



VICTORIAN BAR PRO BONO SCHEME

ELIGIBILITY GUIDELINES

The **Victorian Bar Pro Bono Scheme (VBPBS)** facilitates the delivery of free legal services to the community by barristers who are members of the Victorian Bar and have volunteered to provide legal assistance on a pro bono basis (without a fee).

Applications for pro bono legal assistance are assessed against the VBPBS eligibility guidelines.

Justice Connect administers the VBPBS by connecting eligible applicants with pro bono barristers who have capacity, and the relevant expertise and experience to assist. Justice Connect itself does not provide help-seekers with legal advice and does not act as their solicitor.

Who we help through VBPBS

We help individuals, community organisations (such as community legal centres), and farms/small businesses impacted by natural disasters. We collectively refer to any person or organisation seeking to access, or who is accessing, our services as help-seekers.

Overview of VBPBS eligibility guidelines

In determining help-seeker eligibility for assistance through VBPBS, Justice Connect will consider their ability to pay for legal costs, the nature of their legal matter, and any personal circumstances that may affect their ability to access legal help.

In assessing help-seeker applications, Justice Connect will rely on the information provided by help-seekers. Justice Connect may stop or change the scope of pro bono legal assistance available to a help-seeker if the help-seeker:

1. does not provide full disclosure about their legal matter and personal circumstances
2. fails to advise Justice Connect of any changes that may affect their eligibility
3. does not follow the reasonable requests of Justice Connect, eg. to provide more information (such as documents relating to the legal matter).

The decision to grant access to pro bono legal assistance under the VBPBS is in the absolute discretion of Justice Connect.

ELIGIBILITY GUIDELINES

1. Ability to pay for legal costs

Justice Connect will consider the financial means of a help-seeker or the status of a help-seeker as a not-for-profit organisation. To be eligible:

- a. Individuals must have a household income of less than \$150,000 gross per household, or \$75,000 gross per individual; and equity in a home or other investment of \$300,000 or less
- b. community organisations must be not-for-profit, or they must be a Community Legal Centre (CLC) seeking barrister assistance for a matter the CLC is acting in



- c. farms/small businesses must not be able to afford the cost of legal advice; and their request for assistance must be related to a legal matter which arose because of a natural disaster, or is harder to resolve because of a natural disaster.

We may consider special circumstances allowing us to accept matters where the help seeker is above the means threshold. These are broadly outlined in section 3.

Pro bono legal assistance through the VBPBS is not available if:

- a. help-seekers can pay for their own legal costs
- b. help-seekers are already represented by a lawyer or have already received legal help with their legal matter
- c. the legal matter is more suitable for a No-Win-No-Fee firm (for example, if a help-seeker is seeking financial compensation)
- d. a grant of legal assistance is available to the help-seeker through Victoria Legal Aid
- e. more appropriate assistance is available from a CLC.

2. Nature of a help-seeker's legal matter

In respect of the nature of a help-seeker's legal matter, Justice Connect will consider:

- a. the merits of the matter (see ii below)
- b. the area of law involved and whether there is sufficient pro bono capacity in that particular area of law
- c. the urgency of the matter and whether assistance can be arranged within the required timeframe
- d. the complexity of the matter; for cases that are very resource intensive, the VBPBS may not be able to assist
- e. any special circumstances; for example, disadvantage, oppression, or discrimination
- f. any particular unfairness or injustice which may affect the help-seeker or a group to which they belong
- g. if the services of an instructing solicitor are required, the ability to secure their services on a pro bono basis. Justice Connect will only seek instructing solicitors where the case has merit and there is sufficient notice
- h. any other relevant considerations.

To assist with an assessment of the merits, Justice Connect may seek advice from a barrister. Where the advice is in writing, Justice Connect will not provide the advice to the help-seeker unless the barrister who prepared the advice agrees.

If the help-seeker has or had a solicitor or barrister acting for them, the help-seeker must give their authority in writing to Justice Connect to request and receive information from the solicitor or barrister, including the delivery of their file.

3. Personal circumstances

Justice Connect will consider any personal circumstances that may affect a help-seeker's ability to access legal help, including whether they:

- a. live in public housing
- b. are aged 55 or over



- c. are experiencing barriers to justice due to geographical remoteness
- d. identify as member of any group or cohort experiencing marginalisation
- e. are currently incarcerated
- f. identify as Aboriginal or Torres Strait Islander
- g. are experiencing homelessness or are at risk of losing their home because of their legal matter
- h. are experiencing or at risk of experiencing family violence or another form of abuse
- i. identify as a member of a culturally and linguistically diverse (CALD) community and/or require an interpreter
- j. live with a disability.

4. Administration of Justice

- a. Upon the request of a judicial officer from a Court or Tribunal, Justice Connect will consider whether the administration of justice would be served by providing pro bono legal assistance. This may permit a more flexible approach to the eligibility guidelines
- b. In considering such a request, the VBPBS will have regard to the guidelines outline in 2. a – h.

