Legal Aid Agency

Criminal Legal Aid Manual

Applying for legal aid in criminal cases in the magistrates' and Crown Court

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41	26 October 2026	26 October 2026	Legal Aid Agency

Version History

Version	Date	Reason
1	January 2010	Original version – replacing the Consolidated Legal Aid Guidance and incorporating changes that reflected the extension of criminal legal aid means testing to relevant Crown Court proceedings
2	November 2010	Updated to coincide with the release of the V7 CDS forms
3	April 2011	Updated to coincide with the release of the V8 CDS forms
4	October 2011	Updated to coincide with the implementation of the Legal Aid Reforms which come into effect on the 3 October 2011
5	February 2012	Updated to coincide with the release of the V9 CDS forms
6	April 2013	Updated to coincide with the transition to Legal Aid Agency and the introduction of V10 CRM forms
7	January 2014	Updated to coincide with Legal Aid Transformation and the introduction of Crown Court eligibility threshold and the release of V11 CRM forms. Other key changes: Section 18.1 Child Benefit to reflect High Income Child Benefit Charge, Section 22 and Annex 18 to clarify evidence requirements for additional expenditure
8	July 2014	Appendix 1 – Solicitor Payments updated to reflect Legal Aid Transformation fee changes Other key changes: Section 21 - Revisions to means appeals/reviews guidance to clarify the 28 day rule for change in circumstances and the approach to be taken where information is provided that was omitted from the original application.
9	April 2015	Appendix 15 - Prescribed proceedings updated to reflect the changes arising from the Anti-social Crime and Policing Act 2014 Section 18.5 – Disregarded benefits updated to include Community Care and Special Education Needs direct payments Section 8.4 – Full means assessment updated to clarify that application will be rejected for evidence of outgoings above £500 per month. (Limiting to £500 only applies to Crown Court.)

10	August 2015	Updated following the completion of the transfer of grant from HMCTS to the LAA. The manual is now designed primarily for defence practitioners. Key changes: Added guidance about the eForm Added guidance on the application process for civil contempt (including new FMGPOs) and breaches of part 1 civil injunctions under the Anti-social Behaviour, Crime and Policing Act 2014. Expanded the guidance on date stamping and dating of Representation Orders Added Annex with hints and tips for avoiding rejects. Similar hints and tips for the CRM16 added to the Hardship & eligibility review section Expanded the guidance around collection and enforcement for Crown Court Means Testing. Added Annex about the role of the Debt Recovery Company. Added Annex with suggested paragraphs for client care letters
11	February 2016	Updated to coincide with the implementation of a new process for requesting a transfer of Legal Aid to a new Legal Aid representative
12	March 2016	Key Players section updated to reflect the move to a single helpline number for the Criminal Applications Teams.
13	July 2016	Updated to coincide with mandating of the CRM14 eForm for all criminal legal aid applications.
14	February 2017	Key Players section updated to reflect the move to a single helpline number for all CAT and NCT queries including complex means, hardship and contributions.
15	April 2017	Updated to reflect 2017 Standard Crime Contract
16	November 2018	Clarification of capital assessment
17	January 2019	Updated to coincide with the branding of the Debt Recovery Company (DRC) as 'Rossendales – A Marston's Regulated Services Ltd Brand' Updated in relation to where to send the paper CRM16 – see sections 15.1 and 15.5.2.
18	April 2019	Updated to coincide with the branding of the Debt Recovery Company (DRC) as 'Rossendales a Marston (Holdings) Limited Company' Changed references to DPA in light of GDPR for data protection

19	July 2019	Updated to coincide with the new legal name of the Debt Recovery Company (DRC), Marston Holdings Ltd
20	January 2020	Annex H - Prescribed proceedings updated to include Stalking Protection Orders, brought in by the Criminal Legal Aid (General) (Amendment) Regulations 2020 that came into force on 20 January 2020.
21	October 2020	Section 3.4 – Dating the representation order updated to include how to get the appropriate representation order to claim the Sending Hearing Fixed Fee.
22	February 2021	Added information on electronic signatures – including to section 3.5.6 Signing the form Section 7.2.2 Application for a new representation order following withdrawal expanded to clarify the process depending on whether you or anther provider represented the applicant prior to withdrawal. Section 9.5.3 Third party resources updated to clarify that the terms of criminal legal aid do not permit third party financing of private legal services, such as a privately funded advocate or KC, or 'topping up' of the remuneration of the publicly funded legal representative. Section 15 Hardship/eligibility review updated to include the option to email CRM16 forms rather than post them. Annex H – Prescribed proceedings updated to include the full list of proceedings, to clarify whether they are means tested and to set out how to apply.
23	May 2021	Added information on Breathing Space (Debt Respite Scheme) – See: 6.6.5.5 - What if the applicant has entered into a breathing space or mental health crisis moratorium due to problem debts? 11.4 - Applicants who have entered into a breathing space or mental health moratorium Annex S - State benefits updated to reflect changes to state benefit rates
24	November 2021	Section 3.4 – Dating the representation order - updated to include how to get the appropriate representation order to claim the sending fee where it's not possible to fully complete the application form at very short notice. Section 3.5 - Documentation required to make an application – updated to recognise that the longer an individual is in custody the more likely it is that they will lose their job – so evidence to support such a change is not required if the applicant has been in custody 3 months or more. Annex H – Prescribed proceedings - updated to include the pilot being run in the Metropolitan Police District to 4 September 2022 on Knife Crime Prevention Orders.
25	October 2022	Updated to reflect the 2022 Standard Crime Contract
26	November 2022	Annex H – Prescribed proceedings - updated to reflect the extension of the pilot being run in the Metropolitan Police District on Knife Crime Prevention Orders to 31 March 2023.

27	January 2023	12.6.1 Disregarded benefits update to expand section on social fund payments, 12.6.1 (d)(viii), to show these include payments for funeral expenses, cold weather payments, winter fuel payments, Sure Start maternity grants and budgeting loans. 12.6.2 Other disregarded income updated to include cost of living payments introduced in 2022, mainly to help with energy costs. Regulations have been updated to disregard these. See 12.6.2 (d) and (e).
28	January 2023	Annex H – Prescribed proceedings - updated to include the variation, renewal, discharge and appeals of Serious Violence Reduction Orders (SVROs).
29	March 2023	Key Players section updated to reflect a change to the name and email addresses for one of our teams – Criminal Finance is now Magistrates Billing.
30	May 2024	Annex L - Judicial Apportionment - updated to explain the process for applications for partially convicted defendants to pay a proportion of their costs. Annex S - State Benefits – updated with latest rates.
31	August 2024	Updated to reflect the transition from the CRM14 eForm to the Apply for criminal legal aid service.
32	20 November 2024	12.6 Disregarded income updated, and 12.7 Disregarded capital added to include the new mandatory and discretionary disregards for certain compensation payments.
33	27 November 2024	Annex H – Prescribed proceedings - updated to reflect the Domestic Abuse Protection Orders and Notices pilot being run in Greater Manchester, Bromley, Sutton, Croydon and by the British Transport Police.
34	3 February 2025	Kay Players section updated to reference Advantis Credit Ltd. who took over the contract for Crown Court means testing (CCMT) debt collection and enforcement services on behalf of the Legal Aid Agency from the previous supplier Marston Holdings Ltd. with effect from 3 February 2025.
35	May 2025	Annex H - Prescribed proceedings - updated to reflect that from 21 May 2025, proceedings under s.44(2)(b), s.46(4) and s.46(5) of the Domestic Abuse Act 2021 are in scope of criminal legal aid. Annex S - State Benefits – updated with latest rates.
36	October 2025	Updated to reflect the 2025 Standard Crime Contract.

37	April 2026	3.3 Dating the representation order – updated to include guidance on what representation order will be issued where an application was date stamped whilst in the magistrates' court but only submitted post committal. See pages 29 to 32. 3.4 Documentation required to make an application – updated to include guidance on defendants in court custody declaring their usual income and on defendants who have lost employment in the last 3 months. 12.5 Income from other sources - updated to include guidance on using savings to supplement income and on living off savings. 14.1.3.1 Contribution recalculation – updated to clarify liability dates versus payment due dates. Annex D - Sentence Review hearings under section 74 of the Serious Organised Crime and Police Act 2005 (SOCPA) - updated with guidance on applying for clients for SOCPA where their identify needs to be protected. Added annex E - Criminal Cases Review Commission (CCRC). Annex Q - Hints and tips on applying for legal aid – added guidance on obtaining the applicant's National Insurance number if they do not know what it is. See page 162 and 163. Annex T - State Benefits – updated with latest rates.
38	July 2026	Annex C: Voluntary Bill of Indictment – updated to include guidance on applications for, and billing of, work in the High Court.
39	1 October 2026	Annex I - Prescribed proceedings - updated to include Serious Crime Prevention Orders made by the Crown Court on acquittal.
40	15 October 2026	3.4.5.1 Completeness of application – updated to include guidance on providing your client's prisoner numbers where available or confirming that no prisoner number is available.
41	26 October 2026	6.14 Breach of an injunction under part 1 of the Anti-Social Behaviours Crime and Policing Act (ASBCPA) 2014 – updated to reflect that from 26 October 2026 part 1 injunctions are separating out into respect orders (Part A1), youth injunctions (Part 1) and housing injunctions (Part 1).

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1 An overview of criminal legal aid

1.1 Introduction and overview

This manual is designed to provide comprehensive information and guidance on the criminal legal aid application process for magistrates' court and relevant Crown Court proceedings.

It also covers the application process for proceedings in civil venues that are deemed criminal for the purpose of legal aid i.e. civil contempt proceedings and breach of Part 1 injunctions under the Anti-Social, Crime and Policing Act 2014.These are dealt with differently – see 6.13 civil contempt & 6.14 breaches of part 1 civil injunctions under ASBCPA 2014.

The manual is designed for defence practitioners.

Within the document there are clickable links to other sources of information as well as to other sections of the document.

1.2 Administering the scheme

The process of administering magistrates' court applications and applications for relevant Crown Court proceedings is dealt with by the National Crime Applications Teams (NCAT) within the Legal Aid Agency (LAA).

2 Key Players (including contact details)

Information on the various organisations and departments involved in administering the legal aid scheme is set out below. This may assist with identifying the best place to direct any queries.

National Crime Applications Teams (NCAT)

The National Crime Application Team is sited at LAA offices in Liverpool, Nottingham, and Birmingham and is responsible for processing all applications for criminal legal aid for magistrates' and Crown Court proceedings and quasi criminal matters.

A single telephone number should be used for enquiries about criminal legal aid applications:

Criminal applications helpline	
9am to 5pm Monday to Friday excluding bank holidays	0300 200 2020

Select option 3 for technical support with the Apply for criminal legal aid service. Alternatively, you can use Online chat or email Online-Support@justice.gov.uk

Select option 2 for operational support with the Apply for criminal legal aid service. Alternatively, you can use Online chat or email:

BirminghamCAT@justice.gov.uk

LiverpoolCAT@justice.gov.uk

NottinghamCAT@justice.gov.uk

Email Nationalcrimeteam@justice.gov.uk about self-employed applicants, hardship/eligibility reviews, and non means tested matters including civil contempt and breach of part 1 civil injunctions under the Anti-social Behaviour, Crime and Punishment Act 2014 must be emailed to

Other correspondence can be sent to one of the following:

Birmingham NCAT	
Email	BirminghamCAT@justice.gov.uk
DX	13041 Birmingham 1
Address	Legal Aid Agency – NCAT, Berkley Way, Unit 8B, Jarrow, NE31 1SF

Liverpool NCAT	
Email	LiverpoolCAT@justice.gov.uk
DX	745810 Liverpool 35

Address	Legal Aid Agency – NCAT, Level 6, The Capital, Union Street, Liverpool, L3 9AF

Nottingham NCAT	
Email	NottinghamCAT@justice.gov.uk
DX	10035 Nottingham 1
Address	Legal Aid Agency – NCAT 1 Unity Square, Queensbridge Road, Nottingham, NG2 1AW

Case Management Improvement Team (CMIT)

The Case Management Improvement Team focuses on all things improvement across both crime and civil case management. Some of the areas it focuses on include provider engagement, operational process improvements and supporting digital change.

On the crime side, it oversees the magistrates' court and Crown Court means testing schemes ensuring that public funds are granted only to eligible defendants, and that those appearing in the Crown Court pay none, some, or all of the cost of their defence. This means the LAA can target public funds towards those who cannot afford to pay privately and that criminal cases can proceed to conclusion without delay.

Enabling the operations teams to deliver effectively, CMIT fulfils a supporting role. Delivery includes ad hoc assurance, quality, communications and stakeholder engagement, training, guidance, continuous improvement, data analysis and stats, escalated queries and new processes/procedures. They also authorise decisions on applying the Capital Contribution sanction.

CMIT works with LAA and MOJ legal and policy departments and LAA Service Development on changes that affect criminal legal aid, and their subject matter expertise informs the feasibility and approach to making change an operational reality. Technical expertise informs IT enhancements working with LAA Digital and our delivery partners.

CMIT also maintains relations with key LAA partners such as HMCTS, MoJ, DWP, HM Revenue and Customs (HMRC), and defence practitioners.

Crown Court Means Testing (CCMT)

A small Crown Court Means Testing team in Manchester and Liverpool focus on the collection of contributions from defendants assessed as able to contribute to their legal aid costs and supporting case management teams on any queries they have on the collection of contributions. It also manages the contract with Advantis Credit Ltd. (the Debt Recovery Company).

Debt Recovery Company (DRC)

The LAA has contracted with Advantis Credit Ltd. as our Debt Recovery Company (DRC) for Crown Court Means Testing (CCMT).

The DRC is responsible for collecting income contributions, for capital and equity checks post conviction, calculating final contribution orders (from capital and equity following conviction), communicating with applicants, taking enforcement action, or refunding where necessary.

Contact details for the DRC, which can be given to applicants, are as follows:

Telephone	0333 320 2150
Email (general queries)	laa-admin@advantiscredit.co.uk
Email (for complaints)	customercomplaints@advantiscredit.co.uk
24 hour payment line	0333 006 8344
Online payments	www.advantiscredit.co.uk
Address	Advantis Credit Limited, Minton Hollins Building, Shelton Old Road, Stoke-on-Trent, ST4 7RY

Should your clients or their family members have concerns about the DRC's conduct, then we would advise them to put their complaint in writing to Advantis Credit Ltd. at the above address, ring the above number and ask to speak to the complaints team or email their complaints email address above.

Crime Billing Teams

Magistrates' Billing

Based in the Nottingham Office, Magistrates' Billing is responsible for:

- applications from solicitors for prior authority to incur disbursements (CRM4); as well as applications from solicitors to increase funding limits in criminal investigations (outside the police station), advice on appeal and application to the CCRC, (application to extend the upper limit - CRM5) for criminal cases that are ongoing

- assessments for non-standard magistrates' court final claims for solicitors (CRM7) assigned counsel (CRM8); in addition to Police Station and Prison Law Escape Cases (CRM18 and CRM18A) once any criminal investigations or proceedings have been completed, and assessments for breach of ASBCPA (CRM7 for criminal providers and CRMClaim11 for civil providers) and contempt of court matters (CRMClaimm11 for all providers)

The Magistrates' Billing team also has responsibility for compiling, producing, and maintaining Duty Solicitor rotas for all magistrates' courts and Police Stations in England & Wales.

Contact details for Magistrates Billing are:

Telephone	0300 200 2020
Email	magsbilling@justice.gov.uk CRM7, CRM8, CRM5, CRM4 queries ACLS.contempt@justice.gov.uk for all contempt and ASBCPA billing queries CRM4appeal@justice.gov.uk to lodge a CRM4 appeal CRM5appeal@justice.gov.uk to lodge a CRM5 appeal CRM7appeal@justice.gov.uk to lodge a CRM7 appeal crime.exceptional@justice.gov.uk Prison law and police station queries dutysolqueries@justice.gov.uk Solicitors Duty Rotas CNTP.extensions@justice.gov.uk Applications to extend the upper limit in contempt of court cases
DX	10035 Nottingham 1
Address	Magistrates' Billing, 3rd Floor B3.20, 1 Unity Square, Queensbridge Road, Nottingham NG2 1AW

Litigators' Graduated Fee Scheme (LGFS) Team

LGFS is one of 2 legal aid fee schemes for Crown Court cases. The LGFS Team is responsible for processing claims for solicitors that have been instructed by clients who have been granted legal aid and appear in the Crown Court. The LGFS Team is sited at LAA offices in Liverpool and Nottingham.

All LGFS claims must be submitted to the LAA via the Claim for Crown Court Defence (CCCD) system. Any electronic evidence being claimed must be uploaded to the Secure File Exchange.

Contact details for both LGFS teams are:

Telephone	0300 200 2020
Email	litigators-fee@justice.gov.uk
DX	10035 Nottingham 1
Address	LGFS, Legal Aid Agency, 1 Unity Square, Queensbridge Road, Nottingham, NG2 1AW

Advocates Graduated Fee Scheme (AGFS) Team

The AGFS team operates across our Nottingham and Liverpool offices and is responsible for processing the majority of advocates' claims for legal aid work in the Crown Court. This includes managing appeals submitted following a dispute over the initial payment and providing written reasons where an impasse arises between the provider and the LAA over billing. These written reasons enable the provider to appeal the LAA decision to the Senior Courts Costs Office (SCCO).

The team also works closely with the Public Defender Service (PDS) to support and verify billing for cases handled by PDS barristers. In addition, they collaborate with the policy team to ensure that any process changes are implemented effectively.

All AGFS claims must be submitted to the LAA via the Claim for Crown Court Defence (CCCD) system.

Contact details for the AGFS team are:

Telephone	0300 200 2020
Email	advocates-fee@justice.gov.uk
DX	10035 Nottingham 1
Address	AGFS, Legal Aid Agency, 1 Unity Square, Queensbridge Road, Nottingham, NG2 1AW

Criminal Cases Unit

The Criminal Cases Unit (CCU deals with funding for criminal Very High Cost Cases (VHCCs) and providers are required to notify the team of any cases which may fulfil the requisite criteria.

For further information see VHCCs - Very High Cost (Criminal) Cases.

The CCU also assesses special preparation, wasted preparation, and fees for the consideration of unused material where 30 hours or more is claimed under the litigator and advocates graduated fee scheme.

In addition to the above the CCU is also responsible for assessing Proceeds of Crime applications and other discretionary claims paid out of the Legal Aid Fund and claims paid out of Central Funds including Defendant Cost Orders, Court Appointments and Private Prosecutions.

The CCU also considers applications for contracts in exceptional circumstances, where either the status of the provider or the type of case is not otherwise covered by regulatory and/or contractual arrangements.

Contact details for other types of work as follows:

Claims paid out of legal aid fund and central funds	
Email	General admin queries should be emailed to manchesterccu@justice.gov.uk See claims paid out of Central Funds and claims paid out of Legal Aid for workstream email addresses.
DX	329701 Manchester 84
Address	Criminal Cases Unit 7th Floor, Piccadilly Gate Store Street Manchester M1 2WD

Very High Cost Cases & Special Preparation	
Email	ccu@justice.gov.uk
DX	745810, Liverpool 35
Address	Criminal Cases Unit LAA Level 6, The Capital Union Street Liverpool L3 9AF

Counter Fraud and Investigations (CFI)

Based in London, the CFI team at MoJ works closely with NCAT to identify fraudulent applications. CFI take forward cases where NCAT identify fraud by way of misrepresentation or non-disclosure on the criminal legal aid forms.

His Majesty's Courts and Tribunals Service (HMCTS)

magistrates' court & Crown Courts

Although there are no longer Legal Aid processing teams within HMCTS some Legal Aid activity remains within the Courts due to legislation

- Judicial IOJ appeals
- Transfer of solicitors
- Withdrawals of legal aid in Court
- Non means tested grants (in limited circumstances)

Other activity is undertaken to assist with supporting the legal aid process

- Authorising transmission of urgent applications in exceptional circumstances

Online Support Team

Should providers have technical problems using the Apply for criminal legal aid service there is an Online Support Team:

Telephone	0300 200 2020 (Select option 3)
Online form	**Report a technical fault:** Technical fault reporting form
Online chat	Online chat

Technical support is available Monday to Friday, from 9am to 5pm excluding bank holidays.

For operational support with the Apply for criminal legal aid service, see the contact details for the National Crime Applications Team on page 13.

3 Applying for criminal legal aid

To apply for criminal legal aid for legal representation in the courts, you and your client should use the Apply for criminal legal aid service on the Sign in to Legal Aid Services (SiLAS) page.

Once you have signed in, click on the link for 'Apply for criminal legal aid' to access the service.

Further guidance and an FAQ are available on the legal aid learning website.

Should providers encounter technical problems using the system, there is an Online Support Team – see page 17 for contact details.

For operational support, see the contact details for the National Crime Applications Team on page 11.

Applicants who wish to request a review of their financial circumstances on the grounds of hardship must submit a CRM16. This is a downloadable form and can be submitted at the point of application or afterwards. If submitting at the point of application, it can be uploaded as an evidence attachment to the application you are submitting in the Apply for criminal legal aid service. You should use the question about any other information to make a note that a CRM16 is attached.

3.1 Legal aid application forms

3.1.1 Apply for criminal legal aid service form

You will be asked to enter the client and case details over several screens. We will use your answers to determine what information we require.

To complete an application using the service you will need the following:

- Case Type
- Charges
- Court where the case is being heard
- Date of the next hearing
- Reasons for wanting legal aid
- Name
- Date of birth
- National Insurance Number or Application Registration Card (ARC) Number
- Contact details
- Residential status such as home owner
- Relationship status
- Partner name, DOB and NINO/ARC number
- Whether the partner should be included in the means assessment, i.e. are they a victim/ prosecution witness?
- Details of any co-defendants and whether there is or likely to be a conflict
- Applicant's custody status

- Income details including:
    - employment including any benefits from work that are not money - for example, a company car
    - passported benefits
    - state pension and other benefits
    - self-employment
    - partnerships
    - company directorships
    - private pension
    - maintenance
    - income from savings
    - rental income
    - any other income
- Information on how the applicant is supporting themselves if no other income has been declared
- Whether subject to a restraint or freezing order
- Whether the applicant (and/or their partner) completed a tax calculation sheet in the last 2 years
- Details of the applicant's children
- Outgoings
    - Tax
    - NI
    - Housing costs (rent, mortgage, or board and lodgings)
    - Council Tax
    - Childcare costs
    - Maintenance payments
    - existing contributions towards legal aid
- Whether the applicant (and/or their partner) paid tax at the 40% rate in the last 2 years
- Details of any land or property owned (including those of a partner)
- Details of any savings, investments, or Trust funds (including those of a partner)
- Trust fund details
- Disability information
- Equality and diversity information

3.1.2 CRM16 - Legal Aid in Criminal Proceedings: Application for Review on the Grounds of Hardship

Applicants who wish to request a review of their financial circumstances on the grounds of hardship must submit a CRM16. This can be submitted at the point of application or afterwards.

There may be applicants who have been refused legal aid in the magistrates' court because they have disposable income over the £3,398 threshold, or applicants who are subject to an income contribution order in the Crown Court, who have higher than usual outgoings and are concerned that the living allowance in the means assessment do not reflect these.

Applicants who are refused legal aid for a Crown Court trial because they have disposable income over the £37,500 threshold may also submit a CRM16 to request an 'Eligibility Review'.

Tick boxes on page 1 allow the application to be identified as relating to:

- magistrates' court
- Crown Court where income contribution assessed
- Crown Court where legal aid refused

The CRM16 contains information about:

- the applicant
- reasons for review
- extra expenditure
- additional information
- solicitors details
- solicitors and advocates costs (only required for magistrates' court cases and for Crown Court Trials where legal aid has been refused)

The CRM16 must be downloaded from GOV.UK:

www.gov.uk/government/publications/crm16-review-on-the-grounds-of-hardship

3.2 Apply online using the Apply for criminal legal aid service

3.2.1.1 Types of Applications that can be submitted using the Apply for criminal legal aid service

The Apply for criminal legal aid service can be used for all criminal legal aid applications except those from legal persons (such as companies) – see 6.15 Legal Persons.

3.2.1.2 Applicant Declaration Form

Applications in Apply for criminal legal aid are submitted without a signature. To prevent false statements from the applicant, they must sign a paper declaration form to confirm the accuracy of the information provided.

The applicant declaration form is available to download from GOV.UK:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/318363/legal-aid-applicant-declaration-online-submissions.pdf

Providers are required to confirm that they have gone through the questions on the interests of justice and financial assessment aspects of the application with the applicant, and that the applicant has not provided any information which contradicts the information entered into the form.

The declaration must be signed to declare what the applicant's means are at the point of application – it is the defendant's application for legal aid to be represented in defence of the charges brought against them. The application cannot therefore be made prior to the applicant being charged.

The LAA aim to identify fraudulent applications from the outset. For instance, when more than one application is submitted for an individual applicant, this will be investigated. There will also be a check at the audit stage.

Providers should keep the 1-page Applicant's Declaration form on file. It can be saved as a PDF document to save on storage space.

Note that an electronic signature is acceptable and can be transposed on to the Applicant Declaration Form and stored electronically. Also, an applicant may sign directly onto an electronic version of the form if software permits.

We accept all methods which meet the requirements outlined as Simple Contracts in the Law Society practice note.

The Law Society guidance and practice notes in this area are available here:

Signing and exchanging documents

Execution of a document using an electronic signature

Text messages are not considered an acceptable method of digital signature and are not covered by the Law Society.

The applicant must provide a fresh signature with each application, and you must not use saved copies of the electronic signature.

3.2.2 Receiving the result of an application

The legal aid decision is not currently visible in the Apply for criminal legal aid service, but we will add this functionality as the service progresses.

If legal aid is refused for any of the offences, the reasons for the refusal will be communicated by email.

The Representation Order or Refusal Notice will be emailed to the provider together with any relevant Contribution Notices/Orders and Evidence Requests. The applicant's copy will be posted out to them unless care of solicitor was selected in the application.

If the application covered multiple offences, the Representation Order should be checked to see whether all offences have been granted. The email should also contain notes regarding the Interest of Justice decisions.

3.2.2.1 Ancillary Processes which cannot be applied for using the Apply for criminal legal aid service

The following ancillary processes cannot be applied for using the Apply for criminal legal aid service. Please refer to the relevant sections on how to deal with each of these processes:

- Appeal against the refusal of the Interest of Justice test
- Transfers of Legal Aid
- Withdrawal of Legal Aid
- Hardship / Eligibility Review applications (CRM16)
- Adding charges to an existing rep order

3.3 Dating the Representation Order

3.3.1 Magistrates' court

3.3.1.1 Summary, Committals for Sentence and Appeals to Crown Court

Any magistrates' court representation order granted will be backdated to the original date stamp even if the application is later returned for amendment This also applies to representation orders for Committals for Sentence and Appeals to Crown Court.

3.3.1.2 Either way

For either way cases we will issue a Through Order, covering work in the magistrates' as well as the Crown Court, if the following requirements are met:

- applicant passes the means test
- applicant passes the IOJ test
- application is date stamped on or before the date of committal/sending

Please note, to be eligible to claim the Sending Hearing Fixed Fee you will need a Through Order, covering the magistrates' court work. You should therefore obtain a date stamp as soon as you can. This is especially important if you are only instructed on the day of the magistrates' court hearing sending the case to the Crown Court. You should select Either Way as the case type when completing the application even where the case has been sent to Crown Court that day. This will ensure you get a date stamp[1] once you have entered the basic information about your client and the case. You will then be able to complete the application, obtain any necessary evidence, and submit the application later. We will honour the date stamp provided the means and IOJ tests are passed.

If the applicant is not in court custody, any required evidence must be provided before we can consider issuing a Through order. We will only be able to issue a Crown Court order dated the date after committal until the applicant has demonstrated their eligibility in the magistrates' court. It's advisable therefore that you get the date stamp and then submit the application once you have fully completed it and obtained the evidence.

