

Civil Legal Aid in Ireland

Information for the Profession



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An information booklet by the Law Society's Legal Aid Taskforce



Law Society of Ireland

Law Society of Ireland
(2008)

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Foreword



Foreword

A key objective of the Law Society of Ireland is to play a constructive role in securing access to justice for all citizens, especially for those who, for want of means, cannot afford legal services themselves.

The Legal Aid Task Force was established with the objective of producing a constructive independent legal report on legal aid in Ireland and to make recommendations for improving access to justice for those who otherwise cannot afford to access legal services. The Task Force offered the Society the opportunity to work collaboratively with other bodies that have, for many years, worked tirelessly on access to justice issues, including the Legal Aid Board and the Community Law Centres.

A shared concern was the information deficit, both in the legal community and especially amongst the general public, of the range of schemes of legal aid and assistance that are already in place. Naturally, a shared objective was to produce this publication, conveniently bringing together practical details about existing schemes so that those entitled to the benefit of the schemes can avail of them. We believe that this information will provide material assistance to colleagues, community activists and NGOs in playing their part in improving access to justice.

The Society naturally remains concerned that there remain significant areas of unmet legal needs. We have already made it plain that, in our view, failure to address those needs constitutes a serious breach, both of the guarantees under the Irish Constitution, and of the Article 6 rights in the European Convention, now part of our domestic law. It is regrettable that, in an increasingly regulated society, regulation is provided for while representation is overlooked.

The continuing work of the Legal Aid Task Force is to work constructively to ensure that services available can be accessed and to campaign to secure access where they are not.

Our ambition is to approach this work, as we have approached this publication, in a constructive fashion, never losing sight of the fact that proper legal aid is a protection for citizens rather than a privilege for lawyers.

I would like to thank all the members of the Task Force who gave so generously of their time and expertise to produce this publication. I would also like to thank FLAC for their exceptional work in this area and I wish them well with their continuing work.

On behalf of the Task Force and on behalf of the Law Society, I want to pay particular tribute to the Task Force secretary, Elaine Dewhurst, who once again despite a very heavy workload, has characteristically brought a project to successful completion within the timescale envisaged.

James MacGuill
President

Executive Summary



Executive Summary

● *How is legal aid provided in Ireland?*

Legal aid is primarily provided by solicitors in the full-time employment of the Legal Aid Board (“the Board”), working in law centres established by the Board. In addition to the network of 33 full-time law centres, legal services are also provided through 12 part-time law centres. Services are also provided using solicitors in private practice. The use of solicitors in private practice is at the moment limited to family law and asylum matters. The services of barristers are provided in accordance with the terms of an agreement between the General Council of the Bar of Ireland and the Board.

● *Is legal aid confined to family law or is it more wide ranging?*

Contrary to what is often perceived, legal advice and aid is not confined to family law matters. Legal **advice** is available to persons on the application of Irish law to any particular circumstances which have arisen in relation to the person seeking legal services. There are some matters that are excluded from the remit of the Act but these are relatively limited. The most obvious ones are ‘common or garden’ conveyancing and of course matters that are criminal in nature though even here there is one exception.

● *Is legal aid available for all courts and tribunals?*

Legal **aid** (representation in court) is available to persons in most forms of civil proceedings in any Irish court of law. With the exception of the representation of asylum applicants before the Refugee Appeals Tribunal, legal aid is not available for the conduct of proceedings before an administrative tribunal. Advice and assistance can, however, be given to persons who are contemplating taking tribunal proceedings.

● *Who is eligible for legal aid?*

There is an overarching principle that a person will not be granted legal services at public expense where a person of modest means who has to pay for the legal services from his/her own pocket would be unlikely to decide to retain a solicitor. If this condition is satisfied there are two basic tests of eligibility—firstly, a financial test and, secondly, in the case of legal aid applications, a ‘merits’ test.

● *What is the financial test?*

An individual will satisfy the financial test if his/her disposable income is under a figure prescribed from time to time by the Minister for Justice, Equality and Law Reform with the consent of the Minister for Finance. Disposable income is the applicant’s gross income from all sources less various allowances in respect of dependants, mortgage, tax etc. There is also a requirement that the value of the individual’s capital assets, apart from their home, does not exceed a certain amount.

● **How do I find out if the client is eligible?**

The best option is to ask the person to contact a law centre who can undertake an assessment to determine whether the person is financially eligible.

● **What is the merits test?**

The Board must be satisfied that it is reasonable for the person to take or defend proceedings having regard to the legal merits of the case, the likely outcome and the probable cost of the case measured against the likely benefit. The merits test is significantly modified in cases involving the welfare of children. The merits test relates to court proceedings only.

● **Is legal aid free?**

Legal aid and advice is not free (other than in a very limited number of circumstances). In the vast majority of cases, persons granted legal services must pay a contribution. The level of contribution depends, for the most part, on a person's "disposable" income. There is a minimum legal advice contribution (for advice only) and also a minimum legal aid contribution (for court representation) prescribed. At the moment (July 2008) the minimum advice contribution is €10 and the minimum aid contribution is €50. In legal aid cases, an additional capital contribution may be payable if an applicant has reckonable capital resources. A person's normal place of residence is not considered as a reckonable resource. A person will be advised by a law centre of the amount of the financial contribution that they will have to make.

● **What is the position with costs if the case is successful?**

The Board is entitled to deduct the costs it has incurred or to charge its costs against any monies or property recovered or preserved for a person in receipt of legal aid or advice. Costs are charged by reference to the time spent on the case and also by reference to any outlays incurred though they can be subject to certain maximum amounts. The Board is obliged to waive its right to costs in certain circumstances and may do so in certain other cases.

● **What if the case is unsuccessful?**

Legal aid only covers the costs of the person's own legal costs. If the person is unsuccessful in a case and an Order for costs is made against them, they are responsible for those costs.

