

# **A Panel Practitioner's Guide to Legal Aid WA**



*This document contains an overview of the module offered to practitioners via Train-N-Track.*

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## Introduction and General Information

### 1. Title Page

Welcome to this presentation on Legal Aid WA (**LAWA**), created for private practitioners who are panel and list members.

Our partnership with the private legal profession is essential for the delivery of quality services to disadvantaged Western Australians through grants of legal aid.

This module is a guide only and is designed to assist panel members with an overview of managing grants of aid.

### 2. Contents

Some of the information in this module is specific to criminal or family law grants. However, most of the information is generic and applies to all grants of aid.

As civil grants are ordinarily limited to disbursements only, please refer to the grant of aid email or letter for specific details.

In this module we will cover key resources including professional standards and integrity, managing grants of aid, claims and finances including contributions, the Grants Online (**GOL**) system and provide direction on who to contact if further assistance is required.

Practitioners should always refer to the published documents, available on the [Legal Aid website](#), for full details.

### 3. Reference Tables

Some of the slides in this module include *reference tables*. These tables are intended to be used as a guide where participants would like to know more about specific topics.

If you have any further questions, please contact LAWA. Details about who to contact are included at the end of this module.

### 4. Obligations

LAWA manages limited funding and are responsible for the expenditure of public funds, whilst ensuring that quality legal services are provided to vulnerable clients.

All practitioners on a LAWA panel or list are bound by the [Legal Aid Commission Act 1976 \(WA\)](#), [Professional Services Agreement](#), the [Private Practitioner Manual](#), and any policies, standards or guidelines as specified in writing by LAWA.

The assigned practitioner is responsible to LAWA for the conduct and performance of all legal services in matters assigned to them.

The terms of these documents always apply while a practitioner remains on any panel or list and sit alongside other professional and ethical standards required of the legal profession.

## **5. For Lawyers**

Information for panel and list members is also available on the LAWA website under the '*For Lawyers*' tab.

The '*For Lawyers*' interface provides an overview of the resources and information available to private practitioners. Practitioners are encouraged to review the material available on the website.

Each linked topic has an overview of the materials available. For example, the '*Practitioner Standards and Compliance*' web page has information and links to the [Professional Services Agreement](#), [Private Practitioner Manual](#), [Audit and Compliance Policy](#) and the [Duty Lawyer Services Protocol](#).

Additional information about practitioner payments, grant guidelines, briefing another lawyer and is available on the LAWA website under '*Managing Grants of Aid*'.

All practitioners who are members of LAWA's panels and lists are listed on the website under the '*Practitioner Panels and Lists*' webpage. Practitioners should refer to these lists if looking to brief another panel member.

## Grants Online

### 6. Grants Online

Grants Online (**GOL**) is the electronic lodgements system used by LAWAWA to manage applications for grants of aid, extension requests and claims.

All panel members require a GOL account to access information on grants assigned to them and submit claims.

The [GOL User Guide](#) is available on the LAWAWA website and provides users with a quick guide to use and navigate the GOL system.

### 7. Grants Online

Information for practitioners is also available on the GOL website under the '*Enclosures and Forms*' tab.

LAWAWA publishes information and notices on the homepage of the GOL website. Practitioners can access previous notices at any time by clicking on the '*More News*' tab.

LAWAWA also publishes and emails a bi-monthly newsletter to private practitioners. Practitioners are welcome to contact LAWAWA with any feedback or by writing to [panel@legalaid.wa.gov.au](mailto:panel@legalaid.wa.gov.au).

### 8. Grants Online Users

All panel members require a GOL account to access information on grants assigned to them and submit claims. The GOL User Guide [GOL User Guide](#) is available on the LAWAWA website and provides users with a quick guide to use and navigate the GOL system.

To access GOL, all practitioners and any of their nominated administration staff will each be issued with an individual username and password.

All users are also required to use multifactor authentication (MFA) available with an app. The device that each user registers with LAWAWA cannot be shared.

Usernames and passwords also must not be shared. Information submitted through GOL will be attributed to the person whose username and password is used when submitting the claim or extension request.

Any information prepared or submitted to LAWAWA by staff, including contractors, on behalf of the assigned practitioner is taken to have been confirmed by the assigned practitioner as accurate and correct.

When logging in to GOL using the MFA app, open the app then enter the individual GOL login details through the website. This will avoid being "timed out" of the login process.

Principals or Directors of firms must ensure that they advise LAWAWA when any staff that have GOL access leave the firm. If new staff require access, the Principal or Director must complete a GOL login access form, available on the LAWAWA website.

Details about who to contact in relation to GOL queries are included at the end of this module.

## 9. Submitting a New Application

When submitting a new application for aid, it is important that practitioners provide correct and accurate information. This will help avoid delays in processing and receiving an outcome.

Practitioners must be aware of LAWA's Grant Guidelines which can be found on both the [GOL](#) and on the [LAWA](#) websites.

Please note that grant guidelines are interpreted and applied more strictly at times of limited funding.

## 10. Completing Client Details

The client's name, title and date of birth must be entered correctly when practitioners are submitting an application. LAWA staff cannot make amendments to these details. If they are entered incorrectly, a new application will need to be submitted.