The applicant must also pass the IOJ test for representation in the magistrates' court. You should ensure you complete the justification for legal aid questions providing full reasons.

For either-way cases where the applicant fails the magistrates' court means test or fails the Interests of Justice (IOJ) test, and we have issued a refusal notice, if we receive notification via the link with the court that the case has progressed to the Crown Court, we will issue a representation order dated the day after the committal hearing.

If the application is submitted only after committal—whether you obtained a date stamp in the magistrates' court or your initial application was rejected and resubmitted—it will be dated from the submission or resubmission date, respectively.

It is your responsibility to ensure the application is submitted or resubmitted.

3.3.2 Crown Court

Representation Orders for Crown Court trials cannot be backdated[2] except in the very limited circumstances relating to Indictable only cases detailed below. This includes where:

- you get a date stamp for an either way case but do not submit the application until the case is in the Crown Court
- we reject your application whilst in the magistrates' court and you only resubmit once in the Crown Court

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[1] The Apply for criminal legal aid service will assign a date stamp once you have entered the basic information about your client and their case. You then have as long as you need to complete the application and submit it. You can get a date stamp up until 23:59.

[2] Applications for non-means tested funding in the Crown Court, Appeals to Crown Court or Committals for Sentence will be backdated to the original date stamp.

If the applicant fails on means, so that we cannot issue a Through order, we will issue a Crown Court order dated from the date we received the fully completed form. It is your responsibility to submit your form in a timely manner and before the case concludes. We do not date them from the day after committal. We only do this when we have already refused legal aid in the magistrates and receive notification of the committal to Crown Court. This is because the requirement for an order to be issued is that a fully completed form is received. Therefore if the LAA has to return an application, any subsequent representation order can only be dated from the date of resubmission. For Indictable and Trial already in Crown Court applications, the date stamp is assigned upon submission of a completed application. If the application is later returned because further information is required and is then resubmitted, the date and time will be updated with the date and time of resubmission.

Please note, to claim the Sending Hearing Fixed Fee, you will require a Through order dated on or before the magistrates' court hearing sending the case to the Crown Court. As we cannot backdate representation orders in indictable cases this means you will need to submit a fully completed application on or before the sending hearing. The applicant also needs to pass the means test.

However, there may be instances where you are instructed on the day of the sending hearing and it's not possible to get the necessary information to fully complete the form. For example, when your client is produced from overnight police custody and the client does not know their National Insurance Number or when their partner needs to sign the declaration form. In these very limited circumstances, you should still submit the application prior to or on the day of the sending hearing with all of the information you can provide, together with an explanation of what's missing, and the steps being taken to obtain it. See below for how to bypass validation in the Apply for criminal legal aid service.

Note: You must select Indictable as the case type as normal. You should not select Either Way in order to get a permanent date stamp.

If the form is not fully completed on submission, we will reject the form for further completion. When you resubmit, the date stamp will automatically update, but you can request that we backdate the Representation Order. You will need explain why you believe we should. If you provide a clear explanation as to why you were unable to fully complete the form on the date of first submission, and the defendant qualifies for public funding in the magistrates' court, we will issue a Through order dated from the original submission date. If the reason provided for not submitting a fully completed application is not sufficient, we will not backdate.

If the defendant does not qualify for public funding in the magistrates' court, we will issue a Crown Court only representation order, and the sending fee cannot be claimed.

In summary:

- If you submit a fully completed application on or before the sending hearing and the applicant qualifies for public funding in the magistrates' court, you will get a Through order and be able to claim the sending fee.

- If you submit an incomplete application on or before the sending hearing but upon resubmission provide clear reasons why you were not in position to provide a completed form on first submission (and the applicant qualifies for public funding in the magistrates' court) you will get a Through order and be able to claim the sending fee.

- If the applicant does not qualify for public funding in the magistrates' court or if you do not submit a form until after the sending hearing, or you submit an incomplete form before the sending hearing without clear reasons why it could not be fully competed, you will not be able to claim the sending fee.

We recognise that validation in the Apply for criminal legal aid service will prevent submission without mandatory information. Therefore, in the limited circumstances described above, you should complete the application as follows:

- If the defendant is in receipt of a passported benefit but does not know their National Insurance Number, you should tick the box to say they are in court custody but then explain that they are not in fact in court custody but police custody using the question that asks for any other information – this will allow you to submit the form. We will then reject the form for you to change the answer to No and provide the National Insurance Number for a benefit check to be completed.

- If the applicant is unable to confirm any other mandatory information, you should follow the same procedure as set out at para 3.5.7 for applicants with mental health problems. You should use "no", "0.00" or "not known" as appropriate. Providers will need to provide an explanation in the further information field of what information is missing and the steps being taken to obtain it. The form will be rejected, and you will then need to gather the necessary supporting information for resubmission. On resubmission, you will need to request that the case is backdated to the date of first submission. If you are unable to obtain the partner's signature, you should tick the box to say you have it but explain at the further information question why you do not in fact have it yet, and what steps you are taking to obtain it.

Evidence for indictable matters can be sent post submission so you should not delay making an application at the earliest opportunity to get a funding decision and the appropriate representation order. This is especially important if you are only instructed on the day of the magistrates' court hearing sending the case to the Crown Court. You will need to ensure you submit the application on the day.

For full details please see the following 2 tables.

The following table summarises how the LAA will date Representation Orders:

magistrates' court trials (summary & either way pre committal)	Through order dated from the point the application was assigned a date stamp.[3] If the application is returned to the provider because further information is required or for missing evidence and is then resubmitted the Representation Order will be backdated to the original date stamp assigned. For either way cases we will issue a Through Order, covering work in the magistrates' as well as the Crown Court, if the following requirements are met: • applicant passes the means test • applicant passes the IOJ test • application date stamped on or before the date of committal/sending Please note, to be eligible to claim the Sending Hearing Fixed Fee you will need a Through Order, covering the magistrates' court work. You should therefore obtain a date stamp as soon as you can. This is especially important if you are only instructed on the day of the magistrates' court hearing sending the case to the Crown Court. You should ensure you select Either Way as the case type when completing the application even where the case has been sent to Crown Court that day. This will ensure a date stamp is assigned once you have entered the basic information about your client and the case. **What if the case concludes before application is submitted?** If the case has concluded before the date stamp, the provider needs to meet the criteria for pre order work for a Representation Order to be issued against which they can make a claim. Please provide details on the form so that the caseworker can ascertain whether criteria for pre order work have been met? See Annex A: Solicitor Payments for further information on pre order work. The Representation Order would be dated from the date stamp. If the case has concluded prior to the LAA receiving the application the provider needs to meet the criteria for pre order work for a Representation Order to be issued against which they can make a claim. These criteria are set out in 10.28 of the 2025 Standard Crime Contract Specification, and requires that: a. The interests of justice require that the advice or representation is provided as a matter of urgency - meaning there is a court hearing within 10 working days or less of the date when initial instructions are taken; b. There is no undue delay in making application for representation which must be submitted no more than 5 working days after initial instruction; and

[3] The Apply for criminal legal aid service will assign a date stamp once you have entered the basic information about your client and their case. You then have as long as you need to complete the application and submit it. You can get a date stamp up until 23:59.

	c. The Pre-Order advice or Representation is given by you, and you are subsequently assigned under the Representation Order. In order to determine whether the order can be granted in these circumstances, the provider should provide the date of initial instruction, and the date of the court hearing. If granted the Representation Order would be dated from date of receipt. **What about virtual courts?** Where the defendant is represented at a single virtual hearing then they should seek payment under the Virtual Courts Advocacy Assistance Scheme. Where further hearings are listed the defendant can make an application for a representation order, and if this is the case then no payment should be claimed under the Advocacy Assistance scheme. If the provider applies for a representation order, then the client must sign the applicant declaration form in the usual way. Again, pre-order cover is available, and the application does not need to be completed and signed straightaway in these circumstances, in order for the solicitor to be able to legitimately claim payment for any pre order work undertaken. Please see 5.3 Virtual Courts or further details including the ability to use electronic signatures. **What about Either Way cases where the form is rejected for further information or for missing evidence and the case is committed in the interim?** The onus is on the applicant and provider to re-submit the application at the point of committal. A Crown Court Representation Order will not be issued until the LAA are in receipt of a fully completed application form. The first table below shows an example of an Either Way application that was rejected pre-committal and how the date and type of Representation Order differ, dependant on the date of re-submission, the evidence provided and the result of the means assessment. **What about Either Way cases where a date stamp is obtained whilst in the magistrates' court, but the application is not submitted until after committal?** Again, the onus is on the applicant and provider to submit the application at the point of committal. A Crown Court Representation Order will not be issued until the LAA are in receipt of a fully completed application form. The second table below shows an example of an Either Way application that was rejected pre-committal and how the date and type of Representation Order differ, dependant on the date of re-submission, the evidence provided and the result of the means assessment.
Committals for sentence Application received	Crown Court order dated from the point the application was assigned a date stamp.[3]

following committal	If the application is returned to the provider because further information is required or for missing evidence and is then resubmitted the Representation Order will be backdated to the original date stamp.
Application received whilst in the magistrates' court and applicant passes on IoJ	Through order dated from the point the application was assigned a date stamp. See **magistrates' court trials** (summary & either way pre committal) above.
Application received whilst in the magistrates' court, but applicant fails on IoJ	Crown Court order dated from day after committal. Those that apply whilst the case is in the magistrates' court but fail on IoJ will subsequently be auto passed upon committal. The Representation Order will only cover the sentencing hearing.
Appeals to Crown Court	Appeal to Crown Court order dated from the point the application was assigned a date stamp.[3] If the LAA has to reject the application due to it being incomplete or for missing evidence, the Representation Order will be backdated to the original date stamp assigned.
Crown Court trials (Indictable, Late Applications & Voluntary Bills)	Crown Court order dated from the date stamp assigned upon the submission of a completed application (for indictable cases, a Through Order will be issued if the applicant passes the means test). If the application is returned to the provider because further information is required and is then resubmitted, the date and time will be updated with the date and time of resubmission. Any subsequent Representation Order will be dated from the updated date stamp assigned at the point of resubmission. **For either way cases,** we will issue a Through Order, covering work in the magistrates' as well as the Crown Court, if the following requirements are met: • applicant passes the means test • applicant passes the IOJ test • application date stamped on or before the date of committal/sending Please note, to be eligible to claim the Sending Hearing Fixed Fee you will need a Through Order, covering the magistrates' court work. You should therefore obtain a date stamp as soon as you can. This is especially important if you are only instructed on the day of the magistrates' court hearing sending the case to the Crown Court.

	You should ensure you select Either Way as the case type when completing the application even where the case has been sent to Crown Court that day. This will ensure a Date Stamp is assigned once you have entered the basic information about your client and the case. **For indictable cases,** you will require a Through order dated on or before the magistrates' court hearing sending the case to the Crown Court. As we cannot backdate representation orders in indictable cases this means you will need to submit a fully completed application on or before the sending hearing. The applicant must also pass the means test. **We recognise that there are limited circumstances in which you cannot fully complete the form, such as when a defendant who gets a passported benefit is produced from police custody and does not know their NINO. You should still submit the application on or before the sending hearing. See section 3.4.2 above for full details of when you may submit an incomplete form. It also explains how to correctly submit the application in the Apply for criminal legal aid service without information that would usually prevent submission.**
Non-means tested Crown Court proceedings such as breaches	Crown Court order dated from the point the application was first assigned a date stamp. If we have to reject the application due to the form being incomplete or for missing evidence the Representation Order will be backdated to the original date stamp. **What if the case concludes on the day?** The provider must submit the application on the day to be assigned a date stamp.

The following 2 tables illustrate what happens with the type and date of the rep order issued where an application was either:

- rejected whilst in the magistrates' court and resubmitted post committal
- date stamp obtained in magistrates' court but only submitted post committal.

Please note that an application not submitted or resubmitted in these examples until the case has concluded cannot be considered and no representation will be issued unless they pass in the magistrates' court and evidence has been provided.

The following table provides an example of an Either Way application that was rejected pre-committal and how the date and type of Representation Order can differ, dependant on the date of re-submission, the evidence provided and the result of the means assessment.

Scenario: E/W pre-committal application received on 1/8/25; however, the form was incomplete and therefore was rejected. Case subsequently committed and application re-submitted as per one of the following scenarios:

	Scenario	**Means result**	**Rep Order type & date**
1	E/W post-committal application resubmitted on 8/8/25 (committal took place on 4/8/25). Completed form received but **no evidence**.	Means Pass/Fail	**Crown Court Only** order dated from **8/8/25** (Evidence needed in magistrates', so only Crown Court order issued from date the fully completed form was received. Evidence requested (and if provided and they pass we can issue a Through order and backdate))
2	E/W post-committal application resubmitted on 8/8/25 (committal took place on 4/8/25). Completed form received but **no evidence**.	Means INEL	**Crown Court refusal notice issued.**
3	E/W post-committal application resubmitted on 8/8/24 (committal took place on 4/8/25). Completed form **with evidence**.	Means Pass	**Through Order** issued dated from **1/8/25** (Through order backdates to when we first received the application
4	E/W post-committal application resubmitted on 8/8/25 (committal took place on 4/8/25). Completed form **with evidence**.	Means Fail	**Crown Court Only** order dated from **8/8/25** (Crown Court order issued from date the fully completed form received. Contribution Order also issued).
5	E/W post-committal application resubmitted on 8/8/25 (committal took place on 8/8/25). Completed form **with/without** evidence	Means INEL	**Crown Court refusal notice issued.**
6	E/W post-committal application resubmitted on 8/8/25 (committal took place on 8/8/25).	Means Fail	**Crown Court Only** order dated from **9/8/25** (Crown Court order issued from date of fully completed form unless it is received same day as committal, then it is from day after committal)

	Scenario	Means result	Rep Order type & date
	Completed form **with/without** evidence		

The following table provides an example of an Either Way application where the provider used the Get Date Stamp button whilst in the magistrates' court but only submitted their application after committal. and how the date and type of Representation Order can differ, dependant on the date of re-submission, the evidence provided and the result of the means assessment.

Scenario: E/W pre-committal application date stamped on 1/8/25; but not submitted until after committal as per one of the following scenarios:

	Scenario	**Means result**	**Rep Order type & date**
1	E/W post-committal application submitted on 8/8/25 (committal took place on 4/8/25). Completed form received but **no evidence**.	Means Pass/Fail	**Crown Court Only** order dated from **8/8/25** (Evidence needed in magistrates', so only Crown Court order issued from date the fully completed form was received. Evidence requested (and if provided and they pass we can issue a Through order and backdate))
2	E/W post-committal application submitted on 8/8/25 (committal took place on 4/8/25). Completed form received but **no evidence**.	Means INEL	**Crown Court refusal notice issued.**
3	E/W post-committal application submitted on 8/8/25(committal took place on 4/8/25). Completed form **with evidence**.	Means Pass	**Through Order** issued dated from **1/8/25** (Through order backdates to the date stamp)
4	E/W post-committal application submitted on 8/8/25(committal took place on 4/8/25). Completed form **with evidence**.	Means Fail	**Crown Court Only** order dated from **8/8/25** (Crown Court order issued from date the fully completed form submitted. Contribution Order also issued).
5	E/W post-committal application submitted on 8/8/25 (committal took place on 8/8/25). Completed form **with/without** evidence	Means INEL	**Crown Court refusal notice issued.**
6	E/W post-committal application submitted on 8/8/25(committal took place on 8/8/25). Completed form **with/without** evidence	Means Fail	**Crown Court Only** order dated from **9/8/25** (Crown Court order issued from date of fully completed form unless it is received same day as committal, then it is from day after committal)

3.4 Documentation required to make an application

3.4.1 Magistrates' court

Applications for representation in the magistrates' court will not be complete unless the application has been fully completed and submitted in the Apply for criminal legal aid service with supporting financial evidence of the applicant's income and (where applicable) outgoings.

Those applicants who are employed or self-employed and who have been remanded into custody by the court (or already serving a custodial sentence) can submit applications without being required to evidence their income.

Self-declaration

The application asks whether the applicant has been remanded into court custody.

The ability to self-declare is restricted to:

Proceedings that conclude in the magistrates' court (including Committals for Sentence)

Appeals to the Crown Court (where the applicant is subject to an immediate custodial sentence)

For other relevant Crown Court proceedings (meaning trials, retrials, and voluntary bills) applicants are required to provide evidence supporting their self-declaration within 14 days of committal, sending or transfer or date of representation order (whichever is the latest) unless they are refused as ineligible for the Crown Court proceedings.

Where an applicant is relying on a self-declaration, the LAA can then verify details with third parties and the applicant's employer. Where the LAA contacts an employer, this is done as discreetly as possible.

Please note, self-declaration does not generally extend to changes in financial circumstances. We require evidence of the change before we can reassess. However, we recognise that the longer an individual is in custody the more likely it is that they will lose their job. Therefore, evidence is not required if the applicant has been in custody for 3 months or more. If they have been in custody for less than 3 months, we still require their P45 or a letter from their former employer.

Income details for applicants in court custody
If your client is remanded in custody, please note that we do not automatically assume their household income has stopped. Applicants should state their usual income, as being in custody does not always mean they have no income. For example, someone in custody for a short time may still be employed.

The form should be completed in full, including the usual source of income (including the employer's name and address and the income amount. If the applicant genuinely has no income—because they have lost their job or cannot work as a sole trader—please explain this clearly. Include details of how they supported themselves before custody and what has changed. This helps avoid delays or the need to submit a change in circumstances later.

Even if they expect to lose their job, please provide the employer's name, address, and wage figures, as this income will be included in the assessment.

Change in financial circumstances due to court custody

Employed Applicants

If an employed applicant fails the means test and later loses their job, they must submit a new application reflecting the change in circumstances.

Where the applicant has been in custody for less than 3 months, they must provide one of the following:

- P45
- Letter from their former employer confirming the terms of termination.

No evidence is required if the applicant has been in custody for 3 months or more.

Self-Employed Applicants

For self-employed applicants who fail the means test, the evidence required depends on their business structure:

- **Sole trader:** Complete a change in circumstances application stating, "sole trader remanded in custody."
- **Other self-employed types (such as private companies and partnerships):** Provide closing accounts showing the business has ceased trading.

Applicants in police custody

It is not possible for applicants to self-declare when produced from police custody. What this means is that the application cannot be submitted until the supporting documentary evidence can also be uploaded. In these circumstances, you can however obtain a date stamp (by completing the basic client and case details), and the application can then be submitted once supporting evidence has been uploaded. This will ensure that any subsequent representation order is backdated and will cover the first hearing. Alternatively, if the applicant is subsequently remanded into court custody the question 'Has a court remanded you in custody?' can be answered Yes allowing you to submit the application.

3.4.1.1 What if the case is subsequently committed for trial?

Applicants are required to provide evidence supporting their self-declaration within 14 days of committal, sending, or transfer, or the date of the representation order (whichever is the latest) unless they are refused as ineligible for the Crown Court proceedings. This can be uploaded using the post submission evidence functionality in the Apply for criminal legal aid service.

Alternatively, evidence can be emailed.

3.4.2 Crown Court

Applications for representation in Crown Court trials, retrials, or voluntary bills will not be complete unless the application has been fully completed and submitted in the Apply for criminal legal aid service.

Applications for representation for a trial in the Crown Court[4] can initially be processed without the provision of supporting financial evidence of income or capital.

[4] Including retrials and voluntary bills.

Where applicants are required to provide evidence of their income, outgoings, or capital and this is not provided at the point of application, this must be submitted within 14 days of committal, sending, or transfer, or the date of the representation order (whichever is the latest).[5]

This extends to those who previously self-certified on either way cases.

Where evidence does not accompany the application, the LAA will assess the applicants means on the income and outgoings (and capital & equity) declared.

If the evidence subsequently supplied differs from the declaration a reassessment will be conducted.

Where funding is granted, failure to provide the required income evidence within 21 days of the proceedings being committed, sent or transferred from the magistrates' court or date of the representation order (whichever is the later) could result in the applicant being liable to pay a monthly contribution of £900 or 100% of their disposable income, whichever is higher. Where an applicant is genuinely unable to provide the required evidence to support their application, there may be circumstances where a satisfactory explanation can be accepted, or an extension may be agreed. Please contact NCAT in these circumstances.

3.4.3 Committals for Sentence

Applications for committals for sentence are considered complete in the same way as for magistrates' court applications. This means that where an applicant is required to provide documentary evidence of their income and outgoings, this must be provided before the application can be processed.

Because no contribution from capital is payable for these hearings, information relating to property and capital is not required, therefore the Apply for criminal legal aid service does not present these questions.

Applicants who had previously applied for representation in the magistrates' court and were deemed ineligible on means can submit a completed hardship application (CRM16) for consideration of any additional outgoings they have paid, for example the cost of representation in the magistrates' court.

3.4.4 Appeals to the Crown Court

Applications for appeals to the Crown Court are considered complete in the same way as for magistrates' court applications. This means that where an applicant is required to provide documentary evidence of their income and outgoings this must be provided before the application can be processed.

As no contribution from capital is payable for these hearings, the Apply for criminal legal aid service does not present the questions relating to property and capital.

3.4.5 Definition of a completed application

Annex Q: Hints & tips on applying for legal aid and Annex R: Forms Guidance provide detailed guidance on completing the forms; however, the following sections highlight some main points to check before submitting to allow the LAA to process the application on the first submission.

[5] Evidence will not be requested or chased where the applicant is ineligible.

3.4.5.1 Completeness of application

- For applicants' on passporting benefits[6] have they provided their NINO? This must be provided even when they can supply a DWP letter or other documentary proof of their benefit claim.

- The NINO is mandatory for Crown Court trials, retrials, and voluntary bills (excluding youths).

- Foreign Nationals will be expected to provide their Application Registration Card/number from the Home Office if they have not been issued a NINO.

- Illegal Immigrants – these types of applicants are likely to have a limited amount of information that they can give to support their application. However, we would still expect that they provide as much detail in relation to their name, address, and financial position as possible.

- Tourists, other short term and business visitors - Tourists who are on holiday in this country or visitors who are only in this country for a short period are not expected to provide an ARC number but are expected to provide full details of their income on the application.

- **Prisoner numbers for defendants in custody**
  If your client is remanded in court custody or is a serving prisoner, please provide their prisoner number if you have been able to obtain it. This will help ensure correspondence reaches your client and reduce the risk of data protection breaches.

  When completing an application in the Apply for criminal legal aid service, enter the prisoner number when asked 'Do you need to add any more information to this application?'. If a prisoner number has not yet been allocated, is not yet known, or you have otherwise been unable to obtain it, please indicate this in the same further information field so that we do not need to contact you to confirm this.

- Is the applicant's status in a property completed? Where the applicant has indicated their home address is owned by them, this should be cross-referenced against what has been declared for equity in property.

- If the applicant is married or has a partner – check that the partner sections have been completed.

- For either way and indictable cases, the applicant must indicate what class of offence they have been charged with, for example, murder/drugs/dishonesty under £30,000[7]. (For all Crown Court cases, this information is essential for LAA to calculate and produce contribution notices and orders.)

- IMPORTANT: Please note it is only the most serious offence type which needs to be identified when the applicant has been charged with more than one offence.

- Check that the dates and names of the offences have been entered - there is a drop-down list of offences but if the particular offence does not appear you can manually add an offence.

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[6] Universal Credit, Income Support, Income Based JSA, Guarantee State Pension Credit, Income-Related Employment and Support Allowance.

[7] The full breakdown can be found in the Criminal Legal Aid (Remuneration) Regulations 2013 - http://www.legislation.gov.uk/uksi/2013/435/pdfs/uksi_20130435_en.pdf

- Where there are co-defendants, have their names been given? Have reasons been given why they cannot be represented by the same solicitor[8].

- Ensure reasons for wanting legal aid are given if IOJ justification is requested.

- Ensure the applicant (and partner, if applicable) has signed and dated the applicant declaration form. If the applicant's partner is not involved in the proceedings, they must sign the form. See also 4.4.6 Signing the form, 4.4.6 Applicants with mental health problems and 4.4.7 Partner's signature.

- If the applicant has a partner, has a contrary interest been declared?

- If No - is the form completed in relation to the applicant and their partner?

- Are the employment details fully completed for the applicant and or partner?

- For summary and either way offences, has the relevant income evidence been uploaded to verify the details submitted?

- If the applicant's disposable income is negative (meaning their income does not cover their outgoings), they must explain how these outgoings are being met.

Please note that applicants who are employed or self-employed and who have been remanded into custody by the court can have their application processed without documentary evidence of their or their partner's income throughout the magistrates' court proceedings. In all cases where the applicant wishes to self-certify, you must ensure that you select Yes to the court custody question when competing the application.

- If the applicant has a company car or gets benefits from their employer other than wages, check you have uploaded form P11D where necessary (the value could be included on their wage slip instead).

- Check to see if the applicant/partner receives any state benefits. If they have children, check whether they have declared Child Benefit and Child/ Working Tax Credits. See 12.1 Child Benefit and Annex R: Forms Guidance if your client is affected by the High Income Child Benefit charge.

- If the applicant or their partner has declared themselves to be in receipt of any other income, have they provided evidence where this is required?

- If the rent or mortgage is above £500 per month, has the applicant provided a tenancy agreement or mortgage statement?

- If the applicant has declared that they are paying board and lodgings, have they specified how much of this is for food?

- If the applicant has declared childcare costs above £500 per month, have they provided evidence of this outgoing?

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[8] Regulation 13(1) of the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013 states that an individual does not have the right to select a provider who is not also instructed by the co-defendant (or by one of the individual's co-defendants, if there is more than one) unless there is or is likely to be a conflict of interest between the individual and that co-defendant.

- If the applicant or their partner has answered "Yes" to indicate that they have received a self-assessment tax calculation sheet in the last 2 years, have they provided the calculation sheet?

- Has the applicant declared that they have no income and are not receiving any benefits? If so, have they provided a full explanation in the application, including how they are paying their bills and meeting their day to day living expenses?

- If the applicant or their partner has declared self-employment, have they provided evidence of their self-employed income (most commonly, this will be a self-assessment tax return form and/or trading accounts for their business)?

- Have Property and Capital questions been completed in full?[9] This is mandatory for either way and indictable proceedings (including late applications, retrials and voluntary bills). The 'Forms Guidance' gives more information on this and on what we expect applicants to complete - including differences for applicants in court custody - and can be found in Annex R: Forms Guidance.

- Has evidence of Capital been provided[10]? – This is not mandatory at the point of application.

3.4.5.2 Completeness of CRM16

The CRM16 must be fully completed, signed, and dated. It must also be accompanied by all required evidence.

See 15 - Hardship / Eligibility Review and Annex Q: Forms Guidance for further assistance in completing the CRM16. This is currently only available as a paper form.

3.4.6 Signing the form

For audit purposes and with the exception of applicants with severe mental health problems, the applicant must sign the applicant declaration form in all cases.

Even though there are some circumstances where a solicitor interviews a client via video link or from behind a screen, the applicant must still sign the applicant declaration form. For clients appearing via video link the applicant declaration form can be emailed or faxed to the applicant to sign.

In addition, note that an electronic signature is acceptable and can be transposed on to the Applicant Declaration Form and stored electronically. Also, an applicant may sign directly onto an electronic version of the form if software permits.

We accept all methods which meet the requirements outlined as Simple Contracts in the Law Society practice note.

The Law Society guidance and practice notes in this area are available here:

Signing and exchanging documents

Execution of a document using an electronic signature

Text messages are not considered an acceptable method of digital signature and are not covered by the Law Society.

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[9] Property and Capital questions are not relevant for summary only, committals for sentence or appeals to the Crown Court.

[10] An evidence provision fee is available to solicitors. See Annex A for further details.

The applicant must provide a fresh signature with each application, and you must not use saved copies of the electronic signature.

3.4.7 Applicants with mental health problems

There are some applicants who, because of mental health problems, are unable to give instructions to their solicitor, to understand the declaration and/or are unable to sign the applicant declaration form. It is likely that these applicants will be detained under the Mental Health Act or will be being kept under medical supervision.

