



## FAQ – How to Manage Grants of Aid

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### **Thank you for joining the Legal Aid ACT General Panel.**

Legal Aid ACT aims to promote a just society in the Australian Capital Territory for vulnerable and disadvantaged people. Your assistance in delivering high quality legal services in a professional manner that respects diversity and promotes confidence in the legal system, is greatly appreciated.

This document is to be read in conjunction with the *Application for Membership of the Legal Aid ACT General Panel*, the associated *General Panel Services Agreement*, the *Practice Standards* and the *Compliance Audit Requirements*. It is intended to provide guidance and clarity on the expected day to day conduct and life of grants of legal assistance.

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## 1. KEY DOCUMENTS

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The below documents can be accessed at <https://legalaidact.org.au/about-us/who-we-are/corporate-information/general-panel-documentation>.

Alternatively, you can access [www.legalaidact.org.au](http://www.legalaidact.org.au) – See the ‘General Panel Docs’ tab under ‘About Us’.

### General Panel Documents

- Legal Aid ACT (General Panel) Determination 2010 (No 1)
- Application for Membership
- Services Agreement
- Practice Standards
- Compliance Audit Requirements
- LAGRANTS 2.0 Process Document (*Instructions for the online Portal LAGRANTS 2.0*)
- LAGRANTS 2.0 Process Document - ADDITIONAL - Changes February 2024 (*Instructions for the online Portal LAGRANTS 2.0*)
- Add or Remove Lawyers Form (*When amending list of solicitors being supervised by the General Panel Member to undertake legal aid work*)

### Frequent Reference Documents

- FAQ: How to Manage Grants of Aid (*Guidance on grant management*)
- Clause List (*List of available extension types per legal type*)

### Other Policy Documents /Forms

- Guidelines
- Scale of Costs
- Update of Financial Circumstances (*completed by client when financial circumstances change*)

## 2. IMPORTANT CONTACTS

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<b>CLIENT SERVICES UNIT</b>	<b>Phone:</b> 6243 3411 <b>Email:</b> <a href="mailto:Client.Services@LegalAidACT.org.au">Client.Services@LegalAidACT.org.au</a>
<b>Grant and Service Queries</b>	<b>Client Services Team</b>
<b>LAGRANTS 2.0 Portal Queries</b>	Natalie Fifita, <b>Team Leader</b>
<b>Extension Queries</b>	Michelle Bryant-Smith, <b>Client Services Manager</b> (Family Law) Jess Ashman, <b>Legal Policy &amp; General Panel Mgmt</b> (M, Th, F) Anna Went, <b>Decisions and Quality Assurance</b> (M-W)
<b>Audit Queries</b>	Jess Ashman, <b>Legal Policy &amp; General Panel Mgmt</b> (M, Th, F)
<b>Invoices / Remittance Queries</b>	<b>Accounts Team</b> Email: <a href="mailto:Accounts@legalaidact.org.au">Accounts@legalaidact.org.au</a>

*Current as of Oct 2024*

### **3. THE ONLINE PORTAL – LAGRANTS 2.0**

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**LAGRANTS 2.0** <https://legalaidact.powerappsportals.com/> is the online Portal for electronic lodgement with Legal Aid ACT.

You should use it to view files or services assigned to your firm, request extensions and invoice for work completed. Subsequent grant, transfer and termination requests should NOT be submitted through the Portal but by email to Client Services.

### **4. COMMENCING A GRANT/SERVICE**

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Grants of legal assistance are often assigned to our inhouse legal practices. If this is not possible due to capacity, conflict or other reasons, then the grant is referred to a General Panel member. Clients can request a particular firm, but this not guaranteed to be approved. General Panel members must ensure they supervise the work of any solicitors employed on their behalf to ensure that all obligations under the Services Agreement and Practice Standards are met.