If a client is in prison, please ensure that the prison address is entered in the postal address field. Where a client has no fixed address or is homeless, consider putting the firm address to receive mail on the client's behalf.

If a client has a disability or mental impairment, tick yes at questions P14 and P15.

If the drop-down menu doesn't include the correct disability description, the information can be detailed in the 'Legal Matter' section (L1) of the application. This information is important because it relates specifically to the eligibility criteria for a grant of aid.

## 11. Accurate Information and Checklists

Checklists form an important part of the assessment of applications for legal aid.

Completing these checklists accurately will assist in the decision-making process and will avoid unnecessary delays in obtaining further information from practitioners and/or clients.

## 12. Criminal Law Applications

For criminal law matters, all charges should be included as '*matter types*'. Please select the closest option when selecting the matter type/s. Where the matter type is not clear, please provide details of the actual charges in the L1 section of the form.

This information is important as the value of the grants can vary depending on the number of charges. Please also ensure that the *Statement of Material Facts* is attached, if it is available.

The court indicated in the checklist should refer to the court that the charge/s will end up in, not the court the charge is currently in. This relates specifically to the eligibility criteria and determines what grant will be issued if approved, and the amount of funding which will be allocated.

## 13. Family Law Applications

For family law matters, parenting and property applications must be submitted separately to care and protection and restraining order matters.

LAWA needs this information to ensure that the relevant State or Commonwealth funds are used appropriately. Parenting and property disputes are funded by the Commonwealth



Government. Whereas, protection and care and restraining order proceedings are funded by the State Government.

**14. Request Identification Numbers (RIDs)**

Once an application or extension request has been submitted to GOL, a unique request identification (**RID**) number will be generated. Each RID is related only to the individual request submitted to GOL.

**15. Duplicating an application**

Where it is necessary to submit an application for a number of matters, the first application can be duplicated by clicking '*duplicate*' as indicated on this slide.

Please refer to clause 9.10 of the [Private Practitioner Manual](#) for full details about when a duplicate application should be submitted. More information about when a duplicate application is appropriate is detailed at a later point in this module.

## Grants of Aid

### 16. Grants of Aid

Once an application has been assessed, outcomes of applications are usually sent by email to the practitioner, and by post to the client. In some cases, the grant of aid will be posted as a letter to the panel member, if this is nominated as the firm's preferred contact method.

Each decision that LAWA processes, is referred to as an extension. This includes approvals, refusals or pending decisions.

Where a client has not nominated a preferred practitioner and the grant cannot be assigned to an in-house Legal Aid practitioner, grants of aid are referred to panel members on a rotating basis.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Terms of grant of aid	9.15	2
	Claiming Payment from Legal Aid WA		6

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 17. Grant Emails and Letters

Practitioners will be notified of any grants assigned by email. Each grant email includes:

- details of what legal services have been approved including the maximum costs payable;
- terms of the grant of aid;
- the amount of any contribution payable by the assisted person;
- any other condition of which the grant of aid is subject to;
- 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;
- matter type/s; and
- client details.

Emails are sent to the email address/es nominated by the Principal and/or Director of the firm.

Principals and Directors who employ practitioners on the panels or lists, must ensure that the assigned practitioner is provided with all emails sent to the firm about grants assigned to them. Each panel member is responsible for the matters assigned to them and must have access to the emails from LAWA setting out the decision/s and terms of the grant of aid.

It is vital that assigned practitioners know what has been granted and the terms of the grant of aid.

It is the responsibility of the assigned practitioner to contact the relevant assessor within 48 hours of receiving the grant of aid email if a conflict of interest is identified, or there are otherwise reasonable grounds for not accepting a grant of aid.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Payment limit	9.16	2

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 18. Item Codes

Each grant component has a designated reference code. This is called the 'item code' or 'clause' and appears in brackets at the end of the description of service. It is important that correct item codes are included in claims. This will be detailed further at a later point in this module.

The example on this slide is in relation to a criminal law grant. The item code or clauses are highlighted in yellow.

It is important that the grant email or letter is referred to for full details about the grant or extension of aid.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Item codes relevant to grant automatically populated	12.3	3
	Items in grant letter	17	4

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 19. Criminal Law Grant Structure

This is an example of a criminal law grant structure. In most circumstances, the first decision on a grant of aid for criminal matters is for a plea of guilty.

The grant for a plea of guilty or trial will include court attendances leading up to the plea or trial. This is intended to cover the *average* number of necessary court attendances prior to the plea or trial. If less attendances are required than the amount allowed for in the grant, the additional non-appearances cannot be claimed. If additional attendances are required, an extension of aid must be sought. Information about extensions of aid will be provided later in this module.

Grants of aid may also include video viewing, multiple charge loading, Section 32 loading, prison visits and/or hospital visits and subpoena inspection.

Most grants have a pro rata component which is detailed in the grant. This includes court attendances prior to the plea or trial. Claims for these attendances must be based on the applicable rate for that jurisdiction, as highlighted on this slide. Please refer to the [Criminal Law Rates and Allowances](#) on the LAWA website for full details.

