



# Work and Development Permit Scheme

## Work and Development Permit Guidelines 2020

*Fines, Penalties and Infringement Notices  
Enforcement Act 1994 (WA)*

Updated January 2021

## **Work and Development Permit Guidelines 2020**

### ***Fines, Penalties and Infringement Notices Enforcement Act 1994 (WA)***

These Guidelines are issued by the Attorney General under section 46L of the *Fines, Penalties and Infringement Notices Enforcement Act 1994 (WA)* (FPINE Act). The Attorney General may revoke or amend these Guidelines at any time. A copy of these Guidelines, or any revocation or amendment of these Guidelines, is published on the Fines Enforcement Registry (FER) Registrar's website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

The Department of Justice, approved sponsors, and other people with functions under the work and development permit (WDP) scheme must comply with these Guidelines. In the event of any inconsistency between these Guidelines and the FPINE Act or the *Fines, Penalties and Infringement Notices Enforcement Regulations 1994 (WA)* (FPINE Regulations), the FPINE Act and FPINE Regulations prevail.

The CEO (fines enforcement) has delegated their functions with respect of WDP to the FER Registrar.

### **Executive summary**

A WDP is a permit that allows a client who is experiencing hardship to reduce or discharge an amount owed in respect of a court fine(s) through voluntary participation in approved work and development activities such as unpaid work, treatment, courses, programmes and other similar activities with the support of an approved sponsor. The WDP scheme is established under the FPINE Act to provide an alternative means of expiating fine debt for clients experiencing hardship.

Participation in the WDP scheme requires the support of an approved sponsor. Government agencies, organisations (such as not-for-profit or community organisations), health practitioners and other suitable individuals can apply to the FER Registrar to become an approved sponsor. If all of the eligibility conditions are met, a potential sponsor's application may be approved for the purposes of the WDP scheme.

An approved sponsor is responsible for:

- assessing a client's eligibility to undertake a WDP;
- applying, on a client's behalf, for a WDP;
- supporting a client undertaking a WDP; and
- providing information to the FER Registrar on a WDP undertaken by a client.

The approved sponsor must also comply with requirements under the FPINE Act, FPINE Regulations and these Guidelines in relation to their approval.

The WDP scheme is administered by the Department of Justice under the FPINE Act and is delivered in partnership with the Legal Aid Commission of Western Australia and the Aboriginal Legal Service of Western Australia Limited.

For further information on WDPs and these Guidelines, contact the Fines Enforcement Registry (FER) by email on [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au) or visit the Department of Justice website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

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## 1 Purpose of the Guidelines

This document sets out the Guidelines made by the Attorney General under section 46L of the FPINE Act in relation to work and development permits (WDPs) and the administration of the FPINE Act in respect to WDPs.

The purpose of these Guidelines is to assist the Department of Justice (DoJ), Fines Enforcement Registry (FER), approved sponsors, clients and other people with functions under the WDP scheme to understand and apply the provisions of the FPINE Act that deal with WDPs.

The Department of Justice, approved sponsors, and other people with functions under the work and development permit (WDP) scheme, sections of the FPINE Act must comply with these Guidelines. In the event of any inconsistency between these Guidelines and the FPINE Act or FPINE Regulations, the FPINE Act and FPINE Regulations prevail.

The Attorney General may revoke or amend these Guidelines at any time. A copy of these Guidelines, or any revocation or amendment of these Guidelines, is published on the FER Registrar's website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

## 2 Definitions

Unless otherwise specified, the terms used in these Guidelines have the same meaning as in the FPINE Act.

**approved sponsor** means a person approved by the FER Registrar under section 46J of the FPINE Act.

**CEO (corrections)** means the Director General of the Department principally assisting the Minister for Corrective Services in the administration of Part 8 of the *Sentence Administration Act 2003 (WA)* (currently the Director General of the Department of Justice).

**CEO (fines enforcement)** means the Director General of the Department of Justice who has delegated their functions with respect of WDP to the FER Registrar.

**client**; for the purposes of these Guidelines, means an offender under Part 4 of the FPINE Act.

**DOJ** means the Department of Justice in Western Australia.

**eCourts Portal** means an online electronic system maintained by the Department of Justice for court and tribunal services and fines enforcement in Western Australia.

**enforceable registered fine** means a fine, as defined in section 28(1) of the FPINE Act, imposed on an offender if:

- (a) the fine is registered; and
- (b) the amount owed in respect of the fine has not been paid in full or recovered in full under an enforcement warrant; and

- (c) the liability of the offender to pay the amount owed in respect of the fine has not been wholly discharged under section 46G, 51, 52H, 52I, 52T(3) or 53.

**FER** means the Fines Enforcement Registry as established under section 6 of the FPINE Act.

**FER Registrar** means the Registrar appointed under section 7(1) of the FPINE Act.

**fine** means a fine as defined under section 28(1) of the FPINE Act and means a monetary penalty imposed on an offender by a court in criminal proceedings for an offence and includes:

- (a) any costs ordered to be paid by the offender in connection with the proceedings; and
- (b) any amount ordered to be paid in connection with or as a result of the offence, if the order is of a kind, and is made under an enactment, prescribed for the purposes of this definition,

but does not include any other amount of money ordered to be paid in connection with or as a result of the offence.

**FPINE Act** means the *Fines, Penalties and Infringement Notices Enforcement Act 1994 (WA)*.

**FPINE Regulations** means the Fines, Penalties and Infringement Notices Enforcement Regulations 1994 (WA).

**Guidelines** means these guidelines issued under section 46L of the FPINE Act.

**person**, in relation to an approved sponsor, means a person as defined under section 5 of the *Interpretation Act 1984 (WA)* and includes a public body, company, or association or body of persons, corporate or unincorporated.

**WDP** means a work and development permit issued under section 46D of the FPINE Act.

**work and development instrument** means a work and development permit or a work and development order.

**work and development order (WDO)** means a work and development order made by the CEO (corrections) under section 48 of the FPINE Act.

### **3 What is a WDP?**

A WDP is a permit that allows a client who is experiencing hardship to reduce or discharge an amount owed in respect of a court fine(s) through voluntary participation in approved work and development activities such as unpaid work, treatment, courses, programmes and other similar activities with the support of an approved sponsor. The WDP scheme is established under the FPINE Act to provide an alternative means of expiating fine debt for clients experiencing hardship.

A WDP is issued by the FER Registrar and enables a client to do any of the following activities in order to discharge their liability to pay an amount owed in respect of a fine(s):

- unpaid work for, or on behalf of, an approved sponsor; or
- medical or mental health treatment provided under a treatment plan approved by an approved sponsor; or
- an educational, vocational or personal development course provided or approved by an approved sponsor; or
- treatment for an alcohol or drug use problem under a treatment plan provided or approved by an approved sponsor; or
- if the client has not reached 25 years of age when the permit is issued – a mentoring programme provided or approved by an approved sponsor; or
- an activity of a kind prescribed by the FPINE Regulations (please note the FPINE Regulations do not currently prescribe any activities).

#### **4 Who has a role under the WDP scheme?**

A WDP is an agreement between the FER Registrar, an approved sponsor and a client.

The FER Registrar, is the Registrar of the Fines Enforcement Registry. The FER Registrar is responsible for assessing and approving WDP applications.

An approved sponsor is a person approved by the FER Registrar under section 46J of the FPINE Act to be an approved sponsor. An approved sponsor can be a government agency, an organisation (such as a not-for-profit or community organisation), a health practitioner or other suitable individual. A register of approved sponsors can be found on the FER Registrar's website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

An approved sponsor is responsible for:

- making an application for a WDP on behalf of a client; and
- reporting on and monitoring a client's progression and completion of a WDP activity/activities.

A client is a client of an approved sponsor who:

- is an offender for the purposes of Part 4 of the FPINE Act; and
- has an enforceable registered fine(s).

A client is responsible for undertaking the WDP activities in accordance with the WDP to discharge or reduce the amount they owe in respect of a fine(s).

## 5 What is covered by these Guidelines?

The Guidelines are intended to provide information on the WDP. The WDP scheme encompasses many components including the following:

1. **Eligibility:** the client must be eligible to undertake a WDP. This assessment should be made by the approved sponsor before the WDP application is made.
2. **Application:** an application for a WDP must be made by an approved sponsor on a client's behalf.
3. **Approval:** an application for a WDP must be assessed and approved by the FER Registrar.
4. **Performance:** the client must perform the WDP activities in accordance with the WDP.
5. **Completion:** the client's fines must be reduced or discharged in accordance with the WDP.



The FPINE Act also makes provision for the approval of sponsors to monitor clients undertaking WDPs. These Guidelines also extend to capturing the following components in relation to approved sponsors:

1. **Eligibility:** a sponsor must meet (and maintain) particular eligibility conditions.
2. **Application:** a sponsor must apply for approval to be an approved sponsor.
3. **Approval:** an application to be a sponsor must be assessed and approved by the FER Registrar.
4. **Performance:** an approved sponsor must undertake particular functions and comply with particular requirements.



These Guidelines are set out in two parts:

- Part A: Part 1 provides information related to WDPs and the various components related to WDPs.
- Part B: Part 2 provides information related to approved sponsors and the various components related to approved sponsors.

