

## Provision of Legal Services as of 1 April 2000

### INTRODUCTION

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1. The system of government funding of legal cases previously contained in the Legal Aid Act 1988 was replaced by the Access to Justice Act 1999, as follows:

- On 1 April 2000, the Legal Services Commission (LSC) replaced the Legal Aid Board.
- The Community Legal Services Fund is the new scheme for helping eligible people with legal problems (other than criminal matters). The names of the Legal Aid schemes were also changed: Legal Advice and Assistance (the 'Green Form Scheme') is now called 'Legal Help and Help at Court'. Civil Legal Aid and Assistance by Way of Representation (ABWOR) both became 'Legal Representation'. Family Mediation is now funded by the LSC, through contracted mediators and 'Approved Family Help' was created.
- One year later, Criminal Legal Aid was replaced by the Criminal Defence Service in April 2001 which provides three levels of service: 'Advice and Assistance', 'Advocacy Assistance' and 'Representation'. In May 2001 the LSC employed a number of criminal defence lawyers, known as public defenders, initially at six pilot sites in England and Wales. The public defenders will be able to provide any of the criminal defence services in exactly the same way as lawyers in private practice.

2. New networks including solicitors, CABs, Law Centres, local authority services, community centres, and other organisations have been set up to make it easier for the public to get legal help and advice.

3. Only organisations with a contract with the LSC can give Legal Help or Legal Representation in all civil matters. This means that they have been checked to see that they meet certain standards and provide a quality service. Solicitors can only carry out criminal defence work funded by the LSC if they have a General Criminal Contract. Firms will be audited to ensure they continue to meet quality assurance standards.

4. Support Funding provides partial funding for personal injury cases and some multi-party actions where such cases are brought under a conditional fee agreement (CFA), but it is unusually expensive so justifies some assistance from the LSC. There are two types of Support Funding: Investigative Support which provides limited funding for the investigation of the strength of a proposed claim with a view to proceedings under a CFA; and Litigation Support which provides partial funding of high cost litigation already proceeding under a CFA. Support Funding is only available through solicitors contracted by the LSC to undertake personal injury cases.

5. Useful website addresses are [www.legalservices.gov.uk](http://www.legalservices.gov.uk) (for the Legal Services Commission) and [www.justask.org.uk](http://www.justask.org.uk) (for the Community Legal Service).

## Community Legal Service

	What it covers	Application and Tests	Contribution	Statutory charge
<b>Legal Help and Help at Court</b>	<p>Solicitor or legal adviser can give general advice, write letters, negotiate, get a barrister's opinion and prepare a written case if the applicant has to go before a court or tribunal.</p> <p>The solicitor or adviser can also appear in court on applicant's behalf, without formally acting for the claimant in the whole proceedings.</p> <p>Available until charges reach a total of, normally, £500. Further work can only be carried out with the authority of the LSC.</p>	<p>Applications are assessed at once by the solicitor or adviser who holds a contract with the LSC.</p> <p>Means test:</p> <ul style="list-style-type: none"> <li>• Gross income must not be more than £2,250 per month.</li> <li>• Disposable income must be £611 or less per month and disposable capital after allowances for dependants must be £3,000 or less (including the value of the home, over £100,000).</li> <li>• Those on State benefits will be eligible on income but capital will still need to be assessed.</li> </ul> <p>Funding Code Criteria – Help may only be provided:</p> <ul style="list-style-type: none"> <li>• where there is sufficient benefit to the client; and</li> <li>• if it is reasonable for the matter to be funded out of the CLS Fund</li> <li>• Help at Court may only be provided if the nature of the proceedings and the circumstances of the hearing and the client are such that advocacy is appropriate and will be of real benefit to the client.</li> </ul>	<p>If the applicant qualifies financially s/he will not have to pay a contribution.</p>	<p>There is a Statutory Charge in family and personal injury matters (see below).</p>

