



Legal Aid
Agency

Working with others to achieve excellence in the delivery of legal aid

Hardship and eligibility review (CRM16) form completion guidance

September 2022



Contents

When and how to use the form	2
When to use this form	2
When not to use this form	2
When you complete the form	3
When you have completed this form	3
Data protection	3
Guidance and evidence requirements for each question	4
Question 1 - About you	4
Question 2 - Income	4
Question 3 - Outgoings	5
Question 4 - Additional information	8
Question 5 - Declaration by your partner	9
Question 6 - Declaration by you	9
Question 8 - Details of the instructed solicitor	9
Question 9 - Costs	9

When and how to use the form

This guidance and the form to which it refers are available in Welsh from the GOV.UK website:

<https://www.gov.uk/government/publications/asiantaeth-cymorth-cyfreithiol-ffurflenni-cymraeg-welsh-forms>

Download the English CRM16 form from the GOV.UK website:

<https://www.gov.uk/government/publications/crm16-review-on-the-grounds-of-hardship>

When to use this form

If you have applied for criminal legal aid and we decided that you have sufficient income for any of the following:

- to pay privately in the magistrates' court (magistrates' court hardship)
- to pay privately in the Crown Court (Crown Court eligibility review)
- to pay towards the costs of your legal aid in the Crown Court (Crown Court hardship)

and you are not able to pay without suffering financial hardship, use this form to ask us to review our decision.

You may submit the CRM16 at the same time as applying for legal aid if you expect to be told any of the above.

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 privately or 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, ask us to re-assess your application by asking your solicitor to complete another CRM14 eForm.

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. Your solicitor will need to submit a fresh CRM14 eForm.

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. Your solicitor will need to submit a fresh CRM14.

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:

<https://www.gov.uk/government/publications/criminal-legal-aid-manual>

Complete this form following the guidance under 'When you fill in the form' on pages 1 and 2 of the guidance for form CRM14. This is available on the GOV.UK website at:

<https://www.gov.uk/government/publications/criminal-legal-aid-application-forms>

When you have completed this form

Hand the form to your solicitor, together with the evidence that we ask for at questions 2, 3 and 4.

If you're submitting a CRM16 at the point of application, or as part of a New Application Following Ineligibility, your solicitor should upload the CRM16 as an evidence attachment to the CRM14 eForm. They should make a note in the further information field that a CRM16 is attached.

In all other circumstances your solicitor must post the CRM16 and accompanying evidence to the nearest National Crime Team or email them to Nationalcrimeteam@justice.gov.uk

Data protection

The information about data protection at section 12 of the CRM14 eForm, and in the guidance for that question covers this form and the way we use your personal information.

Guidance and evidence requirements for each question

Question 1 - About you

You can find the MAAT reference on any correspondence sent to you (whilst applying for legal aid) from the Criminal Applications Team, National Crime Team or Marston Holdings Ltd.

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, tick the "Magistrates' Court" box.

- **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 assessed amount without suffering financial hardship, tick the "Crown Court where income contribution assessed" box.

- **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 tick the "Crown Court where legal aid refused" box.

Question 2 - Income

You may answer both questions 2 and 3 (if you are not receiving the income you told us about on the CRM14 eForm, for example because of a temporary suspension, and/or have additional outgoings to those we asked you about on the CRM14 eForm).

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

Question 3 - 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 mobile phone contracts, cigarettes, pet costs, 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. This represents the cost of living and covers payments described below. 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
- Housing¹, 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 salary. As a result, the only pension payments which you can claim for are those which are more than 6% of your salary. We will then allow only the portion which is above the 6%. For example, if an applicant earns £1000 per

¹ Net of mortgage payments, rent and council tax

month and their pension payments are £100 per month, their pension payments are 10% of their earnings. We would therefore only allow 4% (£40 per month) under hardship.

Evidence of outgoings

For the costs you describe on the CRM16 to be taken into account you must provide evidence of the outgoings.

The evidence required is dependent on the type of outgoing and whether your Trial is being heard:

- in the Crown Court (Indictable only and either way post committals)
- in the magistrates' court (this includes, committals for sentence and appeal cases).

The table below provides details of the evidence required for the most common 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.

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 so long as it's readable.

Common outgoing	Evidence required if your case is not being heard in the Crown court	Evidence required if your case is heard in the Crown Court
Unsecured Loan	Loan agreement which shows the minimum payment and the date the agreement began, plus proof of payment	Loan agreement which shows the minimum payment and the date the agreement began

Secured loan	Loan agreement which shows the minimum payment and the date the agreement began, plus proof of payment	Loan agreement which shows the minimum payment and the date the agreement began
Car loan	Loan/finance agreement which shows the minimum payment and the date the agreement began, plus proof of payment	Loan/finance agreement which shows the minimum payment and the date the agreement began
Individual Voluntary Arrangement (IVA)	IVA agreement, and proof of payment	IVA agreement
Credit card and store card payments	Copy of bill or statement and evidence of payment	Copy of bill or statement which shows the minimum payment
Other debts	Evidence of debt & repayment plan & evidence this is being paid	Evidence of debt and repayment plan
Fines	Evidence of fine showing remaining payments and proof of payment	Evidence of fine which shows the remaining payments
Rent/Council Tax arrears	Letters/statements confirming arrears, repayment plan and evidence of payment	Evidence of debt and repayment plan
Utilities arrears	Letter showing that arrears have gone to enforcement/collection agency and evidence this is being paid	Evidence of debt and repayment plan
Bailiff costs	Demand letter and proof of payment	Demand letter which shows the minimum payment allowed, if applicable
Student loan	Recent pay slip which show amount paid	Recent pay slip which shows amount paid

DWP overpayments	Evidence of overpayment and that a repayment plan is in place, and evidence the repayments are being made	Evidence of overpayment and that a repayment plan is in place
Mortgage on a second property (not a business)	Mortgage agreement and proof of payment	Mortgage agreement which shows the minimum monthly payment
County Court judgment	Judgment letter, evidence of the payment schedule, and proof of payment	Judgment letter and evidence of the payment schedule
NHS prescription or medical costs	Letter from a GP and proof of payment (where this applies)	Letter from a GP
Private pension payments	Evidence of the amount being paid (for instance, a wage slip) and proof of payment	Evidence of the amount being paid (for instance, a wage slip)

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, dated 3 months either side of when you originally applied for legal aid.

For Crown Court hardships and Crown Court Eligibility Reviews, if we have limited any outgoings in the means test (such as housing costs, maintenance and childcare) we will also need evidence of the outgoing to allow the higher figure when calculating any income contribution.

Question 4 - 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.

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

Question 5 - 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.

Question 6 - 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.

Question 8 - 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.

Question 9 - 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. We will consider your private rates against historic Department for Constitutional Affairs (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' 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, such as Junior or King's Counsel.

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 King'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.

We 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, for example hours of preparation, time spent with witnesses, amount of disclosure, length of 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.



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