## **Part A – The WDP scheme**

### **6 Eligibility for a WDP**

#### **6.1 Why undertake a WDP?**

Undertaking a WDP is voluntary; a client must agree to undertake a WDP with the support of an approved sponsor. The benefit of undertaking a WDP is that a client is able to discharge or reduce an amount owed in respect of a court fine(s) by undertaking activities instead of making a monetary payment for an amount owed in respect of a fine(s).

Furthermore, by undertaking a WDP, a client is able to participate in activities that may:

- provide a benefit to the community; and/or
- help a client address their offending behaviour (eg treatment for drug and alcohol use); and/or
- address circumstances that may have prevented a client from paying the amount owed on a fine(s) (e.g. undertaking financial counselling); and/or
- connect a client with services and people that may continue to assist a client once they have completed their WDP.

A WDP provides a client with a flexible, alternative option to discharge or reduce an amount owed in respect of a court fine(s) in a manner that takes into account a client's individual circumstances.

#### **6.2 Who is eligible to undertake a WDP?**

A client is eligible to undertake a WDP if they are experiencing hardship. In accordance with section 46B of the FPINE Act, a client is taken to be experiencing hardship if the person:

- is experiencing financial hardship (to the extent that it affects their capacity to pay a fine); and/or
- has been or might be subjected or exposed to family violence (as defined in the *Restraining Orders Act 1997*, section 3(1)); and/or
- has a mental illness (as defined in the *Mental Health Act 2014*, section 4); and/or
- has a disability (as defined in the *Disability Services Act 1993*, section 3); and/or
- is homeless; and/or
- is experiencing alcohol or other drug use problems; and/or
- is experiencing other forms of hardship.

Further information on how to identify if a client is experiencing hardship of a kind described above is detailed later in these Guidelines.

It is not necessary to demonstrate that a client's experience of hardship has contributed to their having incurred a court fine; however, the approved sponsor must be satisfied, and may be asked to verify that:

- the client is experiencing hardship affecting their capacity to pay the fine(s); and
- because of the client's condition or circumstances, it is more appropriate for them to complete a WDP rather than pay the fine(s); and
- the client does not possess substantial assets other than the home they live in (if an application is made on the grounds of financial hardship).

It is also worth noting that the FER Registrar can only make a WDP in respect to a client if:

- the Registrar is satisfied that the client is eligible for the WDP;
- a Notice of Intention to Enforce (Court Fine) has been issued in respect of the fine (regardless of whether the due date specified in the Notice has passed);
- the maximum number of existing work and development instruments prescribed in the FPINE Regulations (currently prescribed as 20) is not exceeded;
- another enforcement instrument for example a WDP, WDO or Fine Expiation Order (other than a licence suspension order or enforcement warrant) in respect of the fine is not in force; and
- the application is made and supported by an approved sponsor.

A client on a permanent or temporary Australian Visa (with Western Australia fine debt) can apply for a WDP. However, visa holders and their advocates should note that participation in certain WDP activities may breach visa conditions. Individuals are encouraged to seek their own legal advice or further advice from the Department of Home Affairs prior to an approved sponsor making an application for a WDP for a client in these circumstances.

Interstate clients with enforceable registered court fines can also undertake a WDP where an approved sponsor is able and willing to provide sponsorship. This could include undertaking activities such as treatment or courses through electronic means while remaining interstate. The approved sponsor may also be an organisation located interstate.

### **6.3 Who determines who is eligible to undertake a WDP?**

An approved sponsor is responsible for conducting an 'eligibility assessment' to determine if a client is eligible to undertake a WDP. This is because an approved sponsor must provide a written eligibility assessment when making an application for a WDP on behalf of a client.

Under section 46C(3)(b) of the FPINE Act, the eligibility assessment must:

- (i) specify the kind of hardship that the client is experiencing; and
- (ii) describe the information and evidence on the basis of which the approved sponsor considers that the client is experiencing hardship of that kind, or those kinds.

When making an application for a WDP, supporting evidence and documentation on the hardship being experienced by a client must be provided. Further information on the supporting evidence and documentation included in a WDP application is provided in the Guidelines below.

The FER Registrar relies on the eligibility assessment provided by an approved sponsor when making their decision on whether to approve a WDP application, unless the FER Registrar believes on reasonable grounds that it is not to be relied upon.

#### **6.4 How do I find an approved sponsor?**

If a client is interested in undertaking a WDP, they must be supported by an approved sponsor. This is because an approved sponsor is responsible for making an application for a WDP on a client's behalf.

A register of approved sponsors is available on the FER Registrar's website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp). A client may contact an approved sponsor on the register to request that they be their approved sponsor. An approved sponsor is not obliged to be a client's approved sponsor and can refuse to support a client under a WDP.

### **7 Applying for a WDP**

#### **7.1 How is an application for a WDP made?**

Once an approved sponsor is satisfied that a client is eligible for the WDP scheme, an approved sponsor may, with the agreement of a client, apply to the FER Registrar on a client's behalf for the issue of a WDP in relation to an enforceable registered court fine(s).

An application for a WDP may be submitted to FER via the eCourts Portal located at <https://ecourts.justice.wa.gov.au/eCourtsPortal>.

At least two of the following details, in addition to the individual's surname will be required by an approved sponsor in order to make an application on behalf of a client via the eCourts Portal:

- date of birth;
- case number;
- charge number; and/or
- FER customer reference number.

A client's 'customer reference number' can be found on any notice issued by FER.

The application must include and/or indicate:

- the details of the hardship being experienced by the individual and grounds for application;
- supporting documentation and/or evidence of the hardship being experienced;
- the proposed activity type and description of activity to be undertaken;
- the proposed hours of activity to be completed under the WDP;
- the enforceable registered court fine or fines to which the application relates (please note this information will self-populate in the application. Please select the fine(s) that is/are relevant to the application);
- expected commencement date of activity (entered in activity description field);
- expected completion date of activity (entered in activity description field);
- details of any potential, perceived or actual conflict of interest and how any such conflicts are proposed to be managed; and

- agreement to the associated terms and conditions as specified in the application process.

The approved sponsor must also retain:

- proof of identity or any other documentation used to establish the identity of the client (for example driver's licence, birth certificate, photo identification etc);
- evidence that a "Working with Children Check" has been undertaken for the client, if the proposed WDP activities involve child-related work within the meaning of the *Working With Children (Criminal Record Checking) Act 2004*; and
- supporting documents of eligibility to the scheme in accordance with the FPINE Act, the FPINE Regulations and these Guidelines.

The activities that a client can undertake under a WDP are detailed in clause 7.3 of these Guidelines. The value of undertaking each WDP activity, or part of a WDP activity, is detailed in clause 9.3 of these Guidelines. The value of undertaking a WDP activity, or part of a WDP activity, is calculated on an hourly basis. The Regulations define an hour as part of an hour.

A WDP should take into account a client's capabilities and their personal circumstances that may be relevant to their ability to successfully complete a WDP.

A client may have other outstanding unpaid fines or infringements which are not included in a WDP application and they are encouraged to contact FER to make suitable arrangements for all outstanding matters.

## **7.2 What documentation and evidence of a client's eligibility must be provided as part of a WDP application?**

Approved sponsors must provide and keep supporting documents and/or evidence in accordance with these Guidelines and the FPINE Regulations, to support their assessment of a client's eligibility. The following clauses detail:

- the circumstances in which a client may be experiencing hardship; and
- the supporting documents and evidence that may be included in a WDP application which indicates that a client is experiencing a kind of hardship/s.

This documentation and evidence, as well as other WDP records, may be audited for the purposes of ensuring compliance with the FPINE Act, FPINE Regulations, and these Guidelines.

The person providing any of the supporting documentation and/or evidence may be the approved sponsor making the application, provided they have the relevant expertise to conduct the eligibility assessment.

An approved sponsor who knowingly provides false or misleading information or evidence in a WDP application, or knowingly omits any information or evidence without which the application is misleading in a material particular, is liable to a fine of up to \$2,000 under the FPINE Regulations. This may also result in the cancellation of an approved WDP, cancellation of a sponsor's approval, and/or the recommencement of other enforcement actions under Part 4 of the FPINE Act against the client.

### **7.2.1 Financial hardship**

A client is taken to be experiencing financial hardship only to the extent that it affects the capacity of a client to pay their fine(s).

Circumstances that may indicate that a client is experiencing financial hardship can include:

- whether the client receives Commonwealth benefits or other forms of assistance;
- whether the client has significant personal debt, such as credit card debt;
- whether the client is unable to pay mortgage or rent payments on time; or
- whether the client is unable to pay for household utilities (such as electricity, water, gas or telephone services) on time.

Circumstances of financial hardship are not limited to these examples.

If an application is made on the grounds of financial hardship, the approved sponsor must detail, collect and retain evidence in support of the application and provide it to the FER Registrar upon request. Evidence may include a completed means test in regard to a client's financial capacity. A copy of FER's means test template can be obtained from [www.justice.wa.gov.au/fer](http://www.justice.wa.gov.au/fer) and submitted in support of a client's financial capacity. Supporting evidence could also include documents addressed to the client:

- specifying that utility services will not be provided due to the failure to pay for the services
- demanding the payment of outstanding debts; or
- specifying the financial benefits or assistance they receive.