## 20. Family Law Grant Structure

Here is an example of a family law grant structure which details allowances for preparation, court attendances and disbursements.

Grants for family law matters will provide aid for a specific number of mentions or hours of court attendance to be claimed pro rata.

Disbursements may also be included.

## 21. File Management

Practitioners must communicate or attempt to communicate with the assisted person as soon as practicable but otherwise within 7 days from the date of the commencement of the assignment in accordance with clause 21.2.2 of the [Private Practitioner Manual](#). Where the client is in custody, practitioners must make contact within three days from the date of the commencement of the assignment.

Practitioners are also required to meet or substantially interact with the client as soon as practicable or otherwise within 14 days from the date of the commencement of the assignment.

It is also important that the assisted person has contact details of the assigned practitioner. Full details about communication obligations for practitioners are contained in clause 21.2 of the [Private Practitioner Manual](#).

Practitioners must maintain a separate file in relation to each assigned matter.

Information obtained in support of an application for a grant of aid must be retained by the practitioner in accordance with LAWA's report and record keeping requirements.

The file should:

- record the current status of the matter;
- clearly and prominently record instructions, advice, key dates, actions and undertakings;
- record in detail, the nature of the legal services performed and by whom;
- include copies of all documents and materials relevant to the matter and to the legal services performed; and
- retain records of all disbursements incurred including tax invoices and payment receipts.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Dealing with assisted persons and parties	21.2	4
	File management	21.8	
	Reporting and record keeping requirements	23	5

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## **22. Finalising a Grant or Ceasing to Act**

Clients must be afforded the opportunity to be formally advised of the status of their grant, including instances where the file is to be finalised. Practitioners must submit an extension request if:

- an appeal opinion is negative;
- the client is not providing reasonable instructions;
- the client cannot be located;
- the client is engaging the assigned practitioner, or any other practitioner, on a private basis;
- a transfer is requested by the client or practitioner; and/or
- there is no merit in continuing.

## Extensions of Aid

### 23. Extensions of aid

Extensions are sought when the current grant is exhausted or because additional work items are required.

Aid can also be requested for many other reasons including expert reports, complexity, for additional preparation, dispute resolution and trials.

Where a matter type changes, the assigned practitioner must advise LAWA at their earliest opportunity.

For example, where the client has an additional charge added or has charge/s upgraded, LAWA must be advised in an extension request. Practitioners must be on the relevant panel to continue acting for the client.

For example, where care and protection proceedings change from time limited to an until 18-year order, practitioners should advise LAWA in an extension request.

Please provide quotes for experts and other specialist requests so the appropriate amount of funding can be allocated if the request is approved.

LAWA may back date grants up to 30 days in limited circumstances pursuant to section 37(5) of the [Legal Aid Commission Act 1976 \(WA\)](#). Otherwise the aid effective date will be the date that the application form was lodged. Any work undertaken prior to the aid effective date will not be covered under the grant.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Extension to grant of aid	12	2
	Request extension in advance	12.1	
	Request must be complete and accurate	12.2	
	Extension request – grant for assisted person	12.3	
	Notification of extension decision	12.5	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 24. What to include

Extensions of aid must relate directly to the original grant of aid. Extensions can be requested until the matter is finished.

Extension requests must include:

- the process and current status of the matter;
- details of the additional legal services sought and the reasons they are required;
- any changes to the matter type(s) and any new matter(s);
- the amount of additional disbursements sought to be incurred and the reasons they are required; and

- any change(s) in the assisted person's financial or personal situation relevant to ongoing eligibility.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Extension request – grant for assisted person	12.3	2
	Criminal – new or charges matter type after assignment	18	3

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 25. When to Submit a New Application or Duplicate an Existing Application

Criminal matters that are proceeding separately in different court jurisdictions will generally require separate grants of aid.

For example, where a client has both a Magistrates Court trial and matters proceeding in the District Court. A criminal appeal is treated as a new matter and will require a separate grant of aid. The client's previous application can be duplicated and updated with any changes to their personal or financial circumstances.

If the application is more than 6 months old, please ensure the client's financial position and address details are updated. Click on the green '*duplicate*' button in GOL next to the last extension and update the legal information and the financial details if they have changed.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Multiple matters	9.9	2
	Duplicate applications	9.10	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 26. Extension Requests

This portion of the module relates to extension requests.

An extension request is where:

1. a request is made for LAWA to make a decision, including about funding; and/or
2. information is provided for LAWA's records including where there may be limited merit in continuing.

LAWA will make assessments about the client's ongoing eligibility and if aid is refused, the client will be advised of their right to have the decision reconsidered or reviewed by an independent Review Committee.

Full information on what is required for an extension request is detailed under clause 12.3 of the PPM. Whilst this list looks extensive, practitioners only need to provide new information in an extension request that has not previously been disclosed. Providing this information will minimise delays, including where extension requests are refused or pended.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Extension request – grant for assisted person	12.3	2

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 27. Extensions on Criminal Law Grants

In most cases, criminal law grants are initially granted for a plea of guilty.

