## Victoria Legal Aid precedent

## Letter to psychiatrist requesting fitness to stand trial assessment & report

This template had been developed in consultation with relevant expert report writers and is suitable for fitness hearings in Supreme or County Courts.

Note: The prosecution may seek disclosure of this letter of instruction and enclosures.

### Instructions for completing this letter

This document contains instructions to help you select the content options for the letter:

* shaded ‘[form fields]’ - enter or check data in each form field. Use the F11 key to move to the next form field.
* hidden text - to show/hide hidden text (and other formatting marks) press **Control+Shift+\*** or, click , the paragraph symbol, in the **Paragraphs** section of the Home tab.

The hidden text should not be visible in the printed letter. If it is, change the print settings. Go to: File > Print > Page set up > Paper > Print options > Printing options. Unselect ‘Print hidden text’.

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Fitness to plead assessment & report for [Client's name]  
Date of birth: [date of birth]   
If client is in custody Custody location: [prison] – CRN: [CRN no.]

Para 1 I act for [Client's name] whose case is listed for a (next hearing type) in the CountySupreme Court on [next hearing date].

Para 2 Thank you for agreeing to assess my client and prepare an evidentiary report on their fitness to stand trial as defined under section 6 of the *Crimes Mental Impairment Unfitness to be Tried Act 1997*. You may be asked to give evidence in court of matters contained in your report. I will contact you if you are required at court.

Para 3 Victoria Legal Aid has agreed to pay $[fee payable under Table S of the Handbook for Lawyers] (inclusive of GST) for the assessment and report [Link to Table S](http://handbook.vla.vic.gov.au/handbook/24-payments-to-lawyers-and-service-providers/disbursements/table-s-expert-reports-and-court-attendances-by-psychologists-and-psychiatrists-in-criminal-matters).

Para 4The report is needed by **[date report required]**. Please email the report to [email address] or fax it to [laweyr's fax number] and send the original report to this office.

**Assessment arrangements**

Para 5 If client is IN CUSTODY [Client's title and last name] is in custody at [prison]. Please advise if you will conduct the assessment by video conference or at the prison, so that I can notify my client. Most prisons require several days’ notice of a professional visit or to book a conference. You can contact me if you require assistance with arranging the conference or permission to enter the prison.

Para 6 If client is NOT in custody An appointment has been made you to see my client:

When: [appointment date and time]

Where: [appointment location] OR online assessment by video conference

Include if client is NOT in custody and appointment has not been arranged. Please advise me of the assessment arrangements, so that I can notify my client. If you will be conducting the assessment online, I can assist with arranging a video conference.

Para 7 Please notify me if the assessment arrangements change.

Para 8 Include if client needs an interpreter My client requires an interpreter for the assessment, which I will arrange.

Para 9 Report guidelines

If matter is in the Supreme Court Your report must comply with [Practice Note SC CR 3 Expert Evidence in Criminal Trials](https://www.supremecourt.vic.gov.au/law-and-practice/practice-notes/sc-cr-3-expert-evidence-in-criminal-trials). Please note the matters set out in paragraphs 4 ‘Expert’s duty to the Court’ and 6 ‘Content of all expert reports’. The Practice Note is attached.

If matter is in the County Court Your report must comply with [Expert Evidence in Criminal Trials Practice Note](https://www.countycourt.vic.gov.au/files/documents/2018-08/practice-note-expert-evidence-criminal-trialsfinal-june-20140.pdf). Please note the matters set out in paragraphs 2 ‘Expert’s duty to the Court’ and 4 ‘Content of all expert reports’. The Practice Note is attached.

**Issues to be addressed in the report**

Para 10 Please state your opinion as whether my client is unfit to stand trial because their mental processes are disordered or impaired so that at some time during the trial they will be unable to:

* understand the nature of the charge; or
* enter a plea to the charge and to exercise the right to challenge jurors or the jury; or
* understand the nature of the trial hearing (being an inquiry as to whether they committed the offence); or
* follow the course of the trial; or
* understand the substantial effect of any prosecution evidence; or
* unable to instruct their lawyers.

In addition, please state your opinion as to any psychiatric conditions my client currently has.

Para 11 Details of the offending Do not include instructions about the offences as this letter may be disclosed to the prosecution

Para11 My client has not entered a plea to the charges at this stage [Details of the alleged offences and the client's behaviour or mental state at that time, which might be relevant to a defence of mental impairment].

Please notify me immediately if my client gives a different version of events.

**Background information about the client** Note: This letter of instruction may be disclosed to the prosecution

Para12 [Client's personal information, including previous episodes of mental illness, diagnosis and treatment received, substance addiction, cognitive impairment or other matters which might affect the client's mental state].

**Prior convictions**

Para 13 [details of priors including circumstances of offences and penalties].

Enclosures

Para 14 I enclose the following material to assist you: Delete if not enclosed

* indictment
* prosecution opening
* prosecution summary of offences
* depositions
* prior convictions

NOTE: This information may be requested by prosecution

* client’s personal history and background information
* psychiatric reports [details]
* psychological reports [details]
* medical records obtained from [name of doctor, hospital or facility]
* [other enclosed material].

Contact details

Para 15 I look forward to receiving your report. Please contact me on at my office on [lawyers's contact number] or mobile (lawyer’s mobile no. which is often the preferred contact method) if you want to discuss the matter.

Yours faithfully