● **Will my client have to wait to see a solicitor?**

In the past, the Board has been hampered by long delays. The Board is obliged to provide an Applicant with a consultation with a solicitor within a period of about two to four months from the time the Applicant makes first contact with the Board.¹ It is advisable to check with the local law centre to ascertain the likely waiting time for an appointment with a solicitor.

● **But what if my client's case is urgent?**

There are certain categories of cases which the Board regards as urgent. Applicants for services in relation to these cases are given an immediate or near immediate service. Examples of cases that are given priority include applications by the HSE to take children into care, cases involving domestic violence, child abduction cases and cases where a statutory deadline is due to expire shortly.

● **Where do I find out where the nearest law centre is?**

Details of all of the Board's law centres are published at the back of this booklet. They are also available on the Board's website at www.legalaidboard.ie. There is other information on the website in relation to, inter alia, the existing financial eligibility criteria and the core areas of the Board's work.

● **How do I, as a solicitor, get involved in doing civil legal aid work?**

It is best to contact the Board at its Head Office at Quay Street, Cahirciveen, Co Kerry, telephone no 066 9471000 or by email on info@legalaidboard.ie for further information.

● **Is the Legal Aid Board the sole provider of civil legal aid services in Ireland?**

No. While the Board is responsible for the provision of general civil legal aid services, there are a small number of separate schemes, including a scheme administered by the Mental Health Commission in relation to the provision of legal representation for persons detained involuntarily in approved centres and a scheme known as the Attorney General's Scheme and administered by the Chief State Solicitor's Office which provides for legal representation in certain types of cases not covered by the civil or criminal legal aid schemes. There are also specialized schemes administered by the Irish Human Rights Commission, the European Court of Human Rights and the Equality Authority.

¹ See the decision of Kelly J. in *O' Donoghue v. The Legal Aid Board, The Minister for Justice, Equality and Law Reform and Others* [2004] IEHC 413.

Civil Legal Aid Scheme



Civil Legal Aid Scheme

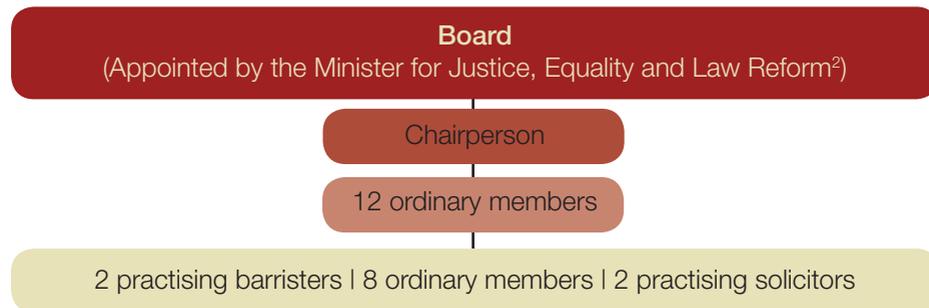
1. Legal Aid Board

The Legal Aid Board was established to administer a scheme of legal advice and aid to persons of modest means in Ireland.

The Scheme of Civil Legal Aid and Advice was introduced in 1979 following the decision at the European Court in the case of *Airey - v - Ireland* E.C.H.R. 9/10/1979, 6/2/1 981 (1979) ECHR 305 and the recommendations made by the Pringle Committee which had been set up by the Minister for Justice to advise him on the introduction of such a Scheme. It operated on an administrative basis until the introduction of the Civil Legal Aid Act 1995. The Act does not cover legal aid provided under the Criminal Justice (Legal Aid) Act, 1962.

2. Administration

The statutory scheme is administered by the Legal Aid Board, the members of which are appointed by the Minister for Justice, Equality and Law Reform for five years. The Board consists of a Chairperson and twelve ordinary members, of whom two must be practising barristers and two practising solicitors. The Board's administrative structure is headed by a Chief Executive who is responsible for the day-to-day operations of the Board and for the execution of the policies formulated by the Board within the terms of the Act.



Details of the current Board are available on www.legalaidboard.ie.

The Board's Head Office is in Cahirciveen, Co Kerry, though a number of the Head Office functions are provided from an office in Dublin.

Head Office

Quay Street
Cahirciveen,
Co. Kerry.
Phone: 066 947 1000
LoCall: 1890 615 200
Fax: 066 947 1035
Email: info@legalaidboard.ie

Dublin Office

47 Upper Mount Street,
Dublin 2.
Phone: 01 644 1900
Fax: 01 662 3661

Website of the Legal Aid Board: www.legalaidboard.ie.

² Hereinafter referred to as the "Minister".

3. Funding

The Legal Aid Fund was established under the Civil Legal Aid Act 1995. All expenditure incurred by the Board is met by this Fund.

The Fund consists of:

3.1. Government Funding

These are payments made by the Minister each year with the consent of the Minister for Finance.

3.2. All other payments

These are payments made to the Fund including contributions and costs/damages recovered by legally aided persons.

4. Provision of Legal Services

Legal Services are provided by:

4.1. Law Centres

The law centres, established by the Board, employ solicitors to provide legal advice and aid. There are 30 full-time law centres and 12 part-time law centres in Ireland. The Board employs 89 solicitors (or the full-time equivalent thereof) as well as paralegals and administrative staff. Each centre also has a designated managing solicitor who is responsible for its management.

Please see Appendix B for a list of all law centres.

4.2. Private Practitioners

Private practitioners are retained by the Board in situations where a law centre is not in a position to provide a timely service subject to resources. The scheme operates in both the District and the Circuit Court for family law matters. The level of usage of the schemes is also determined by the Board's resources.

