Guidance for completing form CRM16

This guidance and the form to which it refers are available in Welsh.

When to use this form
If you have applied for Criminal Legal Aid and we decided that you have:

- sufficient income to pay privately in the magistrates’ court (magistrates’ court hardship); or
- sufficient income to pay privately in the Crown Court (Crown Court eligibility review); or
- sufficient income to pay towards the costs of your legal aid in the Crown Court (Crown Court hardship)

or if you are applying for legal aid and you expect to be told that you have sufficient funds to pay privately or must pay towards the costs of your legal aid

and you or your partner are not able to pay the cost without suffering financial hardship,

use this form to ask us to review our decision.

When not to use this form
If your financial circumstances have changed since you applied for legal aid so that you cannot now afford to pay towards the costs of your legal aid, do not use this form. For instance, you and your partner may have separated or your hours of work may have been reduced. If your financial circumstances have changed in a way such as this, complete another CRM14 and/or CRM15 and ask us to re-assess your application.

If you have been refused legal aid for a Crown Court trial and your circumstances have changed you will need to submit a New Application Following Ineligibility. As this is a brand new application, even where you are providing all you financial details on the CRM15, a new CRM14 is also required.

If you have been refused legal aid for a Crown Court trial and you have not submitted an application for an Eligibility Review within 21 days of the refusal you will also have to submit a New Application Following Ineligibility with your CRM16 form.

If you are not sure whether you should use this form, contact your solicitor.

When you complete the form
- If you need help or advice to complete the form or when you use this
guidance, please contact your solicitor.

There is more information about hardship reviews in the Criminal Legal Aid Manual at:


- Complete this form following the guidance under 'When you fill in the form' on pages 1 and 2 of the guidance for form CRM14 which is available on the Justice website at:

www.justice.gov.uk/forms/legal-aid-agency/criminal-forms/applications

When you have completed this form
Send this form to the magistrates’ court which dealt with, or will deal with, your application for legal aid. Before we can process it:

- We require your completed forms CRM14, CRM15 (and where you have completed one CRM15C.). If you have already applied for legal aid, the court will have the forms and will refer your application to the Legal Aid Agency with the CRM16 for them to consider your application.

- You must also provide the evidence that we ask for at questions 2, 3 and 4.

Data protection
The information about data protection at question 32 on CRM14, and in the Guidance for that question covers this form and the way we use your personal information.

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<table>
<thead>
<tr>
<th>Question</th>
<th>Guidance and Evidence requirements for questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Guidance</td>
</tr>
</tbody>
</table>

You can find the MAAT reference on any correspondence sent to you (whilst applying for Legal Aid) from either the court, National Courts Teams or Rossendales.

Please tell us what the application relates to by ticking the appropriate box:

**Magistrates Hardship Review**
If you have been refused legal aid for a magistrates’ court case and you believe that you have insufficient income to pay privately without suffering financial hardship you should tick the box next to “Magistrates’ Court”

**Crown Court Hardship Review**
If you have been asked to pay a contribution from income for your case in the Crown Court and you believe that you have insufficient income to pay the amount you have been assessed to pay without suffering financial hardship you should tick the box next to “Crown Court where income contribution assessed”

**Crown Court Eligibility Review**
If you have been refused legal aid for a Crown Court trial and you believe that you have insufficient income to pay privately you should tick the box next to “Crown Court where legal aid refused”
2 Guidance

Income
You may answer both questions 2 and 3 (if you have been denied income that you told us about on form CRM15 and/or have additional outgoings to those we asked you about on form CRM15).

Evidence
You must provide evidence that shows the income that you have not received during the past 12 months. This could for example be a letter from your employer which gives details of wages that have been stopped or reduced.

3 Guidance

Outgoings
These will usually be outgoings which you had taken on before you applied for Legal Aid that were not included in your means assessment.

Costs such as telephone contracts, cigarettes, insurance, food, clothing or alcoholic drinks are not allowable expenses under the review

Water, gas and electricity payments
In the table of common outgoings below, ‘utilities’ includes water, gas and electricity payments. Utility bills can only be taken into account on a hardship/eligibility review if you are in arrears with your payments and enforcement action is being taken against you. We will then only allow the payments being made to reduce the arrears

When we first assessed your application for legal aid, a living allowance was factored into your means assessment that represents the cost of living. This allowance covers payments described below and we will not consider a further claim for such costs when considering your additional outgoings.

