

## Expensive Indigenous Case Fund Application Form

Applications for funding from the Expensive Indigenous Case Fund are open to Legal Assistance Providers funded under the Indigenous Legal Assistance and Policy Reform Program administered by the Attorney-General's Department (the Department).

The Department will determine the merits of each application on a case by case basis having regard to the requirements set out in the *Indigenous Legal Assistance and Policy Reform Program Guidelines – July 2011* and the *Service Delivery Directions – Indigenous Legal Assistance and Policy Reform Program*. These documents are available on the Department's website [www.ag.gov.au](http://www.ag.gov.au)

Please ensure that the matter for which you are requesting funding will satisfy the three mandatory criteria set out in section 2.11 of the *Service Delivery Directions*.

Satisfaction of the eligibility criteria in the *Service Delivery Directions* does not automatically qualify a matter for assistance (refer to sections 2.13 and 2.14 of the *Service Delivery Directions*). The Department retains ultimate discretion in determining which applications are successful.

The information provided within this application form is non-exhaustive and the decision maker will consider all of the circumstances of the matter in determining whether to approve funding. The Department may require additional information to assist with this assessment.

**Note:** Commercial rates for legal costs are not payable (refer to footnote 1 at question 18)

### Privacy Statement

The information that you provide on this form is collected for the purpose of determining your eligibility for Expensive Indigenous Case Funding. The information will be used for that purpose and may be disclosed, where necessary, to obtain information regarding the application from government departments or agencies and legal aid commissions (refer to section 2.9 of the *Service Delivery Directions*).

In making this application, the applicant consents, and confirms that their client consents, to the Department disclosing any personal information contained in this form to government departments or agencies for this purpose.

### Confidentiality of information provided

All information received from an applicant for assistance will be treated in confidence and will not be disclosed to any other person or agency other than in accordance with an express authority by the applicant or, where required, by law.

By making this application, the applicant confirms that if legal advice obtained by the client is provided in support of this application, their client permits the disclosure of the advice to the Department for the limited purpose of processing the application.

Name of ATSILS:

Matter name:

(note: Client's name is not required)

## Eligibility

1. Is the client (refer to section 3 of the *Service Delivery Directions*)?

Indigenous **go to question 2**

Non-indigenous

All requirements for legal services set out in sections 3 and 4 of the *Service Delivery Directions* have been met, and

The provision of assistance is of direct and substantial benefit to one or more Indigenous Australians or Indigenous Groups, and

The provision of assistance is not otherwise available from another legal aid provider within the jurisdiction.

**If all of the three boxes above are not checked, do not proceed as application will be ineligible**

2. How does the client meet Part A of the means test (refer to section 7 of the *Service Delivery Directions*)?

Under 18 years of age, or

Main source of income comes from Community Development Employment Projects participant wages or Centrelink (or equivalent) benefits, or

Gross personal income is under \$46,000 per annum.

**If one of the three boxes above is checked, go to question 4. If none are checked, go to question 3**

3. If the client does not meet Part A of the means test, does the client meet Part B of the means test (refer to section 7 of the *Service Delivery Directions*)?

Yes **go to question 4**

No **do not proceed as application will be ineligible**

4. Which of the following priorities does the client meet (refer to section 4 of the *Service Delivery Directions*)?

Is, or is likely to be, detained in custody, or

Faces a real risk to his or her physical, cultural or personal well-being, or

Is a family member of a person who died in custody and who is seeking representation at an inquiry into the death, unless other appropriate assistance is readily available for that person, or

Would be significantly disadvantaged were assistance not provided.

**If one of the four boxes above is not checked, do not proceed as application will be ineligible**

5. Is the matter?

- Criminal (indictable offence)
- Family
- Civil
- A coronial inquest
- An appeal against a previous conviction

**If none of the above boxes are checked, do not proceed as application will be ineligible**

6. Where is the matter being heard?

- District Court
- Supreme Court
- Federal (includes Family) Court
- High Court

**If none of the above boxes are checked, do not proceed as application will be ineligible**

7. Is the matter already under public discussion by Commonwealth and/or State or Territory Governments with a view to policy reform?