- *District Court Service:* The private practitioner scheme in the District Court assists the Board in its efforts to provide a service to all applicants in certain District Court matters, for example domestic violence, custody, access and maintenance cases - within a reasonable period of time. Those who wish to become involved in the District Court Panel please contact:

Legal Services Support Unit
Quay Street
Cahirciveen
Co Kerry
Tel: 066 9471000

- *Circuit Court Service:* The Board also has a private practitioner scheme for the Circuit Court for separation and divorce cases. A panel has been selected and will remain in place until October 2009. Admission to the Panel is by interview and there are approximately 170 solicitors on the Panel at the moment. The Panel is closed other than in geographic areas where the Board is having difficulty getting solicitors to take legally aided work.

4.3. Barristers

The Legal Aid Board has an agreement with the General Council of the Bar of Ireland in relation to the provision of legal aid services by barristers.

5. Types of Services Provided

The long title to the Civil Legal Aid Act 1995 (the Act) reads: "An Act to make provision for the grant by the State of legal aid and advice to persons of insufficient means in civil cases".

5.1. Legal Advice

Legal advice is available to persons on matters relating to the application of Irish law. It is available in relation to most types of problem, though there are a limited number of matters that are excluded which are set out in section 6 below. The Board provides a legal advice service for persons who are appearing before tribunals that might otherwise be excluded from legal aid (section 6).

5.2. Legal Aid

Legal aid (representation in court or a designated tribunal) is available to persons in civil proceedings (other than certain excluded matters) in any Irish court of law. Law centres undertake civil law work including in the areas of family law, medical and professional negligence, personal injury, contract, debt, social welfare and so on.

The perception that the law centres are a "family law service" is not a correct understanding of the position. Demand for the Board's services largely arises in the family law area and it is for that reason that most of the work in law centres is in the area of family law.

The Legal Aid scheme does not include representation before:

- Administrative tribunals including PIAB and the EAT (with the exception of the representation of asylum applicants before the Refugee Appeals Tribunal which is the only Tribunal that has been "prescribed" by the Minister (See p. 34 for information on the Refugee Legal Service)). Advice and assistance can be given to persons who are contemplating taking tribunal proceedings.
- The European Court of Human Rights. The Council of Europe has set up a limited legal aid scheme for applicants who do not have sufficient means. Please see www.echr.coe.int for more information on the scheme.

- The Irish Human Rights Commission also operates a statutorily mandated scheme to grant legal assistance in connection with legal proceedings involving human rights issues. Please see www.ihrc.ie for more information on the scheme.
- The Equality Authority also has a Legal Service that may, at its discretion, where the case has strategic importance, provide free legal assistance to those making complaints of discrimination under the Employment Equality Act 1998 and the Equal Status Act 2000. Please see www.equality.ie for more information on this scheme.

6. Exclusions from the Scheme

The Act provides that civil legal advice and aid shall not be granted for a number of matters. These are:

- Defamation
- Disputes concerning rights and interests over land. There are a series of exceptions to this exclusion and many property disputes fall within the ambit of legal aid. Regard should be had to section 28(9)(c) which lays out the circumstances in which a dispute concerning rights and interests over land may be granted legal aid.
- Civil matters within the jurisdiction of the Small Claims Court
- Licensing
- Conveyancing (other than where it is connected to a matter in respect of which legal aid or advice has already been given)
- Election petitions
- Applications made by representatives, fiduciaries or officials, where the Board is of the opinion that legal aid should not be granted
- Actions taken in a representative or fiduciary capacity.
- Criminal matters. There are two exceptions to this.
 - Complainants in prosecutions for certain serious sexual offences, are entitled to get legal advice.
 - Complainants may also be granted legal aid (representation) during the course of a trial for any such offences in relation to any issues that are raised by the defence regarding the complainants' prior sexual history.

7. Eligibility

There are three basic tests of eligibility: (a) the overarching principle, (b) a financial test and, in the case of legal aid applications, (c) a test of merits.

7.1. Overarching principle

There is an overarching principle that a person will not be granted legal services at public expense where a person of modest means who has to pay for the legal services from his/her own pocket would be unlikely to do so. This is not simply a matter of protecting the taxpayer; another very important purpose is to bring about some measure of parity between the situation of an individual who happens to qualify for legal aid (at perhaps a very low maximum cost to him/her) and an individual just outside the legal aid financial limits who would have to defend, at his/her own expense, proceedings instituted by a legally aided party.

7.2. Financial test

An individual will satisfy the financial test if his/her disposable income is under a figure prescribed from time to time by the Minister with the consent of the Minister for Finance and if his or her capital resources do not exceed a certain amount. On 1st September 2006 the income figure was prescribed at €18,000 but the figure is subject to periodic change on foot of Regulations brought into force by the Minister. The capital threshold figure is currently (July 2008) prescribed at €320,000 excluding the person's home. Please consult the website of the Legal Aid Board (www.legalaidboard.ie) to view the most current rates.

● How to calculate disposable income:

It should be noted that, while the relevant Regulations provide that an applicant's spouse or partner's resources may be treated as the applicant's resources for the purpose of the legal aid application in certain circumstances, in practice this arises very rarely and the vast majority of applicants for legal services are assessed on the basis of their own means only.

It should also be noted that the financial eligibility criteria are periodically reviewed and are subject to policy and other changes from time to time. It is recommended that any person who has a possibility of being eligible for legal aid be referred to a law centre in order to establish their eligibility.

Gross Income – Allowances = Disposable Income

● How to calculate gross income:

Income is defined in the Act as meaning the income which a person '...may reasonably expect to receive from all sources during the year succeeding the date of application but shall, in the absence of what the Board considers to be a satisfactory means for ascertaining it, be taken to be the income actually received during the year immediately preceding the date of application.....' The Board's approach is that certain forms of income are excluded from the calculation of gross income. These are detailed in the Table overleaf.