Where a grant of aid is approved for a trial, practitioners should disregard the initial allowance when aid was granted for the plea. The extension for the trial will include more court attendances prior to the trial, and additional time for preparation.

Full details in managing changes to criminal law grants are included in clause 18 of the [Private Practitioner Manual](#). Where a matter is proceeding to trial, practitioners must submit an extension request ~~to~~ through GOL. Aid for trial preparation, but not the trial day/s, may be approved if the request is submitted more than 4 months prior to the commencement date of the trial. Aid may also be extended for the trial day/s if the trial will still fall in the current financial year. This allows LAWA to manage the funds in the appropriate financial year when the costs are incurred.

For example, requests submitted in February for a trial in August may be granted trial preparation. Practitioners must seek an extension for trial days after 1 July.

Requests for additional preparation for criminal law grants should include:

- the number of co-accused;
- the number and nature of charges;
- the number of witnesses to be called at trial;
- the nature of all materials to be pursued and their relevance to the case; and
- the volume and form of relevant materials to be pursued. For example, pages of documents, hours of tapes or videos, number of photographs.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Criminal law – extension for multiple charges	12.3.2	2

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*



## 28. Extensions on Family Law Grants

Requests for additional preparation for family law grants should include:

- the order 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 counteroffer/s made;
- suitability for Dispute Resolution;
- which track the matter has been assigned to; and
- if relevant, details of any settlement offer that have been made or received.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Family law – requirements for every extension request	12.3.1	2
	Extension request – grant for ICL/Separate Representative services	12.4	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 29. Hospital and Prison Visits

Grants for prison and hospital visits are for travel time and mileage only. Time spent with the client at the prison or hospital is included as general preparation that was allowed in the substantive grant.

Where a visit to the client in hospital or prison does not occur, this portion of the grant of aid should not be claimed. Mileage for any such visit should be claimed as a disbursement.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Travel time for prison and hospital visits	24	4

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 30. Multiple Charge Loading

There is provision in the [Legal Aid Commission \(Cost\) Rules 1990](#) for payment of additional costs where there are multiple charges for a criminal law grant, referred to as 'multiple charge loading'.

Multiple charge loading fees may apply to a plea in mitigation in the Supreme Court, District Court, Magistrates Court or Children's Court where an allowance is considered appropriate due to the number of charges. The intention of the fee is to provide sufficient time to take instructions and report on any complexity issues.

Multiple charge loading fees will not apply to simple traffic charges. LAWA will not apply a multiple charge fee to matters going to trial and instead will consider the number of charges as part of an extension request based on complexity and/or additional preparation.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Multiple charge loading and section 32 allowances	35.8	5

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 31. Section 32 Notices

A fee may also apply to criminal law grants where:

- summary charges are before the court pursuant to a section 32 notice and arise out of a different set of circumstances than the indictable charge/s;
- summary charges are before the Magistrates court but arise from the same set of circumstances as the indictable charge/s; and/or
- summary charges are before the Magistrates court and arise from a different set of circumstances as the indictable charges, however, the sentencing exercise is interlinked (eg. when time in custody is involved).

Where aid is extended, the extension of aid will include the current rate for presenting a plea in mitigation in the Magistrate's Court.

To claim the fee an extension with full details must be requested and the full plea must be presented in the Magistrates Court for all charges under the grant of aid.

The assigned practitioner's file must contain notes indicating:

- the date the plea was presented and the outcome;
- the number of charges dealt with;
- the name of the practitioner that attended; and
- the number of charges and the outcome of the matters dealt with under a section 32 notice (if applicable).

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Multiple charge loading and section 32 allowances	35.8	5

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 32. Disbursements

LAWA may fund disbursements on civil, family and criminal law grants. Disbursements may include:

- interpreter fees;
- medical;
- psychological and psychiatric reports;
- transcripts;
- mileage;
- appeal books; and

- agent fees.

When seeking an extension for a disbursement, practitioners must provide details about why the disbursement(s) is/are required and an estimate of the costs. Practitioners are required to retain receipts for disbursements on their file.

Nominal disbursements between \$20 and \$50 are included in grants. Nominal disbursements are intended to cover postage and general administrative costs, such as photocopying. Practitioners do not need to keep a receipt for these nominal costs. Receipts are required when claiming any other disbursement.

Claims for disbursements must have a 'disbursement type' entered in the correct disbursement column. It is important that Practitioners select the most accurate disbursement type available. When a claim is submitted and satisfies threshold rules, payment will be automatically generated within 6 business days. More details about disbursement types will be detailed later in this module.

Family lawyers should check any extensions that include a standard process server fee. This can only be claimed if the cost is actually incurred and receipts must be retained on the file.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Nominal disbursement amount	18	4
	Disbursement only grants	39.1	5

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 33. Requests for Reconsideration and Review

The [Legal Aid Commission Act 1976 \(WA\)](#) provides for the reconsideration and review of certain decisions made by LAWA.

Requests for reconsideration and review are subject to the same assessment processes, guidelines and eligibility criteria as initial applications for aid. Requests for reconsideration and/or review should provide details about what the request is for, any further information required to make an assessment and updated client contact and financial details, as relevant.