### **7.2.2 Subjected or exposed to family violence**

The term "family violence" takes its meaning from section 3.1 the *Restraining Orders Act 1997 (WA)* and includes:

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

Under section 5A of the *Restraining Orders Act 1997*, examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member;
- (b) a sexual assault or other sexually abusive behaviour against the family member;
- (c) stalking or cyber-stalking the family member;
- (d) repeated derogatory remarks against the family member;
- (e) damaging or destroying property of the family member;
- (f) causing death or injury to an animal that is the property of the family member;
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had;
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the

member is entirely or predominantly dependant on the person for financial support;

- (i) coercing, threatening, or causing physical abuse, emotional or psychological abuse of financial abuse, in connection with demanding or receiving dowry, whether before or after any marriage;
- (j) preventing the family member from making or keeping connections with the member's family, friends or culture;
- (k) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship;
- (l) distributing an intimate image of the family member without the family member's consent, or threatening to distribute the image;
- (m) causing any family member who is a child to be exposed to behaviour referred to in this section.

If an application is made on the grounds of being subjected or exposed to family violence the approved sponsor must retain evidence in support of the application. Evidence may include:

- evidence of a restraining order, including a violence restraining order, a family violence restraining order, a foreign restraining order, a misconduct restraining order; or
- any other relevant evidence.

### **7.2.3 Mental illness**

A person has a mental illness within the meaning given in the *Mental Health Act 2014* (WA) if the person has a condition that:

- (a) is characterised by a disturbance of thought, mood, volition, perception, orientation or memory; and
- (b) significantly impairs (temporarily or permanently) the person's judgment or behaviour.

Some examples of mental illness include (but are not limited to) Alzheimer's, schizophrenia, psychosis, bipolar disorder, severe mood disorder, depression and anxiety.

In accordance with section 6 of the *Mental Health Act 2014*, a person does not have a mental illness merely because one or more of these things apply:

- (a) the person holds, or refuses or fails to hold, a particular religious, cultural, political or philosophical belief or opinion
- (b) the person engages in, or refuses or fails to engage in, a particular religious, cultural or political activity
- (c) the person is, or is not, a member of a particular religious, cultural or racial group
- (d) the person has, or does not have, a particular political, economic or social status
- (e) the person has a particular sexual preference or orientation
- (f) the person is sexually promiscuous
- (g) the person engages in indecent, immoral or illegal conduct
- (h) the person has an intellectual disability
- (i) the person uses alcohol or other drugs

- (j) the person is involved in, or has been involved in, personal or professional conflict
- (k) the person engages in anti-social behaviour
- (l) the person has at any time been –
  - (i) provided with treatment; or
  - (ii) admitted by or detained at a hospital for the purpose of providing the person with treatment.

Paragraph (i) set out above does not prevent the serious or permanent physiological, biochemical or psychological effects of the use of alcohol or other drugs from being regarded as an indication that a person has a mental illness.

A decision whether or not a person has a mental illness must be made in accordance with internationally accepted standards prescribed by the Mental Health Regulations 2015 (WA).

If an application is made on the grounds of mental illness, the approved sponsor must retain evidence in support of the application. Evidence may include a letter or other documentation from:

- the client's treating doctor, psychiatrist, registered psychologist, or mental health nurse, or
- a government agency or non-government organisation with professionals qualified to make mental health assessments; or
- Centrelink, if the client is in receipt of a full or partial disability pension.

The supporting evidence and documentation should be no older than six months prior to the date of the application and should explain:

- the diagnosis, including the nature, severity and effects of the illness/condition; and
- how long the client has had the illness/condition.

The evidence and documentation may include case notes, medical certificates, evidence of financial distress, or a letter of support from the person or agency that supplied documents supporting eligibility.

#### **7.2.4 Disability**

Disability has the meaning given in section 3 of the *Disability Services Act 1993 (WA)* and means a disability:

- (a) which is attributable to an intellectual, psychiatric, cognitive, neurological, sensory, or physical impairment or a combination of those impairments; and
- (b) which is permanent or likely to be permanent; and
- (c) which may or may not be of chronic or episodic nature; and
- (d) which results in:
  - (i) a substantially reduced capacity of the person for communication, social interaction, learning or mobility; and
  - (ii) a need for continuing support services.

If an application is made on the grounds of disability, the sponsor must retain evidence in support of the application. Evidence may include one or more of the following:

- if the client is in receipt of a full or partial disability pension, evidence or a report from Centrelink describing the client's disability or impairment;
- if the client has been declared eligible for services for ageing, disability, or home care, evidence of this declaration; or
- a letter or other documentation from any of the following clearly describing the person's disability or impairment:
  - the client's general practitioner; and/or
  - a government agency or non-government organisation with experience working with people with intellectual disabilities or cognitive impairments.

Examples may include case notes, medical certificates, evidence of financial distress, or a letter of support from the person or agency that supplied documents confirming eligibility.

### **7.2.5 Homelessness**

A client is to be considered homeless for the purposes of WDP eligibility if they:

- have inadequate access to safe and secure housing; and
- have no suitable accommodation alternatives.

In accordance with section 4(2) of the *Supported Accommodation Assistance Act 1994* (Cth), a person is taken to have inadequate access to safe and secure housing if the only housing to which the person has access:

- (a) damages, or is likely to damage, the person's health; or
- (b) threatens the person's safety; or
- (c) marginalises the person through failing to provide access to –
  - (i) adequate personal amenities; or
  - (ii) the economic and social supports that a home normally affords; or
- (d) places the person in circumstances which threaten or adversely affect the adequacy, safety, security and affordability of that housing.

Examples of circumstances of homelessness can include if the client is:

- without conventional accommodation (eg sleeping in parks, streets, cars etc or squatting);
- moving from one temporary accommodation to another (eg refuges, hostels, friends);
- living in temporary accommodation due to domestic violence, unsafe living conditions or an inability to afford housing; and/or
- living in a caravan park due to their inability to access other accommodation; or living in boarding houses on a medium to long term basis.

If an application is made on the grounds of homelessness, the approved sponsor must retain evidence in support of the application. Evidence may include a letter or other documentation from:

- the client's lawyer, specialist service provider or case worker; or
- a government agency or non-government organisation with experience working with people experiencing homelessness.

The documentation should clearly explain:

- the client's current living arrangements (where possible);
- how the client's living arrangements constitute homelessness for the purposes of these Guidelines; and
- how long the client has been homeless.

Supporting documentation should be dated within 3 months of the application.

### **7.2.6 Alcohol or drug use problems**

A client is considered to be experiencing alcohol or drug use problems if they have a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one (or more) of the following, occurring anytime in the same twelve month period:

- recurrent substance use resulting in a failure to fulfil major role obligations at work, school, or home (eg, repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household)
- recurrent substance use in situations in which it is physically hazardous (eg, driving an automobile or operating machinery when impaired by substance use)
- recurrent substance-related legal problems (eg, arrests for substance-related disorderly conduct); and/ or
- continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (eg, arguments with spouse about consequences of intoxication, physical fights).

A client is also considered to be experiencing alcohol or drug use problems if they have a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by two (or more) of the following, occurring anytime in the same twelve month period:

- tolerance, as defined by the following:
  - a need for markedly increased amounts of the substance to achieve intoxication or the desired effect; or
  - markedly diminished effect with continued use of the same amount of the substance.
- withdrawal as manifested by either of the following:
  - the characteristic withdrawal syndrome for the substance; or
  - the same (or closely related) substance is taken to relieve or avoid withdrawal symptoms.
- the substance is often taken in larger amounts or over a longer period than intended

- there is a persistent desire or unsuccessful efforts to cut down or control substance use;
- a great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects;
- important social, occupational, or recreational activities are given up or reduced because of substance use; and/or
- the substance use is continued despite knowledge of having a persistent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

This section may also include an addiction to a dangerous substance as defined by section 3 of the *Misuse of Drugs Act 1981 (WA)* or an addiction to a medicine or poison as defined by section 3 of the *Medicines and Poisons Act 2014 (WA)*.

If an application is made on the grounds of a client experiencing alcohol or drug use problems, the approved sponsor must provide and retain evidence in support of the application. Evidence may include a letter or other documentation from one of the following:

- the client's treating doctor, psychiatrist, registered psychologist, nurse working in the relevant field, or a social worker;
- an alcohol or drug case worker or counsellor;
- a residential (or outpatient) rehabilitation service provider; or
- a government agency or non-government organisation with relevant expertise in the field.

Supporting documentation should be no older than six months prior to the application and should explain:

- the nature, severity and effects of the problem; and
- how long the client has been affected by the problem.

### **7.2.7 Other applications**

In the event that an approved sponsor is of the view that a client is eligible for a WDP but the hardship being experienced is not of a kind outlined above, the sponsor may make an application to FER by selecting "other" as the hardship kind. In these circumstances, the approved sponsor must detail and retain evidence of the hardship being experienced by a client. This can include a letter from the approved sponsor explaining the circumstances of the hardship and describing the information and evidence on which the approved sponsor considers a client is experiencing hardship. The Registrar of FER will determine whether this constitutes hardship for purposes of WDP eligibility.