Examples of Items Included in Gross Income	Items Excluded from Gross Income
Maintenance received for the Applicant on foot of a court order/separation agreement/maintenance agreement	Maintenance for the Applicant received in respect of and for the benefit of a dependent child
Social welfare payments	Child Benefit
Salary/Wages	Domiciliary Care Allowance
	Orphan Allowance
	Money received from charitable organizations
	Foster Care Allowance (An Applicant is not given the child deduction in respect of a foster child).
	Rent Allowance (An Applicant is given the accommodation allowance against income only in respect of that portion of the payment that the Applicant makes).
	Example: John pays rent of €100 a week. John receives €80 a week for rent allowance. How much rent allowance can John claim? John can claim €20 per week as this is the amount that he pays personally for rent.
	Mortgage Income Supplement
	Carer's Allowance (Where the person being cared for is a dependant within the meaning of the Regulations, the appropriate deduction may still be offset against the applicant's income).

● *How to calculate allowances:*

The following are the allowances, prescribed by the Civil Legal Aid Regulations 2006, that can be deducted from Gross Income to calculate Disposable Income. Again it is important to emphasize that these are subject to change by further Ministerial Regulation and that persons who wish to seek legal aid should be referred to law centres to determine if they are financially eligible for services or not.

Allowances (Maximum Figures)	
Spouse	€3500
Child or other dependant*	€1600
Child care per child	€6000
Accommodation	€8000
Ex gratia	€1040
Income Tax	Full
PRSI	Full

*Child dependant allowance is reduced by the amount of maintenance received for that child. This is calculated as follows:

Where the Maintenance is LESS than the Allowance	Where the Maintenance is GREATER than the Allowance
Dependant Allowance – Maintenance	No Allowance Given
Example: (See Example 3 below) A parent receives €30 per week for one child in maintenance. That amounts to €1,560 per annum. €1,560 is LESS than €1,600. €1,600 - €1,560 = €40 per annum. The parent will receive a dependant child allowance of €40 per annum in respect of that child.	Example: A parent receives €40 per week for one child in maintenance. That amounts to €2,080 per annum. €2,080 is GREATER than €1,600. No allowance is given to the parent.

Note!

An Applicant must produce evidence of the amount received in maintenance in the form of a copy of the agreement/order/bank statement. Vouchers must be produced for all income and expenses. An Applicant who claims that maintenance is paid irregularly must be asked to keep/produce a record of the payments. Reasonable efforts should be made to confirm the actual non-payment of the maintenance.

All calculations should be checked by the Legal Aid Board.

- *Assessment of capital resources:*

Capital Resources are treated separately. An Applicant whose disposable capital exceeds €320,000 is ineligible for legal services. The family home is not regarded as a capital resource.

7.3. Merits test

The third eligibility requirement, which applies to applications for legal aid for court representation, is that the Board must be satisfied that it is reasonable for the person to take or defend proceedings having regard to the legal merits of the case and the likely outcome.

The criteria defined in the legislation and considered by the Board include:

- the prospects of success;
- whether there are reasonable grounds for taking or defending proceedings;
- the availability of any other method other than court proceedings for dealing satisfactorily with the problem (e.g. mediation or negotiation of a settlement); and
- the general circumstances of the case including the probable cost to the Board measured against the likely benefit to the person.

Note!

The Act provides that the prospects of success and the cost/benefit criteria shall not apply where the proceedings, the subject matter of the application, concern the welfare of a child.

8. Contributions

Civil legal aid is not free. In the vast majority of cases persons granted legal services must pay a contribution.

8.1. Level of Contribution Payable

The level of contribution payable by an Applicant for legal services depends, for the most part, on their “disposable” income. (See section 7). An additional capital contribution may also be payable for legal aid cases only and not for legal advice cases (paragraph 8.2.)

Contribution Payable = Contribution on Disposable Income + Capital Contribution (for legal aid only)

8.2. Contribution based on disposable income

- *How to calculate the amount of contribution payable:*

It is important to note that the figures herein are the figures prescribed on foot of the Ministerial Regulations made in 2006 and are subject to change.

Disposable income less than €11,500	Disposable income greater than €11,500 but less than €18,000	Disposable income greater than €18,000
Minimum Contribution Payable Legal Advice = €10 Legal Aid = €50	Contribution is calculated as: Legal Advice: 10% of the difference subject to a maximum of €150 Legal Aid: 25% of the difference plus €50	Not eligible
	<p>Example: The Applicant has a disposable income of €16,000. The contributions are: $€16,000 - €11,500 = €4,500$ Legal Advice: 10% of €4,500 = €450 but subject to a maximum of €150 Legal Aid: 25% of €4,500 = €1,125 + €50 = €1,175</p> <p>Please note that the contribution is limited to the cost to the Board of providing legal services in the particular case subject to a maximum contribution. Thus, in the District Court, legal aid contribution is limited to what it costs the Board to provide the service = currently €353, inclusive of VAT</p>	

Please see Appendix C for more detailed examples.

8.3. Capital Contribution Payable

A capital contribution may be payable where an Applicant has reckonable capital resources. The Applicant's home is not considered as a capital resource for the purpose of the assessing capital. Nor is the value of the applicant's tools of her/his trade. Capital resources include other property, cars, cash, investments, and any other resource that has a value.

Note!

There is no capital contribution for legal advice but it is payable for legal aid.

For example, capital resources include:

- A lump sum paid to a person at retirement which has been saved/ invested.
- Farms where the value of land is high but the income may be small.

The principal features of the capital assessment arrangements may be summarised as follows:

- An applicant's capital is the value of every resource of a capital nature
- This does not include the applicant's home
- The value of any tools of an applicant's trade are excluded
- All capital resources are treated in the same manner in terms of valuation being the current market value.
- Allowances are available in respect of loans, debts, etc., for the purpose of determining disposable capital.