Practitioners are encouraged to lodge reconsiderations and requests for review on behalf of clients. In instances where practitioners are unable to assist, clients should be referred to LAWA as they have a right under the [Legal Aid Commission Act 1976 \(WA\)](#) to have the decision reconsidered and/or reviewed.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Reconsideration	28	7
	Review	29	
	Decisions that can be reconsidered or reviewed	30	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 34. Managing Grants and Briefing Agents

Grants of aid must be managed in the most cost effective and efficient manner whilst ensuring that clients have access to quality legal services.

It is expected that practitioners will manage all of their assigned grants. Practitioners are able to brief agents who are on the relevant panel where there is a capacity issue or a scheduling conflict. This is encouraged as opposed to seeking a transfer of aid.

Where it is not possible to brief a practitioner on the relevant panel, the assigned practitioner must obtain prior written approval from LAWA to brief a non-panel member by completing an [approval request form](#). This can be accessed on the LAWA website, and emailing it to [compliance@legalaid.wa.gov.au](mailto:compliance@legalaid.wa.gov.au). Requests will be accepted without the form, but only when all of the relevant information is provided.

Practitioners must provide as much notice to LAWA as possible if seeking approval for a non-panel practitioner to appear as an agent. LAWA understands that at times this will be urgent due to court attendance clashes or personal circumstances.

For substantive court attendances, ordinarily approvals will only be given if the non-panel practitioner would otherwise qualify for the panel.

LAWA keeps a record of these requests and will raise a concern with practitioners who regularly seeks these requests with limited notice.

Details about who can be briefed without prior written approval are contained in clause 21.4.1 [Private Practitioner Manual](#).

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Who may perform services in assigned matter	21.4.1	4
	Allowance non-panel practitioner appearances in criminal courts	21.4.1.1	
	Prior approval	21.4.1.2	
	Consequences of breaching clause 21.4.1	21.4.1.3	
	Briefing agent or counsel or engaging instructing solicitor	21.5	
<a href="#">Guide to Claiming Payment</a>	Briefing agents	26	4
	Briefing counsel or engaging instructing solicitor	27	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 35. Transfers

Requests for practitioner transfers must be for good reason. Transferring grants of aid duplicates costs to LAWA, and these limited funds must be managed effectively.

Requests are assessed according to the Practitioner of Choice Guidelines, which is included clause 17 of the [Private Practitioner Manual](#).

Transfers must be approved before being actioned. Transfers are usually only approved where a practitioner ceases to practice, there is a conflict, or a breakdown in the legal relationship between the practitioner and the client.

Due to the increase in cost to LAWA when a matter is transferred, transfers will not occur automatically on request.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Transfer of assigned matter	17	3
	Requirements for transfer request	17.2	
	Transfer Guidelines	17.3	
	Notification of transfer decision	17.4	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## Claims and Finances

### 36. Claims and Finances

This part of the module is about claims and finances.

Grants will generally be divided into preparation, court attendance and disbursement components. There are often elements of a grant that are to be claimed on a pro-rata basis at the applicable rate, as incurred. Practitioners are only entitled to claim for the work completed or costs incurred.

Preparation time cannot be claimed against any unused portion of the court attendance time allocated to a matter.

Claims cannot exceed the amount granted in each extension request. If the practitioner requires additional funding, an extension request must be submitted in advance, unless it is not reasonable to do so – for example, where a trial goes over five hours.

LAWA may seek independent verification of legal services claimed to have been provided, including services claimed to have been provided through the briefing of an agent or another practitioner. Please ensure records are retained to support claims.

The [Guide to Claiming Payment](#) is designed to assist practitioners with the process of claiming payment from LAWA for services provided in an assigned matter, and is available on the LAWA website. The Guide to Claiming Payment must be read together with the Professional Services Agreement and the Private Practitioner Manual.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Requirements for all claims		2
	Claim according to terms of grant of aid	8	
	Only claim for costs actually incurred	10	
	Information to support claim	11	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 37. Submitting Claims

The maximum amount payable (for specified services and disbursements cover by grants of aid) and the associated item codes or clauses are found in the grant emails or letters.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Items in grant letter	17	4

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 38. Submitting Claims on Grants Online

Firms that are registered for GST must submit claims via GOL. Tax invoices generated through the brown 'Claim' button as circled in this slide. The claim button is not automatically available once aid has been approved. There can be a delay of up to 24 hours after a grant issues before the claim button appears.

Claims submitted in GOL automatically populate the invoice with the item codes or clauses, relevant to the grant of aid or extension.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Method for claiming	12	3
	Generally claim through GOL using recipient created tax invoice		

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 39. Automated Payments

When a claim is submitted and satisfies threshold rules, payment will be automatically generated within 6 business days. This is known as an automatic payment.

Firms that are not registered for GST are unable to be paid under the automatic payments system and must submit their own invoice as an attachment to an extension request for payment.

More information about automated payments is included in the [GOL User Guide](#).

