



Public Interest Law Clearing House Guide to the Application Form

PILCH coordinates the provision of *pro bono* legal assistance to members of the Victorian community who do not have the financial resources to pay for such assistance who have a legal matter which is in the public interest. This document summarises PILCH's *pro bono* referral service for public interest matters and provides answers to some commonly asked questions about it.

Questions often asked about the Public Interest Scheme

Q: What does PILCH do?

PILCH co-ordinates a free legal referral service which assesses applications for legal assistance and refers matters of public interest to its members, including law firms, barristers and corporate lawyers who then act on a pro bono (for free) basis. PILCH aims to provide legal assistance in Victoria to people in legal and financial need who cannot obtain appropriate legal assistance from another source.

Q: How do I apply to the Scheme?

All communication by you with PILCH staff must be by telephone, fax mail or email. PILCH will keep confidential all information provided by you in your application (including your financial information), subject to such disclosure as may be necessary for the purposes of referring matters to PILCH members. If you wish to proceed with your application to PILCH, you will need to complete an application form and return it (along with any relevant documents) to PILCH.

Q: Who provides legal assistance through PILCH?

Legal assistance is provided through PILCH by its members, including law firms, barristers and corporate lawyers. PILCH maintains details of law firms and barristers who have expressed their willingness to provide assistance on a *pro bono* basis and whose practices cover a wide range of areas of law.

Q: What sort of assistance is available through PILCH?

The PILCH application form asks you to outline the nature of the legal problem for which you require legal assistance. Depending on the nature of the matter, the resources the organisation and the availability of solicitors and barristers, a matter will generally be referred to a solicitors and/or barrister to provide assistance of a defined nature. Some examples of the type of assistance that you may receive through the Scheme are:

- a preliminary advice as to the prospects of the case;
- preparation of court or tribunal documents; or
- representation at a court or tribunal hearing.

In some cases, it may only be possible to provide assistance through PILCH which is more limited in scope than the assistance you request in your application.

Q: Do I need to have a solicitor involved in my case before I can receive assistance from a barrister through PILCH?

Most cases require the involvement of a solicitor for the filing of court or tribunal documents, collection of evidence and other matters. Therefore, before you can receive assistance from a barrister you will usually need to have a solicitor acting for you. PILCH can co-ordinate the provision of a solicitor and barrister in most matters if necessary. It is not always necessary to have both a solicitor and a barrister as there are some types of cases that do not require you to have a solicitor and a barrister acting for you. If you do not know whether your case requires a solicitor and/or a barrister, you should discuss this with PILCH staff.

Q: Who is eligible for assistance through the PILCH referral service?

To be eligible for assistance through PILCH, you **must** be able to demonstrate to the PILCH staff that:

- you have a **legal problem** requiring the assistance of lawyers ;
- your case has **legal merit** (a reasonable prospect of success);
- you do not have the **financial means** to obtain legal assistance from a solicitor or barrister on a full fee-paying basis;
- you are a not for profit organisation with public interest objectives;
- your matter affects a significant number of people, not just the individual;
- raises issues of broad public concern; or
- impacts on disadvantaged and marginalised groups;
- you are **unable to obtain appropriate legal assistance from any other source** (including other legal assistance schemes); and
- you have made an application for **legal aid** (unless it is obvious to the PILCH staff that you are ineligible for legal aid), and either your application has been refused or no decision has been made in relation to your application.

The information outlined above should be provided to PILCH staff on the enclosed application form. As part of that application, you will also be required to provide detailed information about your income, assets and financial resources.

Q: Will I be eligible for assistance through PILCH if I am granted legal aid?

No. You will **not** be eligible for assistance through PILCH if:

- you are receiving legal aid at the time you make an application to PILCH; or
- if legal aid is granted to you after you submit an application to PILCH (in which case, you should advise PILCH staff immediately).

You **may** be eligible for assistance through PILCH even if you have previously received legal aid, but have reached the legal aid “cap” in relation to that matter. You should tell the PILCH staff if that is the case. In special circumstances, you may be eligible

Q: Do PILCH staff provide legal advice?

No. PILCH **does not** provide legal advice or perform any type of legal work on your behalf. PILCH is a point of first contact only. The function of the PILCH staff is to obtain legal assistance for approved applicants.

If your matter is referred to a solicitor and/or barrister through PILCH:

- PILCH does not accept any responsibility for the outcome or handling of your matter; and
- you should direct all questions or concerns about the legal aspects of the matter to the solicitor or barrister.

Q: Do I have a right to obtain assistance from a solicitor or barrister through PILCH?