- *How to calculate the maximum capital contribution*

The calculations below are based on the formulae set out in the Civil Legal Aid Regulations 2006. They are subject to Ministerial change at any time. Law centres can advise persons of any capital contribution that might be payable by them in the event that they are granted a legal aid certificate.

Disposable Capital

€4,000 or less
€4,001 to €54,000
€54,001 or more

Capital Contribution

No contribution
2.5% of difference (to a maximum of €1,500)
€1,500 plus 5% of the amount over €54,000

Disposable Capital €4,000 or less	Disposable Capital €4,001 to €54,000	Disposable Capital €54,001 or more
No contribution payable	Amount - €4,000 = Difference 2.5% of the difference to a maximum of €1,500	€1,500 + 5% of any amount over €54,000
The Applicant has no disposable capital. No contribution is payable.	The Applicant has savings to the value of €9,000 Contribution = €9,000 - €4,000 = €5,000 2.5% of €5,000 = €125 Capital Contribution = €125	The Applicant has a holiday home to the value of €175,000 €175,000 - €54,000 = €121,000 5% of €121,000 = €6,050 €6,050 + €1,500 = €7,550 Capital Contribution = €7,550

The actual contribution is capped by the cost to the Board of providing the service. That cost is calculated on the basis of the number of solicitor hours spent on the case and on any outlays incurred. It is also capped by the amount that the Board pays to a private practitioner to provide the service.

9. Costs and Damages

The Act provides for the payment to the Legal Aid Fund of any costs, general damages or other moneys recovered as a result of court proceedings or a settlement reached out of court.

The Board is entitled to deduct the costs it has incurred or to charge its costs against any property recovered or preserved for a person in receipt of legal aid or advice.

Costs are charged by reference to the time devoted to the case and also by reference to any outlays incurred, though they can be subject to certain limitations.

The Board is obliged to waive its right to costs in certain circumstances. For example, where the property recovered or preserved is the person's normal place of residence. The Board may also waive its costs, in whole or in part, if it considers that recovering costs would be likely to create undue hardship for the person.

10. Waiting Times

In the past, the Board has been hampered by long delays.

The Board is obliged to provide an Applicant with a consultation with a solicitor within a period of about two to four months from the time the Applicant makes first contact with the Board.³

Note!

Please note that there is a priority service available. Please see section 11 below.

It is advisable to check with the local law centre to ascertain the likely waiting time for an appointment with a solicitor.

³ See the decision of Kelly J. in *O' Donoghue v. The Legal Aid Board, The Minister for Justice, Equality and Law Reform and Others* [2004] IEHC 413.

11. Priority Service

The Board provides a priority service to persons seeking legal services for:

- domestic violence
- child care
- child abduction
- where statutory time limits are close to expiring
- where assets are in danger of being dissipated and a client is prejudiced as a result; and
- for a number of other categories of cases.

It is important to check with the local law centre to see if a particular case qualifies for priority service.

Applicants in these cases are given an immediate or near immediate service.

How to access the priority service:

Step 1:

The client should be sent to the local law centre and should make it clear that this is a priority case and request a priority service.

Step 2:

The Applicant should make an application for legal aid as soon as possible.

Step 3:

The Applicant should bring **all** the relevant documentation regarding financial circumstances and the circumstances of the case to the local law centre as soon as possible.

12. Refusals / Appeals

If a person is dissatisfied that they have been refused legal aid, they may apply to have the decision reviewed. They should talk to their solicitor about this.

The person also has a right to have that decision considered by an **Appeal Committee** of the Board. Appeal Committees are made up of five Board members including a Chairperson, and must include two practising solicitors or barristers.

Note!

Applications for review or appeals must be lodged within one month of the original decision.

13. Inter-Jurisdictional Legal Aid

13.1. Central Authority Referrals

The Board is obliged to grant legal aid to a person if the Central Authority for Child Abduction or the Central Authority for Maintenance Recovery is under an obligation to provide assistance to the person.

Examples:

- In child abduction cases arising on foot of the Child Abduction and Enforcement of Custody Orders Act, 1991, the Board grants legal aid to the parent from whom the children have been taken regardless of their means and without requiring a financial contribution
- In cases seeking to recover maintenance on foot of a foreign Maintenance Order, the maintenance creditor is generally granted legal aid automatically to enable steps to be taken to enforce the Order.

13.2. Legal Aid in Cross Border Disputes

Council Directive 2002/8/EC is designed to facilitate access to legal aid in cross-border disputes, by laying down certain minimum common standards relating to legal aid in such disputes.

● *Incoming applications*

This applies to persons from other jurisdictions who want to seek legal aid in Ireland. The Legal Aid Board has decided to grant legal aid in such circumstances if they satisfy the financial eligibility criteria in their country of domicile/habitual residence.

The Legal Aid Board is the designated transmitting and receiving authority for inter-jurisdictional legal aid applications. Accordingly, the Board's Head Office determines whether or not incoming applicants are financially eligible for legal services. The case is then referred on to a law centre if they are eligible.

There is no requirement that an application for legal aid from outside the jurisdiction be referred by a transmitting authority. The Act does not impose a residency requirement on persons making applications for legal aid. The potential benefit of the Directive is that a person who is not eligible for legal aid here but is eligible in their country of domicile/habitual residence, may be granted legal services.

- *Outgoing applications*

This applies to persons who seek legal aid in another EU jurisdiction. Such persons should complete the standard form for legal aid applications. A copy of the Form is available on the Board's website (http://www.legalaidboard.ie/lab/publishing.nsf/Content/Civil_Legal_Aid_Forms).

The form should be sent to the Board's Head Office at Quay Street, Cahirciveen, Co Kerry who will make a decision and if eligible will forward the material to the receiving authority in the State in which legal aid is being sought.

