



LEGAL AID
WESTERN AUSTRALIA

Professional Services Agreement

For Legal Aid WA Panel and List members

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This agreement is between Legal Aid WA and the Practitioner.

The parties agree as follows:

PART 1 PRELIMINARY

1 Interpretation

In this agreement, unless the contrary intention appears:

agreement means this document including all schedules, annexures and attachments;

assign or **assignment** means the allocation of a grant of aid to a legal practitioner to perform legal services for an **assisted person**;

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;

assisted person means a person who has applied for and 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;

compliance issue in relation to the Practitioner means:

- a) a breach of **the Act**;
- b) a breach of this **agreement**;
- c) a breach of any guidelines, policies or standards the Practitioner is required to comply with, including the Private Practitioner Manual;
- d) a reasonable concern about the provision of legal services in an assigned matter;
- e) a reasonable concern about the Practitioner's continuing ability to provide legal services as a member of a **panel** or **list**; or
- f) a reasonable concern about the Practitioner's continuing eligibility for membership of a **panel** or **list**.

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

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

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

legal practitioner means an Australian legal practitioner within the meaning of s 6 of the *Legal Profession Uniform Law*;

list means a list of private practitioners set up by Legal Aid WA to provide legal services;

LSCC means the Legal Services and Complaints Committee of the Legal Practice Board of Western Australia;

LPB means the Legal Practice Board of Western Australia;

panel means a panel of private legal practitioners set up by Legal Aid WA to provide legal services to **assisted persons**;

practitioner means an Australian legal practitioner within the meaning of s 6 of the Legal Profession Uniform Law, 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;

Private Practitioner Manual means the guidelines and service requirements produced, maintained and published by Legal Aid WA from time to time, applicable to private practitioners who provide legal services as a member of a panel or list;

the Act means the *Legal Aid Commission Act 1976 (WA)* and all subsidiary legislation created under the *Legal Aid Commission Act 1976 (WA)*;

the Practitioner means the practitioner who has entered into this agreement with Legal Aid WA.

2 Commencement

This **agreement** commences on the earliest date noted in any current panel or list Membership Notice issued to the Practitioner under clause 12.

3 Purpose of agreement

This **agreement** 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**.

4 Governing legislation

This **agreement** is governed by **the Act**.

5 Legal Aid WA guidelines

The Practitioner must comply with the **Private Practitioner Manual** and any other policies, standards or guidelines that Legal Aid WA may specify in writing from time to time.

6 Notification of changes

Legal Aid WA will notify the Practitioner in a timely manner of changes to its relevant processes, procedures, policies and guidelines including the **Private Practitioner Manual**.

7 Duration of agreement

This **agreement** begins on the date of its execution and continues until:

- a) the Practitioner ceases to be a member of all **panels** and **lists** specified in the most recent Panel or List Membership Notice issued under clause 12; and
- b) the Practitioner has complied with all directions issued under clause 14.3 d) in relation to outstanding **assigned matters**.

8 Notices

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

8.1 Notices to Legal Aid WA

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

- a) by email where the Practitioner has been provided with an email address for this purpose; or
- b) by post or delivered to the Head Office of Legal Aid WA in Perth.

8.2 Notices to the Practitioner

A notice or communication to the Practitioner must be:

- 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.

9 Previous agreements

This **agreement** supersedes any prior agreement or understanding between the parties in connection with its subject matter.

10 Severability

- a) As far as possible, all provisions of this **agreement** must be construed so as not to be invalid, illegal or unenforceable;
- b) If any part of this **agreement** is unenforceable, illegal or void then that part is severed and the rest of the **agreement** remains in force;
- c) If any provision of this **agreement** cannot be read down, that provision will be void and severable and the remaining provisions of the **agreement** will not be affected.

11 Variation

The terms of this **agreement** may be varied by Legal Aid WA, at its sole discretion, by providing the Practitioner with two months notice.

PART 2 PANEL OR LIST MEMBERSHIP

12 Membership

- a) The Practitioner becomes a member of a **panel** or **list** on the date noted against that panel or list in the Membership Notice issued by Legal Aid WA to the Practitioner;
- b) A Membership Notice may specify:
 - i) membership of one or more **panels** or **lists**;
 - ii) any limitations on the legal services the Practitioner is permitted to perform while on a specified **panel** or **list**; and
 - iii) any requirement on the Practitioner to provide legal services under the supervision of an approved practitioner.
- c) Legal Aid WA may issue a new Membership Notice to reflect a change in:
 - i) the Practitioner's membership of any **panel** or **list**; or
 - ii) any limitations placed on the Practitioner, andthe new Membership Notice will supersede all preceding Membership Notices.

13 Limitations on membership

- a) Legal Aid WA may impose limitations on the Practitioner's membership of a **panel** or **list** in accordance with **the Act**.
- b) Where any limitations on panel or list membership are altered, Legal Aid WA will issue a new Membership Notice.