When you are assigned a grant of legal assistance, you will receive a Service number (SER-#####) and it will appear on the online portal – LAGRANTS 2.0. You will also receive an email which contains:

- Initial grant letter that identifies the terms of assistance to be provided; Please ensure to read this letter carefully as you can only work and receive payment for work conducted within the confines of the approved grant.
- Client’s Application for grant of assistance with contact details; and
- Relevant documents provided by the client.

Please request any other necessary documents and information from the client directly.

If the client requires further legal assistance, please submit your extension request on the Portal for consideration.

When emailing file related queries to Client Services, please include the Service number.

### **5. LIMITED INVESTIGATE AND REPORT GRANTS (I&R Grants)**

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A ‘limited’ grant usually includes an initial Investigate and Report (I&R) extension for family law, family violence and civil law matters. If appropriate, it can be eligible for an extension of aid for further limited assistance that provides a few extra hours to help the client resolve, mediate or progress their legal matter. Please carefully read the grant letter or the extension of aid clause that describes what type of work can be conducted.

Initial Limited I&R grants can be approved to persons who are not financially eligible for ongoing assistance beyond this grant. This requires careful management of the client’s expectations about any ongoing representation.

Essentially, a Limited I&R grant enables you to provide legal advice only. After this you may:

- Confirm with the client that the grant is concluded, submit a final invoice and close your file.
- Seek an extension of aid on the Portal with a reporting letter, if you are of the view that the person has merits for ongoing assistance. You need to make an assessment of prospects of success and confirm your capacity to provide further assistance or request a transfer of solicitor. Please communicate to the client whether further aid is approved or refused. All extension of aid requests are means and merits tested.
- If further assistance is refused on the Portal, and the client still wants to discuss ongoing funding, refer the client back to Client Services.

## **6. FAMILY VIOLENCE CROSS EXAMINATION OF PARTIES SCHEME (SECTION 102NA)**

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If you have accepted a family law Section 102NA grant, please be aware that these matters operate differently to traditional grants of legal assistance. This funding is allocated under the Commonwealth Family Violence Cross Examination of Parties Scheme, where:

- Recipients are not means and merits tested. Eligibility is established when the Court makes a Section 102NA Order that bans personal cross-examination.
- Legal Aid administers this Commonwealth scheme and applies funding in accordance with our Agreement with the Commonwealth.
- Essentially, funding is provided to enable the recipient to be represented at a final hearing.
- Funding includes preparation and for a solicitor to brief Counsel. It does not cover disbursements such as expert reports.
- Funding is not provided for interim proceedings unless they require cross examination (e.g. contravention hearings).
- Assistance may be transferred or terminated under circumstances where there is a breakdown in the solicitor/client relationship (e.g. failure to accept legal advice or to engage in proceedings).

## **7. EXTENSIONS**

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The purpose of extensions of aid are to provide appropriate stage of matter funding to progress and resolve a client's matter. Generally, work is approved under the stage of matter funding model and not on an hourly basis. These requests are means and merits tested to establish the client's ongoing eligibility for assistance.

Extension of aid requests can only be determined when they are made on the online Portal - LAGRANTS 2.0. Instructions can be found in the LANREX Process Document. Please be advised as follows:

- The 'Name' of the extension should be a brief description (such as mention 12/12/12 or URGENT Title Search- Holt), not the client's name or your own.
- Provide sufficient information or reporting letter to support the funding request including the next in Court date and an assessment of your client's prospects of success at obtaining the outcome sought.
- Legal Aid does not pay for work done on an hourly basis (except in exceptional circumstances) and extension requests must be sought in accordance with our stage of matter clauses in the Clause List. The Clause list sets out the funding stages for different matter types (such as family, crime, family violence and civil law). You can only invoice in accordance with the stage of matter clauses that have been approved.
- Extensions are usually determined within five working days and the Portal is monitored regularly. There is no need to email Client Services requesting 'updates'.
- Do not email extension requests to Client Services – apply on the Portal.