14. Information

The Board has published a range of information leaflets which are generally available. The leaflets give details of the Board's services and the locations of its centres as well as information about the areas of work in which the Board is most involved (primarily family law and asylum).

The Board has a website, www.legalaidboard.ie, which, in addition to providing information about its services and the core areas of its work, provides a significant amount of background information about civil legal aid.

There is a booklet available on the Legal Aid Board website entitled "Leaflet 10: Customer Care and Complaints Procedure" detailing the complaints procedure. This is available at http://www.legalaidboard.ie/lab/Publishing.nsf/Content/Leaflet_10.

Refugee Legal Service



Refugee Legal Service

The Refugee Legal Service (RLS) is a specialised unit providing legal advice and assistance at all stages of the asylum process to persons applying for asylum in Ireland and associated issues.

1. Provision of Legal Services

The Board has 19 solicitors working in the RLS. It also has approximately 34 paralegals, who carry out many of the more routine legal tasks, and a number of administrative staff. The Board also engages the services of solicitors in private practice and barristers to submit appeals on behalf of legally aided asylum applicants and represent them before the Refugee Appeals Tribunal.

A panel of solicitors and a panel of barristers who are willing to provide legal aid and advice is maintained by the Refugee Legal Service. The RLS decides whether a particular case should be referred to a private practitioner solicitor or a barrister on the basis of the level of cases on hand and the capacity to deal with cases in-house.

Solicitors who are interested in joining the RLS solicitors' panel should contact the Refugee Legal Service. Please contact:

Refugee Legal Service

48-49 North Brunswick Street
Georges Lane
Dublin 7
Freephone: 1800 23 83 43
Tel: 01-6469600
email: dublinrls@legalaidboard.ie

Website:

http://www.legalaidboard.ie/lab/publishing.nsf/Content/Refugee_Legal_Service



Mental Health Legal Aid Scheme

Mental Health Legal Aid Scheme

The Mental Health Act 2001 sets up Mental Health Tribunals whose purpose is to determine whether persons involuntarily detained in approved centres should be so detained. On foot of the legislation, the Mental Health Commission is responsible for providing and administering a scheme of legal aid for those who are so detained, in relation to their detention.

1. The Scheme

The purpose of the Scheme is to enable patients involuntarily detained to obtain legal aid from the Mental Health Commission (“the Commission”) in accordance with the Act. The provisions of the Act require that the Commission shall assign a legal representative to represent the patient before a Mental Health Tribunal, unless the patient proposes to engage his or her own legal representation and, where appropriate, to represent the patient in appeals to the Circuit or High Court.

2. Mental Health Tribunals

Under this Scheme, the Commission provides written authorisation to the legal representative that he or she has been assigned to represent the patient and provides written confirmation to the patient that he or she is being provided with legal representation.

Even in cases where a patient decides to represent him or herself before the Mental Health Tribunal, the Commission nevertheless appoints a legal representative for that patient.

3. Taking instructions from involuntarily detained patients

The purpose of assigning a legal representative is to enable the patient’s case to be presented to the tribunal and to enable the views of the patient to be articulated before the tribunal (or court if appropriate). Solicitors are required to attend at the approved centre where the client is detained for the purpose taking instructions.

4. Appeals to the Circuit and High Courts

A patient may appeal against a decision of a tribunal to affirm an order made in respect of the patient to the Circuit Court on the grounds that the patient is not suffering from a mental disorder. The patient is required to bring the appeal by notice in writing within 14 days of the receipt by him or her or his or her legal representative of notice of the decision concerned.

No appeal shall lie against an order of the Circuit Court other than an appeal on a point of law to the High Court. The written authorisation of the Commission is required to secure representation under this Scheme for such an appeal.

5. Provision of Legal Services

The Scheme provides for a panel of legal representatives, who are appointed and trained by the Commission, and are paid a fee for each case undertaken. The scheme is referred to as the “Mental Health Legal Aid Scheme” and the panel of legal representatives who are selected to carry out this work is referred to as the “Mental Health (Legal Representatives) Panel”.

Legal services are normally provided by solicitors in private practice, though the Commission may also engage barristers to provide legal services where it considers it appropriate to do so. Barristers are not normally sanctioned for Tribunal hearings.

6. The Panel

The Panel was set up in 2006 and is in place for a period of 3 years. Advertisements to apply to join the Panel are placed in the national press. Applicants are interviewed and those who are successful at their interview are placed on the Panel. There are currently about 100 solicitors on the Panel.



The Coroners Court Legal Aid Scheme

The Coroners Court Legal Aid Scheme

Any person/solicitor can apply to the Department of Justice, Equality and Law Reform to meet the cost of legal representation at inquests into deaths of persons that occur in State care, i.e prisons, Garda stations and so on. Prior approval for the costs involved is essential. The scheme is discretionary at present and it is proposed to place it on a statutory basis in the Coroners Bill 2007.

1. Coroners Bill 2007

Section 86 of the Coroners Bill 2007 contemplates the granting of legal aid and advice in relation to Coroners' enquiries into the circumstances of certain deaths. What the Bill contemplates is that, if the Coroner certifies certain matters, the Legal Aid Board will issue a certificate to enable legal advice or representation to be given in relation to the enquiry/inquest. Once the Coroner gives his or her certification, the grant of legal advice/aid will be automatic and there will be no financial assessment of the person granted the advice/aid nor will they be required to pay a contribution. It should be noted that legal advice or aid will be given to one person only in respect of any enquiry/inquest.

The progress of the Bill can be followed on: <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2007/3307/document1.htm> Further information will be available from the Legal Aid Board in the event of the Bill being passed into law and the section commenced.