5. Pro bono capacity

- a. If a request for pro bono assistance meets the eligibility guidelines, Justice Connect will endeavour to find a barrister willing and available to act in the relevant matter on a pro bono basis
- b. If there is no barrister willing or available to act in the matter on a pro bono basis, the VBPBS may not be able to assist.

6. Types of assistance

Assistance through the VBPBS extends to any service that a member of the Victorian Bar is permitted ethically to provide, including:

- a. the provision of legal advice as to a prospective or existing proceeding
- b. the preparation and settling of pleading or other document for use in any court, tribunal, arbitration, mediation or other proceeding
- c. representation before a court, tribunal, arbitration, mediation or other proceeding
- d. acting as an arbitrator or mediator
- e. Where the Victorian Bar Practice Rules allow, Counsel may accept a pro bono referral in a direct access matter ¹
- f. Justice Connect may accept a matter through the VBPBS to provide pro bono legal assistance which is more limited in scope than that requested by the help-seeker.

¹ The Legal Profession Uniform Conduct (Barristers) Rules 2015 apply to barristers undertaking pro bono work pursuant to the VBPBS. Thus, it is the obligation of the barrister to assess what is in the interests of the client under Rule 22 as well as comply with the other Direct Access Rules.



7. Responding to special help-seeker requests and supporting barristers

Justice Connect takes a trauma-informed and client-centred approach to delivering pro bono legal services. From time to time, help-seekers or their representatives (such as professional referrers) may make special requests in relation to the provision of pro bono assistance because of the help-seeker's personal circumstances or experience of trauma.

In these cases, Justice Connect will:

- a. consider the needs of the client and the barrister who may assist them; including if the barrister has the required legal expertise and experience to assist the help-seeker with their legal issue, and the ability and willingness to manage a complex client relationship (with or without instructing solicitors, as the case might be)
- b. attempt to accommodate special requests related to the provision of pro bono assistance, such as in relation to the gender of a legal professional, where the help-seeker has complex needs and a history of trauma which may affect:
 - i. their ability to provide instructions and receive legal assistance; and
 - ii. the experience of the barrister engaged to assist them.

Justice Connect may not be able to accommodate special help-seeker requests, for example, in relation to the provision of pro bono assistance (because of a more limited pool of pro bono barristers) within the required timeframe.

8. Applying for assistance

- a. For professionals seeking assistance on behalf of a help-seeker, they can make a referral using our online referral tool: <https://help.justiceconnect.org.au/refer>
- b. For help-seekers who wish to apply for assistance directly, they can apply using our online help tool: <https://help.justiceconnect.org.au/>
- c. For CLCs seeking pro bono assistance for matters they are running, including merits assessments, they can apply for help using our online CLC form: <https://justiceconnect.org.au/help/pro-bono-for-clc-matters/>
- d. The information provided in applications for assistance will be received on a confidential basis as explained in section 10 below.

Alternative application pathways can be arranged for help-seekers who are unable to access Justice Connect's online application tools.

9. Feedback and complaints handling

- a. Feedback (both positive and negative) is welcomed by Justice Connect, and this data is used to ensure continuous reflection and improvement
- b. Justice Connect is committed to ensuring that any help-seeker or third party (eg. a support worker or advocate for a help-seeker) has the right to lodge a complaint about the conduct of a Justice Connect worker or to appeal a decision of the organisation about the provision of legal assistance, and to have their concerns addressed in a way that ensures access, equity, fairness, accountability and transparency.



Justice Connect will maintain a complaints and appeals management procedure and policy that contains information on the following:

- a. how to make a complaint or lodge an appeal
- b. the contact person for lodging a complaint or appeal
- c. how the organisation will deal with the complaint or appeal, the steps involved and the timelines; and
- d. how the person will be informed about the outcome of their complaint or appeal.

This policy will be made available to help-seekers and other stakeholders on request.

Justice Connect may share VBPBS client stories in its publications and/or with the Victorian Bar where help-seeker consent has been obtained.

10. Confidentiality

- a. Justice Connect will handle help-seeker personal information in accordance with its [Privacy Policy](#).
- b. Justice Connect will also comply with the *Legal Professional Uniform Law, Legal Professional Uniform Conduct (Barristers) Rules 2015, Privacy Act 1988* (Cth) and other relevant legislation and rules.
- c. Justice Connect will not disclose, cause or permit to be disclosed any confidential information related to a help-seeker's legal matter to any person without that help-seeker's prior consent other than to:
 - i. any solicitor or barrister who is acting for a help-seeker
 - ii. any solicitor or barrister to who is considering accepting a help-seeker's matter on pro bono basis
 - iii. any solicitor or barrister who has agreed to assist a help-seeker on a pro bono basis.