# Family Violence worksheet – Applicants (Guideline 8.1)

*Refer to* [*guideline 8.1 – applicants*](https://www.handbook.vla.vic.gov.au/guideline-8-family-violence-intervention-order-cases) *and the* [*notes on guideline 8.1*](https://www.handbook.vla.vic.gov.au/notes-guideline-81-applicants) *in Victoria Legal Aid’s (VLA) Handbook for Lawyers.*

**Client Name:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**VLA Ref No:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Under guideline 8.1, VLA may make a grant of legal assistance to a person seeking a family violence* intervention *aged 18 years or older[[1]](#footnote-2) and all the following apply:*

To satisfy guideline 8.1, either Criterion A and C or Criterion B and C must be met:

## Criterion A

the applicant is aged 18 years or older

and

the applicant is a [priority family violence client](https://www.handbook.vla.vic.gov.au/key-definitions-guideline-8-family-violence-intervention-order-cases#priority-family-violence-client) and the matter is listed for a directions hearing

**OR**

## Criterion B

the applicant is aged 18 years or older

and

the matter is listed for a contested hearing

**AND**

# Criterion C

### ‘The applicant is more likely than not to succeed in obtaining an intervention order’

As well as meeting the usual requirements of the [State reasonableness test](https://www.handbook.vla.vic.gov.au/node/5810), the application for a family violence intervention order must not be frivolous, vexatious or in bad faith and the applicant is more likely than not to succeed in obtaining a family violence intervention order

“More likely than not to succeed” means:

1. a careful and experienced lawyer must have formed the view that the application is reasonable (meaning that the application is not frivolous, vexatious or in bad faith); and
2. it is likely that the court will make the family violence intervention order as sought by the applicant.

The applicant is more likely than not to succeed in obtaining a family violence intervention order:

YES – proceed to State Reasonableness test

NO – recommend refusal of aid

**AND**

### State Reasonableness Test

To meet the [State Reasonableness Test](https://www.handbook.vla.vic.gov.au/state-reasonableness-test) the following requirements must be satisfied.

1. Consider the nature and extent of any benefit of a grant of legal assistance (measured against likely cost of case) and detriment from a refusal to grant legal assistance. Is there sufficient cost benefit?

Yes – proceed to ii.

No – recommend refusal of aid.

1. The proceeding is likely to finalise in a manner favourable to the applicant applying for the grant of legal assistance:

Yes – recommend aid.

No – recommend refusal of aid.

### Briefly detail how Criterion C is satisfied

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Documentary evidence must also be retained. Refer to [documentary requirements](#_Documentary_requirements).

### Documentary requirements

#### Simplified grants assessments process

Lawyers seeking a grant of legal assistance via the simplified grants assessment process should submit an application via ATLAS, only after ensuring that all the following documents are retained on file:

* A reference to how Guideline 8.1 is satisfied.
* a copy of the application for a family violence intervention order including the complaint, and interim order.
* where aid has been approved based on the client satisfying ‘priority family violence client’ criteria:
  + for an Aboriginal and/or Torres Strait Islander person or a LGBTIQ+ person, a file note confirming the applicant’s instructions about their identity.
  + for a person living with an intellectual, neurological or cognitive disability, a copy of the assessment completed by an appropriately qualified professional or a letter from an appropriately qualified professional confirming the disability.
  + for a person experiencing cultural and/or language barriers, a file note confirming the nature of the cultural or language barrier the person seeking assistance faces. This file note can be based on the client’s instructions.
* relevant proof of means.
* proof of any State special circumstances.

1. If a child aged 14 years or older seeks assistance for leave to apply for a family violence intervention order, the application for assistance should be made under Guideline 8.1.1. Where the court grants leave on its own initiative for a child to be legally represented pursuant to section 62 of the Family Violence Protection Act, VLA will make a grant of legal assistance to a child under Guideline 8.4. [↑](#footnote-ref-2)