Where the applicant lacks capacity, within the meaning of the Mental Capacity Act 2005, to instruct a solicitor as their representative and to sign the applicant declaration form, the LAA's contract does allow the solicitor to get someone else to sign the application on the applicant's behalf (See 4.20(b) of Specification of the 2025 Standard Crime Contract).

The applicant declaration form may be signed by

- The applicant's attorney or deputy appointed under the Mental Capacity Act 2005
- The applicant's nearest relative or guardian
- A person acting as a Litigation friend
- Any other person who is acting in the applicant's best interest and who has sufficient knowledge of the applicant's financial affairs to be able to sign the declaration on the applicant's behalf

The solicitor or any other member, employee or associate of the solicitor's firm cannot sign the form.

In addition to the signature, the third party must also be in a position to provide details of the applicant's finances, or the application form will be rejected. The person signing the form takes on the responsibility for providing evidence of the applicant's income and capital, so that the applicant's means may be determined. This will include evidence of any income and/or capital assets.

As the Apply for criminal legal aid service does not currently allow for the applicant's signature to be bypassed in these circumstances, solicitors should confirm that the applicant has signed but record in the further information field the name of the person signing on the applicant's behalf and their relationship to the applicant and explain why this was necessary.

In cases where the applicant does not have sufficient capacity to instruct a solicitor, is unwilling or physically unable to sign the applicant declaration form themselves and there is no one available to sign on the applicant's behalf, then special circumstances may apply.

We recognise the difficulties faced by the solicitor in obtaining information in these circumstances. A solicitor who wishes to act for the client in this situation should complete the application to the best of their ability on the information provided. To avoid rejection of the application, for any mandatory questions where you are unsure of the answer you may select 'No' or enter '0.00' or 'not known' but you should then provide further explanation of your understanding of the applicant's circumstances in the further information field that appears before you confirm that you wish to submit the application. Similarly, solicitors should confirm that the applicant has signed but provide an explanation as to why the applicant has not actually signed the applicant declaration form. Should you experience any difficulty completing the form in this way you should email Nationalcrimeteam@justice.gov.uk

NCAT will work with you to build a picture of the applicant's circumstances and assess the level of risk the client presents.

Whilst we do not expect the solicitor to commission a mental health report, if you are able to provide a copy of any existing reports, this can assist in achieving a resolution. If the applicant has been assessed by the court's own psychiatric team, then providing this report can also be useful. Such reports can be uploaded within the Apply for criminal legal aid service as with other types of evidence.

We understand that it may not be possible to provide reports in every case; however, we ask that reasonable attempts to do so have been made. In the absence of any reports, we will require as much detail as the solicitor is reasonably able to provide. For instance, how the applicant has been supporting themselves financially, where and with whom they have been living, have they been diagnosed with a mental illness, are they known to mental health services, have they been sectioned previously, how does their illness manifest itself and in particular how does it affect their ability to instruct the solicitor and understand the declaration. This will enable NCAT to work with you to achieve an acceptable solution.

Please note: Legal Advisers and Judges do not have the authority to accept unsigned forms for applicants in these circumstances, please see Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013 for further details.

3.4.8 Partner's signature

3.4.8.1 Magistrates' court trials, committals for sentence and appeals to the Crown Court

Where the applicant has a partner, the partner must sign the applicant declaration form. Their signature is essential for assessment purposes and allows the LAA to check the information provided about the partner so that we may fulfil our duty to prevent fraud.

There are a limited number of circumstances where the application can be accepted without a partner's signature. But this must be clearly explained on the application. For example:

- If the applicant is in court custody or is serving a custodial sentence and is unable to get their partner's signature
- The partner is in hospital **and** physically unable to sign
- The partner has a contrary interest

Note that electronic signatures are acceptable – see 3.4.6 Signing the form above for more information.

3.4.8.2 Crown Court trials

There are a limited number of circumstances where the application can be accepted without a partner's signature. But this must be clearly explained on the application. For example:

If the applicant is in court custody or is serving a custodial sentence and is unable to get their partner's signature. The signature will be expected within 14 days however and the LAA will issue an ad hoc evidence request for this.

- The partner is in hospital **and** physically unable to sign
- The partner has a contrary interest

Where the applicant is in court custody and their partner has been unable to sign the form, the application can be processed without the partner's signature but must be provided within 14 days. The partner's signature is not required if they are in hospital and are physically unable to sign the form. If this is the case, they must give details of the hospital and ward as part of the written explanation.

If the partner's signature isn't provided within the allowed timescales, the LAA can apply the income evidence sanction.

Note that electronic signatures are acceptable – see 3.4.6 Signing the form above for more information.

3.4.8.3 What if the partner is abroad?

Where the applicant's partner is abroad, we would still expect a signature as the applicant declaration form can be emailed or faxed, signed, and emailed or faxed back.

Note that electronic signatures are acceptable – see 3.4.6 Signing the form above for more information.

Where the applicant has a partner **and the above exceptions do not apply**, the partner's details and signature are required. This cannot be waived even if the client would prefer to keep the proceedings from the partner.

Even where one of the exceptions does apply the applicant must explain what they have done to try and get the signature.

The solicitor must also endorse any explanations on the application.

The start date for any consequent representation order will be the date the applicant first submitted the form, not the date their partner signed or when it was agreed that they need not sign (except for Crown Court trials where the representation order will be dated from when the applicant first submitted an otherwise complete form).

3.4.9 Signature by solicitor/counsel

The solicitor acting for the applicant must sign the applicant declaration form.

If the solicitor instructs an agent/accredited representative or barrister and so authorises them to work on their behalf, the agent/accredited representative or barrister can sign the solicitor's declaration, however they must ensure they have the correct LAA account number.

3.4.10 Evidential requirements

The table below details the standard evidential requirements and should be read in combination with Annex R: Forms Guidance.

3.4.10.1 Income evidence

3.4.10.1.1 Minimum Income Evidence

Employment Status	Income Evidence Required for magistrates' and Crown Court
Unemployed	NINO (For Crown court cases) *Foreign Nationals will be expected to provide their Application Registration Card/number from the Home Office if they have not been issued with a NINO[11].* ***P45 or letter or dismissal if they have lost their job within the last 3 months.***
Unemployed – (with Pension over 1k per month)	Bank Statement (annotate all credits with their source and frequency) or Pension Statement
Passported	NINO
No passported benefits including Child Benefit, state benefit and Tax Credits.	NINO No evidence of benefit required
Youth	None
Employed	NINO (For Crown court cases) + Latest Wage Slip (from past 3 month period if not latest)
Employed where self declared	NINO (For Crown court cases) + Latest Wage Slip (from past 3 month period if not latest) if the case progressed to the Crown Court.
Employed - Cash in Hand	NINO (For Crown court cases) + Letter from Employer **OR** Bank Statement (annotate all credits with their source and frequency)
Employed - benefits in kind	NINO (For Crown court cases) + Latest Wage Slip (from past 3 month period if not latest) +P11D

[11] Tourists/other short term/business visitors who are on holiday in this country or visitors who are only in the country for a short period are not expected to provide an ARC number but are expected to provide full details of their income on the application form.

Self-Employed	NINO (For Crown court cases) + **One or a combination of:** • Set of Accounts • Tax Return • Bank Statement (annotate all credits with their source and frequency) • Cash Book • Other Business Records
Self-Employed - Cash in Hand	NINO (For Crown court cases) + **One or a combination of:** • Bank Statement (annotate all credits with their source and frequency) • Cash Book • Other Business Records
Self Employed where self-declared during magistrates' phase	NINO (For Crown court cases) + **One or a combination of:** • Set of Accounts • Tax Return • Bank Statement (annotate all credits with their source and frequency) • Cash Book • Other Business Records if the case progressed to the Crown Court.

3.4.10.1.2 Additional income evidence requirements

Additional evidence requirements	**Income Evidence Required for magistrates' and Crown Court**
Maintenance Income	NINO (For Crown court cases) + Bank Statements (annotate all credits with their source and frequency), court order or CSA agreement
Student Income	NINO (For Crown court cases) No evidence of student income required.
Rent from another property	NINO (For Crown court cases) + Three months bank statements (annotate all credits with their source and frequency).
Board or rent from family or lodgers	NINO (For Crown court cases) No evidence of board required
Other source	NINO (For Crown court cases)

Trust income	NINO (For Crown court cases) + Trust fund statement, bank statements (annotate all credits with their source and frequency).
Income (interest) from savings	NINO (For Crown court cases) + Savings book, bank statement (annotate all credits with their source and frequency).
Income from savings	NINO (For Crown court cases) + Savings book, bank statement (annotate all credits with their source and frequency)
Erratic income such as a seasonal employee	NINO (For Crown court cases) + Last wage slip, bank statement (annotate all credits with their source and frequency)

3.4.10.2 Capital Evidence

Once a case has been identified as progressing to Crown Court, applicants will be required to submit evidence to support any capital (savings and investments) they have declared within their application.

This can be uploaded using the post submission evidence functionality in the Apply for criminal legal aid service.

Alternatively, evidence can be emailed.

It is not necessary to provide evidence to support equity in the applicant's main home. This will be verified with third parties.

Applicants should be encouraged to provide the evidence at the earliest opportunity but once it has been confirmed that the case is progressing to Crown Court, if there is any capital evidence outstanding this will be requested.

Solicitors can claim an Evidence Provision Fee in relation to certain additional evidence required to support applications for relevant Crown Court trial proceedings. See Annex A: Solicitor Payments.

3.4.10.2.1 Capital evidence table

Capital Type Declared	**Evidence Type Required**
Bank Account	Statements covering the last 3 months for each account held
Building Society Account	Statements covering the last 3 months for each account held **or** Passbook showing transactions over the last three months for each account held
National Savings Bank Account	Statements covering the last 3 months for each account held
National savings Certificates	Each certificate

Premium Savings Bonds	Each bond
Cash or share ISA investment	Certificate or statement for each investment held
PEP investment	Certificate or statement for each investment held
Unit Trust investment	Certificate or statement for each investment held
Any other lump sum investment	Certificate or statement for each investment held
Shares	Certificates or dividend counterfoil showing the number of shares held
Stocks	Certificate or statement for each investment held

3.4.10.2.2 What time period should the evidence cover?

When evidence is submitted in support of a defendant's application it is important to make sure that it covers the appropriate period to give an accurate representation of the defendant's circumstances.

3.4.10.2.3 Income Evidence

For Magistrates' court applications - evidence of income should be provided at the point of application, as part of a fully completed application (except those in court custody who self-certify).

For Crown court applications – income evidence should be provided within 14 days of receipt of the application. If income evidence is not received after 14 days, the LAA issue an evidence reminder giving a further 7 days to provide the outstanding information.

3.4.10.2.4 Capital Evidence

Capital evidence should cover the last 3 months for each account prior to the Crown Court application or committal. If any capital evidence is still outstanding at the point of committal, a capital evidence request will be sent to the applicant.

In effect, so long as it covers 3 months, it's acceptable that capital evidence could be provided at the start of the case or at the end. Where bank statements have been provided as part of the income evidence for the magistrates' court application, it is acceptable for this to be used as capital evidence so long as 3 months' worth of statements have been provided. If only 1 has been submitted, 2 further months are required to satisfy the capital requirement.

3.5 Length of application process

Please see Section 17 Legal Aid Key Performance Indicators for our targets.

3.6 Prioritising applications

Applications are dealt with in order of receipt. Should you be unable to act unless the outcome of legal aid is known, you may make an application to the Bench at Court for the request for legal aid to be prioritised. If the Bench agree, the court will then escalate the case with the Legal Aid Agency, and it will be dealt with as a priority.

Early cover or Pre-Order cover payments are available for the first hearing in the magistrates' court.

Please see Annex A: Solicitor Payments for further information.

For expedited cases, we aim to process applications received by the LAA by 4pm within 1 hour of a fully completed application with all necessary supporting documents.

For non expedited cases, see 3.3 Dating the Representation Order for details of when we can and cannot backdate representation orders.

4 Key differences between magistrates' and Crown Court schemes

The tables below describe, briefly, how the means testing scheme works and the key differences between the award of legal aid for magistrates' and Crown Court cases.

Magistrates' Court

- Solicitors paid by LAA Standard Fee system
- Simple in / out test
- Income only means test
- Evidence of Income required
- Defendants in Court Custody can self-declare
- Test based on assessing ability to pay private costs (average £1,500)
- Representation orders issued for eligible defendants
- Test extends to include Committals for Sentence
- Must meet Interests of Justice (IoJ) criteria
- Courts are structured to deal with unrepresented defendants
- Withdrawal of representation order possible during case if subsequently found to be ineligible
- Savings realised from not funding applicants deemed capable of paying privately

Crown Court

- Solicitors & Advocates paid by LGFS & AGFS systems
- In/out test AND Contributory scheme
- Income means tested to determine eligibility
- Income, Capital and Equity are means tested to determine contribution
- Evidence of Income and Capital required to follow within 14 days for eligible defendants
- Evidence provision fee for solicitors
- No self-certification
- Test based on ability to pay some or all defence costs if not passported
    - Wealthy individuals (household disposable income of £37,500 or more) are ineligible for legal aid in Crown Court trials and will have to pay privately
    - Of those who are eligible, some will pay during course of proceedings from income and/or at the end of proceedings from capital & equity

      Anyone found not guilty will be:
      - refunded any contributions paid or
      - able to claim their costs from central funds (at legal aid rates) provided they applied for legal aid and were refused.
- Representation orders issued for eligible defendants. Those that apply in the magistrates and are eligible in the magistrates' court issued a through order.
- Refusal notice issued to those ineligible for Crown Court trials
- Contribution Notice / Contribution Order issued alongside Representation Order (or mags refusal)
- Appeals to Crown Court also means tested – income only and extra allowance. Contribution required at end if appeal fully or partly unsuccessful or abandoned and failed the means test
- Passported on IoJ (except Appeals)
- Securing representation more critical. Representation orders will not be revoked or withdrawn for non-payment
- Non-payment could increase cost liability through collection & enforcement
- Savings realised through collection of contributions and prevention of defendants with a disposable income of £37,500 or more receiving funding

5 Magistrates' court scheme

The magistrates' court scheme is often referred to as an 'in or out' scheme, where applicants are either:

- Eligible for legal aid (because they pass the initial or full means test) or
- Ineligible (because they fail the initial or full means test) and are therefore expected to pay privately.

Whether or not the applicant is granted a representation order depends on the outcome of the IoJ test **and** means test:

- A court (bench) cannot override the means assessment or grant the representation order where the means test has been failed
- Applicants can appeal a refusal on IoJ for proceedings in the magistrates' court, first to NCAT (it will be reviewed by a caseworker not involved in the initial decision) and, second, via NCAT to the court itself
- Applicants can only appeal a refusal on IoJ for Appeal proceedings to the Crown Court to the appropriate officer of the Crown Court
- Applicants can ask for a reassessment of means if their circumstances change
- Applicants can ask for a recalculation if they think an error has been made
- Applicants can (whilst their case is ongoing) ask for a hardship review of their means test result if they believe they cannot afford to pay the cost of their case.
- If either the IOJ appeal or the hardship review is unsuccessful, the overall decision remains a refusal.

Some applicants will choose to appear unrepresented. In the magistrates' court, the Legal Adviser is under a duty to assist unrepresented applicants to understand the process (but cannot present the case on behalf of the applicant).

5.1 Assigned Counsel

Under a Representation Order counsel can be instructed in 2 ways, either unassigned, or, assigned.

If you need to instruct counsel, you will need to apply to be assigned counsel and have your representation order amended.

Where the Representation order specifically authorises the instruction of counsel (under Regulation 16 of the Criminal Legal Aid (Determinations by a Court and Choice of Representative Regulations) 2013), he/she will be treated as assigned counsel. In all other circumstances instructed counsel will be treated as unassigned.

A solicitor may instruct unassigned counsel but has a duty to ensure counsel is of appropriate seniority and expertise. The professional relationship between the solicitor and unassigned counsel will be the same as that which exists in a privately funded case and the solicitor will be responsible for paying them.

Where Counsel is assigned under a Representation Order in accordance with regulation 16 of the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013, Counsel must be paid directly by us.

An application to assign counsel must be made to the court. If an application is refused, it may be renewed to the court.

If the court assign counsel they will notify NCAT, who will issue a revised representation order.

5.2 Either way funding process

For either way offences, where an applicant has failed the magistrates' court means test (Disposable income was assessed as exceeding £3,398 or weighted gross income was above £22,325) and the case is subsequently committed to the Crown Court, eligible applicants (those with a disposable income of below £37,500) will automatically be issued a representation order together with any request of outstanding income and/or capital evidence. The Representation Order will only be dated the day after the committal hearing and will only cover work done in the Crown Court. The applicant will be subject to an Income Contribution Order so will also receive a Contribution Order (see 6.6.1 Income Contributions).

You do not need to reapply for legal aid in the Crown Court (unless your client's disposable income was previously assessed as being £37,500 or more and their circumstances have changed).

If an applicant is ineligible for funding in the magistrates' court and the case does not proceed to trial in the Crown Court, you will not be able to claim for any element of work done at the magistrates' court (with the exception being early cover and form completion fees - see Annex A: Solicitor Payments).

5.3 Virtual Courts

5.3.1 First Hearing

Under the Virtual Court/video link process whereby it is the defendant's first hearing, and the matter starts and finishes on the same day then the solicitor does not require the client signature for the purposes of providing representation at such a hearing, be they at the police station or the magistrates' court. The solicitor can annotate the CRM3 form to show that it relates to a Virtual Court/video linked first hearing and retain it on the case file. The solicitor should record the client's name and address, the date, time and venue of appearance and details of the relevant unit of work.

This representation is non means and paid as a Virtual Court Fixed Fee where the case is disposed of following the first hearing. In these circumstances, the solicitor will claim the fixed fee using the Virtual Court Claim Form.

5.3.2 Adjourned Cases

If the case is adjourned to a second hearing the defendant will have to apply for a Representation Order in the normal way and the solicitor will require the client's signature. However, the application does not need to be completed and signed straightaway in these circumstances in order for the solicitor to be able to legitimately claim payment for any pre order work undertaken. This means that the applicant declaration form does not need to be emailed or faxed over to the client for signature immediately after the hearing.

In order to claim Pre Order Work, the solicitor needs to submit their application within 5 days of initial instruction (10.28 of the Specification of the 2025 Standard Crime Contract). This gives them the time to obtain the signature, either by visiting the client in custody, or if on bail, the client can attend the firm's office in order to obtain the signature. Alternatively, the solicitor can email or fax the applicant declaration form across once they get back to their own office. The signed application form can then be scanned in and emailed or faxed back to the solicitor.

If the second hearing occurs within 5 days of the initial instruction, then the solicitor can obtain the signature at that hearing and submit the application for Representation Order at that point.

Oral applications cannot be made.

NCAT cannot grant a representation order without receipt of an application through the Apply for criminal legal aid service.

Note that an electronic signature is acceptable and can be transposed on to the Applicant Declaration Form and stored electronically. Also, an applicant may sign directly onto an electronic version of the form if software permits.

We accept all methods which meet the requirements outlined as Simple Contracts in the Law Society practice note.

The Law Society guidance and practice notes in this area are available here:

Signing and exchanging documents

Execution of a document using an electronic signature

Text messages are not considered an acceptable method of digital signature and are not covered by the Law Society.

The applicant must provide a fresh signature with each application, and you must not use saved copies of the electronic signature.

6 Crown Court scheme

6.1 Relevant proceedings covered by Crown Court Means Testing (CCMT)

Relevant proceedings covered by CCMT are proceedings in the Crown Court that have been:

- Committed, sent, or transferred for trial by a magistrates' court.
- Commenced by way of the laying of a Voluntary Bill of Indictment.
- Directed for retrial by the Court of Appeal.
- Committed for sentence from the magistrates' court.
- Subject to an appeal of a magistrates' court decision.
- Prescribed proceedings may be subject to CCMT. See Annex I: Prescribed proceedings for further details.

While CCMT mirrors many of the processes of the magistrates' court scheme, means testing for Crown Court trials includes some key differences to the way the process works in the magistrates' court. We refer to the magistrates' scheme as being 'in or out', which means that applicants are either eligible or ineligible for legal aid based on the outcome of the IoJ and means tests.

In contrast, the Crown Court Means Testing scheme has an element of 'in or out' but is largely a contributory scheme. For Crown Court trials, all applicants who submit a fully completed application will be passported on IoJ but will have to meet financial criteria to be granted a Crown Court representation order. Applicants with a household disposable income of £37,500 or more will be ineligible for legal aid. Therefore, if an applicant's case was to be heard in the Crown Court the means test would determine if they were eligible and if so, how much they needed to contribute towards their defence costs, which could be from their income, their capital or a combination of both.

The process for committals for sentence and appeals to the Crown Court is different and is set out below.

Where an applicant faces a retrial in the Crown Court as a result of an aborted Crown Court trial - for example, where the jury is discharged part way through or are unable to reach a verdict, and a retrial is directed by the Crown Court judge - the original representation order continues in force.

The Crown Court does not have the authority to deal with late applications in relevant proceedings.

Where the judge remits a case back to the magistrates' court, this is out of scope for CCMT. This also applies where the Crown Court judge swears him/herself in as a district judge to deal with the proceedings. In both of these scenarios, the applicant will be entitled to a refund of their contributions and regardless of the sentencing, the Crown Court case outcome will be recorded as an acquittal.

6.2 Interests of Justice Criteria for Crown Court proceedings

Some proceedings in the Crown Court automatically meet the IoJ criteria, which are those that:[12]

- Have been committed, sent or transferred for trial to the Crown Court,
- Are in the Crown Court following the laying of a Voluntary Bill of Indictment
- Have been directed for retrial by the Court of Appeal.
- Have been committed for sentence

Applications for Appeals to the Crown Court are still subject to the IoJ test.

6.3 What can the Crown Court grant?

The Crown Court does not have a general power to grant a representation order and can ***only*** do so in relation to three specific sets of proceedings:

- Proceedings in the Crown Court which are referred to in Section 14(G) Legal Aid, Sentencing and Punishment of Offenders Act 2012 for contempt of court proceedings or
- An alleged breach of an order of the Crown Court, where it appears to the court there is no time to instruct a litigator, (for example, if the application is made on the day of the hearing), or
- Where an individual is brought before the court in pursuance of a warrant (Bench Warrant) issued under section 81 of the Senior Courts Act 1981. The order will cover any proceedings incidental to this[13].

Legal aid applications for these offences can be dealt with at the Crown Court; a representation order should be produced by the Crown Court and there is no magistrates` court involvement. **While these cases are brought before the Crown Court, they are not subject to Crown Court means testing.**

Any representation order not granted in accordance with these new arrangements will be treated as 'ultra vires'. This has 2 significant implications:

- The solicitor or barrister will not be able to claim for work done under the representation order, and
- We will miss the opportunity to assess the defendant's liability to a contribution order.

6.4 Scenarios where CCMT does not apply

Any applications for legal aid other than those outlined in 6.3 above, must be made to the LAA using the Apply for criminal legal aid service.

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[12] Guidance on the consideration of Defence Representation Orders can be found at https://www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

[13] If the applicant already had legal aid at the time when the bench warrant was issued, then this will extend to cover any subsequent hearings even if the solicitor has already submitted their bill.

There will be a number of circumstances where CCMT does not apply to applications made for legal aid, although NCAT will still process the application.

In circumstances where CCMT does not apply, you should answer No to the question 'Is this application subject to the means or passported test?' in the Apply for criminal legal aid service. This will ensure that no means questions are asked, and that the application is correctly directed to the correct caseworker work queue. Designated caseworkers process non-means applications.

Please see below a list of scenarios where CCMT does not apply and where the above process will need to be followed:

Confiscation proceedings in the Crown Court

If the applicant already has legal aid, these proceedings are covered by the original Representation Order. However, if the applicant was privately represented for the main proceedings and wishes to apply for legal aid to cover the confiscation proceedings, a new application for legal aid will need to be submitted via the Apply for criminal legal aid service but will not be subject to CCMT. The Crown Court does not have the power to grant representation in these circumstances.

(Note that enforcement of confiscation proceedings is dealt with in the magistrates` court, and a fresh application for legal aid would be required. This application would be processed under the usual Magistrates` Means Testing Scheme).

Please see 11.2 Applicants subject to freezing, restraint orders or confiscation proceedings for further guidance.

Application to vary a Crown Court order or to vary a suspended sentence imposed at the Crown Court

The existing representation order from the substantive Crown Court proceedings will cover the hearing to apply for the variation. This is regarded as 'incidental' to the main proceedings.

If there is not an existing order, the same process should be followed as for Confiscation Orders (above)

Breach proceedings for a Crown Court order where there is time to instruct a litigator (any time prior to the date of the hearing).

Legal aid applications for Breaches of orders which are directed to be heard at the Crown Court by the relevant prosecuting authority are only subject to the IoJ test. If on the day of the hearing at the Crown Court the Defendant is without Representation, the Crown Court Judge has the discretion to grant an order for Representation.

Sentence Review hearings under section 74 of the Serious Organised Crime and Police Act 2005 (SOCPA)

Please see Annex D: Sentence Review hearings under section 74 of the Serious Organised Crime and Police Act 2005 (SOCPA).

Prescribed Proceedings not subject to CCMT

Please see Annex I: Prescribed proceedings.

6.5 Crown Court trials

The application process uses the same application as for the magistrates' court scheme but there are additional information and evidential requirements.

Every applicant who appears for trial at the Crown Court will automatically pass the IOJ test. However, the issue of a representation order depends on the outcome of the means test and the submission of a fully completed application.

The means test will determine whether they are eligible for legal aid in the first instance and if so, how much they are required to contribute. For those that do have to contribute to some or all of their defence costs, this could be from income, from capital or in some cases, from both.

As part of the process, applicants are required to provide information about their income and capital assets so that we can conduct the means assessment. This will determine if the applicant is eligible and if so what, if any, contribution will be required from their income during the course of proceedings[14]. Some applicants will also have to provide evidence of their income and capital.

Where evidence is required that is over and above what is needed in the magistrates' court, such as capital evidence, solicitors can claim an Evidence Provision Fee. See Annex A: Solicitor Payments for further details.

For either way proceedings, where an application has initially failed the IoJ and/or means assessment for magistrates' court proceedings, the information provided on the application will be used if the matter subsequently proceeds to the Crown Court.

For either way cases where the applicant fails the magistrates' court means test and the case is subsequently committed to the Crown Court, a representation order will be issued only if the applicant's household disposable income is less than £37,500. The representation order will be dated the day after the committal hearing.

The means assessment determines whether an applicant is:

- ineligible and therefore expected to pay privately
- eligible and entitled to free legal representation
- eligible and exempt from the payment of income contributions (the applicant's annual household disposable income is below the threshold of £3,398[15]) - but may be liable for some or all their defence costs following conviction[16]
- eligible but required to pay income contributions (the applicant's annual household disposable income is above the threshold of £3,398)
- eligible but required to pay income contributions and liable for some or all of their defence costs following conviction

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[14] Information on capital and equity is captured during the application process but a determination on contribution from capital and/or equity will only be made following conviction.

[15] The annual household disposable income threshold is the same as the magistrates' court scheme (currently £3,398).

[16] This is because the applicant has capital and equity above the threshold. The combined capital and equity threshold is £30,000.

6.6 Making contributions in the Crown Court

There are 2 types of contribution a defendant in the Crown Court may have to make - either from income and/or capital.

They may have to pay all, some or none of their defence costs, depending on what the means test decides they can afford from their income and capital assets.

6.6.1 Income Contributions

For those applicants whose annual household disposable income is above the £3,398 threshold but below the £37,500 threshold, income contributions are required once the proceedings have been committed, sent, or transferred for trial[17]. Income contributions are set at 90% of disposable income and will be for a maximum of 6 months.