The living allowance represents cost of living expenses on:
- Food and non-alcoholic drinks
- Clothing and footwear
- Housing*, fuel and power
- Household goods and services
- Health
- Transport
- Communication
- Education (excluding school fees)
- Water rates
- Insurance premiums
- Miscellaneous goods and services

Pension payments
When we assessed your application for legal aid, we used an annual living allowance. This includes pension payments of up to 6% of a salary. As a result, the only pension payments which you can claim for are those which are more than 6% of a salary.

For the costs you describe on the CRM16 to be taken into account you must provide evidence that you are paying these outgoings. A table of the most common outgoings and the evidence requirements are detailed below.

You will need to provide evidence of your additional outgoings before they can be taken into account as part of your hardship/eligibility review. The evidence requirement is also dependent on whether your Trial:
Is being heard in the Crown Court (Indictable only and either way post committals)

or Is being heard in the magistrates’ court (this includes, committals for sentence and appeal cases).

The table below provides details on the evidence required for different types of outgoings we will consider. If your outgoing is not on this list, ask your solicitor what evidence you should provide.

Please note that bank statements alone are insufficient evidence of debts such as loans and credit cards. You should provide Credit card statements or loan agreements that show the minimum monthly payment, how many payments you have left to make and, in the case of a loan, when the loan began.

Deferment letters
If your trial is not being heard in the Crown Court, you must provide evidence that clearly shows you have made efforts to reduce or defer your payments. We will require a letter from the lender showing that they have considered your request and that:

- they are unwilling to reduce or defer payments

or they have revised your payment arrangement – the letter should detail the period of deferment/reduction and how much you are expected to pay.

Proof of payment
If your trial is not being heard in the Crown Court you will be required to demonstrate that you are paying the additional outgoings listed in your application. Please refer to the table below for the relevant evidence requirement for each type of expenditure.

A copy of a document is sufficient, however copies will need to be signed and dated by either your solicitor or an officer of the court to certify that they are a true copy of the original document.

<table>
<thead>
<tr>
<th>Common outgoing</th>
<th>Evidence required if your case is not being heard in the Crown court</th>
<th>Evidence required if your case is heard in the Crown Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unsecured Loan</td>
<td>Loan agreement, deferment letter and proof of payment</td>
<td>Loan agreement which shows the minimum payment and the date the agreement began</td>
</tr>
<tr>
<td>Secured loan</td>
<td>Loan agreement and proof of payment</td>
<td>Loan agreement which shows the minimum payment and the date the agreement began</td>
</tr>
<tr>
<td>Car loan</td>
<td>Loan/finance agreement,</td>
<td>Loan/finance agreement</td>
</tr>
<tr>
<td>Debt Type</td>
<td>Documentation Required</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Individual Voluntary Arrangement (IVA)</td>
<td>IVA agreement, and proof of payment which shows the minimum payment and the date the agreement began</td>
<td></td>
</tr>
<tr>
<td>Credit card and store card payments</td>
<td>Copy of bill, deferment letter and evidence of payment</td>
<td></td>
</tr>
<tr>
<td>Other debts</td>
<td>Evidence of debt &amp; repayment plan &amp; evidence this is being paid plus a deferment letter showing the debt cannot be deferred</td>
<td></td>
</tr>
<tr>
<td>Fines</td>
<td>Evidence of fine showing remaining payments and proof of payment</td>
<td></td>
</tr>
<tr>
<td>Rent/Council Tax arrears</td>
<td>Letter(s)/statements confirming arrears, repayment plan and evidence of payment</td>
<td></td>
</tr>
<tr>
<td>Utilities arrears</td>
<td>Letter showing that arrears have gone to enforcement/collection agency and evidence this is being paid</td>
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<tr>
<td>Bailiff costs</td>
<td>Demand letter and proof of payment which shows the minimum payment allowed, if applicable</td>
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</tr>
<tr>
<td>Student loan</td>
<td>Recent pay slip which show amount paid</td>
<td></td>
</tr>
<tr>
<td>DWP overpayments</td>
<td>Evidence of overpayment and that a repayment plan is in pace, and evidence the repayments are being made.</td>
<td></td>
</tr>
<tr>
<td>Mortgage on a second property (not a business)</td>
<td>Mortgage agreement and proof of payment which shows the minimum monthly payment</td>
<td></td>
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<tr>
<td>County Court judgment</td>
<td>Judgment letter and evidence of the payment</td>
<td></td>
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<tr>
<td>Schedule Being Made</td>
<td>Schedule</td>
<td></td>
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<tr>
<td>---------------------</td>
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<tr>
<td>NHS prescription or medical costs</td>
<td>Letter from a GP and proof of payment (where this applies)</td>
<td>Letter from a GP</td>
</tr>
<tr>
<td>Private pension payments</td>
<td>Evidence of the amount being paid (for instance, a wage slip) and proof of payment</td>
<td>Evidence of the amount being paid (for instance, a wage slip)</td>
</tr>
</tbody>
</table>

Where ‘evidence of payment’ is indicated, acceptable evidence includes bank statements clearly showing payments made, or statements of the loan/debt showing credits to the account. This should be recent evidence and should show payments made in the computation period.