- Yes **do not proceed as application will be ineligible**
- No

8. In the case of civil or family law matters, have alternative dispute resolution options been attempted?

- Yes **go to question 9**
- No **go to question 10**
- N/A **go to question 11**

9. If yes, please provide details.

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10. If no, please provide a brief explanation of the reasons why alternative dispute resolution options were not attempted.

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## Background

11. Provide background to the matter including, where applicable, the date, location and the facts of the matter including details of any court attendances and judgements.

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12. Provide a statement from a legally qualified practitioner detailing the merits and likely outcome of the matter, including any certification from counsel if available.

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## Additional information required

13. Provide information of alternative arrangements for proceeding with this matter if the Department does not approve funding from the Expensive Indigenous Case Fund.

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14. Is any other source of legal assistance available to the client in this matter?

Yes **go to question 15**

No **go to question 17**

15. If there is another source of legal assistance available to the client in this matter, has the client applied for this legal assistance?

Yes **go to question 16**

No please detail the other source of legal assistance available and then **go to question 17.**

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16. Was the application to another source of legal funding successful?

Yes Please detail the source and amount of other legal assistance obtained and why additional assistance is being sought from the Expensive Indigenous Case Fund

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No Please detail the source and amount of other legal assistance refused and briefly indicate why the assistance was refused

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Pending Please detail the nature and amount of other legal assistance sought

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### Estimated costs

17. Does the estimated cost of legal representation of proceeding with this matter exceed \$20,000 (GST inclusive) (refer to section 2.11 of the *Service Delivery Directions*)?

Yes **Go to question 18**

No **Do not proceed as application will be ineligible**

18. Itemised costs:

Solicitor's costs <sup>1 2</sup> (only if external to organisation – in-house solicitors will not be funded)	\$
Counsel costs <sup>2</sup> (provide detail of costs per day and number of days)	\$
Court costs	\$
Expert witness opinions (provide detail of which experts)	\$
Transcripts	\$
Expert reports (provide detail of what reports)	\$
Relevant disbursements: (provide detail of what disbursements)	\$
Total estimated costs	\$

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<sup>1</sup> Solicitors' professional costs should be estimated at the rate of 80% of the relevant scale as published by the Law Society or equivalent in the jurisdiction where the proceedings are instituted. Where there is no applicable scale, costs will be based on the scale applied by the local legal aid commission in the jurisdiction.

<sup>2</sup> Where parties change solicitors or Counsel in the course of proceedings, the outstanding costs of their former solicitors or Counsel should be met by the parties themselves.

**Declaration**

Please complete the following declaration.

I, \_\_\_\_\_ solicitor at \_\_\_\_\_ acting for \_\_\_\_\_ declare that the information provided in this application is true and correct to the best of my knowledge and belief.

Signed: \_\_\_\_\_

Dated:     /     /20

To assist you to complete this application a checklist is at Attachment A.

**CHECKLIST**

**Expensive Indigenous Case Fund Application**

- Application complies with criteria set out in the *Service Delivery Directions*.
- All relevant questions of the Expensive Indigenous Case Fund Application Form have been completed.
- Background to the matter including, where applicable, the date, location and the facts of the matter including details of any court attendances and judgements is attached.
- A statement from a legally qualified practitioner detailing the merits and likely outcome of the matter, including any certification from counsel if available is attached.
- Information of alternative arrangements for proceeding with this matter if the Department does not approve funding from the Expensive Indigenous Case Fund is attached.
- Declaration has been signed and dated.
- Application form and attachments have been scanned in and emailed to [ILASReporting@ag.gov.au](mailto:ILASReporting@ag.gov.au)