#### **Seeking extra hours**

- Only use the Outside Stage of Matter / Additional Hours Clause (where work is paid on an hourly basis) in circumstances where you can provide supporting information to establish that:
  1. the work undertaken is not covered by any other stage of matter clause (some clauses include all preparation, reading, client conferences and attendance in Court); and
  2. It is necessary to undertake an exceptional volume of reading/preparation/conferencing or other significant work that will be additional to the usual course of a matter.

This clause is meant to be used occasionally and not regularly.

#### **When a Court event is adjourned unheard**

When aid has been approved for a specific stage such as defended hearing, and the matter is adjourned unheard, please seek a further mention grant and claim against the mention for the Court attendance on the original listing date. Once the originally approved stage of matter funding has been completed, then you may then invoice for that stage.

If the Court matter was part heard or extended for a further day, seek an extension for an additional attendance.

#### **Criminal Law – Multiple series in Court on the same day**

This section relates to occasions when your client has multiple series / services / files in Court on the same day.

The initial C1A/M1A/S1A grant covers all attendances in Court up to the entry of a plea. Funding of the initial grant is applied to each service. After this, if multiple matters are listed for Court on the same day, only one extension per stage of matter will be approved (not one on each service). This applies to mentions, entry of pleas, hearings, sentence etc. In special circumstances, a further extension of aid may be sought in relation to matters which require exceptional preparation or if the Court attendance requires more than the usual court time (eg M8A for an additional one hour in Court \$140).

These requests will be determined on their merits and on a case by case basis. Please ensure adequate supporting information is provided with the extension request to detail how the preparation is exceptional compared to usual criminal law matters or how much additional time is expected.

### **Briefing Counsel**

- In addition to the 'fee on brief' that is incorporated into the first day of trial payment for Counsel, an extension of aid request for the Chamber Hours Stage of Matter Clause (where Counsel is paid on an hourly basis) can be used as follows:
  1. For 10 hours of Counsel preparation for a trial of two days;
  2. For an extra three hours for each day after the second day of the trial; and
  3. As otherwise required, with a supporting letter that identifies the extra work required and why it cannot be covered by the above formula.
- Legal Aid does not usually approve Counsel for Magistrates Court matters.

### **Disbursements**

- Type 'Disbursement' on the Portal as there are not specific stage of matter clauses for various types of disbursements such as subpoena conduct monies, expert reports, title searches, hair follicle testing, travel, accommodation etc. Seek the exact amount required and not a \$1 amount to indicate approval for an unknown future amount.

### **Travel and Accommodation**

This segment is for interstate General Panel members travelling to the ACT.

Please be reminded that requests for extensions of aid, including for disbursements (such as travel and accommodation) must be made prior to the Court date and not retrospectively. Legal Aid ACT is not liable for any disbursements incurred without prior written approval.

As with all extensions, you must still advise if the client does not have prospects, merits or may not be financially eligible for ongoing assistance.

While travel and accommodation are often paid for trials or hearings, these disbursements will not be paid for non-Court events such as a Legal Aid ACT

Family Dispute Resolution Conference where it is possible to represent your client remotely.

*Short Court events such as mentions, adjournments, registrar conferences etc.*

- In the first instance, please seek permission from the Court to appear remotely.
- If it is not possible to attend Court remotely, please request the appropriate stage of matter extension for the Court event and engage an agent with this funding.
- If an agent cannot be engaged, you may seek an extension of aid for accommodation for the night before the Court date. Legal Aid ACT will pay for your travel to Canberra and for one (1) night's accommodation. If your matter is before the Court for the whole day or extends to a second day, a second night of accommodation can be requested. Ensure that you address these issues in your disbursement extension request for accommodation and travel eg if the Court refused permission to appear remotely.

Subject to the above, all reasonable requests will be considered. 'Reasonable' amounts are published by the Australian Taxation Office each income year (for example Taxation Determination TD 2023/3 Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2023–24 income year?).

Please retain all relevant invoices to support your invoice claim.