Please note, for Crown Court hardships and Crown Court Eligibility Reviews, in addition to providing evidence of extra expenditure declared on the CRM16, if we have limited any outgoings in the means test (e.g. housing costs, maintenance and childcare) we will need evidence of the outgoing to allow the higher figure when calculating any income contribution.

4  **Guidance**

**Additional information**

Use this question to tell us anything that is not covered by questions 2 and 3 and will affect your ability to pay towards the costs of your defence. For instance, if your outgoings are debts and must be paid quickly, explain the debts in your answer to this question.

**Evidence**

You may have to provide evidence for any information you provide in answer to this question.

5  **Guidance**

**Declaration by your partner**

The words 'Information on this form' include circumstances when the form does not contain any details about your partner's financial circumstances. This means that you and your partner (where applicable) are required to confirm the information provided, even if the information on the form only relates directly to one of you.

If your partner is not able to sign this declaration, you must give the reason at the end of question 6.

6  **Guidance**

**Declaration by you**

The words 'Information on this form' include circumstances when the form does not contain any details about your financial circumstances. Therefore both you and your partner (where applicable) are required to confirm the information provided on the form even if the information relates directly to only one of you.

8  **Guidance**

**Details of the instructed solicitor**

The solicitor should answer this question irrespective of whether the case will be heard in a magistrates' court or the Crown Court.
Costs
Your solicitor should answer this question where you are applying for a magistrates’ court hardship review or a Crown Court eligibility review. Do not complete this section where your application relates to a Crown Court hardship review.

9.1 Solicitors’ costs
Hourly Rate
Please state the amount of time you estimate will be spent on Attendance and Preparation and how many hours will be spent at hearings.

You should use your private rates when quoting costs. The Legal Aid Agency will consider your private rates against historic DCA rates

Grade of fee earner
As the applicable DCA rate differs depending on the grade of the solicitor you will also need to state the grade of the fee earner.

In addition, if the rate you are declaring is significantly higher than the corresponding DCA rate please tell us why the case justifies such a high rate at 9.4 (Explanation of costs).

Disbursements cost
Estimate the cost of any disbursements which you judge will be actually and reasonably incurred.

For magistrate’s court hardships include counsel’s fees with the disbursements (for Crown Court eligibility reviews detail advocates’ costs at 9.2).

9.2 Advocate’s costs
Your solicitor should only answer this question where you are applying for a Crown Court eligibility review

Level of advocate
Please state the level of advocate, e.g. Junior, Queen’s Counsel etc.

Brief Fee
Include a breakdown of the amount of time spent on pre-trial preparation, attendances, conferences and the first day of trial

Refreshers
Estimate the costs of attendance at the second and subsequent days of trial.

Disbursements
Estimate the cost of any disbursements which will be actually and reasonably be incurred

If your estimate of advocate costs is based on instructing more than one advocate or Queen’s Counsel or both, please set out the costs for the other advocate(s) at 9.4 (Explanation of costs); and explain why the case requires this level of representation
The Legal Aid Agency will consider advocacy hourly rates against VHCC hourly rates.

9.3 Total costs
For Crown Court Eligibility Reviews only – the total cost of the Solicitor’s and Advocate’s costs estimates

The total estimate of the costs will be compared to average Defence Costs Orders for the relevant type of case.

9.4 Explanation of costs

In addition to completing the Solicitor’s Costs and Advocate’s Costs section of the CRM16, the solicitor must also provide further information in the costs details section stating the name of the court in which the case will be heard and explaining why the case requires the estimated hours, disbursements, fee-earner grade and level of advocate. This statement should include a breakdown of the hours spent on the case e.g. hours of preparation, or time spent with witnesses, amount of disclosure, length of trial (i.e. 1 day trial)

The applicant’s solicitor is expected to provide the best possible information on the likely costs of the particular case based on their knowledge of the case and professional experience of similar criminal litigation.

For Crown Court eligibility reviews the total estimate of the costs will be compared to average historical Defence Costs Orders for the relevant type of case.

If your total estimate of the costs considerably exceeds the average Defence Cost Order for the type of case, please ensure that a clear explanation has been provided.