

E. Eligibility for legal aid in selected Australian states

The 3 largest Australian jurisdictions by population, being Queensland, New South Wales, and Victoria, use the same core approach to decide whether someone can receive a grant of aid. In each state, applicants must pass 3 tests, which include:

- a means test – assesses whether a person is financially disadvantaged
- a merit test – whether the case is reasonable and worthwhile funding
- a guidelines or priorities test – whether the type of legal problem is one that the legal aid system funds.

While all states assess an applicant's income and assets as part of the means test, key differences to Queensland are that New South Wales and Victoria:

- consider additional factors for applicants such as childcare costs, living expenses, and calculated allowances
- apply discretion through calculation-based assessments. This means applicants are more likely to be approved for legal aid subject to a contribution, rather than refused solely because the assessed contribution is high
- apply higher asset thresholds, including home equity.

Figure E1 below summarises the different considerations made by the 3 states when assessing an applicant's financial eligibility for legal aid. Each state applies different asset, income and applicant contribution thresholds, and exemptions when applying their means tests.

Figure E1
Means test considerations

	Assets				Income		Living expenses	Applicant contributions
	Home equity	Car	Cash	Other	Gross	Net		
Queensland	✓	✓	✓	✓	✓	✗	✗	✓
Victoria	✓	✓	✓	✓	✓	✓	✓	✓
New South Wales	✓	✗	✓	✓	✓	✓	✓	✓