The Attorney General's Scheme



The Attorney General's Scheme

1. The Scheme

The Attorney General's Scheme provides payment for legal representation in certain types of legal cases not covered by the civil legal aid or criminal legal aid schemes. It is an ex gratia Scheme set up with funds available from the Oireachtas. The Chief State Solicitor's Office administers the Scheme.

2. Types of Cases

It generally covers:

- Certain types of judicial review (relating to criminal matters)
- Bail applications
- Extraditions, including European Arrest Warrant Applications
- Habeas Corpus applications

3. Accessing the Scheme

In order to benefit from the Scheme, an application to the courts recommending the application of the Scheme should be made at the commencement of the proceedings. Please note that the Chief State Solicitor's Office is not bound by the recommendation of the court.

The Applicant must satisfy the court that:

- The Applicant is not in a position to retain a solicitor or counsel unless he or she receives the benefit of the scheme. The Applicant should provide information as to his or her needs as the court deems appropriate.
- The case warrants the assignment of counsel and/or solicitor. If the court considers that the complexity or importance of the case requires it, the recommendation for counsel may also include one senior counsel.

Where there is more than one applicant, but only one matter is at issue before the court, the solicitor and counsel instructed shall represent all the applicants.

Note!

If a case might be included under this Scheme, please see the website of the Attorney General for more information.

<http://www.attorneygeneral.ie/ac/agscheme.html>

Appendix A



Appendix A: Legal Aid Taskforce

(I) Terms of Reference

The terms of reference of the Task Force is to:

- Describe all forms of publicly funded civil representation in Ireland
- Review research nationally and internationally on unmet legal needs and models of legal aid
- Extrapolate and estimate unmet legal needs in Ireland
- Examine in detail the Civil Legal Aid Scheme in Ireland
- Conduct a comparative study with other jurisdictions especially Northern Ireland and Scotland
- Examine in particular eligibility criteria, costs and ADR
- Consider Constitutional, ECHR, and Good Friday Agreement implications
- Make innovative and practical recommendations for change and maximum impact of resources

(II) Members of the Legal Aid Taskforce 2007-2008

Colin Daly, Chairman
Noeline Blackwell
Ernest Cantillon
Gerard Doherty
Sinéad Kearney
John McDaid
James MacGuill
Ken Murphy
Moya Quinlan
John D Shaw
Muriel Walls
Elaine Dewhurst, Secretary

Appendix B



APPENDIX B: Law Centres in Ireland

Please see the website of the Legal Aid Board for up to date details of the Law Centres (www.legalaidboard.ie)

Cavan

- Law Centre
Newcourt Shopping Centre
Church Street
Cavan
Tel: (049) 433 1110
Fax: (049) 4331304

Clare

- Law Centre
Unit 6A Merchants Square
Ennis
Co Clare
Tel: (065) 682 1929
Fax: (065) 6821939

Cork

- Law Centre
2nd Floor
North Quay House
Popes Quay
Cork
Tel: (021) 4551 686
Fax: (021) 4551690
- Law Centre
1A South Mall
Cork
Tel: (021) 4275 998
Fax: (021) 4276927

Donegal

- Law Centre
Unit B9
Letterkenny Town Centre
Justice Walsh Road
Letterkenny
Co. Donegal
Tel: (074) 91 26177
Fax: (074) 91 26086

Dublin

- Law Centre
Units 6-8 Blanchardstown
Business Centre
Clonsilla Road
Dublin 15
Tel: (01) 8200455
Fax: (01)8200450
- Law Centre
Tower Shopping Centre
Clondalkin
Dublin 22
Tel: (01) 4576011
Fax: (01) 4576007
- Law Centre
44-49 Main Street
Finglas
Dublin 11
Tel: (01) 8640314
Fax: (01) 8640362

- Law Centre
45 Lower Gardiner Street
Dublin 1
Tel: (01) 8745440
Fax: (01) 8746896

- Law Centre
48/49 Nth Brunswick Street/
Georges Lane
Dublin 7
Tel (01) 6469700
Fax: (01)6469799

- Law Centre
Village Green
Tallaght
Dublin 24
Tel: (01) 4511519
Fax: (01) 4517989

Galway

- Law Centre
9 Francis Street
Galway
Tel: (091) 561650
Fax: (091) 563825

Kerry

- Law Centre
1 Day Place
Tralee
Co Kerry
Tel: (066) 7126900
Fax: (066) 7123631

Kildare

- Law Centre
Canning Place
Newbridge
Co Kildare
Tel: (045) 435777
Fax: (045) 435766

Kilkenny

- Law Centre
87 Maudlin Street
Kilkenny
Tel: (056) 7761611
Fax: (056) 7761562

Laois

- Law Centre
Unit 6A Bridge Street
Portlaoise
Co Laois.
Tel: (057) 8661366
Fax: (057) 8661362

Limerick

- Law Centre
Unit F
Lock Quay
Limerick
Tel: (061) 314599
Fax: (061) 318330

Longford

- Law Centre
Credit Union Courtyard
50A Main Street
Longford
Tel: (043) 47590
Fax: (043) 47594

Louth

- Law Centre
Condiul House
Roden Place
Dundalk
Co Louth
Tel: (042) 9330448
Fax: (042) 9330991

Mayo

- Law Centre
Humbert Mall
Main Street
Castlebar
Co Mayo
Tel: (094) 9024334
Fax: (094) 9023721

Meath

- Law Centre
Kennedy Road
Navan
Co Meath
Tel: (046) 9072515
Fax: (046) 9072519

Monaghan

- Law Centre
Alma House
The Diamond
Monaghan
Tel: (047) 84888
Fax: (047) 84879

Offaly

- Law Centre
Harbour Street
Tullamore
Co Offaly
Tel: (057) 9351177
Fax: (057) 9351544