#### **Retrospective requests**

- Apply for an extension of aid before conducting the work.
- Retrospective grants are not approved unless there are exceptional circumstances to explain why work was carried out prior to applying for an extension.
- That work has already been conducted is not sufficient reason.

#### **Refused Extensions / Seeking a Reconsideration of an Extension**

- If you are seeking an extension of aid on the Portal under 'instructions' and are of the view that your client does not have merits, please advise your client accordingly and be clear about your assessment of prospects in your supporting information/reporting letter.
- If an extension is refused, please communicate this decision to your client. They will not receive a letter from Client Services.
- You can ask for a reconsideration of a decision to refuse an extension of aid request. Please address the reasons for refusal (shown on the Portal) and change the Portal status to 'Reconsideration'.



- A refusal does not necessarily mean that the grant is finalised (except if it is a Limited I&R grant). It may be appropriate to apply for a different extension (for example - for mediation if litigation funding was refused).
- If you cannot progress the client's matter after an extension refusal, consider whether you need to close the file because the grant is concluded or if you need to email Client Services to recommend termination of aid.
- Refusal of an extension on a 'Limited Grant' (for example Limited I&R grant) means that the grant has concluded. There is no review process for these extension requests. You can refer your client back to Client Services if they want to discuss their grant.

## **8. SUBSEQUENT GRANTS/ADDITIONAL LEGAL ISSUES/NEW CHARGES**

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If you become aware that your client has additional legal issues that are not covered by the current grant, please do not send them back to Legal Aid Reception or tell them to make a further application for aid. Consider one of the following options:

- Email Client Services to request a subsequent grant and advise whether or not your firm would be able to accept the new grant (if approved). Do not submit these requests via the Portal because they are not extension of aid requests.  
*EXAMPLE: I hold a grant for Mr John Smith for criminal charges. Please consider a subsequent grant to assist with a parenting dispute with Miss Jane Smith (DOB #/#/##) regarding their daughter Miss Jill Smith (DOB #/#/##). We confirm that our firm has capacity to accept the family file.*
- Refer your client to the free Helpline on 1300 654 314. The Helpline can provide advice information and referrals to available services or duty lawyer assistance.

### **Criminal Law Matters**

For criminal law matters, separate services are created for each 'event and its related statement of facts'.

If your client receives new charges which are related to the same event/statement of facts which you already have a grant for, please seek an extension on the Portal for a subsequent plea.

If your client receives new charges which are NOT related to the grant you already hold, please email a copy of the new charge sheets and statement of facts to Client Services requesting a subsequent grant.

Please provide details about the next Court date and what it is listed for.

When seeking extension of funding on these new services, please ensure you read section '

**Criminal Law – Multiple series in Court on the same day’ on page 6.**

## **9. ENGAGING AN AGENT TO ATTEND COURT**

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If you have accepted a grant and are unable to attend a Court date, please ensure you brief another qualified solicitor to appear on your behalf and/or adjourn the matter. You must only engage agents who will accept payment at Legal Aid ACT rates. It is your responsibility to seek relevant extensions on the Portal and forward the funds to the agent.

Please remember that your firm usually has received a grant as our inhouse practice has conflict or capacity issues. This means that Legal Aid ACT duty lawyers cannot be relied upon to assist as an agent.

## **10. FINANCIAL ELIGIBILITY**

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You have an obligation to keep Legal Aid ACT updated about circumstances which may be relevant to the client’s continued eligibility for legal assistance. This can include being granted bail, commencing work or if a family member is willing to pay for private representation.

It is also a condition of your client’s grant that they must notify Legal Aid immediately if there is any change in their financial circumstances.

If you become aware of a change to your client’s financial circumstances (for example: recommenced work, new job, receipt of a lump sum, newly disclosed assets, you believe they can afford private representation), please notify Client Services, and ask your client to submit an *Update of Financial Circumstances* form for assessment by Legal Aid ACT (form can be obtained from Client Services).