At the end of the case, if the defendant is found not guilty, they will get all their money back with interest at a rate of 2%.

The first payment date is 28 days after the date on which the case is committed/sent/transferred.

Payment options include the following:

1. Income contributions are required in monthly instalments over 6 months. If payments are made on time, only 5 monthly contributions will be collected.

2. The applicant can pay a lump sum equivalent to the value of 5 monthly instalments on or before the first payment date.

6.6.1.1 Is there a minimum contribution from income?

For an applicant with a household disposable income of £3,398.01 (so just above the threshold), the monthly contribution would be £254.85. For applicants who have a higher disposable income than their likely case costs, contributions will be limited to a maximum income contribution to reduce the risk of over payment[18].

6.6.1.2 Reassessing once evidence is provided

For all applicants who have not provided evidence as required at the point of application (not just those who are subject to an income contribution), NCAT will issue a reminder.

Once the required evidence is received, the LAA will validate this against the information on the application. Where there is a discrepancy, the LAA will reassess. This may mean that an income contribution is required (or varied) and a revised contribution notice or order issued. It could also mean that the applicant should not have been granted legal aid. Once a Crown Court Representation Order has been issued however, it cannot be revoked. In these circumstances, the applicant's liability for a contribution will be amended. This means that if the applicant should have been refused legal aid because their disposable income is £37,500 or more but no Income Contribution Order has been issued the LAA will issue one. If the applicant was already subject to an Income Contribution Order the LAA will issue a revised one for a higher contribution. In the latter case, the applicant may be subject to an additional payment.

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[17] This includes proceedings directed for retrial or where a voluntary bill of indictment has been preferred.

[18] See Annex L: Case Costs

Where an income contribution has been made and the applicant is subsequently acquitted, all contributions will be refunded with interest[19].

6.6.1.3 Applying the Income Evidence Sanction

The 'Income Evidence Sanction' can be applied if the supporting income evidence is not provided within 7 days after the Evidence reminder (so 21 days in total). The sanction is an income contribution set at £900 per month, or 100% of disposable income, whichever is greater.

Following the application of the sanction, the applicant will be issued with a revised Contribution Order.

Once all required income evidence is received, the sanction will be removed. Once the sanction is removed, the contribution will revert to an assessed value and a Contribution Notice/Order will be re-issued.

6.6.2 Collection of arrears

If the defendant is convicted in the Crown Court but has arrears under their Income Contribution Order (ICO), collection and enforcement activity will continue. They are liable for this payment even after the case has concluded.

6.6.3 Liability schedule

The table below shows how ICO liability is calculated.

Liability and payments under an Income Contribution Order				
Liability for contributions under an income contribution order is based on an applicant having an annual household disposable income greater than £3398. This is where the outcome of the first full means assessment is 'fail'. The date of this assessment drives the liability and payment schedule under the income contribution order, as set out in the example below.				
Assessment or committal sending date = 17/06/2025				
Month	Liability schedule		Payment schedule	
1	liability created	17/06/2025	payment due	15/07/2025
2	liability created	17/07/2025	payment due	15/08/2025
3	liability created	17/08/2025	payment due	15/09/2025
4	liability created	17/09/2025	payment due	15/10/2025
5	liability created	17/10/2025	payment due	15/11/2025
6	liability created	17/11/2025	payment due	15/12/2025

[19] Unless exceptional circumstances apply (such as misleading the prosecution or the court) or costs have been incurred in connection with the enforcement of the order.

If:

- sentence/order date = 2/9/2025, applicant is liable for 3 payments
- sentence/order date = 18/9/2025, applicant is liable for 4 payments
- sentence/order date = 18/11/2025, applicant is liable for 6 payments (or 5 payments, if payments 1-5 paid on time).

If the applicant makes a lump sum payment, no crystallisation will take place. If the amount payable during the payment schedule changes, this will be taken into consideration.

6.6.4 Payment from capital in the Crown Court

Where the applicant is found guilty or pleads guilty, they may have to pay towards their defence costs from capital if they have assets of £30,000 or more (the first £30,000 being disregarded unless a capital sanction has been imposed- see "Capital Sanctions").

Although the Income Contribution Order or Contribution Notice sent to applicants after legal aid has been granted tells the applicant that there may be a contribution from capital if they are convicted, please assist your client by ensuring that they are fully aware of the possibility of a capital payment following conviction and the consequences for non-payment.

6.6.4.1 How payment from capital works

When clients are convicted in the Crown Court the LAA must establish whether a Capital Contribution Order should be issued.

This means any applicant who was not passported, regardless of whether they were asked to pay an income contribution or not, will have their capital and equity assessed. The initial assessment point of the client's capital and equity is taken from the point of application but changes in circumstances may be considered if the LAA is notified within 28 days of the Capital Contribution Order being issued, or if further information comes to light to establish the client's ability to pay at the end of the case.

This could result in clients being asked to pay towards their costs. This is also made clear on the Income Contribution Order or Contribution Notice sent to them after legal aid has been granted.

A Capital Contribution Order will be issued if the cost of representation has not already been met by any contributions from income.

6.6.4.2 Capital and/or equity contribution

Upon conviction, a contribution from capital and/or equity may be required.

Those applicants who are found guilty in the Crown Court and whose income contributions (if any were required) have not covered their defence costs in full will have to make a further contribution if they have capital or equity above the threshold.

The combined capital and equity threshold is £30,000.

Applicants who have capital assets (even if these are below the threshold) are still required to provide evidence of these if required. If this is not provided at the point of application, a Capital Evidence Request will be issued.

For applicants who do not provide evidence of their assets when asked for it, the Legal Aid Agency can remove the £30,000 allowance and require them to pay their costs from their available capital (see Capital Sanctions below).

6.6.4.3 Capital Sanctions

A Capital Sanction is the removal of the £30,000 Capital & Equity threshold when calculating an applicant's Capital Contribution Order at the end of a case. Capital Contribution Sanctions will only be applied in cases where:

- The applicant has failed without reasonable excuse to comply with requests to provide the required evidence.

- The LAA has reason to believe that the applicant has sufficient capital assets of an amount or value of £30,000 or more (See example below)

A Capital Sanction will be lifted as soon as the applicant complies with the request for information and their Capital Contribution Order (CCO) will then be recalculated to a level which accurately reflects the value of their capital assets.

If an applicant wilfully fails to comply with requests for evidence and further information in regard to their capital the LAA may decide to apply a sanction by removing the £30,000 allowance and the applicant will be deemed to have sufficient resources to pay all of their outstanding case costs

6.6.4.3.1 Where evidence is not provided

If a defendant wilfully fails to comply with requests for evidence and further information in regard to their capital the LAA may decide to apply a sanction removing the £30,000 allowance and the applicant will be deemed to have sufficient resources to pay all of their outstanding case costs

6.6.4.3.2 Where new information comes to light

The LAA and the Debt Recovery Company (DRC) conduct assurance checks to validate the information declared by applicants in their applications for Criminal Legal Aid. Where the declared Capital & Equity differs from the findings in the checks, the applicant will be issued a CCO based on this information, irrespective of whether that amount is more of less than capital and equity declared at the point of application. In some instances, your client may be contacted (prior to the issuing of any Capital Sanction) to request further information to clarify any discrepancies. If these requests are not complied with, the LAA will apply the capital contribution sanction and base the contribution liability on what was declared in the application and any additional Capital and Equity identified via their checks when calculating the applicant's Capital Contribution liability.

For example - If independent investigations confirm to the LAA that the value of the equity in an applicant's usual home address (which is owned by the applicant) is higher than the value declared on the application, the LAA could have a reasonable belief that the applicant did indeed have the relevant capital assets to contribute towards the costs of their case.

6.6.4.4 Contribution Notices & Contribution Orders

The outcome of the means assessment is communicated to the applicant via a Contribution Notice or Contribution Order which will accompany the representation order (or refusal notice for applicants who have failed the interests of justice test or full means test in the magistrates' court). The applicant will also receive an initial contact letter from the Debt Recovery Company (DRC) advising the amount due, the due date and payment methods. For further information about the DRC please see 2 Key Players, 6.6.5 Collection & enforcement and Annex O: Debt Recovery Company's role in collecting criminal legal aid contributions.

6.6.5 Collection & enforcement

The LAA is responsible for the collection and enforcement of CCMT contributions. This work has been outsourced to a Debt Recovery Company, Advantis Credit Ltd. More information and contact details can be found in the Key Players section. The role of the DRC is further detailed in Annex O: Debt Recovery Company's role in collecting criminal legal aid contributions.

We would encourage you to ensure that your clients properly understand their liability and the importance of prompt payment. Although we would prefer not to resort to enforcement action, where there is repeated failure to pay, we must protect the legal aid fund.

It is important that clients understand how legal aid works in criminal proceedings, and what their responsibilities are under the scheme. Suggested paragraphs for use in client care letters can be found in Annex P: Standard paragraphs for client care letters.

The LAA will take all necessary steps to ensure that where a contribution is required, this is paid. For those applicants who fail to pay, the LAA can consider a range of sanctions and enforcement activity, and this is made clear on the Contribution Notice and Orders. Enforcement action on Crown Court cases can be taken pre-conviction and post-conviction.

We would encourage you to ensure that your clients properly understand their liability and the importance of prompt payment. Although we would prefer not to resort to enforcement action, where there is repeated failure to pay, we must protect the legal aid fund.

Enforcement options include but are not limited to:

- Charging order secured against any property owned
- 8% interest on charging orders
- Third party debt order against any money deposited in an account
- Attachment of earnings order, where payment can be deducted at source
- High Court enforcement, via writ of Fi Fa
- Distress warrants, where goods can be seized, removed and sold
- Order to clamp and/or sell any vehicle owned[20].

The money recovered will be returned to the legal aid fund.

If you receive enquiries from your clients regarding CCMT contributions, please direct them as follows:

- The accuracy of the assessment or provision of evidence – please direct your client to the criminal applications helpline.

- Ability to pay – you can advise them of the change in financial circumstances and hardship review routes. See 14.1.3 Change in financial circumstances in the Crown Court and 14.4 The Crown Court hardship review process.

- How or when to pay – you should provide contact details for the DRC which can be found in the Key Players section.

This section explains when the liability for the monthly contribution is created and what happens if the case concludes within six months.

6.6.5.1 When do contributions start and finish?

If an applicant is required to make contributions from income, this will be for a maximum of 6 months. Contributions will begin once their case has been sent to the Crown Court and the liability starts from the day the financial assessment is completed or the sending/committal date whichever is later, and subsequent contributions become due each month thereafter. Applicants are however given 28 days in which to make each payment.

6.6.5.2 What happens if the applicant is acquitted?

At the end of the case, if they are found not guilty, all contributions will be refunded, less any enforcement costs. Interest is paid on the contributions paid a rate of 2%. It usually takes around 3 weeks for a refund following acquittal to be processed.

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[20] Practical guidance on the Motor Vehicle Order Scheme for those who are subject to an application for a clamping order or vehicle sale order and wish to contest the application is available on GOV.UK:

www.gov.uk/criminal-legal-aid-means-testing#enforcement-action

6.6.5.3 What happens if the applicant is convicted?

The date the liability for further income contributions ceases is the Sentence Order date.

Applicants who are convicted of any offence in the Crown Court may also have to pay towards the cost of their defence if they have assets of £30,000 or more.

6.6.5.4 What if there are unpaid income contributions?

If an applicant is convicted and is in arrears, they remain liable to pay any unpaid contributions and where necessary collection and enforcement activity will continue.

6.6.5.5 What if the applicant has entered into a breathing space or mental health crisis moratorium due to problem debts?

The Debt Respite Scheme introduced on 4 May 2021 gives an individual in problem debt legal protections from their creditors during a moratorium period. During this period, they can obtain advice from a debt professional.

Further information in relation to the scheme can be located here:
https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance/debt-respite-scheme-breathing-space-guidance-for-creditors

https://www.legislation.gov.uk/ukdsi/2020/9780348209976/contents

There are 2 types of moratorium under the scheme:

- a standard breathing space moratorium (which will give an individual legal protection from their creditors for 60 days)
- a mental health crisis moratorium (which potentially will see a longer moratorium period provided for individuals in receipt of mental health crisis treatment)

If the applicant has entered a moratorium before or upon applying for legal aid

If the applicant has entered a breathing space or mental health crisis moratorium due to problem debts, you should inform us of this upon applying for legal aid. The Insolvency Service will have separately sent a notification to the Legal Aid Agency (LAA) if there are any eligible debts, under the civil or criminal legal aid schemes, which fall within the moratorium.

Please note, that any financial determination of eligibility for criminal legal aid will be carried out under the normal rules, and any monthly contribution that is assessed to be payable as a condition of entitlement to legal aid must be paid.

If the applicant would like us to take into account other debts, they can submit a hardship application as usual.

If the individual enters into a moratorium following the grant of legal aid

If the applicant enters into a breathing space or mental health crisis moratorium following the grant of legal aid due to their contributions or other eligible legal aid debt, the LAA will be notified electronically by the Insolvency Service. The LAA will update its records accordingly and apply the protections to any eligible debts from the dates set out in the notification.

If your client's financial circumstances have also changed since their original application (for example, their income has increased/decreased since their original assessment), and this has not previously been notified to the LAA, they should also submit details of the change in financial circumstances for reassessment.

During the moratorium the LAA and the DRC will not contact the applicant to request payment or take any steps to enforce (except where a Final Attachment of Earnings or Charging Order is already in place).

What happens at the end of the moratorium period?

At the end of the moratorium period, we will resume, or follow, the usual enforcement procedures.

6.6.6 £30,000 capital allowance

The amount payable under a Capital Contribution Order is based on the final defence cost, less any payments already made. It is issued if your client has more than £30,000 in capital.

This typically includes equity in properties and all types of savings and investments but could include other assets.

It should also be noted that the £30,000 capital allowance can be removed if your client does not comply with requests for evidence or further information. (See 6.6.4.3 Capital Sanctions.)

Capital assessments may be based on:

- the amount or value of the asset at the time of the application
- the outcome of checks carried out to protect against fraud which may be carried out before or after conviction
- new information that has come to light following checks carried out at the conclusion of your client's case

As with income assessments, the partner's share of the equity is included in these calculations unless there is contrary interest.

6.6.7 Client's responsibility

It is your client's responsibility to make the payment, and we would strongly suggest your client is made aware of potential liability.

It normally takes around six months from the end of the case for the order to be issued as we have to allow:

- Three months for submission of your solicitor's and barrister's bills
- Eight weeks for processing and resolution of appeals
- Time to conduct the capital assessment, calculate the value of the CCO, and issue the order

6.6.8 Payment timescales

Payment needs to be made within 28 days of the order. If payment cannot be made in full then reasonable arrangements can be agreed with the DRC.

Where payment is not made or a payment arrangement is not maintained, the LAA continues to instruct the DRC to enforce unpaid contributions.

If payment is not made interest will be charged at 6% – enforcement action may follow.

The costs of any action will be added to the amount clients owe.

Enforcement options include but are not limited to:

- charging order secured against any property owned
- 8% interest on charging orders
- third party debt order against any money deposited in an account
- attachment of earnings order, where payment can be deducted at source
- High Court enforcement, via writ of Fi Fa.
- Distress Warrants, where goods can be seized, removed and sold; and

Money recovered will be returned to the legal aid fund.

6.7 Voluntary Bills of Indictment

High Court

The LAA considers voluntary bill of indictment proceedings in the High Court to fall under section 16(3)(b) of the *Legal Aid, Sentencing and Punishment of Offenders Act 2012*, as "preliminary or incidental proceedings", and therefore they may be covered by a representation order.

See Annex C: Voluntary Bill of Indictment for full details on how to apply and bill for work in the High Court.

Crown Court

Where a voluntary bill of indictment has been approved by the High Court, a further application must be made. This must be submitted using the Apply for criminal legal aid service to obtain a representation order for Crown Court work.

Providers should make it clear that the application relates to a voluntary bill of indictment. You can use the 'other' option when answering 'Why should your client get legal aid'.

It would be helpful to also note on the application that the proceedings were heard at the particular magistrates' court or would have been heard at a particular magistrates' court.

The process for administering applications is the same as for Crown Court trials. Further information on Voluntary Bills of Indictment can be found in Annex C: Voluntary Bill of Indictment.

6.8 Retrials from the Court of Appeal – Criminal Division

Applications must be made using the Apply for criminal legal aid service. Providers should indicate that the application relates to a retrial. You can use the 'other' option when answering 'Why should your client get legal aid'. The process for administering applications is the same as for Crown Court trials. Further information on Retrials can be found in Annex B: Retrial ordered by the Court of Appeal.

6.9 Committals for Sentence

Applicants are passported through the IoJ test but are subject to the same means test applied to trials in the magistrates' court.

6.9.1 Applicants who did not apply while in the magistrates' court

Applicants who did not submit an application for the magistrates' court proceedings will be subject to a means assessment for the sentencing hearing. If they are granted funding, the representation order will cover the sentencing hearing only.

Contributions from capital do not apply to committal for sentence cases.

6.9.2 Applicants who obtained a representation order in the magistrates' court

Representation orders granted for magistrates' court proceedings also cover any sentencing hearing in the Crown Court. Additional legal aid application forms are not required, and the Crown Court means test does not apply. The 2025 Standard Crime Contract covers the framework for solicitors' claims for payment.

6.9.3 Applicants who did not obtain a representation order in the magistrates' court

Those deemed capable of paying privately in the magistrates' court (meaning those who failed the means test), will also be required to fund their own representation in the Crown Court following committal for sentence. A further application to cover the sentencing hearing in the Crown Court should not be submitted.

Any applicant who has failed the means test continues to have access to the hardship provision should they find themselves unable to afford their case costs. The hardship provision acts as a safeguard where private case costs are particularly high.

Applicants should submit a hardship application (CRM16). Further detail on the hardship process can be found in section 15.2 The magistrates' court hardship review process.

Those who did not obtain a representation order in the magistrates' court as they failed the IoJ test but would have been eligible on means will be granted a Crown Court only representation order dated the day after committal. There is no requirement to re-apply as the LAA will identify cases that have progressed to the Crown Court for sentencing.

6.10 Appeals to the Crown Court

The scheme for appeals against conviction, sentence or order is based on an 'in or out' principle driven by the Interests of Justice test. The means assessment threshold is the same as in magistrates' court cases; however, applicants who have income above the threshold will not be refused legal aid provided the interest of justice test is met. Instead, those applicants above the threshold will have to make a one off contribution if their appeal is abandoned or fully or partly unsuccessful. The contribution is payable once the appeal is concluded[21].

The means test for appeals to the Crown Court includes an additional £500 allowance to represent the average cost of an appeal to the Crown Court.

Appellants who were entitled to a representation order for the magistrates' court proceedings must submit a completed application using Apply for criminal legal aid. An application to appeal a conviction can be submitted before sentence.

[21] Appellants can use the hardship or change in financial circumstances routes during the appeal or after an Income Contribution Order is issued. We recognise that their circumstances may change by the time the appeal concludes.

The IoJ criteria must be considered, as appeals to the Crown Court do not automatically satisfy the test. Where a decision to fail an application for Appeal to the Crown Court on the IoJ test[22] is made a refusal notice will be issued. Any appeal of the IoJ decision must be made to the appropriate officer at the Crown Court. Please see 8.2 Interests of Justice Appeals for Appeal proceedings to the Crown Court.

Those who never applied or who were deemed capable of funding their own defence (meaning they failed the initial or full means test) are required to submit a completed application using Apply for criminal legal aid, providing evidence of their income as necessary.

If both the IoJ criteria and means test are passed, no income contribution will be required.

Applicants who meet the IoJ criteria but have disposable income above the threshold will be issued with a representation order but will be liable to pay a contribution to the costs of their appeal:

£500 if the appeal against conviction is abandoned or dismissed.

£250 if the appeal against conviction is dismissed but the sentence is reduced.

£250 if the appeal against sentence or order is abandoned or dismissed.

Applicants serving an immediate custodial sentence who are employed or self-employed can self-declare their income on the application.

6.11 Appeals to the Court of Appeal

The Court of Appeal Criminal Division grants Representation Orders to fund appellants whose cases are to be considered by the full Court of Appeal. This is not means tested therefore a Recovery of Defence Costs Order (RDCO) can be made at the end of these proceedings.

The court will ask the LAA to conduct an RDCO assessment.

6.12 Appeals by way of Case Stated to the High Court

Applications for appeals by way of case stated in the High Court must be made via an oral or written application to the High Court judge or appropriate officer. This is not means tested.

6.13 Civil Contempt

Providers dealing with civil contempt cases should apply for criminal legal aid to represent clients for committal proceedings.

This is to allow clients to be represented in breach or contempt proceedings including the breach of a civil order.

Providers should not apply to the Legal Aid Agency (LAA) for an amendment to an existing civil certificate or submit a fresh civil legal aid application for this work. This is because it can only be funded under criminal legal aid.

It is important to note that in order to carry out committal work in civil contempt cases you must be authorised to both undertake the work and apply for a representation order.

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[22] Part 5 Section 28 of the Criminal Legal Aid (General) Regulations 2013

If you do not hold a criminal contract, or a 2024 Standard Civil contract in the relevant area of Law, you can apply for an individual case contract (ICC).

Why criminal legal aid?

Civil contempt proceedings are criminal for the purposes of legal aid because of the risk of imprisonment for your client.

How the application process works

Applications for criminal legal aid in committal proceedings are processed by designated caseworkers.

Providers with a crime contract must use the Apply for criminal legal aid service and upload a copy of the committal application.

Providers without a crime contract must email the CRM14 paper application.

If you do not hold either a crime contract or a civil contract in the relevant area of Law, then you should apply for an Individual Case Contract (ICC) by emailing Nottingham.NCT@justice.gov.uk. If your application is urgent, you should title the subject of the email **'urgent- committal proceedings'**. Otherwise, the subject of the email should be titled **'Committal proceedings'**.

Your email will need to explain why you are applying and how you meet the ICC criteria.

Note, when emailing any sensitive or personal information, remember to use CJSM Secure email. This is the best way of safeguarding personal or sensitive data when you send emails, and it avoids the risk of possible data breaches under the Data Protection Act 2018 and Relevant General Data Protection Regulations.

Further guidance on how to apply can be found on GOV.UK:

www.gov.uk/apply-for-legal-aid-for-civil-contempt-cases

This page includes an applying for legal aid in civil contempt cases guidance document which sets out the application process for these cases and how to make a claim.

6.13.1 Female Genital Mutilation Prevention Order

Female Genital Mutilation Prevention Orders are civil orders designed to protect girls at risk of FGM. Legal aid is available for the application, variation, discharge, and appeal as well as the breach of an order.

Most applications for FGMPOs will be heard in the family courts therefore if these orders are breached and civil contempt is pursued as a remedy, the breach will be heard in the family court.

The application, variation, discharge, and appeal are covered by civil legal aid whereas the breach is covered by criminal legal aid. Breach of an FGMPO will either be pursued as a criminal offence or contempt of court.

Applications for breach of an FGMPO, where this is pursued as civil contempt, are processed the same as other civil contempt proceedings outlined above. Where the breach is pursued as a criminal offence, it will be processed in line with other breaches deemed criminal offences.

6.14 Breach of an injunction under part 1 of the Anti-Social Behaviours Crime and Policing Act (ASBCPA) 2014

On 26 October 2026, Part 1 Injunctions under the Anti-Social Behaviour, Crime and Policing Act 2014 separate out into respect orders (Part A1), youth injunctions (Part 1) and housing injunctions (Part 1).

6.14.1 Proceedings relating to the making, variation, discharge, or appeal of a respect order, youth injunction, or housing injunction

Civil legal aid is available for proceedings relating to the making, variation, discharge, or appeal of a respect order, youth injunction, or housing injunction.

6.14.2 A breach of a respect order

A breach of a respect order is a criminal offence.

Applications for representation are means tested.

The process for applying for representation is the same as for any other criminal offence (the billing process is also the same as for any other criminal offence).

6.14.3 Breaches of youth injunctions, housing injunctions and injunctions made before 26 October 2026

Breaches of youth injunctions, housing injunctions and injunctions made before 26 October 2026 are not criminal offences but are also covered by criminal legal aid because of the risk of imprisonment.

Applications for representation are non means tested.

The process for applying for representation for breaches of these injunctions can be found in separate guidance at: www.gov.uk/guidance/apply-for-legal-aid-for-anti-social-behaviour-injunction-breaches. The process for applying is broadly similar to the civil contempt guidance. However, there are differences in the billing process.

This GOV.UK page includes an ASBCPA 2014 guidance document which sets out how to complete the application form and how to make a claim.

6.15 Legal Persons

Section 31 and Schedule 3 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, enables legal persons (such as companies) to receive criminal legal aid in limited circumstances. To make an application for Legal aid in respect of a legal person you should submit a written request to the High Cost Crime Team, Complex and High Cost Cases, Legal Aid Agency, 102 Petty France, London SW1H 9AJ.

If you have any questions regarding the Legal Persons application process, you should contact the Criminal Cases Unit. Please see Key Players section for contact details.

6.16 Extradition and Terrorism Proceedings

You should apply using the Apply for criminal legal aid service and make it clear that it is an extradition or terrorism matter. You can use the ‘other’ option when answering ‘Why should your client get legal aid’.

The LAA will expedite cases where the judge determines this to be necessary. The LAA will not accept requests to expedite cases directly from providers.

For expedited cases, HMCTS will inform NCAT of the reference number for the application. Incomplete forms or missing attachments will delay processing.

The target of processing 90% of applications within 2 days and 100% within 6 working days applies for non-expedited cases.

For expedited cases we aim to process applications where the reference number/application is received by the LAA by 4pm within 1 hour of a fully completed application with all necessary supporting documents.

6.17 Multiple offences or a series of offences

6.17.1 Where new offences are added to existing proceedings

Where new offences are added to existing proceedings the representation order may need amending depending on whether the case is being heard in the magistrates' court or the Crown Court.

Crown Court

If the new offence is added to existing proceedings once the case is at the Crown Court there is no requirement for the Representation Order to be amended (to include the additional offence), irrespective of the classification of the new offence. This is because the LAA has access to the court system and will use this to identify what is on the indictment which will determine the correct level of fee payable.

Where the applicant is subject to an Income Contribution Order, however, the provider should write to the LAA to advise additional offence(s) added to the indictment in order for the LAA to consider whether the new offence(s) change the severity of the offence type and whether the contribution should increase to take into account a higher maximum income contribution cap.

Magistrates Court

For cases heard in the Magistrates` Court, an application to amend the existing Representation Order will be required because the offences listed on the Legal Aid Order are used to determine the payment to the solicitor (this is not the case for Crown Court). Claims for payment are validated against the offences listed on the rep order and the offences listed can make a difference as to whether a standard fee or non-standard fee is paid. All requests to amend a Representation Order should be directed to NCAT in writing using the pro forma detailed below.

6.17.2 Where new offences form separate proceedings

If the new offences are due to be heard as a separate set of proceedings, then a fresh application must be submitted using the Apply for criminal legal aid service and an assessment will need to be made at the time at which those later proceedings begin. If granted, a new Representation Order will be issued.

If applying for more than one set of proceedings at the same time a separate application should be submitted for each separate set of offences the applicant has been charged with.

6.18 Adding offences to an existing Representation Order

A pro forma for applying for offences to be added to an existing Representation Order is available on GOV.UK:

www.gov.uk/government/publications/simplifying-criminal-legal-aid-processing

These applications should be emailed to one of the following addresses:

BirminghamCAT@justice.gov.uk

LiverpoolCAT@justice.gov.uk

NottinghamCAT@justice.gov.uk

NCAT will consider any such application and produce an amended Representation Order where appropriate. For details of when the Representation Order should be amended, please refer to 6.17.1 Where new offences are added to existing proceedings above.

6.19 What if 2 partners apply for legal aid? (And there is no conflict of interest)

When 2 applicants who are "partners" apply for legal aid and there is no conflict of interest, income will still be aggregated at the household level for the means assessment. They are both still required to declare the financial details of their partner on their application form.

