or written record of the applicant's verbal declaration as referred to in **clause 9.12**;
- d) Retain copies of all documents that verify or support the merit of the application, which may include but are not limited to:
 - statement of material facts;
 - criminal record;
 - affidavits;
 - expert reports;
 - practitioner file notes; and
- e) If requested, provide such documents to Legal Aid WA within 21 days.

23.4 Information substantiating services and costs

The Practitioner must retain records and information substantiating the performance of all legal services and claims for costs and disbursements in matters assigned to them.

This includes obtaining and retaining records and information substantiating the performance of all legal services and claims for costs and disbursements which have been performed or incurred by counsel, an agent or an instructing solicitor engaged by the Practitioner, in matters assigned to the Practitioner.

Such records and information may include but are not limited to:

- records of all court or conference attendances including the date, court or conference location, purpose of the attendance, who attended and time spent;
- records of all legal services performed, including the nature of the service, who performed it, the date it was performed and the time spent performing it;
- records of all disbursements incurred, including tax invoices and payment receipts; and
- a copy of the receipt if an assisted person has paid a contribution as a condition of their grant of aid.

If requested, such records and information must be provided to Legal Aid WA within 21 days.

23.5 Information affecting grant of aid or assignment of grant of aid

The Practitioner must, as soon as practicable and whether or not there has been a request for information from Legal Aid WA, notify Legal Aid WA of any information that may affect the grant of aid or the assignment of the grant of aid to the Practitioner, including but not limited to:

- Any change in the assisted person's financial circumstances including their ability to pay any contribution;
- Any change in the assisted person's personal circumstances relevant to the eligibility criteria in the Grants Guidelines referred to in **clause 9.6**;
- Any change to the legal matter the subject of the grant of aid, including where:
 - there is a change to the nature or seriousness of a matter (for example, where the grant is for dispute resolution and the matter no longer falls within the scope of dispute resolution);
 - a charge changes (ie upgraded or downgraded) such that the matter type the subject of the grant of aid changes;
 - a new charge or matter is added and is to be dealt with together with the original charge or matter the subject of the grant of aid, whether or not the new charge is itself the subject of a grant of aid;
 - a charge or matter is discontinued or abandoned;
 - charges or matters the subject of separate grants are brought together to be dealt with at the same time;
 - charges or matters are separated.
- Any inaccuracy in a charge or matter type relied on for the grant of aid by Legal Aid WA;
- The refusal by an assisted person to follow the reasonable advice of the Practitioner (which may lead to the termination of the grant of aid);
- The fact that the Practitioner is not a member of the relevant panel for the matter type the subject of the grant of aid.

23.6 Information from assisted person

23.6.1 Provide information if requested

If requested, the Practitioner must provide Legal Aid WA with information disclosed to the Practitioner by the assisted person in the course of and in respect to, the performance of legal services in the assigned matter.

23.6.2 Change of address

The Practitioner must notify Legal Aid WA immediately of any change to the assisted person's postal address. This notification must be provided by submitting a new request through the [GOL system](#) using the "further information" option.

23.7 Inability to continue to perform services in assigned matter

The Practitioner must notify Legal Aid WA as soon as practicable after becoming aware that he or she is unable to continue to provide legal services in an assigned matter.

Other than in DR Chairperson matters, Legal Aid WA will treat such notification as a request for a transfer and the requirements in **clause 17** will apply.

23.8 Progress report

In addition to any information requested by Legal Aid WA, or any information otherwise provided to Legal Aid WA by the Practitioner during the course of the assignment, the Practitioner must provide a written progress report to Legal Aid WA every six months during the course of the assignment, or when requested.

A progress report must be provided within 21 days of any request and must contain:

- the nature of the legal services provided to date in the assigned matter;
- the progress of the matter to date;
- any information which might affect the grant of aid, including information referred to in **clause 23.5**;
- any information which might affect the assignment of the grant of aid, including information referred to in **clause 23.7**; and
- any other information requested by Legal Aid WA.

23.9 Final report with claim for payment

Other than in DR Chairperson matters, as soon as practicable and otherwise within six months from the completion of the assigned matter the Practitioner must provide Legal Aid WA with a final report of the outcome of the assigned matter.

The final report must be accompanied by a claim for payment in accordance with **Part 6 Claiming Payment from Legal Aid WA**.

The final report must contain:

- details of the outcome of the assigned matter;
- a brief description of how the assigned matter progressed and was conducted, including:

- the nature of the legal services provided;
- who performed those legal services, including any practitioner who was not the assigned practitioner, any restricted practitioner, or any person who was not a practitioner and was working on the assigned matter under the supervision of the assigned practitioner;
- the stage at which important events occurred, such as the entry of a guilty plea or the discontinuance of a matter; and
- any unusual or unexpected events or developments that contributed to the costs incurred; and
- sufficient information to properly substantiate the claim for payment, including the information which must be provided with any claim for payment, as provided in **clause 26.1**.

23.10 DR Chairperson report

If the Practitioner has provided services as a DR Chairperson they are required to complete a report in the form provided by Legal Aid WA and submit it to Legal Aid WA immediately after the conclusion of the dispute resolution conference.

PART 6 CLAIMING PAYMENT FROM LEGAL AID WA

24 Legal Aid WA to pay practitioner

Legal Aid WA will pay the Practitioner for services provided in an assigned matter and will reimburse the practitioner for disbursements and out of pocket expenses properly incurred in performing those services, in accordance with this Part.