### **7.3 What activities can be applied for and performed under a WDP?**

A WDP is a permit enabling a client to discharge their liability to pay an amount owed in respect of a fine or fines by undertaking WDP activities. The following clauses detail the activity types that may be performed to discharge or reduce an outstanding amount on an enforceable registered fine under a WDP. Broadly, the activities a client may undertake under a WDP can include any of the following:

- unpaid work for, or on behalf of, an approved sponsor; or

- medical or mental health treatment provided under a treatment plan approved by an approved sponsor (only an approved activity where it is under a treatment plan approved by an APHRA registered health professional); or
- an educational, vocational or personal development course provided or approved by an approved sponsor; or
- treatment for an alcohol or drug use problem under a treatment plan provided or approved by an approved sponsor; or
- if the client has not reached 25 years of age when the permit is issued – a mentoring programme provided or approved by an approved sponsor; or
- an activity of a kind prescribed by the FPINE Regulations (please note the FPINE Regulations do not currently prescribe any activities).

### **7.3.1 Unpaid work**

Unpaid work for, or on behalf of, an approved sponsor may be completed by a client under a WDP to discharge their liability to pay an amount owed in respect of an enforceable registered fine.

Unpaid work may include, but is not limited to, work such as general maintenance, meal support, assisting in a charity store, assisting a recycling service, assisting at a local animal shelter, assisting aged care facilities, assisting with community meal services or undertaking administrative duties. A client must hold an assessment notice issued under the *Working with Children (Criminal Record Checking) Act 2004 (WA)* if they will be participating in unpaid work that is child-related work. Child-related work is defined in section 6 of the *Working with Children (Criminal Record Checking) Act 2004*.

It is recommended that an application for a WDP for unpaid work includes as much detail as possible in relation to the potential duties. This ensures both the approved sponsor and the client have a shared understanding of what may be required. If these duties change, it is recommended that the approved sponsor apply to the FER Registrar to amend the existing WDP.

A client undertaking unpaid work under a WDP is not taken to be employed by, or in a contract for services with, the approved sponsor. Furthermore, no remuneration in cash or any other kind is to be provided to a client.

If the activity to be undertaken under a WDP is unpaid work, the activity is cumulative on:

- any activity to be undertaken under another WDP; and
- the required hours under any WDO in force in relation to the offender; and
- any hours of community work that the offender is required to do under a community service requirement in a community order imposed under the Sentencing Act 1995; and
- any hours of community corrections activities that the offender is required to do under the Sentence Administration Act 2003.

This means the unpaid work is additional to any other work requirements of another order the offender may be subject to.

### **7.3.2 Medical or Mental Health Treatment**

Under a WDP, a client may participate in a medical or mental health treatment plan approved by an approved sponsor to discharge their liability to pay an amount owed in respect of an enforceable registered fine.

A treatment plan may include pharmacotherapy as well as face to face session(s) with a psychiatrist or psychologist.

### **7.3.3 Educational, Vocational or Personal Development**

Under a WDP, a client may participate in an educational, vocational or personal development course to discharge their liability to pay an amount owed in respect of an enforceable registered fine.

Educational courses include (but are not limited to) courses undertaken at university, TAFE or other educational institutions.

Vocational courses encompass a wide range of courses that are designed to assist people to enter or participate in the workforce. As well as educational courses, vocational courses may include, but are not limited to, courses undertaken in community or private colleges or through job service providers.

Personal development courses include courses that help people function in society on an independent basis. These may include, but are not limited to, courses on driving, cooking, psycho-social skills, problem solving, anger management, conflict resolution or parenting.

Counselling is a professional activity, in which the counsellor or therapist helps a client explore and resolve issues of an interpersonal or personal nature.

Forms of counselling include, but are not limited to:

- financial counselling;
- anti-gambling counselling;
- counselling directed at improving a client's mental health;
- counselling directed at resolving a client's emotional or behavioural issues;
- family counselling, when a whole family undertakes counselling to improve family communication and relationships, solve a problem, or adjust to a new situation; or
- group counselling, such as domestic violence group sessions.

### **7.3.4 Treatment for Alcohol or Drug Use Problem**

Under a WDP, a client may participate in treatment for an alcohol or drug use problem under a treatment plan provided or approved by the approved sponsor to discharge their liability to pay an amount owed in respect of an enforceable registered fine.

This treatment aims to assist people to overcome dependencies on, or misuse of, alcohol and/or other drugs. Various interventions may be used, including but not limited to detoxification, medication or pharmacotherapy, counselling, behavioural therapy, group therapy and programs. Such treatment may, but need not, occur in a residential facility.

### **7.3.5 Mentoring programme**

Under a WDP, a client that is under 25 years of age (at the time the WDP is issued) may participate in a mentoring programme (as a mentee) to discharge their liability to pay an amount owed in respect of an enforceable registered fine.

Mentoring aims to provide a structured and trusting relationship in which a client can receive guidance, support and encouragement. Mentoring describes programmes that aim to build the skills or wellbeing of a client through the input and assistance of another person (mentor) who has more skills, experience and knowledge.

Mentoring programmes can be designed to take into account the interests, needs and aspirations of clients. For example, programs may focus on the goals of clients who are:

- disengaged from or at risk of disengaging from the education system;
- seeking to make the transition from school to work or further education;
- involved in or seeking to transition from the justice system;
- socially isolated;
- young parents;
- seeking to connect or reconnect with cultural identity;
- wanting to further their sporting or athletic potential; or
- seeking to increase their career options.

### **7.3.6 Activity prescribed by the FPINE Regulations**

In order for an activity to be undertaken as part of a WDP, it must be specified in either the FPINE Act or prescribed in the FPINE Regulations. Currently, there are no activities prescribed in the FPINE Regulations.

## **8 Approval of a WDP**

### **8.1 Who assesses and issues a WDP?**

The FER Registrar is responsible for assessing and approving an application for a WDP.

In accordance with section 46C(4) of the FPINE Act, the FER Registrar must rely on the eligibility assessment provided by an approved sponsor when making their decision on whether to approve a WDP application, unless the FER Registrar believes on reasonable grounds that it is not to be relied upon.

When assessing an application, the FER Registrar may require the approved sponsor to provide information or evidence used by the approved sponsor when making their eligibility assessment. A request for further information or evidence will be made in writing to the approved sponsor, and will specify the period of time in which the information or evidence should be provided. If an approved sponsor does not provide the information or evidence requested within the time required, the application for a WDP will be taken to be withdrawn.

If the FER Registrar approves the WDP application, the WDP will be issued to both the approved sponsor and a client.

The WDP issued by the FER Registrar will specify:

- the amount owed in respect of the fine(s);
- the activity that is to be undertaken under the WDP; and
- the applicable rates for the activity that are used to assign a value to each part of an activity undertaken under the WDP.

## **8.2 On what grounds can a WDP be refused?**

The FER Registrar can refuse to issue a WDP on various grounds.

The FER Registrar must refuse to issue a WDP if:

- the Registrar is not satisfied that a client is eligible for the WDP;
- a Notice of Intention to Enforce (Court Fine) has not been issued in respect of the fine(s);
- the maximum number of work and development instruments would be exceeded if the WDP was issued;
- another enforcement instrument, for example a WDP, WDO or Fine Expiation Order (other than a licence suspension order or enforcement warrant) in respect of the fine is in force; or
- the application has not been made and supported by an approved sponsor.

The maximum number of work and development instruments is prescribed under the FPINE Regulations to be 20 work and development instruments.

If a WDP application is refused, the FER Registrar must provide notice to both the approved sponsor and client that the WDP application has been refused.

## **8.3 On what grounds can a WDP be cancelled?**

Section 46H of the FPINE Act specifies the grounds on which a WDP can be cancelled by the FER Registrar.

In accordance with section 46H(1) and (2) of the FPINE Act, an approved sponsor or client may apply to the FER Registrar for the cancellation of a WDP on the following grounds:

- an approved sponsor can apply to the FER Registrar to cancel a WDP if the approved sponsor is unable to continue to supervise the performance of the WDP activity; and
- a client can apply in writing to the FER Registrar to cancel a WDP if a client believes that the approved sponsor is unable to continue to supervise the performance of the WDP activity.

The FER Registrar must cancel a WDP in force if such an application is received.

In accordance with section 46H (4) of the FPINE Act, the FER Registrar may cancel a WDP in force for a client on the FER Registrar's own initiative if the FER Registrar is satisfied that:

- (a) the client has failed, without reasonable excuse, to undertake the required activity;
- (b) the client is no longer eligible for the WDP under section 46B of the FPINE Act;
- (c) the approved sponsor is unable to continue to supervise the required activity;

- (d) the approved sponsor has contravened any requirement of the FPINE Act or FPINE Regulations;
- (e) the approved sponsor's approval has been revoked under section 46J(2) of the FPINE Act;
- (f) any statement or information in the application for the WDP is false or misleading in a material particular;
- (g) any information or evidence given to the FER Registrar in response to a notice under section 46C(5) of the FPINE Act is false or misleading in a material particular; or
- (h) there is another good reason to cancel the WDP.