In the magistrates' court, this means that either both applications fail, or both applications pass, as it is a simple in or out test.

In the Crown Court, a contribution from income may be required. Whilst the ‘in or out’ element introduced through the Crown Court eligibility threshold will mean that applicants who are partners with an adjusted household disposable income of £37,500 or more will both be ineligible, those whose disposable income falls under the threshold will be eligible but may have to pay a contribution. Where disposable income is between £3,398 and £37,499.99 a contribution will be required but we will not ask for a contribution from both at the same time.

The DRC will collect from one applicant at a time. Once 5 payments have been made, if the case is still ongoing for the other applicant, they will then be asked to make payments for up to 6 months. Where partner A is acquitted or proceedings are withdrawn, a contribution from partner B will be payable if proceedings against them are ongoing.

Both applicants are under an obligation to inform the LAA if their circumstances change, such as in the example given above, and a reassessment will then be conducted as a result of the change in financial circumstances.

6.20 What happens in Either Way cases revisited upon Committal for trial?

In the magistrates’ court, if the assessment result was fail on both applications, it will be revisited after committal.

If an income contribution is required, this would apply to Partner A and Partner B's circumstances will be re-assessed in order to follow the rules above for Crown Court cases.

6.21 What if an applicant or their partner is already subject to an income contribution for legal aid and a subsequent application is received?

Only the following legal aid contributions will be included when assessing liability for a contribution:

- Civil legal aid contributions that the applicant or the applicant’s partner is paying
- Criminal legal aid contributions being paid by the applicant’s partner if the applicant was previously included in their assessment

If the applicant is already paying an income contribution for another Crown Court matter, they will still receive a Contribution Order for the second application, but data transferred from the LAA will advise the DRC to collect accordingly. If the initial application concludes within the 6 month collection period and further contributions are payable, these can ‘run on’ from the first application. The correspondence the applicant receives from the DRC will explain this.

7 Transfer & withdrawal of Representation Orders

7.1 Transferring representation orders

If an applicant has been granted a representation order, any application for a change of solicitor is subject to the provisions in the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013 and Criminal Procedure Rule 46.3. Applications for transfers have to be made to the court before which the proceedings are being heard. The application for transfer of legal representative should be submitted to the court using the form prescribed by the Criminal Procedure Rule (2015).

Representation orders, following transfer will be dated from the date the court agrees to the transfer, not the date the request is submitted.

There is no right to appeal the Court's decision if it chooses to reject a request to transfer a representation order between solicitors

7.1.1 Applications made in writing

Applications to transfer solicitor for cases both in the magistrates' and Crown Court should be made to the relevant Court using the mandatory application form as prescribed by Criminal Procedure Rule 46.3 which is available on the Ministry of Justice website:

http://www.justice.gov.uk/courts/procedure-rules/criminal/forms-2015

The client should complete part 1 of the form and the new solicitor should complete part 2 and, in compliance with Criminal Procedure Rule 46.3, should send a copy of the application form to the existing solicitor to seek their consent, as well as a copy to the Court. The existing solicitor should complete part 3 of the form and send a copy to the court and the client.
A solicitor need not submit a new application form when requesting the transfer.

The court will check that the application has all the information that is required for the court to make a decision and will arrange for the application to be considered. The Court will notify LAA of the outcome. The LAA will write to the provider and produce an amended Representation Order where relevant.

If the first firm does not give their consent the court will arrange for the bench to consider and make the final decision.

Please note that even if all parties are agreeable to the transfer; the decision still has to be made by the Court.

If the court authorises the transfer, NCAT will produce a new Representation Order and send copies to the new solicitor and the applicant.

Where the court refuses the transfer, they will notify the LAA and NCAT will notify all 3 parties in writing.

7.1.2 Urgent transfer requests made in court

There will be cases where a transfer of solicitor application needs to be dealt with as a matter of urgency where for example a conflict has been identified on the day of a hearing. In these circumstances, the court will hear the application and make a decision on the day. The court will notify LAA so that an amended Representation Order can be produced where required.

7.2 Withdrawal of application

For both the magistrates' and Crown Court a request for withdrawal by the applicant should be made in writing. A pro forma is available on GOV.UK:

www.gov.uk/government/publications/simplifying-criminal-legal-aid-processing

These applications should be emailed to one of the following addresses:

BirminghamCAT@justice.gov.uk

LiverpoolCAT@justice.gov.uk

NottinghamCAT@justice.gov.uk

Urgent applications to withdraw can be made directly to the court. Where the solicitor or their client requests withdrawal in Court and the court approves the withdrawal, they will notify the LAA.

NCAT will issue the Withdrawal Notice in all cases and dispatch copies to the Solicitor and the applicant. If the applicant is subject to an Income Contribution Order the LAA will notify the DRC of the withdrawal.

If the applicant is subject to an Income Contribution Order and subsequently withdraws, they remain liable for any contributions that were due up to the point that legal aid has been withdrawn.

If the applicant is in arrears on their contributions, the Debt Recovery Company may continue collection activity even once the application for Legal Aid has been withdrawn. They will also retain any contributions paid to date pending the outcome of the case. This is because the solicitor and advocate (if instructed) are still entitled to bill the Legal Aid Agency for any costs incurred up to the point of withdrawal and the applicant may be required to contribute towards these costs.

If both solicitor and advocate give an undertaking that no claim will be made on Legal aid, the Debt Recovery Company will be able to stop collection activity and/or refund any contributions already paid (minus any enforcement costs). This undertaking should be made in writing to the relevant National Crime Team and should contain the following information:

- Applicant's first and last names and date of birth
- Name of committing Magistrates' Court and Crown Court
- MAAT ID and Crown Court case number
- Name of solicitor's firm and LAA Account number
- Name of advocate and LAA Account number

Please note that where the relationship between the client and solicitor has broken down an application should be made to transfer by another firm.

7.2.1 Withdrawal of representation order by the LAA

Where the charges or proceedings against an applicant are changed the LAA must reconsider legal aid and must withdraw the representation order if the new charges mean that the case does not satisfy the IoJ test.

Where the applicant refuses to accept legal aid under the terms offered – for example, they do not wish to pay (or potentially be liable for) a contribution, the LAA must consider withdrawing the representation order.

7.2.2 Application for a new representation order following withdrawal

The solicitor on the previous order will be assigned unless good reasons for not doing so can be provided.

7.2.2.1 Where you represented the applicant prior to withdrawal

When completing the application, please explain why the applicant withdrew to pay privately and what now leads them to re-apply.

Please also note that receiving both private fees and legal aid fees for the same proceedings would be considered a breach of Reg 9 of the Remuneration Regulations therefore any private fees ought to be refunded if a new Representation Order is issued.

7.2.2.2 Where another provider represented the client prior to withdrawal

A new application can only be considered by the Legal Aid Agency once you provide written confirmation from the court that they consent to a change in representation.

Regulation 15(2) of The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013 where legal aid is granted again following a withdrawal, it does not include a right to select a provider other than the provider named in the original representation order.

In addition, as per Regulation 15(3) it is a decision of the court whether there is a good reason why a provider other than the original provider can now represent the applicant.

To avoid rejected applications you should therefore approach the court first to obtain their written consent to a change in representative and attach this to your application. If the court does not consider there to be a 'good reason' for you to represent the defendant, the LAA are unable to grant a Representation Order other than to the original provider.

If the applicant has been paying you privately, please note that receiving both private fees and legal aid fees for the same proceedings would be considered a breach of Reg 9 of the Remuneration Regulations therefore any private fees ought to be refunded if a new Representation Order is issued.

7.3 Solicitor transfer process - apply for a novation

The Novation Policy is available on GOV.UK:
www.gov.uk/government/publications/novation-policy

If you require further information, you should contact your contract manager.

There is no need to request rep orders in the name of the new entity following a novation. The new entity must write to the Contract Manager with details of all live cases where there is a representation order in place. This should include the following:

- Client full name & D.O.B
- MAAT Number
- Court hearing the case

When the provider comes to bill the case, they need to provide a covering letter confirming there has been a novation. This could be a copy of the letter sent to the Contract Manager, or another letter confirming the date the novation was agreed, the other firm involved, and the name of the Contract Manager.

For all other scenarios, such as where one provider has withdrawn and another provider has picked up the case, the existing transfer process must be followed – see 7.1 Transferring representation orders.

For bulk transfers unrelated to novation such as where a firm has closed down, the provider taking over the cases should first write to their Contract Manager who will advise accordingly.

8 The Interests of Justice (IoJ) test

The following proceedings are passported on IoJ and the reasons for wanting legal aid do not need to be completed on the application:

- Committed, sent or transferred for trial
- Voluntary bills of indictment
- Retrials
- Committals for sentence.

IoJ **must** be considered for the following proceedings:

- Summary
- Either way (pre-committal)
- Appeals to the Crown Court

Solicitors or advocates should decide how much detail to enter in the IoJ sections of the application. If referring to the applicant's previous convictions, they should attach copies or provide a detailed list of recent and relevant convictions/sentences. Insufficient information may mean the application is refused due to not satisfying the IoJ criteria.

Solicitors can access the guidance on considering the IoJ criteria on GOV.UK:

www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

8.1 Interests of Justice Appeals (magistrates' court)

Where IoJ consideration applies, applicants are entitled to request a reconsideration following refusal. They should put their reasons in writing. This is known as an administrative review.

A pro forma must be completed for each decision and is available on GOV.UK:

IOJ pro forma (www.gov.uk)

Email the pro forma to:

iojappeals@justice.gov.uk

If, following an administrative review, NCAT declines to grant a Representation Order having reviewed the IoJ assessment, the applicant can ask for their appeal to be heard by the court. This should also be made in writing to the NCAT. NCAT will arrange for it to be heard before the court.

In these circumstances, providers should send their submission using the email address above. This should make it clear in the email subject header that this is for judicial consideration.

NCAT will then send relevant paperwork to the court and notify the provider of the outcome. You should note that turnaround times on this will be subject to the court listing arrangements.

When emailing sensitive or personal information, remember to use CJSM Secure email. This is the best way of safeguarding personal or sensitive data, and it avoids the risk of possible data breaches under the Data Protection Act 2018 and Relevant General Data Protection Regulations.

Note: There is no appeal to the court or a single magistrate if an application has been refused on means. If a change of circumstance has occurred, the application can be reconsidered on this basis. If not, the applicant can request a review on the grounds of hardship by completing and submitting a CRM16.

8.2 Interests of Justice Appeals for Appeal proceedings to the Crown Court

Where the LAA declines to grant representation for an appeal to the Crown Court the applicant may request a reconsideration. They should put their reasons in writing using the same pro forma as for magistrates' court Interests of Justice Appeals above.

If, following a review, NCAT are satisfied that it fails the IoJ test the matter will be referred to the Crown Court for consideration.

9 General principles of assessment

The rules about who qualifies for legal aid are set out in Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)

As the representation authority, the LAA aims to make an assessment that is:

- Transparent, and
- Justifiable, and
- Consistent on the aggregation of means.

9.1 Levels of means test

There are **2 levels** of means test:

- The **initial means test:** the applicant's gross household income is weighted to take account of family circumstances – the result is their **adjusted income**
- The **full means test:** the applicant's gross household income, allowable outgoings and a weighted living allowance are combined – the result is their **disposable income**

The means test is used to determine whether:

- the client is funded in the magistrates' court (including Committals for Sentence)[23]
- the client is funded in Crown Court trials and, if so, whether they have to make an income contribution.
- the client will have to make an income contribution if their appeal is unsuccessful or abandoned

[23] For summary or either way pre cases client also has to meet the IOJ criteria

9.2 Summary of Pre and Post Crown Court Eligibility Threshold – Means Test Map

Gross Household Income
Client's gross annual income
+ Partner's gross annual income
= Gross Household Income

Weighting
Single Adult = 1
Couple = 1.64
+ Children
0-1 years = 0.15
2-4 years = 0.30
5-7 years = 0.34
8-10 years = 0.38
11-12 years = 0.41
13-15 years = 0.44
16-18 years = 0.59
= Weighting

Weighted living allowance
Annual Living allowance (£5,676)
x weighting
= Weighted Living Allowance

Initial Means Test
Gross Household Income
÷ weighting
= Adjusted Income

Full Means test
Gross Household Income
- weighted living allowance
- allowable outgoings
= Disposable income

Mags ct	**Crown ct trials**
< £12,475 = PASS	< £12,475 = PASS
between £12,475 & £22,325 = go to full test	> £12,475 = go to full test
> £22,325 = FAIL (No rep order)	

Mags ct	**Crown Ct trials**
< £3,398 = PASS	< £3,398 = PASS
> £3,398 = FAIL (No rep order)	between £3,398 & £37,499.99 = FAIL (rep order with income contribution)
	> £37,500 = INEL (No rep order)

9.3 Initial means test formula

The initial means test formula looks at the applicant's gross household income and adjusts it based on their family circumstances—this adjusted figure is referred to as their 'adjusted income'. This adjustment process is known as 'weighting'.

Gross household income

Applicant's gross annual income	+	partner's gross annual income
	=	gross household income

Include income from:

- Employment
- Self-employment
- Friends, relatives
- Pension (certain pensions are disregarded – 12.6.1 Disregarded benefits)
- Property and lodgers
- Student loan
- Interest from savings
- Maintenance from former partners
- Withdrawals from savings
- State benefits (some are disregarded - see 12.6.1 Disregarded benefits).

The income categories are covered in more detail below.

Weighting

Weighting scale (used to calculate weighting factor):

Applicant	1
Partner	0.64
Child aged 0-1	0.15
Child aged 2-4	0.30
Child aged 5-7	0.34
Child aged 8-10	0.38
Child aged 11-12	0.41
Child aged 13-15	0.44
Child aged 16-18	0.59

The child's age is their next birthday from the date of application. The Apply for criminal legal aid service asks for the current age and automatically adds one year when displaying information in LAA screens.

Include children only if they live in the same household as the applicant. For example, include children of separated parents only if the applicant is counted as the main carer for Child Benefit purposes.

Multiply the number of children in each age group by the relevant value.

How does weighting work?

For example, applicant A (1) has a partner (0.64) and 2 children, the first child will be one at their next birthday (0.15) and the second child will be eleven at their next birthday (0.41). This means the applicant's family has a weighting figure of 2.20.

Example

client	1.00
partner	0.64
child (0-1)	0.15
child (11-12)	0.41
Weighting =	**2.20**

Gross household income	÷	weighting
	=	adjusted income

Applicant A's gross annual income is £30,000 and this is divided by the weighting figure 2.20, to give the adjusted income of £13,636.

Example

Gross household income	=	£30,000
Weighting	=	2.20
Adjusted Income	=	£13,636

9.3.1 Initial means test outcomes[24]

<table>
<tr><th>Adjusted Income</th><th>Result</th><th>Magistrates' Court</th><th>Committal for Sentence</th><th>Appeal to Crown Court[25]</th><th>Crown Court Trial</th></tr>
<tr><td>Under £12,475</td><td>Passed</td><td>Eligible</td><td>Eligible</td><td colspan="2">Eligible with no income contribution</td></tr>
<tr><td>Between £12,475 and £22,325</td><td>Go to full means test</td><td colspan="2">Depends on outcome of full means test</td><td rowspan="2">Possible income contribution, depending on outcome of full means test</td><td>Possible income contribution, depending on outcome of full means test</td></tr>
<tr><td>Above £22,325</td><td>Fail/Go to full means test[26]</td><td>Ineligible</td><td>Ineligible</td><td>Possibly ineligible or eligible with/without an income contribution depending on outcome of full means test</td></tr>
</table>

9.4 Full means test formula

The applicant's gross income minus the allowable outgoings and the weighted annual living allowance produces their disposable income.

The annual living allowance is £5,676 and represents cost of living expenses on:

- Food and non-alcoholic drinks
- Clothing and footwear
- Housing*, fuel and power
- Household goods and service
- Health
- Transport
- Communication

[24] Subject to the IoJ test, for magistrates' court and appeals to the Crown Court

[25] If unsuccessful or abandoned

[26] Depending on whether still in the magistrates' court

- Education (excluding school fees)
- Water rates
- Insurance premiums
- Miscellaneous goods and services

(*Net of mortgage payments, rent and council tax)

A living allowance calculated in accordance with the weighting scale will automatically be deducted.

Annual living allowance	x	weighting
	=	weighted living allowance

Example

annual living allowance		£5,676
weighting	x	2.2
weighted living allowance	=	**£12,487**

Gross household income	-	weighted living allowance
	-	allowable outgoings
	=	disposable income

Allowable outgoings

- tax and National Insurance
- annual housing costs* excludes any Housing Benefit or Council Tax Benefit.
- annual childcare costs*
- annual maintenance to former partners and any children*

*Where the outgoing is more than £500/month, supporting evidence is required.

Example

gross household income		£30,000
weighted living allowance	-	£12,487
allowable outgoings	-	£10,000
disposable income	=	**£7,513**

9.4.1 Full means test outcomes[27]

Disposable income	Result	Magistrates' Court	Committal for Sentence	Appeal to Crown Court[28]	Crown Court Trial
Under £3,398	Pass	Eligible		Eligible with no income contribution	
	Fail	Ineligible		Eligible with income contribution	

[27] Subject to the IoJ test, for magistrates' court and appeals to the Crown Court

[28] the means assessment for appeals automatically includes an additional £500 allowance and a contribution is only required if the appellant is unsuccessful or abandons their appeal.

Between £3,398.01 and £37,499				
£37,500 or more	Fail/INEL	Ineligible	Eligible with income contribution	Ineligible

What about payments from Property & Capital in Crown Court cases?

The means test considers an applicant's income at the point of application, however where:

- The applicant is convicted
- Defence cost haven't already been covered by income contributions
- The applicant has £30,000 or more of assets (such as equity, savings, premium bonds, stocks and shares)

They will be liable for a further contribution at the end of the case. The collection and enforcement agency are responsible for this.

9.5 Aggregation of means

What does aggregation mean?

Aggregation of means is the total amount of the applicant's income and their partner's (where applicable) to be included in the assessment.

Do we include Partners income?

The income of the applicant's partner must be taken into account and added to that of the applicant unless the partner has a contrary interest in the proceedings. A partner is defined as anyone (including a person of the same sex) with whom the applicant lives as a couple. This includes any partners who may be living separately at present due to reasons other than that they have separated. For example: where one party lives away for work (armed forces, oil rig) or is in prison.

If the relationship has ended the resources are not aggregated, even if the 2 people remain under the same roof, as long as they consider the relationship over and live separate lives. For example: they may be waiting for the property to be sold in divorce proceedings. If this is the case, it needs to be clearly explained on the application form.

Unmarried Couples: Do we aggregate?

For unmarried couples to be seen as partners, although not conclusive, there should usually be some evidence of a pooling of financial resources, and they must regard themselves as a couple. It would not be appropriate to aggregate the resources of, say, a brother and sister, or flatmates who are not living as a couple. Further evidence of living as a couple may include joint care of a child of the couple.

If an applicant has left his or her spouse or civil partner and has gone to live with a new partner as a couple in the same household, then the means of the new partner should be aggregated with those of the applicant.

9.5.1 Contrary interest

Means are not aggregated if the partner has a contrary interest in the matter for which the applicant is seeking funding.

Contrary interest in the most obvious sense will arise where the partner is the alleged victim of the offences the applicant is accused of and is seeking the representation order for, for example, an allegation of domestic abuse. A question within the application establishes whether the applicant's partner has a contrary interest in the proceedings.

Means are also not aggregated if:

- the applicant and partner are both applicants in the same proceedings and a contrary interest is identified
- the partner is a prosecution witness in the case for which the representation order is sought

9.5.2 Equivilising children in domestic abuse cases?

In domestic abuse cases where the applicant remains under the same roof the children will be included in the assessment as that person still has a responsibility to care for those children. However, any Child Benefit and Tax Credits received by the partner will be included in the applicant's income.

This also applies in cases where the partner is a prosecution witness or has a contrary interest in the proceedings. In cases where the applicant has moved out of the main dwelling, however, the children will not be included in the assessment.

9.5.3 Third party resources

In certain circumstances assets belonging to persons other than the applicant can be taken into account. These are where:

(a) Another person is, has been, or is likely to be, substantially maintaining the applicant or their partner, or

(b) Another person's resources are, have been or are likely to be made available to the applicant or their partner.

Note: 'person' for these purposes includes a company, partnership, trust, or other group.

If (a) or (b) above apply, the monies that are being made available to the applicant will be treated as belonging to the applicant.

This would not normally include someone providing lodgings and food on a temporary basis.

The LAA may assess or estimate how much of the other person's or parties' resources should be treated as the financial resources of the individual. In practice the caseworker will include the income that the applicant or their partner has received from the third party, whether directly or paid out to another party on the applicant's behalf to meet their living expenses (such as utility bills and housing costs) during the period of calculation. (The period of calculation is the 12 months leading up to the date of the application for representation)[29]

The caseworker will assume, unless shown compelling evidence to the contrary, that assistance given to, and resources made available for the applicant in the past will continue to be given or made available in the future and will make their assessment on that basis. This situation will most commonly arise where a family member has supported the applicant, even though the applicant himself has no assets of his or her own.

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[29] It is only the support provided to the applicant that should be counted for assessment purposes.

Please note that the terms of criminal legal aid do not permit third party financing of private legal services, such as:

- privately funded advocate in the magistrates' court or for KC in the Crown Court
- 'topping' up' of the remuneration of the publicly funded legal representative for an upgrade in service from the litigator or advocate.

This is not permitted under s.28(2) LASPO or Regulation 9 of the Remuneration Regulations.

Regulation 9 provides that where a representation is granted in respect of relevant proceedings, any representative, whether acting pursuant to a section 16 determination or otherwise, must not receive or be a party to the making of any payment for work done in connection with those proceedings except under one of the exemptions specified in the Regulations.

In this case as representation is granted so this would preclude the litigator from liaising with and giving instructions to a privately instructed KC and it would be a clear breach of legislation for the private KC to accept payment for work done whilst the representation order is in force.

This is clearly evidenced in the Banfield decision, which is a Court of Appeal authority, at paragraph 10.

"*It seems to us clear from the terms of both the 2007 Order and 2013 Regulations that where a representation order is made, as it was in this case by the Full Court on 14 May 2013, then no-one representing the defendant is entitled to charge privately for work done, unless that work falls within the exceptions enumerated. In our judgment the words of the Order and the Regulation make that clear, quite apart from the strong policy reasons which underlie the provision. That conclusion is reinforced by the terms of the Standard Crime Contract."*

What does this mean?

The recipient of legal aid is under an obligation to disclose information about any change in their financial circumstances (which will include access to additional resources provided by a third party whether received directly or indirectly) and this may trigger a reassessment of means.

9.6 Calculating annual disposable income

The calculation of an applicant's gross annual income means the total annual income as at the date of the application. The relevant deductions are based on the 12 month period before the date of the application.

9.7 Magistrates' court means test examples

The means test in the magistrates' court is made up of an initial income test, which compares an applicant's **adjusted income** with a lower and upper income threshold. Every applicant's income is adjusted to take into account the number and age of any dependents they might have and their partner's income. These are the weighting factors shown in 9.2 Initial means test formula.

The upper and lower income thresholds act as a proxy for identifying whether an applicant has an adjusted annual disposable income above the limit of £3,398.

The adjusted income thresholds are currently set at:

Lower Threshold – annual household income below £12,475

Upper Threshold – annual household income above £22,325

Where the applicant's adjusted income falls between the upper and lower income thresholds, a more detailed means assessment (known as the 'full means test') is carried out to assess their annual disposable income. This takes into account a range of actual expenditure and also builds in a cost of living allowance.

Once all these costs are accounted for, if the applicant has an annual disposable income greater than £3,398, they are deemed capable of paying privately for their defence costs in the magistrates' court (which are estimated to average at £1,500).

Example 1

The applicant is single and has no dependants. Their annual income exceeds £22,325 and therefore they are ineligible for a Representation Order in the magistrates' court. If their annual household income is less than £12,475 a year they will be eligible for a Representation Order in the magistrates' court with no further assessment required.

Example 2

The applicant lives with a partner and their annual household income is £34,000. The applicant's weighted income is calculated as follows:

£34,000 divided by a weighting factor of 1.64 (obtained by adding 1.00 for the applicant + 0.64 for their partner), which equals **£20,732.** The applicant's weighted income is below the upper income threshold and the assessment will move to the full means test.

Example 3

The applicant is a single parent with a dependent child aged 2 at the end of the period of calculation (i.e. the date of application) and has an annual household income of £15,000. The adjusted income is calculated as follows:

£15,000 divided by 1.30 (obtained by adding 1.00 for the applicant + 0.30 for the child), which equals **£11,538.** The applicant's weighted income is below the lower income threshold, so the applicant is financially eligible in the magistrates' court without the need for further assessment.

Example 4

The applicant lives with a partner and 2 children aged 9 and 13 at the end of the period of calculation (i.e. the date of application) and annual household income is £50,000 with adjusted income as follows:

£50,000 divided by 2.46 (obtained by adding 1.00 + 0.64 + 0.38 + 0.44), which equals **£20,325.** The applicant's weighted income is below the upper income threshold, and the full means test would be undertaken to establish their annual disposable income.

9.8 Crown Court Means Test Examples

These examples are designed to show a range of circumstances where **income** contributions during the course of proceedings may be required or where legal aid is refused. Examples of contributions from capital/equity are not included.

The means test for Crown Court cases is based on the same calculation formula as for magistrates' court cases. The initial income test still applies, and every applicant's income is adjusted to take account of his or her family circumstances.

The key difference for the Crown Court scheme is that applicants may still be eligible for a Representation Order[30] where their disposable income exceeds the £3398 threshold. Those with a disposable income of between £3399 and £37,499 will be eligible for a Representation Order but will be expected to make a contribution from their income towards their defence costs during the course of proceedings. Those whose disposable income is equal to or exceeds £37,500 will be ineligible for legal aid in a Crown Court Trial (for Appeals to the Crown Court, these applicants will be eligible, subject to a contribution from income should their appeal be unsuccessful or abandoned).

Applicants with adjusted income above the lower income threshold will be subject to a full means test to calculate their annual disposable income and therefore whether they are eligible and, if so, the required income contribution where appropriate. Applicants who are required to pay an income contribution will have this clearly stated on the Contribution Order, which will accompany the Representation Order, both of which are issued by the LAA. Applicants who are ineligible will receive a Refusal Notice.

Those applicants with annual disposable income below the £3,398 disposable income threshold will have a Contribution Notice issued alongside the Representation Order. This will explain that they are not required to make an income contribution.

In addition, those applicants who are convicted in the Crown Court, who have capital or equity in excess of £30,000 and who have not covered their defence costs during the course of proceedings will be liable for a further contribution. This is also explained in the Contribution Notices and Contribution Orders.

Example 1

Applicant is on a passporting benefit. Due to their passporting benefit status, they will not be required to make a contribution – either from income or capital – towards their defence costs.

Example 2

Applicant is married with 2 children aged 10 and 7 and an annual household income of **£34,500**. The adjusted income is as follows:

£34,500 divided by 2.36 (1.00 + 0.64 + 0.34 + 0.38), which equals **£14,619**. Because the applicant's adjusted income is above the lower adjusted income threshold, the full means test would be carried out to establish annual disposable income and, therefore, whether an income contribution is required. So:

Annual household income:	£34,500	
Adjusted living allowance:	£13,396	(£5,676 x 2.36)

[30] Subject to the application being fully completed and submitted.

Outgoings	£20,271
Annual disposable income	£833

An income contribution is not required because the annual disposable income is below the threshold of £3,398.