No. PILCH's pro bono referral service is a purely discretionary scheme for the provision of legal assistance. PILCH staff will use their discretion to determine whether assistance can be provided to you.

Q: Can I appeal against a decision by PILCH to refuse my application or have it reviewed?

Yes. You may write a letter to the President, PILCH Board and he will consider the request for review with the PILCH Board when it next meets.

Q: If my application is accepted by PILCH, will I definitely be able to obtain assistance from a solicitor and/or barrister?

You should be aware that even if your application is accepted by PILCH, cases are referred to lawyers only on an "as available" basis. This means that assistance can be provided **only if** there is a solicitor and/or barrister who is available and willing to take your matter through PILCH.

In certain types of matters, the demand for assistance may be greater than the available and willing lawyers prepared to take on matters through PILCH (for example, in cases of great complexity and length in civil law matters). In these instances, PILCH staff use their discretion to refer only those cases which are most meritorious.

Q: Do I need to pay any money to use the PILCH referral service?

The service provided by PILCH in assessing your application is free of charge.

PILCH refers cases to lawyers who agree to act on a *pro bono* basis, which means for free or at a reduced fee. In some cases, a lawyer may reserve the right to charge you fees in certain circumstances.

Q: How do I know if the solicitor or barrister is going to charge me any fees?

If your matter is accepted by PILCH for referral to a solicitor or barrister, the solicitor and barrister must reach an agreement with you about the basis on which they will assist you. They may agree to provide assistance to you:

- for **no fee**, regardless of the outcome of the case;
- on a **reduced fee** basis; or
- on a **conditional basis**, where you pay the solicitor and/or barrister an agreed fee if you are successful and the other party is ordered by a court or tribunal to pay legal costs.

The agreement between you and the solicitor and/or barrister will include details of what will be charged (if anything) by the solicitor and/or barrister, the method of charging and terms of payment. The agreement should be in writing and signed by both you and the solicitor and/or barrister.

Q: Will I have to pay any other fees or charges?

In most circumstances, you will be responsible for any disbursements that arise during your case. The word "disbursements" refers to expenses other than any professional legal fees charged by your solicitor and barrister. These include filing fees for documents (required by courts and tribunals), court or tribunal daily sitting fees, interpreters' fees, experts' fees, cost of transcripts and travel expenses. In general, disbursements will be incurred by you or your solicitor, rather than

your barrister. It will be your responsibility to pay all these disbursements, unless you enter into another arrangement with your solicitor. Please ask your solicitor and/or barrister if you have any questions about this.

Q: When can a solicitor or barrister cease acting for me through PILCH?

If you receive assistance through PILCH, you will be treated in the same way as a person who can afford to pay a solicitor's or barrister's full fees. This means that the solicitor and barrister can only cease providing the agreed legal assistance to you in the circumstances outlined in the Legal Practice Act and the Rules of Conduct of the Victorian Bar. Those circumstances include, for example:

if the barrister who is acting directly for you without the assistance of a solicitor believes that it has become necessary to have a solicitor involved in the matter, and you cannot obtain a solicitor to act for you; or

- if you or your solicitor reject or ignore the advice given by the barrister in relation to the preparation or conduct of your case; or
- if the solicitor or barrister determines that the matter he or she has been engaged to do may clash with another matter, or has reasonable grounds to believe that there is a real possibility that he or she will be unable to appear at a hearing or do the work required by a matter

Q. Who is an authorised witness?

A Justice of the Peace or Bail Justice

A public notary

A barrister and solicitor of the Supreme Court

A barrister's clerk

The Prothonotary or a Deputy Prothonotary of the Supreme Court

The Registrar or a Deputy Registrar of the County Court

The Principal Registrar of the Magistrates' Court

The Registrar or a Deputy Registrar of the Magistrates' Court

The Registrar of Probates or an Assistant Registrar of Probates

The associate to a Judge of the Supreme Court or of the County Court

The Secretary of a Master of the Supreme Court or of the County Court

A person registered as a patent attorney under Part XV of the Patents Act 1952 (Cth)

A member of the police force

The Sheriff or a Deputy Sheriff

A member or former member of either House of the Parliament of Victoria

A member or former member of either House of the Parliament of the Commonwealth

A councillor of a municipality

A senior officer of a council as defined in the Local Government Act 1989

A registered medical practitioner within the meaning of the Medical Practice Act 1994

A dentist

A veterinary surgeon

A pharmacist

A principal in the teaching service

The manager of a bank

A member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the National Institute of Accountants

The secretary of a building society

A minister of religion authorised to celebrate marriages

A person who holds an office in the public service or a statutory authority that is prescribed as an office to which this section applies

A fellow of the Institute of Legal Executives (Victoria)