The FER Registrar will take reasonable steps to consult with an approved sponsor when considering whether to cancel a WDP under section 46H(4) of the FPINE Act.

If the FER Registrar cancels a WDP, the FER Registrar must serve notice of the cancellation on both the approved sponsor and the client.

The amount owed in respect of a fine(s) will be reduced in accordance with the hours undertaken by the client and the rates prescribed under the FPINE Regulations before the WDP was cancelled.

An approved sponsor or client should notify FER immediately if there has been a change in a client's or approved sponsor's circumstances and they are no longer eligible for a WDP or eligible to be an approved sponsor. FER will assess the client's circumstances and determine if the WDP should continue or be cancelled.

In circumstances where a WDP has been cancelled and suitable alternative arrangements have not been made with FER, enforcement action may recommence under Part 4 of the FPINE Act.

#### **8.4 Can a WDP be amended?**

An approved sponsor may, with the agreement of a client, apply to the FER Registrar to amend an existing WDP. An approved sponsor can view, report on and request to amend any active WDPs (that they are responsible for supervising) via the eCourts Portal.

The client cannot undertake activities and an approved sponsor cannot report on activities undertaken under the WDP whilst an application to amend a WDP is being considered by the FER Registrar. Both the approved sponsor and the client will be notified in writing of the decision related to a request to amend a WDP.

If the request to amend the WDP is approved, a client can resume undertaking activities and the approved sponsor can resume reporting on the activities undertaken under the WDP.

If the request to amend a WDP is refused, the conditions of the original WDP will remain in place and a client can resume undertaking activities in accordance with the original WDP.

In accordance with section 46G(2) of the FPINE Act, the FER Registrar must amend a WDP if a client pays part of an amount owed in respect of a fine to which the WDP relates. The FER Registrar must reduce the activity to be undertaken under the WDP so that the value assigned to the activity is equal to the amount owed after the payment.

### **8.5 What happens once a WDP is issued?**

No enforcement action will be undertaken in respect to a court fine included in a WDP while the WDP remains in force. Any licence suspension order, enforcement warrant and/or order to attend for work and development will be cancelled for an enforceable registered fine that is included in an approved WDP while it remains in force.

Enforcement action under Part 4 of the FPINE Act may continue for any other outstanding matters that a client may have that are not included in a WDP. It is the client's responsibility to ensure that appropriate arrangements are made on all outstanding matters in order to cease associated enforcement activity.

### **8.6 Can a WDP be approved retrospectively?**

A WDP only comes into force once it is approved and only hours completed after this approval are eligible to count towards the WDP. Any hours completed prior to the approval are not to be credited by the sponsor, for example initial meetings.

## **9 Undertaking a WDP**

### **9.1 What are the responsibilities of a client undertaking a WDP?**

A client is expected to undertake the activities specified under the WDP for the amount of hours specified under the WDP. If a client is unable to attend a planned activity, they should notify their approved sponsor and provide them with a reason as to why they are unable to undertake a planned activity. The client should also make arrangements to undertake the planned activity at another time.

A WDP is intended to provide a level of flexibility for both the client and approved sponsor, and enable clients to undertake WDP activities at times and places that are accessible to the client.

### **9.2 What are the responsibilities of an approved sponsor in relation to a WDP?**

An approved sponsor must record the hours and activities undertaken by a client under a WDP.

An approved sponsor must also report on the completion of hours in relation to a client's WDP by entering the relevant information into the eCourts Portal.

If an approved sponsor does not record any information in the eCourts Portal in relation to a client undertaking a WDP for an entire month, FER may request reporting to be completed or further information from the approved sponsor to be provided.

### **9.3 How does undertaking a WDP reduce a fine debt?**

A monetary value is reduced from an amount owed in relation to a fine (or fines) specified in the WDP for each hour or part hour that a client undertakes a WDP activity.

The FPINE Regulations provide for the rates used to assign a value to an activity undertaken under a WDP. The rates provide a monetary value for undertaking an

activity, or part of an activity, under a WDP that can be deducted from an amount owed in relation to a fine (or fines).

The rates prescribed under the FPINE Regulations are reproduced in the following Table:

**Table 1 – Rates of WDP activities**

<b>Activity</b>	<b>Rate</b>
Unpaid work	\$50 per hour, or part thereof, completed. Breaks are not to be counted.
Medical or mental health treatment	\$70 per hour, or part thereof, completed. Breaks are not to be counted.
Educational, vocational or personal development	\$70 per hour, or part thereof, completed. Breaks are not to be counted.
Drug or alcohol treatment	\$70 per hour, or part thereof, completed. Breaks are not to be counted.
Participation as a Mentee in a mentoring programme	\$70 per hour, or part thereof, completed. Breaks are not to be counted.

The FPINE Act allows for different activities to have different rates. There is no requirement for a client to undertake a minimum amount of hours in a month. There is also no limit on the number of hours a client can undertake. This is to ensure flexibility for both the approved sponsor and client.

A client's participation in a WDP activity is measured on an hourly basis. If a client undertakes part of an hour, but not a full hour, then in accordance with the FPINE Regulations, the part hour is to be counted as a whole hour.

The time a client spends directly undertaking the activity is to be included in the calculation of time.

If a client is required to undertake mandatory training in order to participate in a WDP activity, the time spent by a client in undertaking the training should be included in the time calculation (for example, training to operate equipment or machinery), inclusive of any induction training required.

If a client is at a place to undertake a WDP activity but is unable to undertake the activity through no fault of their own, then that time may be included in the time calculation. For example, if they have arrived for an appointment, or arrived to undertake work at a specified time, and the person responsible for supervising them undertaking the WDP activity has not arrived or is running late, then that time is to be included in the time calculation.

If a client is required to undertake an activity that does not require direct supervision of a client by an approved sponsor or supervisor whilst the activity is being undertaken, then this time may be included in the time calculation for undertaking a WDP, but only if this part of the activity has been agreed to by the approved sponsor and a client in an activity or treatment plan. For example, if a client is required to carry out self-reflection activities, or complete a journal as part of a treatment plan, when they are not in the

presence of the person supervising their activity, then the time spent undertaking these activities can be included in the time calculation.

Breaks, such as lunch breaks, are not to be included as part of the hourly rate. Other circumstances that are not to be included in the time calculation include (but are not limited to):

- travel time; and
- meetings with an approved sponsor to amend a WDP or organise a plan to undertake activities.

It is the approved sponsor's responsibility to record and calculate the time undertaken by a client in completing a WDP activity.

#### **9.4 How long must a client undertake a WDP?**

There is no set length of time that a client must undertake a WDP. The amount of time a client undertakes a WDP will be dependent on:

- the amount they owe in respect of the fine(s);
- the type of WDP activity they undertake;
- the rates prescribed under the FPINE Regulations to assign a value to an activity undertaken under a WDP; and
- their personal circumstances and capacity to undertake WDP activities.

#### **9.5 What if a client gets more fines whilst undertaking a WDP?**

If a client accumulates another fine or more fines whilst undertaking a WDP, an approved sponsor may apply on behalf of a client for another WDP or to amend an existing WDP.

#### **9.6 Can a WDP be undertaken at the same time as another order or activity?**

In accordance with section 46E(3) of the FPINE Act, if the activity to be undertaken under a WDP is unpaid work, the activity is cumulative on:

- any activity to be undertaken under another WDP; and
- the required hours under any WDO in force in relation to the offender; and
- any hours of community work that the offender is required to do under a community service requirement in a community order imposed under the Sentencing Act 1995; and
- any hours of community corrections activities that the offender is required to do under the Sentence Administration Act 2003.

This means the unpaid work is additional to any other work requirements of another order the offender may be subject to.

Except as stated above, WDP activities can be undertaken concurrently with any other activity the client undertakes under or for the purposes of a written law or law of the Commonwealth.

If a client is receiving a Centrelink benefit and is required to undertake particular activities in order to continue receiving that benefit, for example attending a training

course or attending regular compulsory meetings with their Job Active provider, the client can be put on a WDP for this, provided there is an approved sponsor.

## **10 Completing a WDP**

### **10.1 When is a WDP completed?**

A WDP is completed when a client's liability to pay the amount owed in respect of the fine is wholly discharged under section 46G of the FPINE Act.

If a WDP has been issued in relation to a client and their fine(s), in accordance with section 46G of the FPINE Act, the liability to pay the amount owed in respect to the fine, may be discharged:

- by the client undertaking all of the activity stated in the WDP to the satisfaction of the approved sponsor;
- by payment of the amount owed in respect of the fine(s); or
- by a combination of the client satisfactorily undertaking some of the activity stated in the WDP and paying a part of the amount owed in respect of the fine(s).

### **10.2 What happens when a WDP is completed?**

On successful completion of a WDP, the fine(s) to which the WDP relates will be reduced or discharged in accordance with the WDP.

Partial completion of a WDP will result in only discharging part of the amount specified in the WDP for the fine(s) to which the WDP relates, at the rate set out in the WDP.

If a WDP is successfully completed and an amount owed remains on a fine, a client should immediately enter into another arrangement with FER, such as a time to pay order or another WDP, to avoid any further enforcement activity for the fine(s) to which the WDP relates.