Example 3

Applicant is married with no children and an annual household income of £45,000. The adjusted income is as follows:

£45,000 divided by 1.64 (1.00 + 0.64), which equals £27,439. Because the applicant's adjusted income is above the lower income threshold the full means test would be carried out to establish the annual disposable income and therefore whether an income contribution is required. So:

Annual household income:	£45,000
Adjusted living allowance:	£9,309 (£5,676 x 1.64)
Outgoings	£20,440
Annual disposable income	£15,251

An income contribution is required, and this is calculated as follows:

Annual disposable income	£15,251
Multiplied by 90%	£13,726
Divided by 12	£1,143.83

The monthly contribution would be £1,143.83. The total contribution would be £6,862.95 (£1,143.83 x 6) or £5,719.13 (£1,143.83 x 5) if paid in a lump sum or on time each month.

Example 4

Applicant is married with no children and an annual household income of £75,000. The adjusted income is as follows:

£45,000 divided by 1.64 (1.00 + 0.64), which equals £45,732. Because the applicant's adjusted income is above the lower income threshold the full means test would be carried out to establish the annual disposable income and therefore whether an income contribution is required. So:

Annual household income:	£75,000
Adjusted living allowance:	£9,309 (£5,676 x 1.64)
Outgoings	£25,500
Annual disposable income	£40,191

The applicant is ineligible because their disposable income exceeds the £37,500 Crown Court eligibility threshold. The applicant is deemed to have sufficient resource to pay privately and is refused legal aid.

10 Passported applicants

10.1 Category one: Department for Work and Pension (DWP) benefits

An applicant automatically satisfies the means test if they directly or indirectly receive:

- Universal Credit, or
- Income Support, or
- Income Based Jobseeker's Allowance[31], or
- Guarantee State Pension Credit ('Guarantee Credit'), or
- Income Related Employment and Support Allowance.[32]

An applicant directly receives the passporting benefit if they are the claimant. If the applicant's partner gets one of these four benefits, then unless the applicant indicates otherwise, he or she is to be regarded as an indirect recipient of that benefit. As such, they are treated as being 'included' in the partner's claim and are therefore passported through the means assessment.

To be passported, the applicant must be receiving the benefit at the time of the application. The applicant will not be passported on the basis that a benefit application decision is pending or if a benefit claim has been suspended (for example, due to an investigation into suspected fraud).

A claim may be held 'clerically' by the DWP. This means it is not registered on the DWP database. This may be due to technical reasons or because the applicant has not yet been issued with a National Insurance number (NINO).

In these circumstances, the applicant must provide a letter from the DWP confirming that they are getting Universal Credit, Income Support, Income-Based Jobseeker's Allowance, Income Related ESA, or Guarantee State Pension Credit, or an increased rate of such benefit, and the date it applies from.

10.1.1 Providing details of the applicant's or partner's National Insurance number

A National Insurance number (NINO) is required where the applicant has declared that they are on a passporting benefit.

An applicant who is under the age of 18 is not required to provide their NINO.

Whose passporting status takes precedence?

In cases where either the applicant or their partner has indicated on the application that they are in receipt of a passported benefit, the application will be passported regardless of who is in receipt of the benefit. This is of course subject to the DWP link confirming their passported status.

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[31] This does not include New Style JSA which is the new name for Contribution Based JSA. New Style JSA continues to be based on the individual's National Insurance contributions and is therefore not passported.=

[32] This does not include New Style ESA which is the new name for Contribution Based ESA. New Style ESA continues to be based on the individual's National Insurance contributions and is therefore not passported.

What if the DWP link returns a fail result?

When you click 'Save and Continue', a 'real time' link to the DWP benefits checker will confirm the Passported Benefit status within a few moments.

When completing the forms, if your client is unsure of the specific benefit they receive or the DWP link returns a result of either ***NO*** or ***undetermined***, and you have checked the information submitted is correct, the applicant will be required to complete further questions, confirming the applicant and partner's financial situation including any capital and equity. This is known as the Benefit Bypass and will enable NCAT to carry out a means assessment.

Alternatively, they can provide evidence of getting the appropriate benefit.

Please note, for Crown Court cases, if the applicant is in receipt of a passported benefit and the DWP link fails, it is in their interests to provide proof of the benefit (such as a DWP letter) rather than using the 'Benefit Bypass'. This is because passported applicants are exempt from any contributions from capital or equity if they are convicted and using the Benefit Bypass could mean that they are liable at the end of the case.

10.1.2 Hints and tips on 'passported' applications

Why do applications come back as 'undetermined'?

To get a 'pass' through the DWP check, the National Insurance number, the date of birth and the first three letters of the surname must exactly match the DWP records. If any piece of information differs, the result will come back as 'undetermined'. The common problems we identify are detailed below.

National Insurance Numbers (NINOs)

The NINO is in a standard format - 2 letters, followed by six numbers and a single letter which will always be either A, B, C or D. If the NINO is not in that format, the DWP check will give an 'undetermined' result.

For cases progressing to the Crown Court, where the applicant is on a passporting benefit but the DWP link returns a contrary response, it is in the applicant's best interest to provide documentary proof of receiving the benefit. Otherwise, they could be liable for capital/equity payments if convicted.

In any event, a correct NINO must be provided for Crown Court cases.

Dates of birth

About a third of the 'undetermined' results are because the date of birth is wrong. Some of the dates of birth have figures transposed for example, 06/07/1980 instead of 07/06/1980, but other errors are that the day, the month or the year does not match the DWP records. We recommend that solicitors check the date of birth with the client and from the custody records.

'Check brick' errors

The 'check brick' is the first three letters of the applicant's surname. If these are entered incorrectly, the DWP check will return an 'undetermined' result. We find this most often fails with clients from cultures where the first name and surname are terms not commonly used.

However, it could be a spelling error, or the surname and first name may have been entered on the form the wrong way around. Again, it is worth doing a sense check on how the form has been completed.

10.1.3 When is a NINO mandatory? (magistrates' court)

There is an expectation that applicants on **passported benefits** will know their NINO.

We will not process applications from applicants on a passported benefit if they do not provide us with their NINO. The only exception to this is when the applicant is remanded into Court custody and does not know their NINO.

10.1.4 Court Custody

When an applicant has been remanded into court custody, they should supply their NINO to allow their receipt of passported benefits to be confirmed through the DWP link.

Where an applicant does not know their NINO and they are being produced from police custody, their application for legal aid should not be submitted until the court has determined the issue of custody or bail.

If the applicant is released on bail, they are expected to find out their NINO and once this has been provided to NCAT with the application, their legal aid application will be processed and if their passported benefits status is confirmed the representation order will be issued and backdated to the date the application was first submitted to the LAA.

If the applicant is remanded into court custody, you should click Yes to the court custody question on the application.

10.1.5 Bail

Applicants on bail should **always** provide their NINO if they claim to be on a passported benefit.

10.1.5.1 Progressing to the Crown Court

For relevant Crown Court proceedings, as the NINO is mandatory, an evidence request will be issued at the point of committal/sending/transfer, and it must be provided within 14 days.

If the applicant "**failed" the DWP link** in the magistrates' court and did not provide documentary proof of receiving the benefit or the Benefit Bypass was not already used, no Representation Order will be in place. Therefore, when the case is committed to the Crown Court, you will be asked to complete the additional questions or provide evidence of the benefit and the **Representation Order will not be issued** until the application is further completed with benefit details, or the evidence is supplied. The order will then be backdated.

10.2 Category 2: age-related passporting criteria

10.2.1 Applicants aged 18 or over

Any applicant who is 18 years of age or above at the time of the application cannot be passported on the basis of their age (if the applicant is 17 at the time of the offence but turns 18 before signing an application, then they cannot be passported on the basis of their age).

10.2.2 Under 18s

Any applicant who is under 18 years of age at the time of signing the application is passported on the basis of their age. No documentary evidence is required. If a defendant turns 18 during the proceedings, they remain passported and do not need to be reassessed as they were age passported when they signed the application.

For applicants under 18, the named applicant should still sign the form.

11 Means tested applicants

The means-test formulae are based on the gross income of the applicant (and their partner where applicable) minus their outgoings and their living allowance, which is weighted for any children and partners.

Definition of income

The calculation period is based on the 12 month period at the time of the application, but the assessment must reflect the applicant's current and expected usual income. If the applicant is at present employed, then it should be assumed that this employment would continue. If the applicant has been unemployed for some time over the last 12 months, it would clearly not be appropriate to take this into consideration as this would not reflect the applicant's current financial situation.

The majority of assessments will be based on the applicant's circumstances at the time of the application. If employed, the most recent wage slip will be used. This will be considered carefully in order to assess whether it reflects usual income or are merely one-off payments.

11.1 Types of income – income categories explained

11.1.1 Nil income applications

Applicants who have no income and are not claiming any benefits are not expected to prove this, but they are expected to tell us how they are managing to support themselves and meet their day-to-day living expenses.

Applicants who declare that they are a tenant or homeowner should explain how they are covering their housing costs.

Applicants who live with their parents and are supported by them do not need to provide their parents' income details. Parents' income is not aggregated for the purpose of the assessment. Applicants being supported by friends/family do not need to provide proof of the support they receive but they should declare the monetary value and any figures declared will be used in the assessment[33].

Tourists who are on holiday in this country or visitors who are only in this country for a short period are not expected to provide an ARC number but are expected to provide full details of their income on the application.

Illegal Immigrants – these types of applicants are likely to have a limited amount of information that they can give to support their application. However, we would still expect that they provide as much detail in relation to their name, address, and financial position as possible.

Negative disposable income

A negative disposable income is when an applicant does not have sufficient income to cover the outgoings that they have declared. Where this is the case, they should explain on the form how they are managing to pay the outgoings.

[33] The parent's income does not count as third party resources. Only the support they provide the defendant with.

Evidence requirements for nil income cases

Applicants declaring a nil income do not need to provide evidence per se however where the applicant has lost their job in the last 3 months, they should provide a P45 or dismissal letter. If the nature of the offence is likely to require income such as drink driving, more information should be provided in the application.

11.2 Applicants subject to freezing, restraint orders or confiscation proceedings

If an applicant has indicated that they are subject to a freezing or restraint order or confiscation proceedings, you must include a copy of the order for magistrates' Court cases (excluding applicants self declaring, due to being in custody). For Crown Court cases, as with other evidence, this can be provided within 14 days.

Any allowances (for example, if the applicant receives £250p/w to support themselves) under the order cannot form part of the income assessment, regardless of whether the order relates to the case.

Equally, restrained assets cannot be taken into account for the capital and equity assessment.

Any income or assets not subject to the order, including partners' assets can be included in the assessment.

However, for any restraint or confiscation orders made after 1 June 2015, the LAA will liaise with the prosecuting authority named on the restraint order to confirm whether any assets will remain in order to satisfy a capital contribution order for final defence costs. Legal aid costs from restrained assets will therefore be pursued after victims' compensation and any confiscation order has been paid in full or otherwise discharged.

What should applicants put on the form if they are subject to an order?

If an applicant is subject to a restraint or freezing order, they should indicate this on the application and clarify whether all of their assets are restrained. If they are all restrained this should be detailed in the further information section.

If they have any assets that are not included in the restraint or freezing order these should be declared on the form in the appropriate sections.

How do solicitors get legal aid for hearings in relation to restraint/freezing orders or confiscation proceedings?

Any cases where an applicant is subject to a restraint, freezing or confiscation order and wants to apply to vary or discharge the order and has been charged with a criminal offence[34] should apply for a Representation Order for the Criminal Proceedings. If this is granted the legal aid will extend to any work done in respect of the restraint/freezing orders or confiscation proceedings, as they are incidental to the substantive Criminal Proceedings.

What happens if an applicant wants to transfer solicitor after the criminal case has concluded?

If an applicant wishes to apply to transfer solicitor in restraint or confiscation proceedings, even after the criminal case has concluded, they can do this.

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[34] If an applicant has not yet been charged with a criminal offence, they may be able to claim for this work under civil legal aid. For further information, please see the GOV.UK website: 2025 crime contract and refer to section 13.13 of the Specification.

The normal transfer procedure would apply.

What happens if the applicant did not receive legal aid for the criminal proceedings?

An applicant who was not granted a representation order for the main trial proceedings but who now wishes to be publicly represented at the subsequent confiscation proceedings in the Crown Court, must submit a fresh application using the Apply for criminal legal aid service. The application will not be subject to Crown Court means testing and will be assessed solely based on the 'Interest of Justice' test[35].

What happens if the applicant faces enforcement proceedings in respect of the confiscation order?

Enforcement of the confiscation order takes place before the magistrates' court. If a representation order is already in place, it will not extend to enforcement proceedings of this sort. Instead, they will be regarded as new proceedings, and a fresh application must be submitted. This application will be subject to the 'Interests of Justice' test as well as the magistrates' court means test.

Please see Annex F: Criminal Funding in Proceeds of Crime Matter for further guidance on the legal aid process for Proceeds of Crime Matters.

11.3 Applicants who have been made bankrupt

If an applicant has been made bankrupt and they are not in receipt of a passported benefit, they will need to fully complete an application as any income must be taken into account for the purposes of their means assessment.

If an applicant is subject to an Income Payments Order (IPO), this outgoing can be considered in the full means assessment. The applicant should declare this in the application and provide a copy of the IPO when submitting their application. Alternatively, this payment will be accepted under a Hardship/Eligibility Review application.

Where the applicant has been informed by the Official Receiver that an IPO will be made against them, any outgoing relating to the IPO will not be considered until the order has been made. The applicant's current income must be assessed and once the order has been made, they should submit a change in financial circumstances application.

11.4 Applicants who have entered into a breathing space or mental health moratorium

If the applicant has entered a breathing space or mental health crisis moratorium due to problem debts, you should inform us of this upon applying for legal aid. The Insolvency Service will have separately sent a notification to the LAA if there are any eligible debts, under the civil or criminal legal aid schemes, which fall within the moratorium.

Please note that any financial determination of eligibility for criminal legal aid will be carried out under the normal rules, and any monthly contribution that is assessed to be payable as a condition of entitlement to legal aid must be paid.

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[35] In these circumstances, where defendants are charged under section 70 of the Proceeds of Crime Act the representation order will cover both the sentencing and confiscation hearings.

If the applicant would like us to take into account other debts, they can submit a hardship application as usual.

If the applicant enters into a breathing space or mental health crisis moratorium following the grant of legal aid, due to their contributions or other eligible legal aid debt, the LAA will be notified electronically by the Insolvency Service. The LAA will update its records accordingly and apply the protections to any eligible debts from the dates set out in the notification.

If your client's financial circumstances have also changed since their original application (for example, their income has increased/decreased since their original assessment), and this has not previously been notified to the LAA, they should also submit details of the change in financial circumstances for reassessment.

If criminal legal aid contributions have been included in the moratorium the LAA and the DRC will not contact the applicant to request payment or take any steps to enforce (except where a Final Attachment of Earnings or Charging Order is already in place).

12 Non-passported applicants: Other benefit and income categories

The following are the different types of income that should be included on the application.

12.1 Child Benefit

Child Benefit is a cash benefit payable to a claimant who is responsible for a child who qualifies and is paid by HMRC, usually every 4 weeks but sometimes weekly. Benefit is paid for each qualifying child, at a higher rate for the first or only child and a lower rate for each subsequent child. Check Annex T: State Benefits for rates.

Whilst all those responsible for a qualifying child are entitled to claim Child Benefit if their individual income or their partner's individual income exceeds £60,000, they will have to pay back some or all of the benefit by way of a tax charge. For every £200 above £60,000 they will have to pay back 1% of their Child Benefit. If the applicant or the partner's income exceeds £80,000 the full amount of the Child Benefit has to be paid back. This is called the High Income Child Benefit Charge (HICBC).

Those where HICBC applies may either:

1. pay back the relevant amount through their tax code/self-assessment tax return (meaning it is repaid at source over the financial year)

2. opt out of receiving Child Benefit altogether

Note: anyone can opt out regardless of their level of income

Applicants affected by the HICBC who continue to receive Child Benefit should declare the full amount of Child Benefit as any HICBC will be reflected by the evidence they supply of the tax they pay.

If this is paid back through PAYE it will be included in the tax deducted on the wage slip they provide. If this is paid back through the self-assessment tax process, the applicant should provide their tax return or tax calculation sheet.

12.2 Tax credits

Tax credits refer to Working Tax Credit and Child Tax Credit, which are paid by HMRC. Working Tax Credit and Child Tax Credit are means tested but are more generous than subsistence benefits such as Income Support or Income-based Jobseeker's Allowance.

Tax credits are not passported benefits, and the amount received by the applicant, or their partner (or both) must be declared on the application HMRC will issue a Tax Credit Award Notice TC602 specifying how much the claimant is entitled to. Tax credits are paid four-weekly, weekly, or fortnightly and should be claimed by all those with children who are earning less than £58k, or less than £66k if their child is one year old or younger.

Couples (whether married, civil partners, or otherwise cohabiting - including same-sex couples) must make a joint tax credits application, although separate award notices may be issued. For example, in the case of a married couple the husband may get Working Tax Credit while the wife gets the Child Tax Credit if she is judged to be the main carer of the children in their household.

12.3 State benefits

Certain state benefits are wholly disregarded for assessment purposes (see 12.6.1 Disregarded benefits). All other state benefits should be declared (including pensions). Please note, benefit will be payable four-weekly.

12.4 Pensions

12.4.1 State Pension

Applicants should declare any State Pension (Retirement Pension) they receive.

12.4.2 Private Pension

Applicants should declare any occupational pensions or private pensions.

Evidence, such as a bank statement (with all credits annotated with their source and frequency) or a pension statement, is required for total private pension income received of £1,000 (before tax) or more per month.

Certain pensions are disregarded for the purposes of the means assessment, in particular, any pensions paid under the Naval, Military and Air Forces etc. (Disability and Death) Service Pensions Order 1983.

12.5 Income from other sources

12.5.1 Maintenance income

This is maintenance the applicant receives for themselves or their dependent children or both. A spouse, former spouse or civil partner, or other parent of the child will pay it. The maintenance may be being paid voluntarily, through a court order, or through the Child Support Agency, all of these types of maintenance should be declared.

12.5.2 Student income

Most undergraduate students apply for student finance; more commonly called a “student loan”. It is made up of the following components:

Student loan for maintenance

Student loan for tuition fees which is paid directly to the university

Maintenance grant or

A bursary from the student’s university / college

Tuition fee loans are not taken into consideration if they are paid directly to the student’s university, but all other portions of the student loan are included as income.

Other sources of income available to students include Professional Studies Loans, Initial Teacher Training and nursing bursaries, Scholarships, Sponsorships and Access to Learning Fund.

In addition to income that is student specific some students may receive income from part time employment, support from family or friends, appropriate benefits such as Child Benefit and income from savings. This should all be declared alongside their student loan.

12.5.3 Trust Income

A trust may provide income directly to the applicant or their partner, or commonly may make payments on the individual's behalf, for example meeting housing costs. Any income that the applicant receives or may expect to receive from a trust (including payments to a third party on their behalf) for the period of calculation should be declared.

12.5.4 Income from Savings and Investments

This section covers income derived from savings or investments. For relevant Crown Court proceedings, if the applicant is subsequently convicted, the collection and enforcement team will consider the capital value of any savings or investments at the end of proceedings.

It is important to note that including the income derived from savings and investments does not mean that we are double counting when making an assessment. For relevant Crown Court proceedings, income from savings and investment will be incorporated into the means assessment in the same way as for magistrates' proceedings.

If the applicant's capital (savings and investments), produces a regular monthly income, then this must be declared on the application.

Any substantial one-off credits or withdrawals will be considered on a case-by-case basis and may be included in the assessment; however, there may be certain exceptions such as one off compensation or insurance payments.

12.5.5 Using savings to supplement income

If the applicant regularly withdraws from savings or transfers funds into their spending account to supplement income, this will be treated as income in the means assessment. For example, a retired person using their savings to supplement their pension income. An average of these payments will be calculated and projected forwards for the annual gross income calculation.

Applicants who have recently lost their job may be living off savings entirely – see **12.5.6 Living off savings**.

12.5.6 Living off savings

This is where the applicant is using money in their bank accounts to support themselves as they have no other source of income, typically due to a recent change in circumstances (such as job loss).

The applicant should tell us how much they are withdrawing or spending each month and provide at least 3 months bank statements for each account held (where applicable). Applicants should annotate the statements and flag any items they think should not be included, such as a one-off expense not part of day-to-day living costs.

We will total all outgoings shown on the bank statements, calculate the average over the number of months provided, and compare this monthly figure with the declared amount.

If the declared figure is consistent with the bank statement debits, we will use that figure as income in the means assessment. If the debits are not consistent with the amount declared, we will use the average monthly amount based on the statements.

12.6 Disregarded income

Certain sources of income are wholly disregarded for assessment purposes.

Calculate the applicant's gross annual income by assessing their total annual income from all sources, except the following:

12.6.1 Disregarded benefits

(a)any financial support paid under an agreement for the care of a foster child;

(b)any payments paid out of—
(i)the Independent Living Fund(1);
(ii)the Independent Living (Extension) Fund(2);
(iii)the Independent Living (1993) Fund(3); or
(iv)the Independent Living Fund (2006)(4);

(c) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983(5);

(d)any of the following payments—
(i)attendance allowance paid under section 64 of the Social Security Contributions and Benefits Act 1992 or section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
(ii)severe disablement allowance paid under section 68 of the Social Security Contributions and Benefits Act 1992(6) or section 68 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(7);
(iii)carer's allowance paid under section 70 of the Social Security Contributions and Benefits Act 1992(8) or section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(9);
(iv)disability living allowance paid under section 71 of the Social Security Contributions and Benefits Act 1992(10) or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
(v)constant attendance allowance paid under section 104 of the Social Security Contributions and Benefits Act 1992 as an increase to a disablement pension or section 104 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
(vi)any housing benefit paid under section 130 of the Social Security Contributions and Benefits Act 1992(11) or section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
(vii)council tax benefit paid under section 131 of the Social Security Contributions and Benefits Act 1992(12);
(viii)payment made out of the social fund under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
Social fund payments include payments for funeral expenses, cold weather payments, winter fuel payments (for individuals born on or before 5 January 1952) and Sure Start maternity grants. Budgeting loans are also available to legacy benefit recipients (such as those remaining on Income Support and Job Seekers Allowance) until Universal Credit is fully rolled out.

(e)any direct payments made under regulations made under section 57(1) of the Health and Social Care Act 2001(13) (direct payments), section 17A of the Children Act 1989(14) (direct payments) or section 8(1) of the Carers and Direct Payments Act (Northern Ireland) 2002(15);

(f)any pensions paid under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(17);

(g)any armed forces independence payment paid under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(18);

(h)any personal independence payment paid under Part 4 of the Welfare Reform Act 2012;

(i)any payment made under the Windrush Compensation Scheme[36]; and

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[36] See also Guidance_on_disregard_of_Windrush_compensation_scheme_payments.pdf

(j)any Windrush connected payment[36];

Except for the benefits shown above (and other disregarded income set out in 12.6.2 below), all other income that is due or will become due for the period of calculation should be taken into account.

12.6.2 Other disregarded income

(a)any reasonable living expenses provided for as an exception to a restraint order under section 41 of the Proceeds of Crime Act 2002(**16**);

(b)any payment made under the Windrush Compensation Scheme[36];

(c)any Windrush connected payment[36],

> **Windrush compensation payments or any payments connected to Windrush such as backdated benefits are disregarded from both income and capital[36].**
>
> Only payments shown to be clearly connected to Windrush compensation however, will be disregarded. For example, if they get backdated tax credits connected to Windrush, the lump sum will be disregarded but going forward the regular payment will be included.

(d)a payment made under the Social Security (Additional Payments) Act 2022;

(e)a payment made to an individual under section 13 or 15 of the Energy Prices Act 2022.

> Payments made under the Social Security (Additional Payments Act 2022 or the under section 13 or 15 of the Energy Prices Act 2022 covers the support the Government introduced in 2022 to individuals who are struggling financially as a result of the cost of living crisis. The primary purpose of this financial aid is to assist vulnerable individuals with energy payments:
>
> Payments are:
>
> - Pensioner cost of living payment
> - Cost of Living Payment for households on certain means tested benefits
> - Disability Cost of Living Payment
> - Council Tax Rebate
> - Energy Bills Support Scheme
> - Household Support Fund Payments via the Household Support Fund - Local Authority to administer payments

(f) Modern Slavery Victim Care Contract (MSVCC) payments

(g) Miscarriage of justice compensation payments made under Section 133 of the Criminal Justice Act 1988

12.6.2.1 Discretionary disregards:

a) Discretionary disregard for payments made under the Victims of Overseas Terrorism Compensation Scheme (VOTCS)

b) Discretionary disregard Grenfell Tower related compensation payments

These can be disregarded according to the principles set out in:

The Civil and Criminal Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2024 and in the Guidance on determining financial eligibility for criminal legal aid under The Civil and Criminal (Financial Resources and Contribution Orders) (Amendment) Regulations 2024.

In summary, payments provided to compensate the individual for personal harm or to support a specified purpose (for example, disability support) should generally be disregarded, unless such payments reflect a loss of past or future income, in which case they should be included in the means assessment (except where we cannot ascertain how much is for this purpose).

Personal harm should be defined as a "non-monetary loss or harm caused to an individual'.

Specified purpose should be defined as "an essential need of an individual". This should not encompass payments made to compensate a financial-only loss, including loss of past or future earnings (subject to the point below).

Note that regardless of the purpose of the payment, we may deduct the whole of a payment where the criminal legal aid that the individual is applying for directly relates to the loss or harm suffered by an individual for which the payment has been made. For example, two matters are likely to be considered directly related where the applicant has received compensation for harm suffered during an incident and is seeking criminal legal aid for a defense against prosecution in relation to their own actions during or in relation to that incident.

Transitional arrangements for the 4 new disregards, allow for applicants previously refused legal aid or those subject to a Crown Court income contribution to request a reassessment, on the basis of a change in financial circumstances. Requests for a reassessment must be made as follows.

- eligibility in the magistrates' court and Crown Court – whilst the case is ongoing
- income contributions in the Crown Court - whilst the case is ongoing

See Regulation 5 of The Civil and Criminal Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2024

We will process these reviews as a change in financial circumstances effective from 20 November 2024, the date of implementation of the disregards.

12.7 Disregarded capital

12.7.1 Mandatory disregards

(a)any Windrush connected payment[36],

Windrush compensation payments or any payments connected to Windrush such as backdated benefits are disregarded [36].

Only payments shown to be clearly connected to Windrush compensation however, will be disregarded. For example, if they get backdated tax credits connected to Windrush, the lump sum will be disregarded but going forward the regular payment will be included.

(b) Modern Slavery Victim Care Contract (MSVCC) payments

(c) Miscarriage of justice compensation payments made under Section 133 of the Criminal Justice Act 1988

12.7.2 Discretionary disregards

a) Discretionary disregard for payments made under the Victims of Overseas Terrorism Compensation Scheme (VOTCS)

b) Discretionary disregard Grenfell Tower related compensation payments

These can be disregarded according to the principles set out in:

The Civil and Criminal Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2024 and in the Guidance on determining financial eligibility for criminal legal aid under The Civil and Criminal (Financial Resources and Contribution Orders) (Amendment) Regulations 2024.

In summary, payments provided to compensate the individual for personal harm or to support a specified purpose (for example, disability support) should generally be disregarded, unless such payments reflect a loss of past or future income, in which case they should be included in the means assessment (except where we cannot ascertain how much is for this purpose).

Personal harm should be defined as a "non-monetary loss or harm caused to an individual'.

Specified purpose should be defined as "an essential need of an individual". This should not encompass payments made to compensate a financial-only loss, including loss of past or future earnings (subject to the point below).

Note that regardless of the purpose of the payment, we may deduct the whole of a payment where the criminal legal aid that the individual is applying for directly relates to the loss or harm suffered by an individual for which the payment has been made. For example, two matters are likely to be considered directly related where the applicant has received compensation for harm suffered during an incident and is seeking criminal legal aid for a defense against prosecution in relation to their own actions during or in relation to that incident.