### 40. Remaining Commitment and Claim Information

Once the brown *Claim* button has been clicked, a screen which generates the *remaining commitment* will show. The figures shown relate only to the extension or Request ID that the claim is being submitted against. Additional funding may remain committed against other extensions that can be claimed once the legal service is provided or the cost incurred.

The GOL invoice also allows claim amounts to be input for work which has been completed or costs which have been incurred.

Under the *Claim Details* heading, the item codes or clauses which were detailed in the grant letter or email, are listed. For full details, please refer to the relevant grant email or letter. Each item code or clause will be listed in a new line within the claim screen.

Where an item code includes multiple items, for example preparation, pro rata court attendance and disbursements, please refer to the grant of aid for the maximum amount claimable for each item. Again, claims can only be submitted for work actually completed or disbursements actually incurred.

Input the amount to be claimed in the relevant boxes. GST will be automatically generated by Grants Online if the assigned practitioner's firm is registered for GST.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Item codes relevant to grant automatically populated	12.3	3
	Entering claim amounts	13.1	
	Remaining commitment	13.2	
	GST automatically calculated	13.3	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 41. Disbursement Types

Claims for disbursements must have a 'disbursement type' entered in the disbursement column.

It is important that the most accurate disbursement type available is selected. This is required so LAWA can manage commitments, project future disbursements costs and analyse funds spent on a range of disbursements.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	'Disbursements Work Type'	13.6	3
	Disbursement and solicitor fees in correct column	13.8	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

If a disbursements type is not selected the claim will not be submitted, and an error message will show at the top of the claim screen.

## 42. Saving an In-progress Claim

When an in-progress request is saved, the information that has been entered is stored in GOL. This information can be retrieved for the application or extension to be completed at a later date.

For example, where an invoice is started then determined that it cannot be submitted because a relevant invoice is not yet available, the claim can be saved for submission at a later date.

## 43. Accessing Saved Claims

Once a claim has been saved, it can be viewed by searching the file number and clicking on the linked dollar sign.



If there is no date included in the pop up from the linked dollar sign, the claim has not yet been submitted.

To access the saved in-progress claim, click on the 'Claim ID'. The completion of the GOL generated invoice can then be resumed.

It is not recommended that practitioners save claims unless necessary. It is preferable that in-progress claims are deleted and that practitioners submit them at a later date when the information is available.

#### 44. Deleting an In-progress Claim

Once the claim has been re-entered by clicking on the linked dollar sign, the claim can also be deleted.

#### 45. 'Are you sure you want to delete?'

A pop up will appear to ensure that the in-progress claim is not accidentally deleted.

#### 46. What cannot be claimed

Clause 34 of the [Guide to Claiming Payment](#) details what cannot be claimed, this includes communicating with LAWA.

##### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Non-claimable items	34	4

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

#### 47. Trial Claims

There is some variation in what may be claimed for trial. This includes, when a trial commenced, how long a trial day went for in court, and whether the trial is in a regional court.

Under rule 7 of the *Legal Aid Commission (Costs) Rules 1990*, a court day is 5 hours.

A grant of aid for the trial days also includes an allowance for preparation for each day of trial.

Generally, where a trial commences:

- The full daily allowance for the relevant court may be claimed for each day of trial that lasts 5 hours.
- Part days and regional trials are claimed on a pro rata basis.

##### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Trials	35.4	5

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses*

#### 48. Costs Orders

Upon receiving a costs order, the panel practitioners must request an extension that advises the total costs awarded minus total payments received under the grant and seek an extension for the amount, minus GST.

Once a claim for this amount has been submitted, GST will be added back.

##### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Costs order	13.7	3
	Costs orders and recovery of costs by Legal Aid WA	16	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

#### 49. Costs Awarded Checkbox

To submit a claim against the extension of awarded costs, tick the costs awarded checkbox as pictured here.

#### 50. Certifying Claims

Assigned practitioners are taken to have certified all claims and extension requests submitted to Grants Online. Where the submission of claims or extension requests is delegated to another member of staff or a contractor, the assigned practitioner is taken to have reviewed their claim as being complete and accurate.

##### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Practitioner responsible for accuracy	7	1

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

#### 51. Final Claim and Report Requirements

Final claims should be submitted within six months from the completion of the grant of aid. This will assist LAWA to manage the budget and the active file lists of panel and list members.

##### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Claim within 6 months of finalisation	7	2

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

#### 52. Final Report

When the assigned practitioner has submitted a final report it must contain:

- the outcome of the grant;
- the nature of the legal services provided;

- the stage at which important events occurred, such as the entry of a guilty plea or the discontinuance of a matter, or a consent order/negotiated agreement for family law grants;
- who performed the legal services including any practitioner who was not the assigned practitioner, any restricted practitioner, or anyone working under the supervision of the assigned practitioner;
- sufficient information to properly substantiate the claim for payment; and
- if prior written approval was obtained for a non-panel practitioner to appear, details of the person who appeared, the date and nature of the appearance and the date prior approval was received.

### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Final report with claim for payment	23.9	5
	Report to be submitted with claim	26.1	6

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 53. Finalising a File or Extension Through a Claim

Multiple claims can be submitted against a single extension or Request ID. If the claim being submitted is not the final claim for the extension, please ensure that 'no' is selected in response to the question, *'is this the final tax invoice for this **matter**?'*

When submitting the final tax invoice for a matter, advise LAWA by selecting 'yes' to the question, *'is this the final claim for this extension'*, and 'yes' to the question *'this is the final claim for this matter'*.

It is very important that LAWA is advised the matter is finalised by selecting these tick boxes so that the file is removed from the assigned practitioner's active file list. In instances where the active file list becomes too high, a file cap limit may be put in place which limits new grants.

Practitioners should also give a brief report on the status of the matter as prompted by the claim screen. There is a character limit to the text box under *'report on the status of this matter.'* This text box must include a report to substantiate the work completed under the relevant extension.

If an error message shows when submitting a claim, it might be the case that the report contains too many characters. Where this occurs, please attach the report as a file at the bottom of the claim screen.

### 54. Outcomes

It is important that the outcome of files are correctly reported so that our recorded outcomes are accurate. These are the drop-down boxes which need to be completed on the GOL generated tax invoice when submitting the final claim for a matter.

#### 55. Outcomes – Reason

The first drop down box lists a number of reasons that the matter is being finalised.

#### 56. Outcomes – Finalised Stage

The second drop down box lists various stages at which the matter might've been finalised. Please select the appropriate option.

#### 57. Outcomes – Legal Outcome

The final drop-down box lists legal outcomes. Please choose the applicable outcome from the list.

It is important that this is accurate for LAWA reporting and record keeping.

#### 58. Submitting a blank tax invoice

Blank tax invoices are not connected to a file and do not populate grant information. They should only be used in limited circumstances.

The limited circumstances are:

- where the grant was not generated through the GOL system, such as for confidential files;
- where there has been a calculation error in the claim amount already submitted for payment; and/or
- where the practitioner is claiming payment for GST free items.

*Practitioners should seek approval from a team leader or an assessor before submitting a blank tax invoice.*

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	'Blank tax invoice' not ordinarily used	12.4	3

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 59. GST and Non-GST Claims and Disbursements – Part 14 of the Payment Guide

Whether GST needs to be added to a claim for fees depends on whether the practitioner's firm is registered for GST.

Whether GST needs to be added to a claim for disbursements depends on a number of factors including whether the third-party supplier is registered for GST.

Practitioners should update the firm GST status if it changes with LAWA as soon as possible by completing the relevant Legal Creditor Registration Form available on the LAWA website.

GST free disbursement claims must be submitted via the blank tax invoice as the grant invoice automatically adds GST. For further guidance, please contact the assigned assessor.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	GST issues when claiming fees and disbursements	14	3

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 60. Non-GST Registered Firms

If a firm is not registered for GST, the claim for fees and disbursements cannot be submitted via a GOL tax invoice.

Instead, Practitioners must submit an extension request against the relevant file and attach a **firm** generated invoice.

### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Practitioner's firm not registered for GST	14.2	3

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

## 61. The [Guide to Claiming Payment](#)

Some of the other topics included in the [Guide to Claiming Payment](#) include:

- hourly rate where no other fee applies;
- travel time for prison and hospital visits;
- regional travel;
- adjourned sentencing appearances;
- plea in mitigation in different jurisdictions;
- prerecording of evidence and s 98CPA appearances for criminal law grants;
- jury waiting time;
- court waiting time;
- refresher fees; and
- START court and drug court rates.

## Contributions

### 62. Contributions

Contributions refer to an amount required to be paid by an assisted person which goes towards the funding of legal services under a grant of aid. A contribution from an assisted person may a set amount that covers all or part of the costs of the grant of aid.

If a cash contribution from the client has been determined, both the client and the practitioner are notified of the decision including, and if relevant, the time frame for payment.

The practitioner must collect the full cash contribution amount from the client as soon as practical unless the practitioner is a barrister and does not have a trust account.

LAWA will assume the practitioner has collected the cash contribution from the client and will automatically deduct the amount from any claim made by the Practitioner.

Contributions may also be secured by a memorial or caveat registered against the assisted person's property. **Practitioners do not need to collect memorial amounts from clients.** Where it is unclear if the client is required to pay a cash or has a memorial secured for their fees, please check with the Assessor.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Guide to Claiming Payment</a>	Cash contribution amount will be deducted	15	3
<a href="#">Private Practitioner Manual</a>	Contributions from assisted person	9.17	2
	Notification of contribution	9.17.1	
	Practitioner must collect contribution were no memorial	19.17.2	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 63. Reconsiderations of Contributions

Clients have a right of reconsideration on contribution decisions. It is important that Practitioners review the financial information provided in an application to ensure that it correctly reflects the client's financial circumstances, including any significant debt obligations.

Practitioners should advise LAWA prior to submitting a claim if they have been unable to collect a cash contribution from a client advising the reasons why the contribution could not be made – for example where there has been a change in the client's financial circumstances. This information should be submitted on GOL prior to submitting the first claim.

Where a contribution is secured by a memorial or caveat registered against the client's property, this will be indicated in the grant letter. The practitioner is not required to collect any amount and the client is not required to pay until any future sale of property.