## **PART B – Approval of sponsors**

### **11 Approved sponsor eligibility**

#### **11.1 Who is eligible to be an approved sponsor?**

Under section 46J of the FPINE Act, the FER Registrar may, in writing, approve a person as an approved sponsor for the purposes of the WDP scheme. Accordingly, government agencies, organisations (such as not-for-profit or community organisations), health practitioners or other suitable individuals may apply to become an approved sponsor.

Potential sponsors must meet specific eligibility conditions and agree to associated terms and conditions in order to be approved as approved sponsors.

The eligibility conditions a potential sponsor must meet are based on:

- requirements under the FPINE Act and the FPINE Regulations; and
- the category of sponsor they are; and
- the activity or activities they propose to provide.

The following clauses of these Guidelines detail the eligibility conditions each category of sponsor must meet in order to be approved as an approved sponsor.

Annexure A details the terms and conditions potential sponsors must agree to upon application to be approved as an approved sponsor.

All sponsors must be able to carry out the functions of an approved sponsor in order to be an approved sponsor.

The functions of approved sponsors include:

- establishing a client's identity (via appropriate documentation);
- assessing a client's eligibility to undertake a WDP;
- obtaining and keeping supporting documents of a client's eligibility;
- submitting a client's WDP application via the eCourts Portal;
- maintaining records of activities undertaken by a client and maintaining a record of a client's attendance at activities proposed under a client's WDP;
- reporting a client's participation and completion of activities, or parts of activity, under a WDP via the eCourts portal;
- identifying and managing any conflicts of interest between a client and the approved sponsor; and
- providing information for program audit activities upon request by DOJ.

An approved sponsor must be able to maintain public confidence in the integrity of the WDP scheme.

#### **11.2 What training, experience and qualifications are required?**

Every approved sponsor is different and provides different services and activities. An approved sponsor must ensure the person supervising a client whilst they are undertaking an WDP activity has certain training, experience and/or qualifications.

The following Table sets out the training, experience and/or accreditations required when supervising a client who is undertaking a specific activity under a WDP:

**Table 2 – Training, Experience and Qualification Requirements**

Activity	Summary	Qualification/ Experience Requirements
Drug or alcohol treatment	Interventions aimed at assisting clients overcome dependencies on drugs or alcohol. Can include detoxification, medication, pharmacotherapy, counselling, behavioural therapy, group therapy, 12-step programs.	Nurses, doctors, psychologists; AOD caseworkers. Certification against at least one of the approved national standards for drug and alcohol treatment services (from Nov 2022). As detailed in the <a href="#">National Quality Framework for Drug and Alcohol Services</a> .
Voluntary/ Unpaid Work	Various activities undertaken with or on behalf of an approved organisation, including gardening, cooking, cleaning, property maintenance, assisting the elderly, administration, etc.	Sufficient experience in management, social work or other relevant fields.
Medical/ Mental Health Treatment	Undertaken in accordance with a health practitioner’s treatment plan and can include pharmacotherapy, sessions with psychiatrists or psychologists etc.	Doctors, psychologists, nurses or other medical practitioners registered with AHPRA.
Educational/ Vocational or Life Skills Courses	Educational: includes courses undertaken at educational institutions that result in a qualification of some kind. Vocational: wide range of courses designed to assist clients in entering the workforce. Life Skills: courses which foster personal, social or practical skills and assist clients to function more independently in society. Counselling: professional activity in which a counsellor/therapist helps clients explore and resolve issues of a personal/interpersonal nature. Financial counselling: generation of options and advice about debt issues and assisting the client in negotiating with creditors. Can also involve strategies to avoid future debt issues.	Tertiary qualifications or experience in education, casework, social work, counselling or other relevant fields (depending on type of course offered).  Financial or other counselling: Formal qualifications in therapy, counselling or psychology, financial planning etc.

	Other counselling: can include family or group counselling aimed at improving a client's mental health or resolving emotional/behavioural issues. Case management is also included under this activity.	Case management: Social studies, social work or casework qualifications
Mentoring for Persons Under 25	Semi-formal, structured relationship between a more experienced and less experienced person under the age of 25 which has a clear vision and goals. Mentoring can target a broad range of things, from emotional growth and development to job seeking and educational improvement.	Mentors should be readily accessible to their mentees, and willing to share their life experiences.

## 12 Applying to be an approved sponsor

### 12.1 How is an application to be an approved sponsor made?

Government agencies, organisations, health practitioners or other appropriate individuals wanting to apply to become an approved sponsor can do so by applying online at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

An online application form must be completed and any relevant information must be attached to the application for review by the FER Registrar.

More information on how to apply is provided at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

### 12.2 What information must be provided when making an application to be an approved sponsor?

Government agencies, organisations, health practitioners or other appropriate individuals that make an application to be an approved sponsor must provide documentation that relates to the eligibility conditions.

The following clauses detail the eligibility conditions applicable to each 'type' of sponsor and the documentation that must be included in an application to be approved as an approved sponsor.

#### 12.2.1 Government agencies

When an application is made from a government agency, the person making the application will be required to indicate if it is the individual or the agency who is making the application. WDPs will only be able to be viewed or actioned by the approved sponsor.

A government agency may include a Commonwealth government agency, a State government agency or a local government agency.

### Eligibility conditions

Government agencies applying for approval as an approved sponsor must meet the following eligibility conditions:

- the government agency must be able to carry out the functions of an approved sponsor as specified in these Guidelines;
- the government agency must have a policy of insurance in accordance with these Guidelines;
- the government agency must have health and safety policies and procedures in accordance with these Guidelines;
- the government agency must have a complaints management and resolution system in accordance with these Guidelines; and
- the government agency must have appropriately trained, experienced and/or accredited employees, volunteers or contractors to work with the targeted client group and/or provide the activities which will be undertaken as part of any WDP supervised by the government agency (appropriate training, experience and/or accreditations are detailed in these Guidelines).

### **Application information**

Information to be provided in an application made by a government agency must include:

- evidence and documentation that the government agency has appropriately trained, experienced and/or accredited employees or volunteers, either to work with the targeted client group and/or to provide the activities which will be undertaken as part of any WDP supervised by the government agency.

The other eligibility conditions, which relate to insurance, health and safety procedures and policies and complaints management and resolution systems are deemed to be satisfied.

### **12.2.2 Organisations**

When an application to be an approved sponsor is made by an organisation, the person making the application will be required to indicate if it is the individual or the organisation who is making the application. WDPs will only be able to be viewed or actioned by the approved sponsor.

An organisation may include, but is not limited to, a not-for-profit organisation or a community services organisation.

### **Eligibility conditions**

Organisations (or individuals from organisations) applying for approval as an approved sponsor must meet the following eligibility conditions:

- the organisation must be able to carry out the functions of an approved sponsor as specified in these Guidelines;
- the organisation must be either:
  - - a not-for-profit organisation with an Australian Business Number (ABN); or
  - - a for-profit organisation with objectives, governance and funding that are consistent and align with the functions of an approved sponsor specified under these Guidelines;
- the organisation must have a policy of insurance in accordance with these Guidelines;

- the organisation must have health and safety procedures and policies in accordance with these Guidelines;
- the organisation must have a complaints management and resolution system in accordance with these Guidelines; and
- the organisation must have appropriately trained, experienced and/ or accredited employees or volunteers to work with the targeted client group and/or provide the activities which will be undertaken as part of any WDP supervised by the organisation (appropriate training, experience and/ or accreditations are detailed in these Guidelines).

### **Application information**

Information to be provided in an application for an organisation to be approved as an approved sponsor must include:

- the organisation's ABN;
- information on the organisation's objectives, governance and funding;
- the regional location/s in Western Australia or outside Western Australia that they are located and/or operate in;
- a description of the activity/activities they plan to offer clients if they are approved as an approved sponsor;
- a description of the client groups with which the organisation works;
- a certificate of currency of any policy of insurance they are required to have;
- a copy of any health and safety procedures and policies they are required to have;
- a copy of any complaints management and resolution system they are required to have; and
- evidence and documentation that the organisation has appropriately trained, experienced and/or accredited employees or volunteers to work with the targeted client group and/or to provide the activities which will be undertaken as part of any WDP supervised by the organisation.

If the organisation is approved as an approved sponsor, they will only be approved to provide activities that fall within the organisation's area of expertise.

### **12.2.3 Health practitioners**

For the purposes of these Guidelines, a health practitioner means a:

- medical practitioner
- psychologist; or
- registered nurse.

For the purposes of these Guidelines, the terms 'medical practitioner' and 'psychologist' have the same meanings as in the *Health Practitioner Regulation National Law (WA) Act 2010*. The term 'nurse' means an individual that is endorsed by the Nursing and Midwifery Board of Australia to practice as a nurse practitioner under the *Health Practitioner Regulation National Law (WA) Act 2010*.

Health practitioners who fall within the above definition and are qualified to provide medical or mental health treatment or drug or alcohol treatment can apply for approval to sponsor applications for treatment to be undertaken as part of a WDP, and supervise

that treatment. A health practitioner can be approved to provide medical or mental health treatment, and/or drug and alcohol treatment.

