

## When can the requirement to verify means be waived?

Legal Aid NSW requires applicants for aid to verify their means (both income and assets) as disclosed in their legal aid application. This is to establish eligibility for legal aid. Some of our more vulnerable clients struggle to provide verification of means.

In 2017 the Legal Aid NSW Board agreed to waive the requirement to verify means in some circumstances in order to streamline the application process for some of our more vulnerable clients. This includes where clients (and FAPs) are on maximum Centrelink payments and disclose a small amount of savings. There is an additional discretion to waive verification of means in special circumstances.

### Centrelink recipients

Verification of means can be waived in **all matter types** where the applicant (and any FAP):

- receives a Maximum Centrelink income support payment, **and**
- discloses that they have less than \$1,500 in the bank.

Applicants can sign the Centrelink Consent on the application form or provide a recent Centrelink Income Statement to show the rate of income support payment that they receive ([Means Test Policy 7.11.4](#)).

### Summary Crime matters: clients in custody

Verification of means can be waived in criminal law matters where the applicant:

- is applying for aid for representation in a Local Court criminal matter (excluding committals),
- is in custody,
- discloses that they (and any FAP) have less than \$1,500 in the bank, **and**
- discloses that any FAP receives a Maximum Centrelink income support payment.

See [Means Test Policy 7.11.4](#)

### Other Circumstances

Under [Means Test Policy 7.11.5](#) there is an additional discretion to waive verification of means in **special circumstances**. This includes (but is not limited to) situations where:

- the applicant is in custody, **and**
- has a District Court appeal or Supreme Court bail application.

Special circumstances may include, for example, where an applicant is experiencing an acute mental health condition or has a cognitive impairment that prevents them from being able to verify their means. It can also apply where an applicant is unable to verify means because their Centrelink payment is temporarily suspended as they transition from one payment to another.

Duty solicitors and In-house solicitors with carriage of the matter are authorised under the [Delegation Instrument 3.12](#) to exercise this discretion.