# Request for overcap funding worksheet – family law

A ‘cost ceiling’ is the maximum amount which Victoria Legal Aid (VLA) will pay in costs and disbursements in any single grant of assistance for a Commonwealth family law matter.

Funding more than the fee ceiling can only be considered under Section 24 of the VLA Handbook under ‘Costs payable in family law and child support matters, [Family law costs management](http://handbook.vla.vic.gov.au/handbook/4-commonwealth-family-law-and-child-support-guidelines/family-law-costs-management).

**VLA file reference** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Client** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Claims

**Have all outstanding claims been submitted to VLA?** **[ ]  Yes** **[ ]  No**

VLA cannot consider your over fee cap funding request until all outstanding claims have been submitted.

## Proceedings

**Next hearing date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Client status**

**Court type**

**Stage of proceeding**

**Is other party represented? [ ]  Yes**  **[ ]  No**

**Other party’s lawyer:** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

## Children details

| **Child's name** | **Date of birth** | **Child resides with (eg mother, father)** |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

## Merit assessment

The Commonwealth merits test is a threshold test which must be satisfied in Commonwealth law matters. The test has three parts which must be met:

* [the reasonable prospects of success test](http://handbook.vla.vic.gov.au/handbook/13-commonwealth-merits-test/reasonable-prospects-of-success-test)
* [the prudent self-funding litigant test](http://handbook.vla.vic.gov.au/handbook/13-commonwealth-merits-test/prudent-self-funding-litigant-test)
* [the appropriateness of spending limited public legal aid funds test](http://handbook.vla.vic.gov.au/handbook/13-commonwealth-merits-test/appropriateness-of-spending-limited-public-legal-aid-funds-test).

 **Address the following:**

The merits of the client's case (give reasons)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Recommendations of the family report

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Key issues still in dispute between the parties

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Views of other experts (psychiatrists/psychologists, DOHS)

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Orders being sought by the parties

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Views of the Independent Children's Lawyer

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Funds required (including GST)

Stage (select applicable):

[ ]  [Stage 1B – preparation for early intervention FDRS](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-1-early-intervention#Stage-1B)

[ ]  [Stage 1C – representation at early intervention FDRS](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-1-early-intervention#Stage-1C)

[ ]  [Stage 1D – consent orders](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-1-early-intervention#Stage-1D)

[ ]  [Stage 2A – application for determination of parentage, Magistrates’ Court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2A)

[ ]  [Stage 2B – application for recovery, information or location order in any court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2B)

[ ]  [Stage 2C – initiating litigation, Magistrates’ Court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2C)

[ ]  [Stage 2D – transfer from Magistrates’ Court to federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2D)

[ ]  [Stage 2E – initiating litigation, federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2E)

[ ]  [Stage 2F – subsequent appearance, federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2F)

[ ]  [Stage 2G – interim contest hearing, federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2G) Hearing days:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  [Stage 2H – litigation intervention family dispute resolution at FDRS](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2H)

[ ]  [Stage 2I – contravention application, federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-2-initiating#Stage-2I)

[ ]  [3A – preparation and first day of trial, Family Court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3A)

[ ]  [3B – procedural hearings, federal family courts](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3B)

[ ]  [3C – further preparation and continuation of trial, Family Court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3C)

[ ]  [3D – preparation for trial, Federal Circuit Court](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3D)

[ ]  [3E – additional preparation fees](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3E) (please provide details below)

[ ]  Stage 4 – trial costs in the federal family courts Hearing days:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Stage 5 – appeals in the Family Court Hearing days:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Disbursement (please provide details below including cost)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## 3E – additional preparation fees

In exceptional circumstances, additional preparation fees may be allowed. This would ordinarily only arise where trials are adjourned. When assessing an application for further preparation fees, we will take into account the total preparation allowed for [stage 3A](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3A), [stage 3C](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3C) and [stage 3D](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/costs-payable-in-commonwealth-family-law-and-child-support-matters/fee-table-4-commonwealth-family-law-and-child-support-matters/41-lawyer-professional-costs-excluding-icls/stage-3-preparation-for#Stage-3D).

What additional preparation is necessary? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

How many hours you are requesting? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

What are the exceptional circumstances? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Family law costs management (please provide specific details and documentation in support)

| **Special circumstances** | **Specify issues supporting request** |
| --- | --- |
| [ ]  Language or literacy problem |  |
| [ ]  Intellectual, psychiatric or physical disability |  |
| [ ]  Family violence |  |
| [ ]  additional costs due to special circs (eg. interpreters) |  |
| **Other factors** |  |
| [ ]  Likely risk to the children/s safety or welfare |  |
| [ ]  Applicant incurred additional costs – no fault of own |  |
| [ ]  Issues in dispute are numerous and/or complex |  |
| [ ]  Applicant is the Independent Children's Lawyer |  |

**Checklists of documents which must be provided with this request:**

[ ]  Copy of the last affidavit filed by each party, and

[ ]  Copy of all court orders made, and

[ ]  Copies of all reports from third parties (including, relevant reports such as Family Reports etc)

[ ]  Trial Plan (Family Court matters)

*I acknowledge that under section 44(1) of the Legal Aid Act the provision of a false statement or a failure to disclose relevant information renders me liable to the penalties therein contained, and to action by VLA to remove me and my firm from the s.29A Panel and/or the referral panel maintained under section 30 of the Legal Aid Act.*

Name and address of firm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Your reference: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_