### **Eligibility conditions**

Health practitioners applying for approval as an approved sponsor must meet the following eligibility conditions:

- the health practitioner must be able to carry out the functions of an approved sponsor as specified in section 12 of these Guidelines;
- the health practitioner must have a policy of insurance in accordance with these Guidelines;
- the health practitioner must have health and safety procedures and policies in accordance with these Guidelines;
- the health practitioner must have a complaints management and resolution system in accordance with these Guidelines;
- the health practitioner is required to meet one or more of the National Standards for Drug and Alcohol Treatment Services (from November 2022), As detailed in the National Quality Framework for Drug and Alcohol Services;
- the health practitioner must be registered in accordance with the *Health Practitioner Regulation National Law (WA) Act 2010*; and
- the health practitioner must be appropriately trained, experienced and/or accredited to work with the targeted client group and/or provide the activities which will be undertaken as part of any WDP supervised by the health practitioner (appropriate training, experience and/or accreditations are detailed in these Guidelines).

### **Application information**

Information to be provided in an application for a health practitioner to be approved as an approved sponsor must include:

- their ABN, if applicable;
- the regional location/s in Western Australia or outside Western Australia that they are located and/or operate in;
- a description of the activity/activities they plan to offer clients if they are approved as an approved sponsor;
- a description of the client groups with which the health practitioner works;
- if applicable, a description of the health practitioner's area of specialisation in relation to providing medical or mental health treatment or treatment for drug and alcohol use problems;
- a certificate of currency of any policy of insurance they are required to have;
- a copy of any health and safety procedures and policies they are required to have;
- a copy of any complaints management and resolution system they are required to have;
- documentary evidence of their registration as a health practitioner; and
- if applicable, detail any specific requirements or criteria clients must meet (medical or otherwise) to be able to undertake treatment with the health practitioner.

If the health practitioner is approved as an approved sponsor, they will only be approved to provide activities that fall within the health practitioner's area of expertise.

## **Ongoing requirements**

The health practitioner must maintain evidence of their ongoing registration as a health practitioner. If any conditions, undertakings, or reprimands are placed against a health practitioner's registration following their approval as an approved sponsor, the health practitioner must notify the FER Registrar. Approval to be a sponsor in the WDP scheme will not be affected if the health practitioner can demonstrate that the conditions, undertakings, or reprimands against their registration status do not affect their ability to support client's undertaking WDPs.

### **12.2.4 Other individuals**

Other individuals may also apply to become an approved sponsor.

### **Eligibility conditions**

Individuals applying for approval as an approved sponsor must meet the following eligibility conditions:

- the individual must be able to carry out the functions of an approved sponsor as specified in these Guidelines;
- the individual must be able to demonstrate how they will manage the demands and functions of being an approved sponsor and supervising a client in undertaking an activity under a WDP;
- the individual must have a policy of insurance;
- the individual must have health and safety procedures and policies in accordance with these Guidelines;
- the individual must have a complaints management and resolution system in accordance with these Guidelines; and
- the individual must be appropriately trained, experienced and/or accredited to work with the targeted client group and/or provide the activities which will be undertaken as part of any WDP supervised by the individual (appropriate training, experience and/or accreditations are detailed in these Guidelines).

### **Application information**

Information to be provided in an application for an individual to be approved as an approved sponsor must include:

- their ABN, if applicable;
- the regional location/s in Western Australia or outside Western Australia that they are located and/or operate in;
- a description of the activity/activities they plan to offer clients if they are approved as an approved sponsor;
- a description of the client groups with which they work or intend to supervise;
- a description of how they will manage the demands and functions of being an approved sponsor and supervising a client in undertaking an activity under a WDP;
- a certificate of currency of any policy of insurance they are required to have;
- a copy of any health and safety procedures and policies they are required to have;
- a copy of any complaints management and resolution system they are required to have; and

- evidence and documentation that the individual is appropriately trained, experienced and/or accredited to work with the targeted client group and/or provide the activities which will be undertaken as part of any WDP supervised by the individual.

If the individual is approved as an approved sponsor, they will only be approved to provide activities as approved by the FER Registrar.

### **12.2.5 Referrals to a Third Party Provider**

Approved sponsors are able to refer clients to third party providers, while the sponsor continues to supervise the client. It is the responsibility of the sponsor referring the client, to ensure that the third party provider satisfies the eligibility conditions of a sponsor, based on:

- requirements under the FPINE Act and the FPINE Regulations; and
- the category of sponsor they are; and
- the activity or activities they propose to provide.

It is also the responsibility of the approved sponsor to ensure that the third party provider they are referring a client to has a policy of insurance in accordance with these Guidelines.

The approved sponsor is required to keep records of the third party providers:

- certificate of currency in relation to the required policies of insurance; and
- evidence of training, experience and/or accreditations required when supervising a client who is undertaking a specific activity under a WDP.

This documentation and evidence, as well as other WDP records, may be audited for the purposes of ensuring compliance with the FPINE Act, FPINE Regulations, and these Guidelines.

#### **When making an application to become a sponsor:**

The sponsor seeking approval will be prompted to indicate if they intend to refer clients to a third party provider. If they indicate yes, they will be required to agree to undertake the responsibility of ensuring that third party complies with the requirements under the scheme.

#### **When making an application for a permit:**

The approved sponsor will be prompted to indicate if a third party provider will be supervising the activities under the WDP. If they indicate yes, they will be required to agree to undertake the responsibility of ensuring that third party complies with the requirements under the scheme. In addition to this they will be required to provide details of the third party provider they will be referring to as well as the activity to be completed.

## **13 Approval of a sponsor**

### **13.1 Who assesses an application to be an approved sponsor?**

An application to be an approved sponsor is assessed by the FER Registrar.

The FER Registrar can:

- approve a sponsor to be an approved sponsor;
- approve a sponsor to be an approved sponsor subject to particular conditions; or
- refuse to approve a sponsor to be an approved sponsor.

If a potential sponsor does not meet all of the eligibility conditions required by these Guidelines (as opposed to the FPINE Act or FPINE Regulations), the FER Registrar may use their discretion and approve the application of the potential sponsor.

The FER Registrar can request the potential sponsor provide additional information in relation to the application. A potential sponsor must provide the information within the period of time specified in the request. If a potential sponsor does not provide the requested information within the period of time specified, the FER Registrar can refuse to approve a potential sponsor as an approved sponsor. The FER Registrar can also refuse to approve a potential sponsor if the potential sponsor does not meet all of the eligibility conditions.

Once an application has been assessed, potential sponsors will be notified of the decision in relation to their application via email.

### **13.2 On what grounds can an (approved sponsor) approval be cancelled?**

The FER Registrar can revoke (cancel) an approval of an approved sponsor in the following circumstances:

- the approved sponsor is found to be non-compliant with a provision(s) of the FPINE Act, the FPINE Regulations or these Guidelines;
- the approved sponsor is found to have knowingly provided any statement, information, document or other evidence in relation to the WDP scheme that the approved sponsor knows is false or misleading in a material particular;
- the approved sponsor is found to have knowingly omitted to provide anything in relation to the WDP scheme without which the statement, information, document or other evidence is, to the approved sponsor's knowledge, false or misleading in a material particular;
- the approved sponsor is found to be non-compliant with the relevant eligibility conditions;
- the approved sponsor is found to be non-compliant with a condition of their approval;
- the approved sponsor is found to be non-compliant with the terms and conditions agreed to by the approved sponsor upon application; or
- any other good reason identified by the FER Registrar.

When deciding whether to cancel the approval of an approved sponsor, the CEO Fines Enforcement will afford the approved sponsor procedural fairness, and may consult with representatives from other WA government agencies as appropriate.

An approved sponsor may withdraw their participation as an approved sponsor at any time. These requests should be made by emailing [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au).

### **13.3 What happens once an application is approved?**

The person that made the application will be notified by email if their application to be an approved sponsor is approved. The approval will specify the WDP activities which the approved sponsor is approved to provide.

Details of the new approved sponsor will be included in the register of approved sponsors, which is published on the FER Registrar's website at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp).

The register of approved sponsors provides information about approved sponsors, including:

- the region of Western Australia or Australia in which they operate;
- the suburb in which they operate;
- the name of the approved sponsor;
- the WDP activities that the approved sponsor provides;
- the approved sponsor's availability;
- a contact name; and
- a contact telephone number and email address.

An approved sponsor must have the above details published on the FER Registrar's website. If an approved sponsor is unable to take new clients, but still wishes to remain as an approved sponsor, they can request that they are listed as "At capacity" on the FER Registrar's website. An approved sponsor may also request to limit their clients to existing clients only; or to a particular class of client (e.g. defence force members or ex-members; START Court participants only). These requests should be made by emailing [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au). Once an approved sponsor is approved, they are able to carry out the functions of an approved sponsor, and can be contacted by potential clients seeking to undertake WDPs.

## **14 Responsibilities of an approved sponsor**

The following clauses detail the responsibilities and requirements that an approved sponsor must comply with whilst approved as an approved sponsor for the purposes of the WDP scheme.