<p><b>Legal Representation</b></p>	<p>All work needed to take legal proceedings to trial and beyond.</p> <p>Full Representation is available in both family and civil cases, plus certain tribunals (Employment Appeal Tribunal, Mental Health Review Tribunal, Immigration Adjudicator and Immigration Appeal Tribunal).</p> <p>Not usually available for:</p> <ul style="list-style-type: none"> <li>• most personal injury cases arising from negligence (other than clinical negligence);</li> <li>• cases arising out of the carrying on of a business;</li> <li>• cases involving disputes about a partnership, company or trust;</li> <li>• boundary disputes; and</li> <li>• defamation cases.</li> </ul> <p>A certificate for Full Representation will contain such limitations as to the scope of the work to be carried out as are appropriate to the circumstances of the case, eg, investigative limitations, limitation for negotiations, and proceedings limitations. The certificate will also contain a costs limitation: unless the LSC decides otherwise, the initial limitation will usually not exceed £2500.</p>	<p>Applications are assessed by the LSC, within a target time of two weeks.</p> <p>Means test:</p> <ul style="list-style-type: none"> <li>• Gross income must not be more than £2,250 per month.</li> <li>• Disposable income must be below £695 per month and disposable capital after allowances for dependants must normally be below £8,000 (including the value of the home, over £100,000).</li> <li>• Those on State benefits may automatically qualify on financial grounds for some help.</li> </ul> <p>Funding Code Criteria – the following issues will be considered:</p> <ul style="list-style-type: none"> <li>• The likely cost of funding and the benefit which may be obtained;</li> <li>• The availability of money in the Community Legal Fund;</li> <li>• The importance of the case for the individual;</li> <li>• The availability of other services, eg mediation or Conditional Fee Agreement;</li> <li>• The prospects of success;</li> <li>• The conduct of the individual;</li> <li>• The public interest; and</li> <li>• Such other factors as the Lord Chancellor may require the Commission to consider.</li> </ul>	<p>A person will be asked to pay a contribution towards Legal Representation from:</p> <p>(a) any disposable income between £263 and £695 per month, for as long as the case is being funded by the LSC, and/or</p> <p>(b) all disposable capital over £3,000</p>	<p>If an applicant is successful and wins or gets to keep money or property with the help of CLS funding, s/he may be asked to put some or all of this money towards the solicitor or legal adviser's bill. However, the statutory charge does not apply to:</p> <p>(a) the recovery of maintenance payments and payments up to £3,000 in a matrimonial property settlement;</p> <p>(b) family mediation cases; or</p> <p>(c) where advice is given under the Legal Help scheme in any matter other than family and personal injury matters.</p>
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<b>Family Mediation</b>	<p>Mediation of a family dispute for couples. Mediation can help with disputes relating to children, money and property.</p> <p>Those eligible for mediation can also obtain legal advice and assistance from a solicitor to support them during mediation. This can either be through Legal Help or Approved Family Help.</p>	<p>Mediators contracted to the LSC.</p> <p>Means test: Gross income must not be greater than £2,250 per month. Disposable income must be £695 per month or less and disposable capital must be £8,000 or less.</p>	<p>No contribution payable.</p>	<p>Statutory charge does not apply.</p>
<b>Approved Family Help</b>	<p>‘Help with Mediation’ provides help in family cases short of Full Representation in contested proceedings, until the solicitor or adviser’s charges reach up to £350. This limit can be extended by the LSC.</p> <p>‘General Family Help’ covers negotiations where no mediation is in process and also includes representation in proceedings where this is necessary to obtain disclosure of information from another party, until the solicitor or adviser’s charges reach a limit of £1500. This limit can be extended by the LSC.</p>	<p>Only available from solicitors with a contract with the LSC in family law. Applications are assessed by the LSC.</p> <p>Means test: as above for Family Mediation.</p>	<p>A person may be asked to pay a contribution towards General Family Help – the conditions are the same as for Legal Representation.</p>	<p>Statutory charge applies as above.</p>

## Criminal Defence Service

	<b>What it covers</b>	<b>Application and Tests</b>	<b>Contribution</b>
<b>Duty Solicitor Schemes</b>	<p>The Police Station Advice and Assistance scheme provides free legal advice from a contracted solicitor.</p> <p>The Magistrates' Court Duty Solicitor Scheme provides a solicitor to give free advice and representation on the suspect's first appearance.</p>	<p>The suspect can ask the police to contact the duty solicitor (available 24 hours a day) or his own solicitor. Alternatively, the suspect can choose a solicitor from a list the police keep.</p> <p>The suspect asks the court staff for the duty solicitor.</p>	No contribution payable.
<b>Advice and Assistance</b>	<p>Help from a solicitor including giving general advice, writing letters, negotiating, getting a barrister's opinion and preparing a written case.</p>	<p>Applications are assessed at once by a solicitor who has a General Criminal Contract with the LSC.</p> <p>Means test: disposable income must be £89 per week or less and disposable capital £1,000 or less.</p> <p>Those on state benefits will be eligible unless disposable capital exceeds £1,000.</p>	No contribution payable.
<b>Representation</b>	<p>Covers the cost of a solicitor to prepare a defence before going to court and representation. It may also be available when applying for bail.</p> <p>If the case requires a barrister that will also be covered.</p> <p>Representation can also cover advice on appeals and preparing the notice of appeal itself.</p>	<p>The defendant should see a solicitor as soon as possible after having been charged with a criminal offence. The solicitor will fill in the application form and send it to the court where the case will be heard.</p> <p>There is no longer a financial test.</p> <p>The court will grant Representation if it decides it is in the</p>	<p>The defendant may be asked to pay a contribution for representation in any court other than a magistrates' court.</p> <p>The judge will only order a contribution if it is reasonable in all the circumstances of the case, including the means of the defendant.</p>

	<p>Representation is not available to bring a private prosecution.</p>	<p>‘interests of justice’ that the defendant should be represented. The factors to be considered are:</p> <ul style="list-style-type: none"><li>• The individual would, if the case was decided against him, be likely to lose his liberty or livelihood or suffer serious damage to his reputation;</li><li>• The case involves consideration of a substantial point of law;</li><li>• The individual may be unable to understand the proceedings or to state his own case;</li><li>• The case may involve the tracing, interviewing or expert cross-examination of witnesses on behalf of the accused; and</li><li>• It is in the interests of another person that the accused is represented.</li></ul>	
<p><b>Defender Service</b></p>	<p>As part of the launch of the Criminal Defence Service, the LSC began piloting its own defender service.</p> <p>Under the four-year pilot, which began in April 2001, six defender offices were established, comprising staff directly employed by the LSC. The pilot will form the basis of research into the merits of a mixed (private practice and employed) Criminal Defence Service.</p>		