# Family Law Property Program: information for lawyers

Victoria Legal Aid (VLA) has received further funding for lawyer assisted mediation to support families to resolve their property disputes (“the Property Program”)*.* People who obtain a grant under this guideline will receive legal assistance until their matter is resolved, including at mediation through Victoria Legal Aid’s Family Dispute Resolution Service (FDRS) and for litigation, if necessary.

## When does the Program funding reopen?

The VLA guideline for family law property cases will be reactivated on 8 August 2023. There will be a cap of 20 grants per month, and the program will run until either 30 June 2025 or funding is exhausted.

## What are the eligibility requirements for the Property Program?

Your client can apply for a grant of legal assistance under [Guideline 9 – property disputes](https://www.handbook.vla.vic.gov.au/guideline-9-property-disputes) if they:

* are an [FDRS priority client](https://www.handbook.vla.vic.gov.au/node/6038), and
* meet the assessable income test and forum test (the rest of the means test does not apply to the Pilot)

**and either**

* the dispute relates to an estimated total net asset pool of $500,000 or less, including disputes where there is only debt (excluding superannuation), **or**
* the total net claim by your client is $250,000 or less (excluding superannuation).

All applications for a grant of assistance will be assessed by VLA – the simplified grants assessment process will not apply to the Property Program.

FDRS requires the other party in the property dispute to also have legal representation. If parties are not eligible for aid or not paying privately, FDRS can assist parties to access free legal assistance through a community legal centre, if required, as part of the program.

## What if there are also parenting issues?

If parties have children, to be eligible for a property grant, they must be eligible for a grant for their parenting dispute under existing guidelines or have no current legal parenting dispute.

If parenting issues are raised after a property grant is approved, and a party is not eligible for a parenting grant, there may be some ability for these issues to be canvassed if there is scope within the property grant.

## What happens once a grant is approved?

If your client’s property grant is approved, FDRS will be notified and will write to you and your client and the other party, including the FDRS financial statement. This must be completed by each party and returned to FDRS before mediation can occur.

The FDRS financial statement is designed to be completed with your client. The form asks for:

* information about their asset pool, current financial situation and their initial thoughts about settlement
* an overview of the issues in dispute and an acknowledgement from you that you have provided advice to your client about their options and responsibilities and conducted due diligence.

Once FDRS has received financial statements from both parties, a case manager will review the documents on file, interview each party and conduct a suitability and risk assessment. If you are concerned about your client’s safety, please let us know.

### If we do not receive a completed financial statement from both your client and the other party, we may not be able to offer mediation

## When will the property conference be booked?

If the case manager assesses the case as suitable, a conference will be booked as soon as possible. It can be booked to occur in person, or via video or teleconference, depending on the most suitable format.

We will exchange the FDRS financial statements prior to the conference.

The case manager may contact you and the other party’s lawyer before the conference to check if there is any outstanding disclosure or preparation required.

## What if the case does not proceed to conference?

FDRS will be unable to organise a conference if:

* the other party declines to participate in mediation or cannot be contacted
* the other party is unable to obtain legal representation (even with our assistance), or
* for other reasons (such as safety) mediation is not appropriate.

We will close the file, but we will not issue a section 60I certificate. Instead, we will provide a letter explaining that mediation could not proceed. This letter can be used if your client applies for an extension of their grant of legal assistance to pursue litigation for property settlement.

**What happens after the conference?**

If an agreement is reached at conference, such as by heads of agreement, funding is generally available for the applicant’s lawyer to prepare and file consent orders.

If there is no full agreement, parties may agree to return for a further conference. The FDRS Property Program grant includes up to three conferences. If agreement is not reached, eligible parties may seek an extension of their grant of legal assistance to pursue litigation.

## More information

Call 1800 136 832 (toll free) or (03) 9269 0500

Email [fdrs@vla.vic.gov.au](mailto:fdrs@vla.vic.gov.au)

Visit [www.legalaid.vic.gov.au/using-victoria-legal-aid-family-dispute-resolution-service](http://www.legalaid.vic.gov.au/using-victoria-legal-aid-family-dispute-resolution-service)

We encourage you to tell us how you found working with FDRS

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