## **11. TERMINATIONS**

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All Practitioners are required to recommend a termination of aid in the following circumstances:

- The client no longer has prospects of success of achieving the outcome sought in their legal matter.
- The client fails to engage or provide instructions (including no longer attending Court or responding to your firm)
- The client refuses to accept or follow legal advice.
- There is a change in financial circumstances (See section “ [FINANCIAL ELIGIBILITY](#)”).
- The solicitor is of the view that there is a breakdown in the client/solicitor relationship.

- Where there are other reasons which may affect eligibility for ongoing assistance (please provide details).

Client Services will consider the recommendation and if the grant is terminated, a letter will be sent to you and the client.

If a legal matter resolves or there is no further legal assistance required at this point in time, the file can be closed and no termination request is required.

Please note that reporting letters attached to invoices are viewed by the Accounts team. If your letter contains a termination recommendation, please email it to Client Services, in addition to Accounts.

## **12. FAMILY LAW PROPERTY MATTERS - SMALL POOL PROPERTY**

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Legal assistance may be available in family law matters where there is a dispute about a small property pool. The eligibility criteria is that the combined nett value of the property pool (excluding superannuation) is approximately \$600,000 or less (as of 2024).

You must advise Client Services if the disclosed property pool is higher than this amount. These matters are means and merits tested.

## **13. MERITS**

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You are obliged to inform Legal Aid ACT of any circumstances relevant to your client's continued eligibility for legal assistance.

Initial funding does not guarantee continued funding to the conclusion of a legal matter. Each grant requires ongoing assessment of merits and financial eligibility.

Existence of Court proceedings does not automatically pass the merits test for ongoing funding. Among other things, consideration is given to the appropriateness of spending public funds, prospects of success and risk factors such as harm to a child or the possibility of incarceration.

For example, when considering funding for final hearing in protection order matters, please confirm if there are any risks to personal safety or significant detriment such as homelessness, loss of vocation or inability to understand proceedings. If the primary issue concerns contact with children, assistance should be covered under a family law grant instead and you can email Client Services requesting a subsequent grant (see segment [SUBSEQUENT GRANTS/ADDITIONAL LEGAL ISSUES/NEW CHARGES](#)). You should also advise whether the matter could be resolved via further negotiations or undertakings.

Regarding appeals, even if there may be prospects of a successful appeal after an unfavourable Court decision, this does not trigger an automatic approval for appeal funding.

## **14. TRANSFER REQUESTS**

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There may be occasions where a grant needs to be transferred due to a conflict of interest arising, firm capacity or a breakdown in the solicitor/client relationship.

If you need to request a transfer, please inform your client and email the request to Client Services for determination. If a transfer is approved it can occasionally take more than a week to reassign the client.

A request for a transfer of solicitor cannot be affected until you provide the following information to Client Services:

- Why your firm cannot continue assisting;
- File urgency such as the date and description of the next Court event (for example: mention, final hearing), filing deadlines, or otherwise next step in the matter;
- If the client has merits or prospects for continued funding and will accept legal advice;
- If the client's financial circumstances have changed since you originally received the file;
- If the client has been advised that their matter has been sent back to Legal Aid ACT to consider a transfer of funding to a new solicitor;
- If the matter is in Court; if you have advised the client about engaging as a self-represented person or if you are able to appear on the next occasion to assist in seeking an adjournment until determination or transfer has been made by Client Services. Please be aware that you cannot rely on a duty service to seek adjournments.

## **15. END OF THE GRANT**

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Please remember that once a file has been assigned to your firm, you have carriage until the legal matter concludes or you receive a letter from Client Services confirming that the grant has been transferred or terminated.

On all files, you are required to send a final reporting letter to the client at the conclusion of a matter. The only exception to this might be Limited I&R grant where no extension of aid is requested, see [LIMITED INVESTIGATE AND REPORT GRANTS](#)). You can submit this client reporting letter with your final invoice, on the Portal, as evidence of work completed.