In exceptional circumstances, such as when a practitioner does not occupy a trust account, LAWA may enter a direct payment arrangement with the assisted person.

## **A Panel Practitioner's Guide to Legal Aid WA – Contributions**

LAWA will not enter a direct payment arrangement with the assisted person simply because the Practitioner does not wish to collect the contribution.

## Professional Standards and Integrity

### 64. Professional Standards and Integrity Unit

This portion of the Module will detail the role of the Professional Standards and Integrity Unit.

The Professional Standards and Integrity Unit assist with panel and list management, firm and practitioner details changes, compliance and audits.

### 65. Practitioner Capacity

If the practitioner is or will become unavailable to accept grants of aid for a period of time, they must notify LAWA as soon as practicable and indicate the period during which they will be unavailable. The notification may specify unavailability to accept all grants, or unavailability to accept just automatically assigned grants. The practitioner may, by further notice to LAWA, modify the nature and/or period of unavailability.

As soon as a practitioner becomes aware that they will be unavailable indefinitely to accept any assignments, they must notify LAWA. Practitioners can request to be unavailable for up to 18 months. If a practitioner requests to be removed from the panels, they will need to reapply, and cannot be briefed without prior written approval from LAWA.

Practitioners can request to be removed from particular panels at any time.

#### Reference Table

Document	Description	Clause	Part
<a href="#">Private Practitioner Manual</a>	Acceptance of assignments	16	3
	Availability to accept assignments	16.1	
	Acceptance may be confirmed	16.2	
	Otherwise deemed acceptance	16.3	
	Must notify of unavailability in advance	16.4	

*This reference table is intended as a guide only and is not an exhaustive list of all of relevant clauses.*

### 66. Changing Firms

Practitioners who are proposing to change the firm at which they practice, must notify LAWA 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 subject of a transfer request.

Assigned practitioners are given first preference about whether they transfer their active files to their new firm.



## 67. File management and audit requirements

LAWA may audit practitioners at any time and monitor their compliance with standards, policies and guidelines in accordance with the Legal Aid WA [Audit and Compliance Policy](#).

LAWA is accountable for the expenditure of public funds. With the use of GOL and the automated payment system auditing firms also verifies work has been completed and the file was managed in accordance with the published policies and procedures.

The [Audit and Compliance Policy](#) explains the process involved when a private practitioner is audited by LAWA and describes the things we look for during an audit. Full details are contained in clause 5 of the [Audit and Compliance Policy](#).

Practitioners who have questions or are concerned about complying, are encouraged to contact the Professional Standards and Integrity Unit at their earliest opportunity.

The policy also provides information about potential audit outcomes, which range from LAWA taking no action through to removal from a panel and referral to the Legal Professional Complaints Committee.

The [Private Practitioner Manual](#), the [Guide to Claiming Payment](#) and the [Professional Services Agreement](#) contain detailed information and guidance to ensure that practitioners can satisfy audit thresholds.

When conducting audits, LAWA may look at claims, compliance with conduct and standards, management of the grant and compliance with LAWA's means and merit guidelines.

It is important that practitioners provide complete and accurate information when files are being audited. Cooperation with the process will form part of the findings of the audit.

Further information about audits and compliance is detailed in Part 7 of the [Professional Services Agreement](#).

## Who to Contact

### 68. Who to contact

Lastly, we have compiled a list of common contacts for members of the panels and lists.

### 69. Compliance

For compliance queries, including requests for non-panel practitioner appearances, please write to [compliance@legalaid.wa.gov.au](mailto:compliance@legalaid.wa.gov.au) or phone 9261 6596. For confidential discussions please contact the manager of PSIU, Kristen Ashton on 9261 6309.

### 70. Panel

For queries about membership or capacity, please phone 9261 6829 or email [panel@legalaid.wa.gov.au](mailto:panel@legalaid.wa.gov.au).

### 71. Assessing

For all queries about grants of aid, claims for payment or further explanation about details contained in grant email or letters, please contact the relevant assessing team:

- [Grantscrime@legalaid.wa.gov.au](mailto:Grantscrime@legalaid.wa.gov.au)
- [Grantsfamily@legalaid.wa.gov.au](mailto:Grantsfamily@legalaid.wa.gov.au)
- [Grantscivil@legalaid.wa.gov.au](mailto:Grantscivil@legalaid.wa.gov.au)

### 72. Grants Online

For assistance accessing Grants Online, or with technical issues, practitioners and administrative staff, including contractors, are invited to contact GOL Tech Support team operated by the LAWA service desk by either writing to [goltechsupport@legalaid.wa.gov.au](mailto:goltechsupport@legalaid.wa.gov.au) or phoning 9261 6345.

### 73. Thank you for your participation

LAWA's relationship with private practitioners is an essential component of delivering quality services to vulnerable clients. LAWA encourages a collaborative relationship with the private profession.

Thank you for your participation. Please direct queries and feedback to [PanelPractitionerTraining@legalaid.wa.gov.au](mailto:PanelPractitionerTraining@legalaid.wa.gov.au).