14 Duration of membership

The Practitioner remains a member of each **panel** or **list** specified in the Membership Notice until removed from a specified **panel** or **list** either by their own request or by Legal Aid WA.

14.1 Removal by request

A request for removal from a **panel** or **list** must be in writing. The removal will take effect on the date Legal Aid WA issues a Removal Confirmation Letter to the Practitioner.

14.2 Removal by Legal Aid WA

Legal Aid WA may remove the Practitioner from a **panel** or **list** in accordance with **the Act**. The removal will take effect on the date Legal Aid WA issues a Removal Notice to the Practitioner.

14.3 Effect of Removal

Where the Practitioner has been removed from a **panel** or **list**, Legal Aid WA:

- a) will remove the Practitioner's details from any register of members of that **panel** or **list** that may have been published under clause 15;
- b) may advise third parties, including courts, of the fact of the Practitioner's removal from that **panel** or **list**;
- c) will, if the Practitioner remains a member of any **panel/s** or **list/s**, issue a new Membership Notice;
- d) may direct the Practitioner, by notice in writing, to take certain action in relation to any unfinalised **assigned matters** relevant to that **panel** or **list** including to:
 - i) cease conduct of specified matters;
 - ii) complete specified legal services in specified matters;
 - iii) complete and finalise specified matters,and all action carried out by the Practitioner shall be in accordance with the terms of this **agreement** and the **Private Practitioner Manual**.

15 Publication and disclosure

Legal Aid WA may disclose the status of the Practitioner's membership of a **panel** or **list** as it sees fit and may publish the Practitioner's name in a register of members of a **panel** or **list**.

PART 3 ASSIGNING AND MANAGING GRANTS OF AID

16 Assignment process

Legal Aid WA will **assign** grants of aid to the Practitioner in accordance with **the Act**, this **agreement** and the **Private Practitioner Manual**.

17 Assignment to panel or list members only

Legal Aid will only **assign** grants of aid to the Practitioner if they are a member of the **panel** or **list** relevant to the matter type the subject of the grant of aid.

18 Management of assigned matters

Legal Aid WA will manage matters **assigned** to the Practitioner in accordance with **the Act**, this **agreement** and the **Private Practitioner Manual**.

19 Conditions of assignments

By accepting an **assignment**, the Practitioner agrees to comply with:

- a) **the Act**;

- b) this **agreement**; and
- c) the **Private Practitioner Manual**.

20 No lien

The Practitioner will not be entitled to any lien or charge over any file, document or other item in connection with the provision of legal services by the Practitioner in any assigned matter.

PART 4 GENERAL OBLIGATIONS

21 Authority to practice

Where the Practitioner is a legal practitioner they will:

- a) maintain a current practising certificate;
- b) cease to provide **legal services** in all **assigned matters** and advise Legal Aid WA immediately in writing if:
 - i) their **practising certificate** becomes subject to any condition, restriction or qualification;
 - ii) their **practising certificate** is amended, cancelled or suspended;
 - iii) there is a refusal to grant or renew their **practising certificate**.

22 Professional conduct and standards

In all **assigned matters** the Practitioner will:

- a) take responsibility for the performance of legal services;
- b) act honestly, ethically and professionally;
- c) treat all parties to the matter with dignity and respect;
- d) provide legal services in an effective, efficient and economical manner;
- e) comply with relevant professional standards;
- f) comply with practice and case management standards in the **Private Practitioner Manual**, which include the requirement to comply with standards regarding:
 - i) dealing with the assisted person and other parties;
 - ii) the provision of legal services;
 - iii) engaging other practitioners or experts;
 - iv) handling money; and
 - v) file management.

23 Working with Legal Aid WA

When working with Legal Aid WA, the Practitioner will at all times:

- a) act honestly and in good faith;
- b) respond fully and promptly to requests for information; and
- c) comply with this **agreement**, the **Private Practitioner Manual** and any other policies, standards or guidelines as specified in writing by Legal Aid WA.

24 Dealings with the LSCC

The Practitioner will immediately notify Legal Aid WA if they have any of the following dealings with the **LSCC**:

- a) any reprimand issued or orders made by the **LSCC** in the exercise of its summary conclusion powers;
- b) any findings of unsatisfactory professional conduct or professional misconduct by the State Administrative Tribunal (SAT) and any consequential orders made by SAT;
- c) any orders made by the Supreme Court (full bench) following the transmission of a report of a finding by SAT;
- d) any interim orders made by SAT or the Supreme Court (full bench) ordering the suspension of, or imposition of conditions on, a practitioner's practising certificate;
- e) any complaint referred to the Investigation team of the **LSCC** for investigation, or any conduct investigation initiated on the **LSCC**'s own motion, which involves the Practitioner's conduct of an **assigned matter** and the outcome of that complaint or conduct investigation;
- f) any expressions of concern about the professional conduct of the Practitioner, made by the **LSCC** or its officers.