Transitional arrangements for the 4 new disregards, allow for applicants made subject to a Capital Contribution Order in the Crown Court to request a reassessment, on the basis of a change in financial circumstances. Requests for a reassessment must be made within 28 days of the date on which the Capital Contribution Order was issued - unless there is a good reason for the delay.

See Regulation 5 of The Civil and Criminal Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2024

We will process these reviews as a change in financial circumstances effective from 20 November 2024, the date of implementation of the disregards.

[34] See also Guidance_on_disregard_of_Windrush_compensation_scheme_payments.pdf

12.8 Employed Applicants

Employed applicants will receive a payslip detailing their income, overtime and bonuses where applicable and their deductions typically tax, National Insurance, and pension contributions. This could be weekly, fortnightly, four weekly or monthly.

In addition to deductions from gross salary, the payslip should show any salary sacrificed in return for non-cash benefits such as childcare vouchers, travel tickets, food, or payments into a pension fund. The amount sacrificed will usually show as a minus figure on the payments side of the payslip but could also appear in a separate benefits column. Sacrificed salary will be included when assessing gross income from employment.

If the earnings calculated from the year to date figure are significantly more (more than 10% higher) this figure will be used in the assessment. If this is the case Tax and National Insurance outgoings will also be calculated from the year to date

Where the applicant is in receipt of Maternity pay or Statutory Sick pay income will be calculated using their actual income at the time of applying for legal aid i.e. the amount of SSP or maternity pay they receive. If the applicant returns to work earning their normal wages whilst their case is still ongoing, they are obliged to submit a change in financial circumstances application and be reassessed.

12.9 Armed forces

Please note, where they live apart because one partner is posted abroad, for example, they would be separated by circumstances only therefore their partner's income will be included in the assessment.

Please note that criminal legal aid provided by the Legal Aid Agency is not available to armed forces personnel who face prosecution in the Services Criminal Justice System. In such cases, applications for legal aid are dealt with by the Armed Forces Criminal Legal Aid Authority (AFCLAA), details of which can be found on GOV.UK:

https://www.gov.uk/armed-forces-criminal-legal-aid-authority-afclaa

12.10 Benefits in kind

This refers to benefits provided, usually by an employer, instead of or in addition to cash payments or normal salary. The most common example is the provision of a company car, fuel allowance or both. Free health insurance, free accommodation and luncheon vouchers are other common types of benefit in kind. Sometimes employers provide childcare vouchers or help to pay the employee's mortgage.

Benefits in kind are counted as income and must be added to the wages figure.

Even though not received in cash, HMRC treat all these benefits as taxable income. As a general rule, therefore, from an assessment point of view we will take the value of any benefit in kind to be its taxable value. That is, we will treat this benefit as income in the same way as HMRC.

The applicant is asked to specify the taxable value of any benefit in kind received on the application form and to provide a copy of tax form P11D, which will show the annual value.

12.11 Erratic income/seasonal workers

A seasonal worker's income will vary because of the type of work they do. Despite working throughout the year, in some months their income is particularly high/low compared to the rest. For example, an Ice cream seller may sell ice cream throughout the year, but in the summer months their business is likely to be more profitable than during the winter.

When assessing a seasonal worker, the LAA will use the income from the most recent wage slip to calculate an annual figure. If a seasonal worker fails the means test based on a monthly income that would not be available to them in other periods of the year and for which they must budget accordingly, they will need a more detailed review of their means. In this scenario the applicant should apply for a Hardship/Eligibility Review, enclosing supporting evidence.

12.12 Agency workers and agency only paid staff

Temporary workers (for example, agency workers or students) might only be employed for short periods of the year instead of working throughout the year. This type of worker will be employed under a

temporary contract for a set period, which may have the potential to be extended. Workers falling into this category will have their income assessed on what they are earning at the time of the application and if their employment subsequently ceases, they should submit a new application detailing the change in financial circumstances.

12.13 Cash in Hand – employed

There are 2 types of cash in hand applicants, one type is employed and we will cover their assessment requirements here, the other type is self-employed who are covered in the next section.

An employed 'cash in hand' applicant is someone who gets paid cash in hand for working for someone else on a regular employed basis i.e. a waitress/waiter who works for a restaurant but gets paid in cash rather than through his or her bank account.

If a payslip cannot be provided, then bank statements showing wages paid in or a letter from the person employing them should be obtained. Bank statements should be annotated to identify the source and frequency of all credits.

12.14 Self-Employed applicants

If the applicant is self-employed, they must provide accounts or a tax return (SA100).

Please be aware that a tax calculation sheet (SA302) is not adequate evidence of self-employed income when submitted on its own. It should be accompanied by a tax return, accounts, or bank statements. This is because it does not cover all types of income that a self-employed applicant may receive.

If the business is very new or particularly small so that no accounts or HMRC documents are available, they may submit bank statements or a cashbook or any other account information as evidence.

Please note, we do not assess profit from self-employment in the same way as HMRC. HMRC assess profit for the purpose of tax and NI liability, using set out rules and accounting methods. We are looking at an applicant's ability to pay from income. This means the profit figure we include in the means assessment may be more than the figure shown on the applicant's accounts and declared to HMRC. We will add back business expenses, such as follows:

- to avoid double counting, expenses such as
    - use of home as an office
    - rent, mortgage, heating and lighting costs if trading from home and we have already allowed these costs in the means assessment - by way of the mortgage or rent declared on the application or the living allowance
- provisions for bad debts or depreciation of assets as we can only consider actual cash transactions
- trading losses carried forward from previous financial years

12.14.1 Establishing whether an applicant is self-employed

It is sometimes difficult to establish if an applicant is self-employed or not.

Applicants who work in the construction industry are mostly employed on a sub-contract basis, which means they are classed as self-employed even though the company they work for provides them with the work and pays them. The company pays them through a scheme known as the CIS scheme and will

provide them with a pay statement. This will usually show a deduction of 20% for Income Tax only. A person who is a sub-contractor is responsible for paying his or her own National Insurance. They will not be entitled to sick pay or holiday pay and at the end of each financial year; they are responsible for submitting their business accounts to HMRC.

Sub-contractors are considered to be self-employed for means assessment purposes so you should select 'Self-employed' when asked about your client's employment status.

12.14.2 What happens if an applicant has declared they are previously self-employed or that their business ceased trading?

Applicants who declare they have been self-employed within the last 12 months and have since ceased trading are considered high risk because they may still be receiving residual income from the business. The applicant should provide a copy of their closing accounts and a letter from HMRC showing their final tax liability as evidence of the business closure.

12.14.3 Self-Employed Cash in Hand

Applicants who provide a service such as a plumber, builder, odd-job person may be paid cash in hand but could fall into the self-employed category. Key indicators that the applicant is self-employed could be the applicant has responsibility for getting their own work, providing their own tools, staff and/or other business decisions. Self-employed applicants must provide accounts and, where applicable, a tax return. If no accounts or HMRC documents are available, bank statements or a cashbook or any other account information may be submitted as evidence. Where attempts have been made to obtain the required evidence has not been forthcoming, solicitors should provide justifications for the absences in the application.

12.15 Unobtainable evidence

If an employed or self-employed applicant cannot provide evidence of their salary (because they have been remanded into custody by the court), then the applicant can self-certify on the application.

If the case concludes in the magistrates' court, no evidence will subsequently be required.

However, if the case is committed, sent, or transferred to the Crown Court, evidence is required to support the application and, for income, this mirrors the magistrates' court requirements. Applicants are required to provide the evidence within 14 days of the case being committed/sent/transferred.

See also When is NINO mandatory table and 3.5.8 Partner's signature, as these are both mandatory in the Crown Court.

The evidential requirements are not deemed to be onerous. For the vast majority of applicants only one or 2 pieces of income evidence are required and therefore there should be no difficulties in providing. There is provision within the scheme to agree extensions to evidence provision deadlines and you should contact the LAA to make such a request.

13 Outgoings

13.1 Summary of evidence requirements for outgoings

Type of employment	Outgoings	Evidence
N/A	Mortgage / rent	Mandatory if over £500 p/m[37]
N/A	Board / lodgings	None required
N/A	Council Tax	Mandatory if over £500 p/m[37]
Employed	Tax and NI	Last wage slip or Self assessment tax form
N/A	Childcare (for example, childminder)	Mandatory if over £500p/m[37]
N/A	Childcare (maintenance for children not living with applicant)	Mandatory if over £500p/m[37]. For large payments, the Court order may also be required.
N/A	A living allowance is also added as a type of outgoing and the formula is: £5,676 (reviewed annually) multiplied by the 'weighting factor' (weighting factors = children and spouses).	N/A

13.2 Tax and National Insurance

The following sums are treated as tax and NI outgoings:

- any income tax paid on that income

[37] For Crown Court trials, retrials, and voluntary bills, where housing, childcare or maintenance costs are more than £500/month and evidence is not provided, the outgoing will be limited to £500/month.

- any NI contributions paid or payable on that income under Part I of the Social Security (Contributions) Act 1992.

13.3 Housing / accommodation costs

In calculating disposable income, we can make an allowance for:

- the mortgage or rent (net of housing benefit) being paid for the applicant's main home, or
- the cost of the applicant's living accommodation
- Council Tax paid or payable for the period of calculation (please be aware that council tax is usually only paid for 10 months).

If the applicant declares a Mortgage or rent of more than £500 a month (£6,000 a year), they must provide supporting evidence. For Crown Court cases if no evidence of accommodation costs has been provided then costs will be limited to £500 per month.

13.4 Board and lodgings

If an applicant states they are paying board and lodgings, then only the amount for accommodation can be allowed. Applicants are asked on the form to declare how much of the board and lodging declared is for food. If no amount is declared, then the LAA will assume 50% is for food and only allow half of the board/lodgings figure.

If arrangements are informal, for example lodging with a close family member, and the applicant cannot specify how much they spend on food, then you should assume that half of the declared board and lodging element is for accommodation, with the rest for food and other incidentals not covered by the regulations.

13.5 Childcare costs

An allowance can be made for childminding expenses (such as those paid to a registered childcare provider). Unless there are exceptional circumstances (for example, disability of the child) such a deduction will only be made for a dependent child aged 15 or under.

The regulations state that 'childcare costs' means the costs of care that is provided by one or more of the following childcare providers –

- A school on school premises, out of school hours
- A local authority, out of school hours:
- For children who are not disabled, for the period starting on their eighth birthday and ending on the day before the first Monday in September after their 15th birthday
- For children who are disabled, for the period starting on their eighth birthday and ending on the day before the first Monday in September after their 16th birthday
- A childcare provider approved by an organisation accredited by the Secretary of State under the scheme established by the Tax Credit (New Category of Care Provider) Regulations 1999
- Persons registered under Part XA of the Children Act 1989 or registered under part 3 of the Childcare Act 2006

- Persons referred to in paragraph 1 or 2 of Schedule 9A to the Children Act 1989, in schools or establishments referred to in those paragraphs

- Persons prescribed in regulations made under section 12(4) of the Tax Credit Act 2002.

However, this definition excludes costs paid in respect of:

- The child's compulsory education or by a claimant to a partner (or vice versa) for a child for whom either or any of them is responsible under Regulation 10 of the Council Tax benefit regulations 2006; or

- Care provided by a relative of the child wholly or mainly in the child's home.

- Private education or private tuition.

If an applicant is claiming for childcare costs, their application should include a claim for tax credits. Please refer to 12.2 Tax credits for more details about this claim.

If the applicant has declared expenditure of over £500 a month on childcare, they must give evidence, such as a bank statement (with all credits annotated with their source and frequency) or agreement/contract with the childcare provider, to support the figure stated. For Crown Court cases if no evidence of childcare costs has been provided then costs will be limited to £500.

13.6 Maintenance payments

An allowance can be made for maintenance payments regularly made by the applicant (or their partner, or both, if they have an aggregated assessment).

Such payments will go to: (a) a spouse/ civil partner or former spouse/civil partner, or (b) a child, or (c) a dependent relative. The allowance can only be made if the recipient does not live in the applicant's household.

Where applicants are making maintenance payments of over £500 per month, they will be required to evidence these payments. For Crown Court cases if no evidence of childcare costs has been provided then costs will be limited to £500.

If the applicant's maintenance payments are as a result of a court order or CSA ruling an allowance will be made for these payments.

Where the applicant is making maintenance payments but there is no formal agreement, payments will only be allowed to a reasonable level.

The reasonable level is defined by the CSA guidelines:

If the non-resident parent has to pay child maintenance for;

1 child, they will have to pay 15% of their net weekly income

2 children, they will have to pay 20% of their net weekly income

3 or more children, they will have to pay 25% of their net weekly income.

We can only allow for payments actually made.

Maintenance payments could also include payments towards an ex-partner's household bills or mortgage. Where these are paid in addition to the maintenance for children, an explanation from the applicant should be provided on the form.

14 Means appeals and reviews - income

14.1 Review of means where there has been a change in financial circumstances

Once assessed for Criminal Legal Aid, an applicant should submit a new application with you using the Apply for criminal legal aid service when:

- the level of income used in the original assessment is no longer available to the applicant
- the applicant's disposable income has increased/decreased since their original application
- the applicant becomes in receipt of a passported benefit
- there has been a change in their partner's circumstances

There is question within the Apply for criminal legal aid service to identify applicants who are reporting a change in financial circumstances.

The change in circumstances needs to be evidenced before it can be processed by the LAA.

14.1.1 Timescales for submitting a change in financial circumstances application

If the applicant submits a change in financial circumstances application within 28 days of the change, with the appropriate evidence, any reassessment of their means will take effect from the date of that change.

Where an application is submitted more than 28 days after the change, it should be accompanied by a reasonable explanation for not meeting the time limit. If the explanation is accepted, the reassessment will be backdated to the date of the change.

Failure to provide a valid reason for the delay may result in the reassessment not being backdated. If income decreases, the reassessment will only take effect from the date we receive the completed application and supporting evidence.

However, if income increases, we will always backdate the change, regardless of when we become aware. Applicants should notify us of any change as soon as possible to avoid unexpected costs, such as an additional payment to cover contributions that would have been due if we had known about the change earlier.

Note: The backdating rules above do not apply to New Applications Following Ineligibility. Where an applicant submits a New Application Following Ineligibility, meaning they have been refused legal aid for a Crown Court trial because their household disposable income is equal to or exceeds £37,500, and the applicant is then deemed to be eligible the Representation Order will be dated only from the date that the New Application Following Ineligibility was received.

14.1.2 Change in financial circumstances in the magistrates' court

If the reassessment is due to a change in circumstances and the application is submitted with evidence within 28 days of the change or a reasonable explanation is provided for the delay in notifying the LAA of the change then the representation order will be granted from the date of the change in circumstances.

If it is due to a change in circumstances and the application is submitted outside the 28 day period and no reasonable explanation for delay has been provided, the representation order will only be granted from the date the new form and evidence of the change was received.

Note: where the applicant previously passed but now fails the Representation Order will be withdrawn as of the date of the reassessment.

14.1.3 Change in financial circumstances in the Crown Court

There are a number of situations where a contribution recalculation needs to take place, including:

- If there is a Change in Financial Circumstances
- If an applicant feels that a mistake has been made in the calculation of their means and therefore, the level of monthly contribution is incorrect
- If the evidence the applicant has provided shows incorrect information was declared on the application
- If quality checking within LAA identifies a possible calculation error
- If new information comes to light as a result of LAA assurance work

14.1.3.1 Contribution recalculation

If a Crown Court Representation Order is already in place, then a new application (using Apply for criminal legal aid service) will be required for the LAA to review the level of contribution. The reassessment could result in a Contribution Notice being issued or the level of the Contribution Order being varied. If this is the case, a Notice/Order will be issued to the applicant and their solicitor.

Where there is a Change in Financial Circumstances, the applicant remains liable for any contributions for which liability arose before the change took place.

It is important to note that liability for each month is created on a different date to the corresponding payment due date. Liability is created on the same day each month as the liability for the first payment, while payment due dates are spaced 31 days apart. This gives applicants time to make each payment, but the liability to make each payment will have already been created before the respective payment due date.

Looking again at the example of a contribution schedule on page 56, If the applicant lost their job on 18/08/2025, although the payment due date for month 3 (15/09/2025) has not yet passed, they have already become liable for that payment on 17/08/2025. Therefore, they remain liable for 3 payments prior to the change.

Month	Liability schedule		Payment schedule	
1	liability created	17/06/2025	payment due	15/07/2025
2	liability created	17/07/2025	payment due	15/08/2025
3	liability created	17/08/2025 **Change: 18/08/2025**	payment due	15/09/2025
4	liability created	17/09/2025	payment due	15/10/2025
5	liability created	17/10/2025	payment due	15/11/2025
6	liability created	17/11/2025	payment due	15/12/2025

If the defendant's contributions are reduced any new contribution order will be dated from the date of the change (if completed form and evidence submitted within 28 days) or the date by which both the form plus evidence have been received (if not submitted within 28 days) and the DRC will begin collecting the revised contribution figure for the remainder of the payment schedule.

14.1.3.2 New application following ineligibility

Where applications are processed under the CCMT scheme a completely new application (using the Apply for criminal legal aid service) will be required where there has been a change in circumstances since the applicant was refused legal aid for their Crown Court trial (a New Application Following Ineligibility) and if eligible the order will be granted from the date the new application was received.

14.2 Review of means where there has been an error

If an applicant believes an administrative error has occurred their solicitor should send NCAT the printout of the financial assessment that accompanied the refusal notice with the error highlighted.

If the applicant omitted information in the previous application (for example, they did not give childcare costs and they or their partner has children), they can do one of the following:

- Provide a new application using the Apply for criminal legal aid service
- Amend, sign, and date the printout of the financial assessment
- Put the omitted information in an email

Evidence of the omitted income or outgoings must be provided.

If it is because of NCAT error on the original assessment, then the representation order will be backdated to the date of submission of the original forms. In the case of Crown Court, where a Contribution Order has previously been issued, the reduced contribution will be backdated to when the applicant was first asked to pay.

If the applicant previously omitted information, then the reassessment will be backdated provided that the applicant notifies the LAA within 28 days.

For applicants assessed as ineligible for their Crown Court trial please note that a request for review should be submitted within 21 days of the refusal notice being issued. For further information please see below.

14.2.1 What if legal aid has been granted in error?

14.2.1.1 For Magistrates' Court cases

Where the representation order has been issued in error and the case is ongoing the order will be withdrawn from the date the error was identified. The LAA will immediately contact the provider advising of the issue and that their client will have to pay privately for any work undertaken after the withdrawal.

The applicant may re-apply if their circumstances change. This would require a fresh application using Apply for criminal legal aid service.

14.2.1.2 For Crown Court cases

Where the representation order has been issued in error, meaning the applicant's disposable is found to be £37,500 or more (therefore exceeding the eligibility threshold for Crown Court trials) this will not result in withdrawal of the Representation Order. Instead, the LAA will review the applicant's liability for an income contribution and liaise with the solicitor to ascertain whether the applicant wishes to accept the revised income contribution or have the representation order withdrawn. If the applicant prefers to withdraw then the solicitor and advocate will be required to provide an undertaking that there will be no claim for payment.

If the reassessment results in the applicant now being liable for an income contribution the LAA will issue a Contribution Order for the relevant amount.

Depending on the point at which we reassess, we may also ask for an additional payment to cover the payments we should already have asked for.

If the reassessment results in an increased contribution amount this will apply from the point the LAA issue a revised Contribution Order.

Depending on the point at which we reassess, they may also be asked for an additional payment to cover the difference between what they should have been asked to pay (had the original assessment been correct), and the contributions that they were previously asked to pay in the period between their liability being created and their reassessment.

If an applicant's contribution amount decreases following the reassessment their liability to pay the revised contribution amount will be backdated to when the liability for their previous contribution amount became effective from.

15 Hardship / Eligibility Review

15.1 What is a Hardship / Eligibility Review?

Applicants can apply to the LAA to have their financial eligibility reviewed on the grounds of hardship where they are not granted legal aid because they:

- fail the means test (in the magistrates' court or
- are assessed as ineligible in the Crown Court or
- are subject to an income contribution order because they have disposable income above the threshold (in the Crown Court).

A hardship or eligibility review application can be made where the applicant feels they have higher than usual outgoings or expenditure that has not been taken into account in the full means test, such as care costs for a disabled relative, loans or fines and/or, in the case of the magistrates' hardship and the Crown Court eligibility review, the estimated private defence costs will cause them hardship.

The review is used where the applicant does not have sufficient means to pay privately for the cost of legal representation, even though they have failed the magistrates' court means test or have been assessed as ineligible for their Crown Court trial, meaning they have disposable income above the threshold.

In addition, where an applicant has been granted legal aid in the Crown Court, the applicant may wish to have additional expenditure taken into consideration, which may reduce the value of their Income Contribution.

Please note the CRM16 form for hardship or eligibility reviews is a downloadable form and should be submitted as follows:

If submitting a CRM16 at the point of application, or as part of a New Applications Following Ineligibility, the provider should upload the CRM16 as an evidence attachment to the application in the Apply for criminal legal aid service, making a note in the further information field that a CRM16 is attached.

In all other circumstances the CRM16 form must be emailed to Nationalcrimeteam@justice.gov.uk.

15.2 The magistrates' court hardship review process

An applicant may wish to apply for a hardship review after they have been refused legal aid on the basis of their financial eligibility. An applicant may submit a hardship review using the CRM16 at any point, including the point of application, up until the conclusion of proceedings.

The magistrates' court hardship review involves considering whether any extra expenditure can be allowed as part of the means assessment. The solicitors' costs are also deducted from the applicant's disposable income.

The application will be returned if not signed by the applicant and partner where applicable, otherwise, NCAT will process a review based on whatever information and evidence has been provided. Where evidence is missing the caseworker will advise whether providing it may change the outcome.

Where any extra expenditure is allowed and this takes the disposable income figure to £3,398 or below, the applicant will be financially eligible for legal aid in the magistrates' court.

In circumstances where there is no additional expenditure that can be allowed, the solicitors costs will be deducted from the disposable income figure. If the result of this calculation is that disposable income remains over £3,398 the application will be refused. If the figure is £3,398 or below the applicant will be financially eligible for legal aid.

A further hardship review application may be allowed if the circumstances of the case change significantly so that the costs estimate is no longer a reasonable assessment. An example of this might be where an expert is now required. A new application should be submitted using the Apply for criminal legal aid service if there is a change in the applicant's financial circumstances.

15.3 The Crown Court eligibility review process

An applicant may wish to apply for an eligibility review after they have been refused legal aid on the basis of their financial eligibility, meaning their annual household disposable income has been assessed as £37,500 or more. An application for an eligibility review must be submitted within 21 days of the refusal.

In addition, if an applicant believes they will not be eligible for legal aid under the means test when the initial application is made, they can submit an application for an eligibility review at the same time.

If the eligibility review is successful, the representation order will take effect from the date that the original application was submitted or the day after committal; whichever is later. Please note, however, that if the eligibility review relates to a New Application Following Ineligibility the representation order will only be dated from the date the New Application Following Ineligibility was received.

Like the magistrates' court hardship review, the Crown Court eligibility review involves considering whether any extra expenditure can be allowed as part of the means assessment. In the Crown Court eligibility review, we also consider advocate's as well as solicitors' costs and these are both deducted from the applicant's disposable income.

The application will be returned if it is not signed by the applicant (and partner, where applicable), otherwise, NCAT will process a review based on whatever information/evidence has been provided. Where evidence is missing the caseworker will advise whether provision of the evidence would make a difference to the outcome.

Where any extra expenditure is allowed and this takes the disposable income figure to below £37,500, the applicant will be financially eligible for legal aid in the Crown Court, but will be subject to a Contribution Order where the assessed disposable income following the eligibility review exceeds £3398.

In circumstances where there is no additional expenditure that can be allowed (or following deduction of allowable additional expenditure the applicant's annual disposable income is still £37,500 or more), the solicitor's and advocate's costs will be deducted from the disposable income figure.

If the result of this calculation is a disposable income of £37,500 or more the funding decision will remain as refused. If the figure is below £37,500 the applicant will be financially eligible for legal aid but will be subject to a Contribution Order.

The solicitor's and advocate's costs will not be included when determining the applicant's income for the purpose of working out their level of contribution. This is because, once the applicant has been granted legal aid, they will not be required to pay these private costs from their income.

If the hardship review is successful, the representation order will take effect from the date that the original application was submitted.

Eligibility Review - Example

An applicant's annual household disposable income is assessed under the means test at **£50,000**. The applicant is assessed as **ineligible** for Crown Court legal aid.

The applicant applies for an Eligibility Review. On assessment of the information provided, the applicant's additional allowable expenditure is assessed at **£1,000** and solicitor's and advocate's costs at **£15,000**.

Both the additional expenditure and estimated costs are subtracted from the amount assessed under the means test to produce the applicant's revised annual disposable income.

Revised annual household disposable income = **£34,000**

The applicant's revised annual household disposable income is now below the financial eligibility threshold and the applicant is granted legal aid in the Crown Court.

The applicant's Contribution Order will be based on an annual household disposable income of **£49,000** i.e. £50,000 assessed under the means test less £1,000 additional expenditure allowed under the Eligibility Review.

Note: Evidence requirements are the same as those for the Crown Court hardship review.

15.4 The Crown Court hardship review process

The Crown Court hardship process broadly mirrors the Crown Court Eligibility Review processes; however, there is a key difference; Solicitor's and advocate's costs are not included in the assessment.

An applicant may submit a hardship review using the CRM16 at any point, including the point of application, up until the conclusion of proceedings. The applicant can use the further information section to state the reason they are requesting the review and in Crown Court hardship reviews this is likely to be where the applicant believes that the stated level of monthly contribution is too high or unaffordable. Cases will be reviewed on an individual basis and a decision will be made on the information and evidence provided by the applicant.

If the contribution is unaffordable due to a change in the applicant's circumstances, then the applicant should complete a fresh application using the Apply for criminal legal aid service with supporting evidence and request a re-assessment rather than use the hardship review process.

Some examples of expenditure that can be considered are:

- Unsecured Loan
- Secured Loan
- Car Loan
- IVA
- Credit/Store Card Payment
- Debts
- Fines
- Rent Arrears
- Bailiff Costs
- DWP Overpayment
- Student Loan
- Mortgage on Second Property
- Monthly Prescription Charges
- Pension Payments

- Medical Costs
- Other

Items covered in the living allowance, such as household bills for gas and electricity cannot be taken into account as extra expenditure. Further to this, items such as alcohol and cigarettes are not taken into account.

Where an applicant has personal debt, the Crown Court hardship review will consider the minimum level of payment. Voluntary overpayments will not be allowed, for example, if the minimum monthly credit card payment is £30 but the applicant is paying £250; only the minimum payment will be allowed.

Please note, if the applicant has entered into a breathing space or mental health crisis moratorium in relation to debts other than legal aid liabilities, then we will consider those debts within a hardship review as usual if they submit a CRM16.

Please note costs of private education and/or private healthcare are excluded.

Once a hardship review is processed, any change to an applicant's contribution amount will apply from the date we completed a Crown Court means assessment or the date the case was committed to the Crown Court, whichever was later.

If the applicant has requested a reassessment or submitted a change in financial circumstances or Hardship review, they still need to pay contributions on time. Because failure to pay contributions on time means your client will be expected to make a sixth payment, this can create a tension between the payment schedule and timescales for reassessment. To recognise this and to protect the interests of the client and the legal aid fund; where a reassessment or hardship decision is outstanding – based on the information that the LAA provides – the DRC is instructed to collect the minimum contribution amount of £255[38] until the reassessment has been completed. The outcome of the reassessment or hardship review will be taken into account when revising the defendant's remaining payment schedule. If your client passes the means assessment following a hardship review, any contributions will be refunded.

15.5 Completing the application form (CRM16)

It is important that supporting evidence is enclosed with the application form.

For all CRM16 applications, if some evidence has been provided, an assessment will be considered using this partial evidence. If the applicant wishes to have additional expenditure considered, for which evidence has not been provided, they must submit the evidence with a covering letter.

