



ANMF (Vic Branch) Policy

Legal costs / legal representation

Members of the Australian Nursing and Midwifery Federation (Victorian Branch) [ANMF (Vic Branch)] may require legal advice and/or legal representation in relation to both work related and personal matters. ANMF (Vic Branch) provides members with three distinct types of legal /professional cover, being:

- (A) **Legal Costs / Legal Representation** which provides members, in their capacity as an employee, with legal advice, assistance and representation for most work related matters;
- (B) **Professional Indemnity Insurance** which provides members with insurance coverage for negligence and legal cover for defending civil action (excludes midwives in independent practice and claims related to certain procedures such as laser therapy); and
- (C) **A first free consultation** and reduced rates if referred by ANMF for legal services provided by the ANMF (Vic Branch) solicitors. Beyond the first free interview, legal benefits are not ordinarily available to members seeking to commence or defend an action for libel or defamation, criminal matters, workers compensation matters, family law matters, commercial and business law matters or conveyancing matters.

It is the policy of the Australian Nursing and Midwifery Federation (Victorian Branch) that:

1. To be eligible to have legal costs covered as part of ANMF (Vic Branch) membership under the Legal Costs / Legal Representation Scheme it is a requirement that the person seeking legal assistance:
 - be referred by the ANMF (Vic Branch) to the ANMF solicitors in writing; and
 - was a financial member at the time the incident occurred that led to the need for legal assistance, and remains a financial member unless no longer eligible for ANMF (Vic Branch) membership.
2. To be eligible to have legal costs covered as part of the ANMF (Vic Branch) Professional Indemnity Insurance Scheme, it is a requirement that the person seeking Professional Indemnity cover:
 - notify the ANMF (Vic Branch) in writing at the earliest opportunity of any incident that may give rise to a claim;
 - be the subject of a referral from the ANMF (Vic Branch) to the ANMF's solicitors or solicitors chosen by the ANMF's insurer; and
 - be a financial member of the ANMF (Vic Branch) at the time of the incident which gives rise to the potential claim, and remain a financial member, unless no longer eligible for ANMF (Vic Branch) membership.
3. ANMF (Vic Branch) will endeavour to ensure that members have access to the most current and up to date information and conditions that may apply to this policy, through our publications, journal, digital news brochures, printed materials and through the ANMF (Vic Branch) website www.anmfvic.asn.au. Members seeking legal assistance should contact the ANMF (Vic Branch) to ensure they have current information.
4. In exceptional circumstances the ANMF (Vic Branch):
 - a) may provide or subsidise legal costs or provide representation to nurses/midwives/personal care workers who are not otherwise eligible under this Policy, on a case by case basis, where

the ANMF (Vic Branch) Council believes that the individual case has broader implications for nursing or midwifery.

- b) In determining exceptional circumstances relating to this policy, ANMF (Vic Branch) Council will be advised of the matter and shall have regard to the extent of the likely cost, the nature of the matter, the implications for the broader membership, the likelihood of the success of the matter, membership history and any other matter/s Branch Council deems appropriate to the circumstance.
 - (c) It is the responsibility of the member to request payment for legal representation/legal advice outlined in Paragraph 4(a) and (b) by initially referring the request to the ANMF (Vic Branch) Secretary, who will liaise with Industrial and/or Professional Officers and subsequently advise Branch Council and other ANMF staff as appropriate.
 - d) ANMF (Vic Branch) Council will consider such requests where the Secretary has made a recommendation.
5. The ANMF (Vic Branch) employs staff skilled in managing Bullying, Harassment or Discrimination matters. Members will be entitled to a first free legal interview where the ANMF (Vic Branch) determine this will benefit the member. In exceptional circumstances, individual cases may be considered in accordance with Paragraph 4(a) and (b).
6. The ANMF (Vic Branch) will not be liable for any further legal costs incurred regarding a referred matter if:
- (a) the ANMF's solicitors advise that a referred matter has no reasonable prospects of succeeding; or
 - (b) the member fails to provide instructions, or co-operate in the conduct of the matter; or
 - (c) the member fails to follow or accept ANMF (Vic Branch) or its Solicitor's reasonable written advice in relation to the matter;

and the member will be advised that no further legal services assistance will be provided by ANMF (Vic Branch), its solicitors or officers, and the member in such circumstances, will be liable for any further legal costs incurred.

7. The referral of a member to the ANMF's solicitors under this policy is subject to ongoing review and, subject to Paragraph 4(a) and (b), to a limit of \$8,000 in costs/disbursements. Where a matter may incur significant costs and/or disbursements (eg in excess of \$8,000, or proceeding to appeal or to VCAT) the ANMF (Vic Branch) may determine to continue funding the matter, discontinue funding the matter, or fund the matter in part, and notify the member accordingly. Where a decision is made to fund the matter in part, the member is responsible for the costs not funded by the Branch and the Branch's Solicitors may enter into a costs agreement with the referred member which provides for the member to meet the legal costs of services not covered by this agreement.
8. Where the ANMF (Vic Branch) decides:
- (a) that a conflict of interest exist; or
 - (b) it is not in the best interests of the ANMF; or
 - (c) it is not in accordance with ANMF policy; or
 - (d) it is inconsistent with the objects of the ANMF;

to pursue a particular matter, the ANMF (Vic Branch) will not provide legal advice or representation or financial assistance in relation to that matter.

9. Where a conflict of interest arises (or may arise) between members of the ANMF (Vic Branch), such that it is not appropriate for ANMF's solicitors to act for both/multiple members, the member or members may be referred by the ANMF (Vic Branch) for alternative advice and assistance, including where appropriate to alternate solicitors. Where a matter is referred to alternate solicitors, this policy continues to apply however initial review will occur where the matter may proceed to conference or hearing before a Board/Tribunal/Court.