

# **FAMILY VIOLENCE AND CROSS EXAMINATION OF PARTIES SCHEME**

## **LAWYER INFORMATION**

### **Entry to Scheme:**

1. LACT receives order banning Cross Examination from Court.
2. LACT writes to any unrepresented parties enclosing Application Form and Fact Sheet: (see: <https://www.legalaid.tas.gov.au/need-help/family-violence-cross-examination-scheme/>)
3. LACT receives an Application Form completed by an applicant or a lawyer on Register of Practitioners for the applicant.
4. Application is assessed using criteria contained in Guideline 3 (see <https://www.legalaid.tas.gov.au/wp-content/uploads/2019/09/FVXE-Scheme-Guidelines.pdf>). LACT may ask for further information from applicant/lawyer.
5. If Applicant does not meet the criteria, the Application will not be accepted and applicant and/or lawyer will notified in writing.

### **Appointment of Lawyer:**

6. If Applicant accepted into the Scheme LACT will :
  - a. if the applicant has nominated a preferred lawyer on the Register, LACT will give preference to that nomination
  - b. If applicant has not nominated a lawyer, one will be appointed from the Register (similar to the process for appointment of ICLs)
7. Once lawyer accepts appointment LACT notifies applicant and lawyer of the appointment in writing.
8. Lawyer makes application to Scheme via E-lodge.
9. Lawyer files Notice of Address for Service.

## **E-Lodge:**

10. Lawyer applies via E-lodge system for funding in accordance with Work Items and Fee Schedule (see <https://www.legalaid.tas.gov.au/wp-content/uploads/2019/09/Cross-Examination-Scheme-Work-Items-and-Fee-Schedule-Updated-28-August-2019.pdf>)
11. No means or merits test is applied.
12. In E-lodge, the lawyer must make the following Cross Examination Scheme selections:

21. For what type of problem do you need Legal Aid ?

☒ Family

Family Category Phase

Family - Alternative Dispute Resolution  
Family - Appeals  
Family - Child Rep/ICL  
Family - Child Support  
Family - Family Court  
Family - Federal Magistrates Court  
Family - Initial  
Family - Miscellaneous Short Items  
Family - Relationships Act - Supreme Court  
Family - XE Scheme

Choose  
Family - XE  
Scheme

30. What is the Family Category?

XE Scheme - Children and Property  
XE Scheme - Children Only  
XE Scheme - Property Only

31. What work item do you want aid for ? ( If more than 1 add to legal problem area below)

Stage 1 Pre-Trial  
Stage 2(a)(i) Trial : Children OR Property Matters - Documents for Trial  
Stage 2(a)(ii) Trial : Children AND Property Matters - Documents for Trial  
Stage 2(a)(iii) Trial : Documents - Matters listed in excess of 3 days  
Stage 2(b)(i) Trial : Children OR Property Matters - Trial Prep  
Stage 2(b)(ii) Trial : Children AND Property Matters - Trial Prep  
Stage 2(b)(iii) Trial : Trial Prep - Matters listed in excess of 3 days (per additional day)  
Stage 2(c) Trial : Trial Costs as Solicitor or Counsel (per day)  
Stage 2(d) Trial : Prep for Closing Complex Matters  
XE Additional item (a) - Negotiations any stage pre-trial  
XE Additional item (b) - Attendance at FDR, ICL or Court Ordered Mediation  
XE Additional item (c) - Instructions on Report  
XE Additional item (d) - FCA Bundle Book  
XE Additional item (e) - Extra mention or listing  
XE Additional item (f) - Contravention or Interim Proceedings with Cross Examination  
XE Additional item (g) - Other - Exceptional circumstances

32. What Disbursements are required ? ( If more than 3 add to legal problem area below)

- 1.
2. Barrister Trial Costs (per day)  
Barrister Trial Prep: Children AND Property Matters
3. Barrister Trial Prep: Children OR Property Matters  
Interpreter  
Mediation Chairperson Fee  
Photocopying of filed documents/reports and subpoenaed documents  
Regional accommodation if approved per night of trial  
Regional travel if approved (solicitor's time in hours)  
Subpoena Expenses  
Travel Distance (kilometres)  
XE Other disbursement - Exceptional circumstances

13. When completing merit information in E-lodge lawyer must provide
  - a. Details of stage of the proceedings
  - b. Work to be done within that work item or disbursement
  - c. Details of any additional eligibility criteria for that work item/disbursement such as “exceptional circumstances”
14. Applicant and lawyer will be notified in writing of approval or refusal of any application for assistance.
15. At the completion of each stage of matter the lawyer should submit an invoice prior to making further application.
16. As per with Guideline 9 (see <https://www.legalaid.tas.gov.au/wp-content/uploads/2019/09/FVXE-Scheme-Guidelines.pdf>).
  - a. Within 14 days of the completion of a matter the Lawyer will provide a report to the Commission which must include:
    - i. the result of the matter, including details of orders made and particulars of any orders for costs
    - ii. full details of all monies recovered or to be recovered
    - iii. a certified pro forma invoice.
17. Once the matter is finalised the lawyer certifies in E-lodge that it is the last claim on the file.
18. As per Guideline 9 (7) (see <https://www.legalaid.tas.gov.au/wp-content/uploads/2019/09/FVXE-Scheme-Guidelines.pdf>) if the Commission imposes a contribution, the Lawyer must collect and retain the contribution and comply with any notice given by the Commission for that contribution.

### **Report to Commission:**

As per Guideline 5 (see <https://www.legalaid.tas.gov.au/wp-content/uploads/2019/09/FVXE-Scheme-Guidelines.pdf>)

A lawyer must immediately notify the Commission if:

- (a) Administrative reasons
  - (i) they become aware that any information provided in the Assisted person's application is incorrect or incomplete; or
  - (ii) there is any change in the Assisted person's means relevant to any contribution imposed; or
- (b) Conduct reasons
  - (i) an Assisted person refuses to accept or follow reasonable legal advice; or
  - (ii) the Assisted person has acted in such a manner as to cause the lawyer to fear for the safety or wellbeing of themselves or of their staff, colleagues or others in the proceedings.

### **Register of Practitioners:**

Lawyers on the Register should tell the Commission if there is any change to their availability or capacity to provide representation by email to [grants.officer@legalaid.tas.gov.au](mailto:grants.officer@legalaid.tas.gov.au)