### **14.1 Reporting requirements**

An approved sponsor must notify the FER Registrar, within a reasonable time, of any hours completed by a client who is undertaking a WDP. Approved sponsors will be required to notify the FER Registrar by recording the hours completed by a client in the eCourts Portal at [www.ecourts.justice.wa.gov.au/ecourtsportal](http://www.ecourts.justice.wa.gov.au/ecourtsportal). The FER Registrar will consider requests, where supporting evidence is detailed, for less frequent reporting. Approved sponsors can establish their own routines in how often they report the hours undertaken by their client/s under a WDP, though it is recommended that approved sponsors report this information as the activity is completed.

If no activity is reported for a particular month while a WDP remains in force, FER may request reporting to be completed or information from the approved sponsor as to the reason why reporting has not occurred. This may also involve further assessment of the continuation of the WDP.

### **14.2 Recordkeeping**

An approved sponsor must keep and maintain the following information:

- records of the date/s and time/s a client undertook an activity, or part of an activity, under a WDP;

- records of any information, evidence or documentation provided to the FER Registrar as part of a client’s application for a WDP;
- copies and records of any certificate of currency for any policy of insurance held by the approved sponsor whilst approved as an approved sponsor.

These records must be kept and maintained by the approved sponsor for a period of 7 years from the completion of a client’s WDP.

### 14.3 Insurance requirements

An approved sponsor is required to maintain, if required, the following insurance for the following WDP activities:

Activity	Public Liability	Professional Indemnity	Voluntary Workers
Drug or alcohol treatment	Yes	Yes	-
Voluntary unpaid work	Yes	-	Yes
Medical/mental health treatment	Yes	Yes	-
Educational/ vocational/life skills courses	Yes	-	-
Mentoring for persons < 25	Yes	-	-

An approved sponsor must maintain, and provide upon application to be approved as an approved sponsor, a certificate of currency in relation to the required policy of insurance.

The FER Registrar may require that an additional policy of insurance is required after an approved sponsor has been approved as a sponsor. The FER Registrar will notify the approved sponsor in such an event.

DOJ accepts no responsibility for any loss, expense or liability which an approved sponsor may incur from administering a WDP. Therefore it is crucial that the required insurance policies are current and maintained.

### 14.4 Health and safety procedures and policies

An approved sponsor must maintain health and safety procedures and policies as approved by the FER Registrar. Evidence of health and safety procedures and policies will be required to be uploaded when making an application to be an approved sponsor.

The type of health and safety procedures and policies required will depend on the approved sponsor and the WDP activities to be undertaken. Examples of policies and procedures that may be required include (but are not limited to):

- procedures that relate to the safe use of machinery or equipment (safe operating procedures); and/or
- procedures on what to do in the event of an emergency; and/or

- procedures on the management of an emergency; and/or
- procedures on the management of hazardous substances and dangerous goods; and/or
- procedures on handling aggressive or abusive people; and/or
- first aid procedures; and/or
- safe travel procedures; and/or
- procedures for managing confidential information and records; and/or
- policies on how to identify incidents and risks; and/or
- policies on reporting incidents and risks; and/or
- policies on how to address identified incidents and risks; and/or
- policies on inspections and/or the review of health and safety conditions; and/or
- policies on appropriate education and training to manage risks and hazards; and/or
- policies on appropriate behaviours.

Certain procedures and policies will not be applicable to all approved sponsors or WDP activities and will be assessed on a case-by-case basis.

#### **14.5 Complaints management and resolution system**

An approved sponsor must maintain a complaints management and resolution system as approved by the FER Registrar.

A complaints management and resolution system is a system put in place to ensure an approved sponsor can:

- manage, resolve, and conciliate the resolution of complaints; and/or
- provide education and develop resources on the handling of complaints; and/or
- build the capability of people that they interact with to report concerns and complaints; and/or
- help prevent situations that may lead to incidents or complaints; and/or
- review complaints, to identify and resolve issues that led to the complaint; and/or
- record data on complaints.

The system, and the breadth of the system, will depend on the approved sponsor and the WDP activities to be provided by the approved sponsor, and will be assessed on a case-by-case basis.

#### **14.6 False or misleading information**

An approved sponsor must not **knowingly** provide any statement, information, document or other evidence that the approved sponsor knows is false or misleading in a material particular. Conversely, an approved sponsor must not **knowingly** omit to provide anything without which the statement, information, document or other evidence is, to the approved sponsor's knowledge, false or misleading in a material particular. The approved sponsor may be liable for a penalty under the FPINE Regulations if they do not comply with these requirements.

#### **14.7 Ongoing requirements of approved sponsor**

Approved sponsors must comply, and continue to comply, with the FPINE Act, FPINE Regulations and these Guidelines.

An approved sponsor must continue to meet the relevant eligibility conditions and maintain evidence to that effect. If there are any changes to the eligibility conditions, the approved sponsor must notify the FER Registrar of any changes within a reasonable amount of time, by email to [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au).

Reviews of compliance with all of the above will occur from time to time by DOJ.

#### **14.8 Fees, gifts and benefits**

Approved sponsors must not receive any payment, gift or personal benefit from a client applying for, or subject to, a WDP. This includes administrative fees and fees for activities associated with a WDP.

This clause does not affect fees or charges that would be incurred by a client if the WDP was not in place, including but not limited to fees for medical treatment or enrolment in a TAFE course. For example, if a client has paid for treatment for drug or alcohol counselling and incurred normal scheduled fees, this is not considered a fee, gift or benefit for sponsoring a WDP.

#### **14.9 Conflicts of interest**

A conflict of interest arises where the personal interests of someone involved in sponsoring a potential WDP client, or supervising a client, has influenced, may influence, or may be perceived as influencing, their professional decision-making regarding a client's eligibility for, and fulfilment of, a WDP.

Approved sponsors should seek to avoid conflicts of interest wherever possible. However if an actual, potential or perceived conflict arises, the approved sponsor must notify FER at the time of making an application for a WDP or by sending an email to [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au) explaining how they propose to manage the conflict going forward. Information and a declaration form are located at [www.justice.wa.gov.au/wdp](http://www.justice.wa.gov.au/wdp). The details of any conflict will be reviewed by the FER Registrar. The FER Registrar may determine that:

- the WDP may be approved or continued
- the WDP may be approved or continued, subject to conditions
- the WDP may be refused or cancelled.

If DOJ receives an allegation that a sponsor has seriously or repeatedly failed to comply with the relevant eligibility conditions, the terms and conditions agreed to by the approved sponsor upon application, the FPINE Act, the FPINE Regulations, these Guidelines, or any other relevant law, DOJ may give written notice to the approved sponsor that a review of their WDP records and/or an investigation of their alleged failure(s) of compliance will be undertaken.

FER may refuse to approve any applications for a WDP from an approved sponsor until DOJ notifies the sponsor and FER that the review and/or investigation is complete.

#### **14.10 Auditing of approved sponsors**

As part of the approval process, all approved sponsors agree in the terms and conditions to participate in audits of compliance with:

- the relevant eligibility conditions;
- the terms and conditions agreed to by the approved sponsor upon application;

- the FPINE Act;
- the FPINE Regulations;
- these Guidelines; or
- any other law.

Approved sponsors have an obligation to:

- cooperate with any audit or review undertaken by DOJ; and
- satisfactorily respond to any audit findings, within specified timeframes, as may be directed by DOJ.

DOJ will notify the approved sponsor of any audit or review being undertaken in relation to their participation in the WDP scheme.

#### **14.11 Information sharing procedures**

The FER Registrar may disclose information about clients or fines to approved sponsors for purposes connected with WDP under section 100B(3)(aa) of the FPINE Act.

Information about a client's current case status and associated amounts outstanding, that are eligible for a WDP, will be viewable in the eCourts Portal once a sponsor commences an application for a WDP on behalf of a client.

An approved sponsor, in assessing the suitability and appropriateness of a client to undertaken activities under their supervision, may require further information of the types of charges. Should an approved sponsor require further information about an offender or their fines, they may submit a written request to the Fines Enforcement Registry via email to [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au) outlining the information needed and the specific purpose of the request.

## **15 Feedback and complaints**

If you wish to provide feedback or make a complaint related to the WDP scheme please contact FER on 1300 650 235 to discuss with the WDP team or via email at [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au) to attempt to resolve the issue.

If you are unable to resolve an issue about the scheme through the above method, sponsors and clients can provide feedback via the DoJ online feedback system at [www.wa.gov.au/organisation/department-of-justice/feedback-the-department-of-justice](http://www.wa.gov.au/organisation/department-of-justice/feedback-the-department-of-justice).

All communications will be considered in a confidential and timely manner.

## **16 Contact and Support**

If you require assistance in relation to a WDP please contact:

Fines Enforcement Registry

Phone: 1300 650235 or 9235 0235 (mobile or international callers)

Email: [ferwdp@justice.wa.gov.au](mailto:ferwdp@justice.wa.gov.au)

If you require assistance in relation to becoming an approved sponsor please contact:

Legal Aid Commission of Western Australia

Phone: (08) 9261 6353

Email: [wdpservice@legalaid.wa.gov.au](mailto:wdp-service@legalaid.wa.gov.au)

Aboriginal Legal Service of Western Australia Limited

Phone: (08) 6371 4600

Email: [WDPService@als.org.au](mailto:WDPService@als.org.au)