

Civil Legal Aid - a brief guide to when legal aid funding might be available

(This is not intended to cover criminal cases and focuses on areas within Leigh Day's expertise)

To determine whether legal aid (also known as public funding) might be available to you, there are 2 key questions. Firstly, is your case within a category of legal cases that legal aid is available; and secondly, are you financially eligible? If we consider the answer to both questions is Yes, and if we have the expertise to assist you, we will assist you to make an application for legal aid. The Legal Aid Agency then decides (usually in around 4-6 weeks) whether to grant you legal aid. If successful you will receive a legal aid certificate that will limit the work we can do. Once we reach that limit, we apply on your behalf to extend the limit. At each stage the Legal Aid Agency will only grant the extension of the answers to both questions remain yes. Once you have a legal aid certificate, you have a duty to inform the Legal Aid Agency of any changes to your financial situation.

Is my case eligible for legal aid?

The law sets out the types of legal cases for which legal aid is eligible. Leigh Day regularly applies for legal aid for the following types of case:

- Community care (cases and advice concerning provision of social care or health care - more details are available on our Community Care information sheet).
- Human rights
- Judicial review (challenges to acts or omissions of public bodies)
- Actions against the Police and public authorities
- Inquests
- Abuse of a child or vulnerable adult
- Clinical negligence cases for a child injured during birth.

Legal aid is available for other types of cases which are outside our expertise, such as debt, asylum and family law cases.

If your legal case is within an eligible category, this does not mean legal aid to cover all the costs will be granted. Initial advice and assistance may be provided under the **Legal Help scheme**, but only those cases which meet the **merits criteria** will be granted a legal aid certificate.

The merits criteria are different for each category of case but usually include looking at:

- Whether the case is likely to win
- Whether the likely outcome is proportionate to the cost of bringing the case
- Whether the case has wider public interest.

Your Solicitor will only be able to apply for legal aid if they believe your case is in an eligible category and will meet the merits criteria and you are financially eligible.

Am I financially eligible?

To satisfy The financial test, known as the **means test** you must usually have:

- Less than £2657 gross income (unless you have 4+ children in which case it is higher)
- Less than £733 disposable income
- Less than £8000 capital

In calculating your means the Legal Aid Agency take into account any income or capital belonging to you and your partner. For a child, the parents means are often excluded and only the child's money taken into account. If you are seeking legal advice and representation on behalf of a vulnerable adult, usually only the person's means who you are helping will be considered.

The information below is only for guidance; the full rules are set out in a guide over 300 pages long!

The income test

If you or your partner receives **income support, income based job seekers allowance, income related ESA, guarantee credit or universal credit**, you will automatically pass the income test and you should look only at the capital test. For others you must satisfy the gross and disposable income tests.

Gross income is your income (your salary and any other money you receive, such as regular payments from a family member, rent from a lodger etc) including tax and national insurance. Some welfare benefits are included as income (tax credits for example), some are not (such as housing benefit, carers allowance and direct payments for social care).

To calculate disposable income you are allowed to deduct the following from your gross income:

- any income tax and national insurance you pay
- housing costs (mortgage or rent)
- childcare expenses if you work or are studying full time
- an employment allowance if you are an employee of £45
- an allowance for dependants
 - £181.91 for a dependant Partner
 - £291.49 for a child (if the child is over 16, this only applies if they are in education)

Unfortunately many outgoings are **not** deducted such as Council tax and utility bills.

If your disposable income is between **£315** and the upper limit of **£733**, you are likely to have to pay a contribution out of your income to your legal aid. If your disposable income is less than £315 per month, this will not apply (although you may still have to pay a capital contribution).

The capital test

As well as satisfying the income test, a capital test applies. **Capital** includes everything from savings & investments, to valuable items, such as cars worth over £15,000. If you own your house, any equity you have in it over £100,000 is also included.

To be eligible you must be assessed as having less than **£8000** capital. If you have more than £3000 capital (but less than £8000 capital), you may have to pay a contribution to your legal aid.

Different rules apply if you (or your partner) are 60 years old or over, and have a monthly disposable income of less than £315 per month. Essentially the capital limit is raised to a maximum of £108,000 if you have £0 disposable monthly income or receive **income support, income based job seekers allowance, income related ESA, guarantee credit or universal credit.**

More information on legal aid availability can be found on the Citizen Advice Bureau website:

Please do contact us to discuss whether we can assist you and whether your case qualifies for Legal Aid:
Tel 0207 650 1200; Email: postbox@leighday.co.uk