25 Bankruptcy

The Practitioner will immediately notify Legal Aid WA of any bankruptcy proceedings commenced against them.

26 Professional negligence

The Practitioner will immediately notify Legal Aid WA of any claim made against them for professional negligence in the conduct of an **assigned matter**.

27 Notification of change of details

The Practitioner must notify Legal Aid WA of any changes to:

- a) the name that appears on their practising certificate;
- b) the firm in which they practice;
- c) the email address for the service of notices; or
- d) their business address.

PART 5 PROFESSIONAL SKILLS AND TRAINING

28 Maintain knowledge and skills

The Practitioner must maintain current knowledge and skills in the areas of practice relevant to the **panel/s** or **list/s** of which they are a member.

29 Maintain professional memberships or accreditation

The Practitioner must maintain such professional memberships and accreditation relevant to the **panel/s** or **list/s** of which they are a member, as specified by Legal Aid WA.

30 Undertake training if required

Legal Aid WA may, in its sole discretion, by notice in writing, require the Practitioner to undertake specified training relevant to the Practitioner's membership of a **panel** or **list**, within a nominated time period.

31 Supervision and mentoring

Legal Aid WA may, in its sole discretion, by notice in writing, require the Practitioner to comply with specified supervision or mentoring requirements relevant to the Practitioner's membership of a **panel** or **list**.

32 Cost of professional skills and training

The Practitioner will meet any costs arising from compliance with any of the requirements in this Part.

PART 6 COMPLAINTS

33 Practitioner must co-operate

The Practitioner must fully co-operate with Legal Aid WA in the investigation of any complaint received by Legal Aid WA against the Practitioner.

34 Complaint handling process

Where Legal Aid WA receives a complaint against the Practitioner, it will:

- a) seek the authority of the complainant to provide a copy of the complaint to the Practitioner;
- b) where authority is obtained, provide a copy of the complaint to the Practitioner and request that the Practitioner respond to the complaint within a specified time frame;
- c) provide a copy of the Practitioner's response to the complainant;
- d) investigate the complaint and keep the Practitioner and the complainant informed of the progress of the complaint; and
- e) notify the Practitioner and the complainant of the outcome of the complaint.

35 Complainant may be referred to LPB or LSCC

Where a complaint is received about the professional conduct of the Practitioner, Legal Aid WA may advise the complainant of the existence and role of the LPB and the LSCC and the contact details for each.

PART 7 AUDIT AND COMPLIANCE

36 Audits

- a) Legal Aid WA may, in its sole discretion, conduct an **audit** of the Practitioner at any time.
- b) Legal Aid WA will give the Practitioner written notice of the intention to conduct an **audit**.
- c) The Practitioner will, within the time period specified in the written notice, produce for inspection or deliver such files, records or documents relating to an **assigned matter**, as Legal Aid WA requires, for the purpose of conducting the **audit**.
- d) The reasonable costs of delivering files, records or documents to Legal Aid WA for **audit** purposes will be borne by Legal Aid WA.
- e) Upon written request, the Practitioner will allow Legal Aid WA to attend the Practitioner's place of business to carry out all or part of an **audit**.

37 Monitoring compliance

- a) Legal Aid WA may, in its sole discretion, investigate, assess and address a **compliance issue** at any time;
- b) Without prejudice to or waiver of any rights Legal Aid WA may have under this **agreement** or **the Act**, Legal Aid WA will give the Practitioner written notice of a **compliance issue** and may do one or more of the following:
 - i) conduct an **audit** of the Practitioner under clause 36;
 - ii) require the Practitioner, by notice in writing, to take specified action to remedy the **compliance issue**, within a specified time;
 - iii) where the Practitioner owes money to Legal Aid WA, deduct the sum owing from future payments to the Practitioner, or direct the Practitioner to pay Legal Aid WA the amount owing within a specified time;
 - iv) require the Practitioner to engage in training or be supervised or mentored under Part 5;
 - v) impose limitations on the Practitioner's membership of a specified **panel/s** or **list/s** in accordance with clause 13;
 - vi) remove the Practitioner from a specified **panel/s** or **list/s** in accordance with clause 14;

- vii) require the Practitioner to re-address one or more of the eligibility criteria for membership of specified **panel/s** or **list/s** of which the Practitioner is a member;
- viii) refer the **compliance issue** to the **LPB** in accordance with **the Act**;
- ix) respond to the **compliance issue** in any other manner considered necessary by Legal Aid WA to protect the interests of an **assisted person** or to ensure the effective, efficient and economical provision of **legal services** in an **assigned matter**.

PART 8 EXECUTION

THIS AGREEMENT is

BETWEEN The Legal Aid Commission of Western Australia (“Legal Aid WA”)

AND (“the Practitioner”)

SIGNED on behalf of the Legal Aid Commission of Western Australia by



Helen DeBrito
Director of Legal Aid WA

SIGNED by the Practitioner