25 Payment from Legal Aid WA only

In accordance with the Act, the Practitioner may only accept payment from Legal Aid WA for the provision of legal services in an assigned matter.

This is subject to the following exceptions:

- The Practitioner may accept payment of a contribution from the assisted person pursuant to **clause 9.17**;
- The Practitioner may accept payment in accordance with the terms of an approval provided by Legal Aid WA under s 41(2) of the Act.

26 Practitioner must submit claim for payment

To receive payment from Legal Aid WA, the Practitioner must submit a claim in accordance with this Part and the Legal Aid WA **Guide to Claiming Payment**.

26.1 Report to be submitted with claim

Any claim for payment must be accompanied by a report that properly substantiates the claim, including:

- the specific nature of the legal services provided, including the date, purpose and nature of any court appearance;
- the person who performed the legal services, including any practitioner who was not the assigned practitioner, any restricted practitioner, or any person who was not a practitioner and was working on the assigned matter under the supervision of the assigned practitioner;
- if prior approval was obtained for a non-panel practitioner to appear under **clause 21.4.1**, details of the person who appeared, the date and nature of the appearance and the date prior approval was obtained.

A claim for final payment must be accompanied by a final report that meets the requirements in **clause 23.9**.

A claim for payment for DR Chairperson services does not need to be accompanied by a report where a DR Chairperson report has already been submitted under **clause 23.10**.

27 Method of payment by Legal Aid WA

Legal Aid WA will pay the Practitioner by Electronic Funds Transfer to the bank account of the firm in which they were practising at the time the service was provided, using the details noted in the most recent Legal Creditor Registration Form submitted to Legal Aid WA for that firm.

The Practitioner must submit an updated form if any details in the form change. To access and submit an updated Legal Creditor Registration Form go to the Legal Aid WA webpage [For lawyers – Managing grants of aid – Practitioner payments](#) and see under the heading How does Legal Aid WA pay my claim? towards the end of the page. Legal Aid WA requires 14 days' notice to effect any changes.

PART 7 RECONSIDERATION AND REVIEW

The Act provides for the reconsideration and review of certain decisions made by Legal Aid WA.

28 Reconsideration

A reconsideration of a decision should be requested within 28 days from the date the decision was communicated to the person affected by it. Legal Aid WA may refuse to reconsider a decision if the request is not received within 28 days.

The Practitioner may request a reconsideration on behalf of the applicant or assisted person. This must be done through the GOL system.

A reconsideration will be conducted by Legal Aid WA in accordance with the Act. A request for reconsideration should address all matters raised in the notification of decision and include any new matters that have arisen.

29 Review

A review usually follows a reconsideration. A review of a decision should be requested within 28 days from the date the decision was communicated to the person affected by it. Legal Aid WA may refuse to review a decision if the request is not received within 28 days.

The Practitioner may request a review on behalf of the applicant or assisted person. This must be done through the GOL system.

A review will be conducted by an independent Review Committee, in accordance with the Act. A request for review should address all matters raised in the notification of decision and include any new matters that have arisen.

30 Decisions that can be reconsidered or reviewed

The applicant or assisted person, or the Practitioner on their behalf, may request a reconsideration and if necessary, a review of the following decisions (s 46 of the Act):

- refusal to grant aid;
- refusal to extend a grant of aid;
- refusal to approve any disbursement or out of pocket expense;
- imposition or variation of a condition on the grant of aid, including any contribution;
- termination of a grant of aid;
- decision under s 40(1a) of the Act to set aside the private practitioner of choice and select another practitioner to whom the grant of aid will be assigned, in accordance with **clause 14**;

- determination under s 44 of the Act for the recovery of costs from a successful assisted person

The Practitioner, in their own right, may request a reconsideration and if necessary, a review of the decision under s 40(1a) of the Act.

A decision regarding the transfer of an assignment of a grant of aid to another practitioner under **clause 17** is not a decision that may be the subject of a request for reconsideration or review under the Act.

The Practitioner may request a review of a decision relating to costs or disbursements to be paid by Legal Aid WA to the Practitioner without first seeking a reconsideration.

PART 8 HELP AND CONTACTS

31 Using Grants Online (GOL)

You may access the GOL system at this address:

<https://grantsonline.legalaid.wa.gov.au/>

For assistance with your username or password or any technical issue relating to the GOL system, contact the Legal Aid WA Service Desk by telephone on (08) 9261 6345 or email goltechsupport@legalaid.wa.gov.au between 8am and 5pm, Monday to Friday.

For assistance in using the system see the GOL User Guide, available in the system.

32 Contacting the Assessing section

The Practitioner may be provided with specific contact details for the Assessing section of Legal Aid WA or a particular assessor when a grant of aid is assigned to them.

Alternatively, general enquiries to the Assessing section may be made by contacting administrative staff on (08) 9261 6530.

33 Information for assisted persons

There is information for assisted persons about grants of aid on the Legal Aid WA website under [Get legal help – Applying for a grant of aid](#).

34 Panel and list membership enquiries

Enquiries about membership of a panel or list may be directed to Legal Aid WA by email at panel@legalaid.wa.gov.au.

A Register of Members of each panel and list is available on the Legal Aid WA website under [For lawyers – Practitioner panels and lists](#).