Sligo

- Law Centre
Bridgewater House
Rockwood Parade
Thomas Street
Sligo
Tel: (071) 9161670
Fax: (071) 9161681

Tipperary

- Law Centre
Friars Court
Abbey Street
Nenagh
Co Tipperary
Tel: (067) 34181
Fax: (067) 34083

Waterford

- Law Centre
Canada House
Canada Street
Waterford
Tel: (051) 855814
Fax: (051) 871237

Westmeath

- Law Centre
Paynes Lane
Irishtown
Athlone
Co Westmeath
Tel: (090) 6474694
Fax: (090) 6472160

Wexford

- Law Centre
Unit 8 Redmond Square
Wexford
Tel: (053) 9122622
Fax (053) 9124927

Wicklow

- Law Centre
Bridge Street
Wicklow
Tel: (0404) 66166
Fax: (0404) 66197

Part-Time Law Centres

Please note that the dates and times that the part-time Law Centres are open may change depending on demand for the service. Please use the contact numbers below to find out when the Law Centre is open.

Carlow

- Law Centre
St. Catherine's Citizens
Information Bureau,
St. Joseph's Road,
Carlow.
Tel: (059) 9138700
Open: First and last Friday of
every month

Cork

- Law Centre
Citizens Information Centre,
Bantry.
Tel: (021) 4551686
Open: Once a month

Donegal

- Law Centre
The Courthouse,
Donegal Town.
Tel: (074) 9126177
Open: Once a month

Kerry

- Law Centre
52 High Street,
Killarney.
Tel: (066) 7126900
Open: Every Friday morning

Leitrim

- Law Centre
The Health Centre,
Leitrim Road,
Carrick-on-Shannon.
Tel: (043) 47590
Open: Once a month

Louth

- Law Centre
Drogheda Community Services
Centre,
Scarlet Crescent,
Drogheda.
Tel: (041) 9836084/9833490
Open: First and Second Tuesday
of every month

Mayo

- Law Centre
The Pastoral Centre (Cathedral
Grounds),
Ballina.
Tel: (094) 9024334
Open: Once a month
- Law Centre
Health Centre,
Knock Road,
Ballyhaunis.
Tel: (094) 9024334
Open: Fourth Tuesday of every
month

Roscommon

- Law Centre
Citizens Information Centre,
7 Elphin Street,
Boyle.
Tel: (071) 9161670
Open: Once a month

Tipperary

- Law Centre
Thurles Community Social
Services,
Rossa Street,
Thurles.
Tel: (067) 34181
Open: Second Tuesday of
every month
- Law Centre
Citizens Information Centre,
14 Wellington Street,
Clonmel.
Tel: (052) 22267
Open: Three or four times
a month

Westmeath

- Law Centre
Enterprise Centre,
Bishopgate Street,
Mullingar.
Tel: (090) 6474694
Open: Once a month

Appendix C



Appendix C: Contribution Example

N.B. This example is based on the financial eligibility criteria incorporated, inter alia, in the Civil Legal Aid Regulations 2006. These criteria are subject to Ministerial change. It is important to stress again that persons should be referred to law centres to have their eligibility assessed and verified.

Example: Copy of Sally Bloggs payslip

Payslip Sample					
Employee Name	Sally Bloggs	Frequency	W	PPS Number	1234567w
Employee Number	12	Pay Period	6	Payment Date	13-Feb-08
Payment Element Details		Deduction Details		Summary	
Description	Hours	Value	Description	This Period	Gross Pay
Salary	40	€600	PAYE PRSI	€20 €45	*600
					Total Deds €65
					Non-tax
Cumulative Details		Tax/PRSI Details		Comments	
Gross pay	€3,600			Total PRSI	€620
Non-tax deds		Tax code		Employee PRSI to date	€270
Taxable pay		Empr. start	N		
Tax credit t.d.	€600	Tax credit	5,200		
Cut-off to date	€4,000	Pay rel code	A1		
Tax paid to date	€120	Total ins worked	6		
					Net Payment €535

How to calculate Sally Bloggs' gross income from her payslip details.

The gross pay to date is divided by the number of insurance weeks and multiplied by 52 to get annual salary.

Income tax and PRSI are calculated, in the same manner.

Gross pay to date is €3,600 and the number of insurance weeks is 6

$$3,600 \text{ divide by } 6 = 600 \times 52 = \text{€}31,200$$

$$\text{Gross annual salary} = \text{€}31,200$$

Income tax to date = €120

$$120 \text{ divide by } 6 = 20 \times 52 = \text{€}1,040$$

$$\text{Gross income tax} = \text{€}1,040$$

PRSI to date = €270

$$270 \text{ divide by } 6 = 45 \times 52 = \text{€}2,340$$

$$\text{Gross PRSI} = \text{€}2,340$$

Income Assessment Form

(Sally Bloggs is a single parent with no income other than her wages. She has one dependent child for whom she pays child care costs of €150 a week. She pays rent of €6,000 each year).

Name		Ref. No.		
Allowances	Max allowances	Amount allowed	Income source	Amount
Nature of allowances				
Spouse/partner	€3,600		Employment/Pension	€31,200
Each dependant	€1,600	1,600	Maintenance	
Child care	€6,000	6,000	Social Welfare	
Social insurance	Full	2,340	Business	
Income tax	Full	1,040	Benefit in Kind	
Accomm. costs	€8,000	6,000	Other	
Ex-gratia payment	€1,040			
Total		€16,980	Total	€31,200
Gross Income	€31,200			
Less allowances	€16,980			
Disposable income	€14,220	Less €11,550 =	€2,720	= A
Legal advice contribution	€2,720 (A) x 10% = (minimum €10, maximum €150)		€150	
Legal aid contribution	€2,720 (A) x 25% + €50 = (minimum €50)		€730	
Capital contribution			€Nil	
Total legal aid contribution			€730	