A reporting letter should provide the client with a clear and comprehensive written explanation of advice and the outcome of their matter. This should include any actions

or next steps the client needs to take, the effect of orders, any right of appeal and their prospects and merits and relevant time limits.

After you have received final payment, please email Client Services to request removal of the completed Service from your Portal dashboard.

## **16. INVOICES**

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Legal Aid ACT undertakes to pay invoices within thirty (30) days. The payment run usually occurs once a week and is processed by the Accounts team. If there are problems with your invoice, the Accounts team will address this on the online Portal - LAGRANTS 2.0 Invoice Records.

If appropriate, you can edit the amount claimed and claim up to or less than the extension amount approved.

When invoicing, if you are also requesting a transfer, termination or closure of the service, you must email these requests directly to Client Services.

## **17. PAYMENTS FROM CLIENTS**

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When an application for aid is determined, a decision is made whether to apply or waive a client contribution fee. This fee is paid directly from the client to Legal Aid ACT.

If a client is legally aided for a matter, you cannot also retain them as a private client and receive private payment in relation to their legally aided matter.

If you have held a grant or an extension covering certain legal services, you are not able to accept additional payments covering that same stage of matter. For example, if you have received a grant to cover solicitor costs at hearing, you cannot ask the client to pay for a barrister to be briefed.

It may be possible that a client has multiple legal issues but is not legally aided for all of them or eligible for assistance for all of them. You can retain the client on a private basis for their other non-legally aided matters. Before retaining the client on a private basis, please consider seeking a relevant “sub-grant” or making inquiries to Client Services about your client’s eligibility to be assisted for their other legal matters.

Once a grant has concluded or been terminated, there is no restriction on retaining the person as a private client. An example where this might happen is when an Investigate and Report grant is completed and the client is not financially eligible for ongoing assistance beyond the Limited I&R grant.

## 18. CLIENT COMPLAINTS

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Client complaints are received by email to [Legalaid@legalaidact.org.au](mailto:Legalaid@legalaidact.org.au). If a complaint is made about you or your practice, your firm may be contacted for more information. Complaints may be resolved with a transfer of solicitor. If after investigation, Legal Aid ACT determines that there has been a serious breach of the General Panel Services Agreement, you will be notified in writing. The *Legal Aid Act 1977* provides for removal of a firm from the General Panel.

## 19. NON-LEGAL SUPPORT FOR CLIENTS

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Legal Aid ACT increasingly offers 'wrap-around' services to vulnerable clients who present with multiple legal and non-legal issues. The in-house Community Liaison Unit can assist your clients with:

- attending Court;
- completing forms;
- understanding proceedings and providing instructions;
- assisting with making required adjustments; and
- connecting with other services such as counselling, housing, food and family support services.

As of June 2024, the CLU includes:

- Aboriginal Liaison Officers
- Cultural Liaison Officers (Including Arabic and Sinhala speaking)
- Disability Justice Liaison Officer
- Family Advocate Support Service Social Worker & Family Violence Officer
- Family Advocate Support Service (for males in family violence space)
- Mental Health Liaison Officer
- Community Liaison Officer

Please call (02) 6243 3431 or visit [www.legalaidact.org.au/Community-Liaison-Unit](http://www.legalaidact.org.au/Community-Liaison-Unit) for more information.

## 20. LIMITATIONS OF DUTY LAWYER SERVICES

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Duty services are managed by inhouse sections such as the Criminal Law Practice, Civil Justice Legal Practice and Early Intervention Legal Practice. If you have been engaged to provide referred duty advice and the client requires further assistance, the client needs to submit an Application for Legal Assistance. No further funding can be approved from a duty service.

### **Criminal Law Matters**

Duty lawyers do not assist legally aided clients with prelisted bail applications. They assist with bail applications for people fresh in custody. If you believe your client does not have prospects/merits for bail, and they choose to self- list, please advise your client accordingly and do not refer them to the criminal law duty service.

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*Thanks for your assistance and for providing quality legal representation to clients.*

*Please get in touch if Client Services can assist your firm in any way.*