

# Commonwealth Family Violence and Cross-Examination of Parties Scheme

**This Infosheet has information about the Commonwealth Family Violence and Cross-Examination of Parties Scheme. It explains how you can apply for the Scheme and how it operates.**

## What is the Scheme?

Legal Aid WA has been given specific funding from the Australian Government to provide a lawyer to a party when personal cross-examination is banned in their family law proceedings. The Scheme was established by the Australian Government to protect victims of family violence from being cross-examined by their alleged abuser. To ensure fairness for both the victim and alleged abuser, the Scheme provides funding for lawyers to assist both parties.

Access to this Scheme is not limited by your financial circumstances or the details of your case.

There are conditions that apply to having a lawyer under the Scheme and ongoing representation by a lawyer in your case is not automatic.

## When can I apply to Legal Aid WA for legal assistance under the Scheme?

You can apply for a lawyer under the Scheme if the Family Court of WA has made a notice or order banning personal cross-examination in your case.

In addition, your court case must have been:

- given a trial date, or
- placed in a Callover to be given a trial date, or
- placed in a list of cases waiting to go into a Callover.

## What legal assistance can I get under the Scheme?

The scheme can help by paying for a lawyer to:

- give you legal advice,
- take instructions about what you want to do in your case,
- help you understand how the law applies to your case,
- help you negotiate with the other party to try and settle the case before trial (including representing you at a Late Intervention Dispute Resolution conference – this is a type of mediation),
- represent you at a Callover hearing and a Pre-Trial Conference in the Family Court, and
- represent you at your Family Court trial (also sometimes called a Final Hearing).

In most cases, funding for the lawyer to prepare and represent you at a court hearing will be limited to the Family Court trial. It cannot pay for lawyer to represent you at other hearings where cross-examination is unlikely to occur such as Mentions, Interim, Directions or Readiness Hearings.

The Scheme cannot pay for a lawyer for court hearings in other cases you may have, only the case where personal-cross examination has been banned.

## How does Legal Aid WA decide what legal assistance is provided under the Scheme?

Legal Aid WA considers many factors when deciding what legal assistance will be provided under the Scheme. For example:

- how long the case has been going for,
- how complex the case is,
- how many parties are involved in the case,
- if it is likely there will be expert witnesses at the trial, and
- whether the case is about children or property (or both).

Legal Aid WA carefully considers each individual case when making decisions about providing legal assistance under the Scheme.

Ongoing legal assistance under the Scheme is not automatic. Legal Aid WA will keep in contact with the lawyer you are given under the Scheme to make sure ongoing funding is appropriate.

## How can I apply for a lawyer under the Scheme?

To apply for a lawyer under the Scheme, you need to complete a Legal Aid Application form and clearly state on the form that you are applying for assistance under the Scheme.

You can get an application form by:

- calling the Legal Aid Infoline on 1300 650 579,
- visiting a Legal Aid WA office,
- speaking to Family Court Services on Level 1 of the Family Court of WA building in Perth, or
- speaking to a Family Advocacy and Support Service (FASS) duty lawyer when the Family Court is sitting in regional locations in WA.

## What happens after I apply?

After you apply for legal assistance Legal Aid WA will check if you are eligible for a lawyer under the Scheme and make sure the Family Court of WA has made a notice or order banning personal cross-examination in your case.

**“If you are eligible for a lawyer under the Scheme, Legal Aid WA will aim to organise this at least 6 weeks before the court hearing when cross-examination is likely to occur.”**

If you are eligible for a lawyer under the Scheme, Legal Aid WA will aim to organise this at least 6 weeks before the court hearing when cross-examination is likely to occur.

A letter will be sent to you and your allocated lawyer setting out what legal assistance has been approved and the conditions of having a lawyer under the Scheme.

If you are not eligible for a lawyer under the Scheme, we will check what other services are available to assist you.

## Is legal assistance under the Scheme the same as a grant of aid?

Funding provided under the Scheme is not the same as a grant of aid.

Legal Aid WA does not apply a means test (financial test), merit test (likelihood of success) or other eligibility policies to applications received under the Scheme.

However, conditions do apply, and ongoing representation is not automatic.

## What are some common conditions for getting legal help under the Scheme?

**It is a condition of every grant of legal assistance under the Scheme that you follow your lawyer's reasonable legal advice and communicate with them in an appropriate and timely manner.**

It is a condition of every grant of assistance under the Scheme that you follow your lawyer's reasonable legal advice and communicate with them in an appropriate and timely manner.

You or your lawyer must tell Legal Aid WA if there are any changes in your circumstances which might affect your eligibility for legal assistance.

Legal Aid WA can review the conditions of your legal assistance under the Scheme at any time.

If you break any of the conditions for having a lawyer under the Scheme, Legal Aid WA may terminate your legal assistance.

If you are unsure about what conditions apply in your case, check the letters sent to you by Legal Aid WA about your legal assistance under the Scheme.

## Can I tell my lawyer what questions to ask during cross-examination?

You can talk to your lawyer about what questions you would like them to ask during cross-examination. However, it is up to your lawyer to decide what questions are appropriate in your case.

If you fail to follow your lawyer's reasonable legal advice, Legal Aid WA may terminate your legal assistance under the Scheme.

## Can I choose my own lawyer?

You can ask for the lawyer you would prefer and Legal Aid WA will try to organise this. However, Legal Aid WA can only give matters to lawyers who are on a panel of lawyers approved to do work under the Scheme.

You can find a list of lawyers who are approved to work under the Scheme on the [Legal Aid WA website](#).

You can also ask Legal Aid WA for the details of lawyers who are approved to work under the Scheme.

## What if I already have a grant of aid?

If personal cross-examination is banned in your court case and you already have a grant of aid, Legal Aid WA will contact you about whether your funding will be transferred over to the Scheme.

In some cases, you may be given a new lawyer. However, Legal Aid WA will carefully consider the impact of transferring funding to the Scheme and discuss this with your current grant of aid lawyer before a decision is made.

## Where can I get more information?

You can find more information on the personal cross-examination ban and Scheme on the Legal Aid WA website: [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

# LEGAL AID WA OFFICES



**Infoline:** 1300 650 579



**Translating & Interpreting Service:**  
131 450



**Website/InfoChat:**  
[www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)



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

## **Perth Office**

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

## **Midwest & Gascoyne Office**

Unit 8, The Boardwalk,  
273 Foreshore Drive,  
Geraldton, WA 6530  
(08) 9921 0200

## **West Kimberley Office**

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

## **Great Southern Office**

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

## **Goldfields Office**

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

## **East Kimberley Office**

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

## **Southwest Office**

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

## **Pilbara Office**

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

## **Indian Ocean Office**

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

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