Note, for a Crown Court Eligibility Review the missing evidence must still be received within the 21 days from the original refusal (or from the refusal decision relating to a New Application Following Ineligibility).

Applicants must complete all relevant sections on the application form except questions 8, 9 and 10, which must be completed by their instructed solicitor where applicable. The CRM16 form will indicate exactly which questions must be completed for magistrates' court and crown court cases. Please see Annex R: Forms Guidance for full instructions on completing the form.

15.5.1 How to ensure that your client's application for hardship/eligibility review is not rejected

Whilst detailed guidance on completing form CRM16 and what evidence to provide in support of the application for hardship/eligibility review can be found in Annex R: Forms Guidance, the following table

[38] The contribution amount of £255 per month is the minimum contribution amount based on an applicant having a disposable income above the threshold of £3,398.00.

highlights the common issues that result in NCAT having to return the application for missing information or evidence.

Reject Reason	Why this is needed
No or insufficient details of 'Solicitors Costs'	**For magistrates' court hardship and Crown Court eligibility reviews** the solicitor must give a full breakdown of the cost details, including an itemised, hourly breakdown of what work will be done as this can be a deciding factor in whether the hardship is successful. At this stage, this can be estimated. **For Crown Court eligibility reviews** this will include advocate costs.
Not signed and dated by the solicitor and/or the defendant and their partner	In all cases we must have signed authority from all parties, agreeing to the declaration in the CRM16 form
No or insufficient evidence of extra expenditure	For each and every item of extra expenditure that the defendant wishes to be taken into account, we must receive evidence in the form of the individual financial statements, bills, or finance agreements. For credit card obligations we must receive the individual credit card statement. For loans and other finance agreements we must receive the individual finance agreement in place.
Defendant has had a change in financial circumstances since the original assessment (for example, the defendant has become unemployed, changed jobs, or has become ill and is unable to work)	The defendant MUST complete a 'Change of Circumstances' application using the Apply for criminal legal aid service and providing evidence of the change. Any such changes will then be taken into account in a reassessment of the defendant's means. We will still consider a Hardship Review in addition to the change of circumstances, but the changes MUST be put to us formally.

Hardship reviews will only be considered if they are submitted whilst the case is still ongoing (except for Appeals to Crown Court where the LAA will consider a hardship application following the issue of the Income Contribution Order).

Day to day living expenses, such as utility bills, insurance premiums and travel to work cannot be taken into consideration because they are factored into the cost of living allowance which is included as an outgoing in the Full Means Assessment. See above for examples of extra expenditure that can be considered.

All items of extra expenditure listed in a hardship review application will need to be evidenced by the defendant with the individual statements / bills / finance agreement from that specific creditor in order for them to be considered. **We cannot accept bank statements alone, as evidence of the money that must be paid.**

If a case is being heard in the magistrates' court, you must also ensure that:

You complete in full the 'Solicitor's Costs' section and provide a full cost breakdown.

Where 'evidence of payment' (in addition to the loan agreement) is indicated in Annex R: Forms Guidance 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.

15.5.2 Where to send your application

Please note the CRM16 form for hardship or eligibility reviews is a downloadable form and should be submitted as follows:

If submitting a CRM16 at the point of application, or as part of a New Applications Following Ineligibility, the provider should upload the CRM16 as an evidence attachment to the application in the Apply for criminal legal aid service, making a note in the further information field that a CRM16 is attached.

In all other circumstances the CRM16 form must be emailed to Nationalcrimeteam@justice.gov.uk

15.6 How the hardship application is processed

This section aims to give you an overview of the principles behind how an application is assessed on a hardship review in the magistrates' court.

Computation Period

The calculation period is based on the twelve-month period immediately prior to the time of the application but the assessment must reflect the applicant's current and expected usual income. If the applicant is employed at the point of application, then it will be assumed that this employment would continue. If the applicant has been unemployed for some time over the last twelve months, it would clearly not be appropriate to take this into consideration as this would not reflect the applicant's current financial situation.

Most assessments will be based on the applicant's circumstances at the time of the application. If employed the most recent wage slip will be used. Any other forms of income will be considered carefully in order to assess whether these reflect usual income or are merely one-off payments.

For applicants whose employment circumstances vary, for example, due to seasonal reasons please refer to section 12.9 Erratic income/seasonal workers.

Only items of expenditure that have occurred within the twelve-month period before the application for legal aid will be considered. Where loans or credit agreements have been taken out prior to the application for legal aid, the LAA can take into consideration any future payments remaining.

Where a commitment has been taken on at the point of applying for legal aid or later the applicant would have to demonstrate that it relates to essential expenditure for it to be considered.

If the applicant has shown that they have been denied access to a source of income, the LAA may only allow the amount which has been denied to the applicant during the twelve-month computation period.

Evidence

The applicant will be required to provide sufficient evidence to support the claims made in the CRM 16 i.e. if the applicant claims they have to make debt repayments they must provide credible and independently verifiable documentary evidence in the form of the loan agreement and bank statements to support the claim and to prove the payments are being made.

Please see Annex R: Forms Guidance for further information on the evidential requirements for common outgoings.

How the result is determined

Please see the tables below showing how the result is calculated. Example figures have been used to illustrate the process.

Magistrates' court Hardship Review

Disposable income (from full means assessment)	£8,742
Less extra expenditure	(Allowable expenditure £2000) = £6,742
Less denied access to income figure	(No denied income) = £6,742
>£3,398?	Yes

If the adjusted disposable income is above £3,398, solicitors' costs are then considered:

Less estimated solicitors' costs	Estimated costs £3,742 = £3,000
<£3,398?	Yes, PASS

If the adjusted disposable income is below £3,398 or below, the applicant will pass. If the figure is above £3,398, the applicant will fail the hardship review.

Crown Court Eligibility Review

Disposable income (from full means assessment)	£50,000
Less extra expenditure	(Allowable expenditure £1000) = £49,000
Less denied access to income figure	(No denied income) = £49,000
=/>£37,500?	Yes

If the adjusted disposable income is above £37,500, solicitors' costs are then considered:

Less estimated solicitors' and advocate's costs	Estimated costs £15,000 = £34,000
<£37,500?	Yes, Eligible

Disposable income for purpose of income contribution	(Disposable income from full means test) – (extra expenditure) – (denied access to income) = **£49,000**
Monthly income contribution	£49,000 ÷ 12 x 0.9 = £3,674 (£18,370 up front) (subject to offence type cap)

Crown Court Hardship Review

Disposable income (from full means assessment)	£6,742 (current contributions £505.65 monthly, £6,067.80 upfront)
Less extra expenditure	(Allowable expenditure £2,742) = £4,000
Less denied access to income figure	(No denied income) = £4,000
>£3398?	Yes

If the result is that the adjusted disposable income is £3398 or less, the applicant will no longer be expected to make contributions from their income. If the figure is above £3398, they will be expected to make some contribution towards their case costs from their income.

In the example above this would result in a revised monthly contribution of £300 or £1,500 up front.

When will a Hardship application be accepted - magistrates' court

An application for Hardship (on a CRM 16) must be submitted whilst the case is ongoing. If the application is rejected, due to being incomplete, or further information required, then the application will be re-considered, even if the case has concluded.

If the hardship application is successful, then the applicant will be entitled to legal aid backdated to the date stamp of their initial legal aid application.

When will a Hardship application be accepted - Crown Court

The application must be completed with accompanying evidence and submitted whilst the case is ongoing. Ordinarily we would expect a hardship application to be submitted promptly once the case has been sent to Crown Court unless exceptional circumstances apply.

In the Crown Court the applicant's contribution may be reduced and depending on their circumstances the review could lead to the applicant no longer being liable to pay an income contribution.

The contribution order amount will be altered from the point the case progressed to the Crown Court, or the point at which we conducted the Crown Court means assessment, whichever is the latest. Effectively, this means that the revised income contribution will be backdated to the beginning of the payment schedule. If contributions are reduced to zero, then the ICO will be revoked.

What happens with the assessed monthly contributions if the applicant has submitted or is submitting a Hardship application?

The applicant should be advised that if they make the minimum payment of £255 (which is the minimum contribution for someone failing the full means test), the DRC will not treat this as a broken arrangement. If the contribution amount following hardship is above £255 then the arrears will need to be made good. If the applicant passes on hardship, then any payments will be refunded.

When will a Crown Court Eligibility Review be accepted?

Following the refusal of legal aid for a Crown Court trial the applicant has 21 calendar days to apply for an Eligibility Review. Evidence of any additional expenditure also has to be provided within the 21 days to be considered.

After 21 days the applicant will need to make a New Application Following Ineligibility.

NCAT has the discretion to conduct an Eligibility Review assessment after the 21 day period in exceptional circumstances. If an extension of time is sought, please email Nationalcrimeteam@justice.gov.uk

If an item of additional expenditure is missed off the CRM16 then a new CRM16 together with the evidence will be required for us to consider the additional item.

Multiple Eligibility Reviews will be accepted within the 21 calendar days but once the 21 days have passed a New Application Following Ineligibility will be required (new application using the Apply for criminal legal aid service) and any Representation Order will only be dated from the date that the new application is received.

Note: if evidence is missing this can be submitted after the CRM16 but again this has to be submitted within the initial 21 days for the additional expenditure to which it relates to be considered. Once this time has passed a New Application Following Ineligibility will be required (new application using the Apply for criminal legal aid service). When submitting a new application, you may submit a resigned and re-dated copy of the CRM16 and endorse it to show that the information is still relevant.

15.7 Appealing a hardship / eligibility review decision

Hardship review applications that have been refused may only be resubmitted to the LAA if it is believed that there has been a miscalculation or the assumptions made by the LAA are incorrect or there has been a material change in the circumstances of the case, so that the original costs estimate is no longer a reasonable assessment (magistrates' court Hardship Reviews and Crown Court Eligibility Reviews[39] only).

If there has been a change in the applicant's circumstances since a hardship or eligibility review was conducted, then a new application should be submitted using the Apply for criminal legal aid service.

Where legal aid has previously been **refused for a Crown Court trial** as well as clicking 'This application relates to a change in financial circumstances', make it clear using the further information

[39] If 21 days have elapsed since the original decision a new application should also be submitted using the Apply for criminal legal aid service as a New Application Following Ineligibility will be required.

question that this is the case, and your client wishes to submit a ‘**New Application Following Ineligibility**’.

In all other cases the review’s decision on financial eligibility or level of income contribution is final. However, if there is a change in the applicant’s circumstances then this should be brought to the LAA’s attention using the Apply for criminal legal aid service as set out above.

16 Means appeals and reviews - capital

16.1 Review of Capital Contribution Order where there has been an error

The applicant can ask for the Capital Contribution Order to be reviewed if it has been miscalculated or an error has been made. They are not required to submit a new application (using the Apply for criminal legal aid service), but they do need to put their request in writing with evidence to either the DRC or the National Crime Applications Team. The request **must** be made within 28 days of the date of the Capital Contribution Order. If the LAA agree that the value is incorrect, the Capital Contribution Order will be revoked or varied.

16.2 Review of capital and equity where there has been a change in circumstances

What if there is a change in the applicant's Capital whilst the case is still live?

If the case is still live and the defendant's capital position has changed due to a change of address such as sale of home, then the defendant should submit a change in financial circumstances application with you using the Apply for criminal legal aid service.

What if there is a change in the Capital & Equity position once the case has concluded but before a Capital Contribution Order has been issued?

A further application (using the Apply for criminal legal aid service) is not required. The applicant should put their request for a review in writing with the appropriate evidence, to either the DRC or NCAT.

17 Legal Aid Key Performance Indicators (KPI)

17.1.1 Applications Processing

National Crime Applications Team KPI

- 90% of applications, administrative IoJ Appeals, and referrals for detailed assessment (for example, self-employed applicants are processed by designated caseworkers) processed in 2 working days following the date of receipt[40]
- 90% of applications referred for detailed assessment in 2 working days following the date of referral
- 90% of hardship applications in 2 working days following the date of receipt

17.1.2 Applications Supporting Indicators

Committals

- 100% within 7 working days of committal/sending

Complaints

- 100% within 10 working days of receipt

17.1.3 Payments Processing

90% of crime bills processed within 20 working days. Provider billing for Crime Case Management includes CRM 7 assessed bills, CRM 18 Escape Cases and CRM 18a Escape Case Prison Law, Advocate Graduated Fee and Litigator Fee claims.

17.1.4 HMCTS PWA Billing - Supporting Indicators

AGFS Scheme – Performance Indicators (HMCTS Timeliness - Query Response)

- 85% Response to AF3s within 5 working days
- 95% Response to AF3s within 10 working days

17.1.5 National Taxing Team

Up to 31 August 2015:

- Defence Costs Orders – 3 months
- Fastrack claims below £2000 - 20 working days

From 1 September 2015:

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[40] See 3.7 Prioritising of applications regarding expedited cases

Claims for 2 – 15,000 – 85

- 85% within 20 working days
- 100% within 40 working days

Claims for 15,000 – 50,000

- 85% within 40 working days
- 100% within 60 working days

Claims for over £50,000

- 85% within 60 working days

18 Annex A: Solicitor Payments

Magistrates Court

Payments before legal aid is granted

When an application for legal aid is submitted, there may be occasions when the first hearing in the magistrates' court takes place before a decision on legal aid is reached.

Solicitors claim for payment under the legal aid Representation Order, in accordance with the 2025 Standard Crime Contract. However, there are also a number of other payment mechanisms available.

Payment can be claimed if solicitors represent a client at the first hearing in the magistrates' court but subsequently no Representation Order is granted, either because the applicant has failed the magistrates' court means test (Early Cover) or they have failed the Interests of Justice test (Pre Order Cover).

There is also provision for solicitors to make a claim if they assist a client in completing the criminal legal aid application, where notification is given before the first hearing that the applicant is ineligible for legal aid in the magistrates' court.

The table below summarises the circumstances for claiming Early Cover, Pre Order Cover, and the Form Completion Fee

Interests of Justice Test Result	Magistrates' Means Test Result	Fixed Fee Scheme
PASS	PASS	Payment under the Representation Order in accordance with 2025 Standard Crime Contract Specification. This covers pre order work where certain criteria are met.
PASS	FAIL	Early Cover
FAIL	FAIL	Pre-Order Cover
FAIL	PASS	Pre-Order Cover
PASS / FAIL	FAIL (Before first hearing)	Form Completion Fee (where the above do not apply)

Early Cover

The early cover payment scheme was introduced in response to solicitors' concerns that they may be asked to represent applicants at the first hearing in the magistrates' court without having funding in place and to therefore ensure that first hearings are effective.

A fixed fee of £68.44 +VAT is available.

Early cover is available in the following circumstances:

- A properly completed legal aid application is submitted, whilst the case is ongoing, no later than the 6th working day from instruction, provided that first instruction is on or before the date of the first hearing in the magistrates' court; and

- NCAT fails to reach a decision by the time the first hearing takes place; and

- The first hearing moves the case forward and any adjournment is justified; and

- The eventual decision is that the application satisfies the IoJ test but **fails** the magistrates' court means test.

To claim Early Cover, solicitors must:

- Complete a CRM11 for the case in which the Early Cover fee is being claimed

- Complete a claim line on the Monthly return, entering the code for Early Cover (PROT)

If the Representation Order is granted in the magistrates' court the solicitor does not need to claim Early Cover. The Representation Order will be dated from the date the application was first submitted and would therefore cover the work undertaken at the first hearing in the magistrates' court.

Pre-Order Cover

Pre-Order cover will continue to offer solicitors an additional safeguard.

Where legal aid is refused on Interests of Justice grounds, regardless of whether the applicant passes or fails the means test, a claim can be made for a limited amount of work to an upper limit equivalent to one hour of preparation work[41].

To claim Pre-Order Cover solicitors must:

- Complete a CRM11 for the case in which Pre-Order Cover is being claimed.

- Complete a claim line on the Monthly return, entering the code for Pre-Order Cover (PROP).

Pre Order Work – further information for practitioners

Section 10.40 of the Specification of the 2025 Standard Crime Contract allows for solicitors to claim for work designated as representation from the date on which the order was granted. It also covers any legal advice or representation given on the same case before an order was granted where certain criteria are met.

The criteria for Pre-Order Work are:

- The interests of justice required that the advice or representation was provided as a matter of urgency i.e. there is a court hearing within ten working days or less of the date when initial instructions were taken;

- There was no undue delay in making an application for Representation i.e. the application was submitted no more than five working days after initial instruction; and

[41] Limited to the Hourly Rates specified in the Criminal Legal Aid (Remuneration) (Amendment) Regulations 2016.

- The provider who was subsequently assigned under the Representation Order gave the Pre-Order advice or representation.

Form Completion Fee

Where a solicitor spends time going through the criminal legal aid application to assess a client's eligibility for means, and:

- The application is submitted and fails the magistrates' court means test before a hearing takes place

Or

- The application is not submitted on the basis that the solicitor is certain that the applicant will not pass the magistrates' court means test

And

- The client does not proceed to instruct the solicitor as a private client

A refused means test form completion fee of £22.81 + VAT can be claimed.

To claim the Form Completion Fee solicitors must:

- Complete a CRM11 for the case in which Form Completion Fee is being claimed.
- Complete a claim line on the Monthly return and enter the code for the Form Completion Fee (PROU).

Crown Court

Evidence Provision Fee

Recognising that in completing their legal aid application, some applicants will look to their solicitors for support and assistance, an Evidence Provision Fee can be claimed.

On a practical level, this may involve solicitors contacting family members or friends of an applicant in custody to arrange for the collection of evidence to support the application. Alternatively, contact may be made directly with third parties who can confirm the applicant's financial position such as their employer or their bank.

The Evidence Provision Fee will only apply where evidence is required, and provided, in cases that are committed, sent or transferred for trial to the Crown Court. Where a solicitor assists an applicant for legal aid for a committal for sentence or appeal hearing, the existing fee structure for the magistrates' court means testing scheme applies.

To remunerate solicitors for this role, solicitors can claim an Evidence Provision Fee to support the applicant through the process and provision of additional evidential requirements[42]

The demands posed by some of the more complex applications means that a two-tier fee structure has been introduced:

- Lower Tier - Flat fee of £45 + VAT for the majority of standard applications that do not involve applicants on passporting benefits and are not 'complex'.

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[42] Additional evidence being that which is over and above what is required to support applications in the magistrates' court.

- Upper Tier - Flat fee of £90 + VAT for a complex application.

Complex applications are where the applicant is required to provide 5 or more pieces of evidence to establish an accurate picture of their income and capital position.

The higher tier fee can also be claimed for Self Employed applicants, where the case has been committed, sent or transferred for trial to the Crown Court.

The Evidence Provision Fee cannot be claimed for:

- Summary only proceedings
- An either way offence that concludes in the magistrates' court.
- Applicants who are under 18 and/or in receipt of a passporting benefit[43]
- Applicants who do not have capital assets and there is no additional evidence to be provided.
- Equity evidence as this is not required[44]
- Hardship applications or Eligibility Review applications.
- Evidence provided post conviction
- Applications where there is evidence required but this has not been provided.

Claiming the Evidence Provision Fee

The Evidence Provision Fee is claimed and is payable as part of the LGFS scheme. Solicitors should indicate on the LF1 form where they are claiming the EPF and whether this is at the lower tier or upper tier.

Further guidance on claiming can be found on GOV.UK:

www.gov.uk/claim-the-evidence-provision-fee

[43] This is because youths are not required to provide any evidence alongside an application for criminal legal aid and applicants on a passporting benefit are only required to provide proof of receiving that benefit if the relevant financial check with the Department for Work & Pensions fails to provide the necessary validation.

[44] The applicant's declaration will be verified through checks with other agencies.

19 Annex B: Retrial ordered by the Court of Appeal

The original Crown Court representation order does not cover a retrial ordered by the Court of Appeal. Where a retrial is so ordered, the legal aid application for a representation order should be made using the Apply for criminal legal aid service. Applicants should clearly mark the application as relating to a retrial ordered by the Court of Appeal.

A dedicated member of staff at the Court of Appeal will have notified NCAT that a retrial has been ordered at the relevant Crown Court so that the application can be processed as a matter of priority when it is received.

Applicants should submit a fully completed application using the Apply for criminal legal aid service. Means testing applies to retrials.

For example:

The Court of Appeal directs a retrial for proceedings against Mr X.

An application must be completed and submitted with details of income and capital.

Mr X may be liable for contributions from his income to pay for his legal representation during the retrial. If he is convicted, he may be liable for any outstanding amounts from capital.

The process for administering applications is the same as for indictable offences.

Pending a prosecution application to the Court of Appeal for a retrial under section 76 of the Criminal Justice Act 2003, the individual concerned may have been arrested and remanded into custody. In such cases, NCAT may grant a representation order - non means tested - in order to cover any relevant bail applications, as well as the section 76 hearing at the Court of Appeal. If the Court of Appeal subsequently orders a retrial, any representation beyond this point will be means tested and the usual route of submitting applications via the Apply for criminal legal aid service will apply.

20 Annex C: Voluntary Bill of Indictment

There will be occasions when a Voluntary Bill of Indictment is preferred under Section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933.

High Court proceedings

The LAA considers voluntary bill of indictment proceedings in the High Court to fall under section 16(3)(b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, as “any preliminary or incidental proceedings”, and so can be covered by a representation order.

An application to carry out this work would need to be completed and sent to the LAA for processing by the instructing solicitor. Assuming that the instructing solicitor has a Crime contract, this would need to be submitted using the Apply for criminal legal aid service.

Work in the High Court:

- automatically meets the **Interests of Justice test** (regulation 21, *Criminal Legal Aid (General) Regulations 2013*)
- is **non-means-tested** (regulation 39, *Criminal Legal Aid (Financial Resources) Regulations 2013*)

Ensure you answer “No” to the question “Is this application subject to the usual means or passported test?” when submitting the application, as this will ensure your application is directed to the correct processing queue. A specialist group of caseworkers deal with this type of application.

When completing the application:

- For **Offence**, enter “Voluntary Bill of Indictment”.
- For **Start date**, enter the start date of the offences to which the proceedings relate.
- For **Court name**, begin typing “High Court” and select it from the available options.
- For **Why should your client get legal aid?**, select “Other” and enter “Voluntary Bill of Indictment” or “VBI”.

Any Representation Order granted here will cover the work in the High Court only, and will not extend to any subsequent work in the Crown Court – a further application via the Apply for criminal legal aid service will be necessary in these circumstances.

It should be noted here that according to the provisions of Criminal Legal Aid (Recovery of Defence Costs Orders) Regulations 2013, the High Court must consider making a Recovery of Defence Costs Order in relevant circumstances.

Costs and billing

Prescribed proceedings in the High Court are subject to an Upper Limit of £1,574.06 (excluding VAT). This includes:

- Litigator remuneration (including any enhanced hourly rates)
- Assigned counsel remuneration
- disbursements

Providers must ensure that total costs do not exceed this limit unless prior authority has been obtained.

Applications to extend the Upper Limit must be made via **Submit A Crime Form** before costs exceed the limit. Where an enhanced hourly rate is anticipated, that rate must be used when assessing whether the Upper Limit will be exceeded.

Full details are set out in paragraphs 5.5 to 5.16 of the *Standard Crime Contract Specification*.

Advocates billing

Advocates may bill under Schedule 4, paragraph 12 of the *Criminal Legal Aid (Remuneration) Regulations 2013*. Claims must be submitted:

- on a CRM8 form
- via the solicitor
- with counsel's details attached

Rates may be claimed in accordance with paragraph 6.17.3 of the *Criminal Bills Assessment Manual*, at £80.50 per hour for attendance, preparation, and advocacy (see paragraph 10.89 of the *Standard Crime Contract Specification*).

Solicitors billing

The solicitor must submit:

- A CRM Claim 11 for their own costs (Schedule 4, paragraph 7)
- A CRM8 for counsel's fees alongside the CRM Claim 11

As these cases are rare, all claims should be submitted via the solicitor's Contract Manager to minimise delays in payment.

Crown Court proceedings

Where a Voluntary Bill of Indictment is approved by the High Court, a further application must be made, using the Apply for criminal legal aid service to obtain a Representation Order for Crown Court work.

Providers should clearly state that the application relates to a Voluntary Bill of Indictment. You can use the 'Other' option when answering 'Why should your client get legal aid'.

It would be helpful to also note on the application that the proceedings were heard at the particular magistrates' court or would have been heard at a particular magistrates' court.

The process for administering applications is the same as for Crown Court trials.

21 Annex D: Sentence Review hearings under section 74 of the Serious Organised Crime and Police Act 2005 (SOCPA)

This provision allows an individual who was convicted at the Crown Court to be brought back before that court for a review of their sentence if they have provided the relevant authorities with assistance into the investigation of other criminal offences. Equally, the provision allows an offender to be brought back to court if their original sentence was discounted on the basis of a pledge to assist the investigating authorities in respect of other offences, but that assistance was then not forthcoming.

If the offender was granted a legal aid representation order for the main trial proceedings, it will automatically extend to cover the section 74 hearing under SOCPA on the basis that it is 'incidental' to the substantive proceedings. This applies even if there has been a gap of several years between the original trial and the section 74 hearing. In cases where the offender may have instructed new solicitors since the original trial, the representation order may be transferred to the new solicitors in the usual way (see 7.1 Transferring representation orders).

If the offender was not granted a legal aid representation order for the main trial proceedings at the Crown Court but now wishes to be publicly funded at the section 74 hearing, they must submit a legal aid application. The section 74 hearing comes within scope of the criminal legal aid scheme courtesy of section 14(b) of the LASPO Act 2012 - 'proceedings before any court for dealing with an individual convicted of an offence (including proceedings in respect of a sentence or order)'. The legal aid application will not be subject to Crown Court means testing but will have to pass the 'Interests of Justice' (merits) test.

Application process to protect identity

Providers should apply via the Apply for criminal legal aid service as follows:

- use pre-arranged pseudonym provided by the law enforcement agency
- upload a covering email from the Crown Prosecution Service (CPS) or other prosecution agency confirming pseudonym is for a SOCPA/Sentencing Act case
- add in “Protected Person” in the final question “Do you need to add in any further information to this application?”
- answer No to the question “Is this application subject to the usual means or passported test?”

Note:

If an Assisting Offender has a Representation Order with one solicitor and a new one is required, due to the sensitive circumstances, a fresh application for a new Representation Order can be made instead of an application for transfer. This prevents alerting the previous solicitor or solicitor's firm.

22 Annex E Criminal Cases Review Commission (CCRC)

The Criminal Cases Review Commission (CCRC) is an independent body that investigates potential miscarriages of justice in England, Wales, and Northern Ireland.

Individuals can apply to the CCRC for a review of their case if they believe they were wrongly convicted or sentenced and have already lost their appeal.

A team of independent Commissioners makes the decision on whether to refer a case back to the appeal court.

The service is free, and applicants do not need legal representation. Representation Orders cannot be granted. However, individuals may be able to obtain freestanding legal advice and assistance to help with their application. The CRM2 form should be completed by the provide together with a CRM1.

23 Annex F: Criminal Funding in Proceeds of Crime Matter

Criminal funding may be available in respect of some proceeds of crime work, if the client has been charged with an offence at the conclusion of the criminal investigation. If the client has not been charged or is not a defendant (so a partner of a suspected drugs dealer or some other third party) then civil funding may be available. Civil funding is available under the Associated Civil Work section in the 2025 Standard Crime Contract Specification.

Proceedings under the Drug Trafficking Act 1994 or Criminal Justice Act 1988

Status of client	Proceedings	Funding
Defendant	Confiscation, Restraint, Receivership in Magistrates or Crown Court	These additional proceeding are covered under the representation order issued for the original offence that has led to the Confiscation/ Restraint/ Receivership proceedings. If no representation order is in place, the applicant should submit an application using the Apply for criminal legal aid service. These proceedings are not means tested.
Defendant	Confiscation, Restraint, Receivership in the High Court	These additional proceeding are covered under the representation order issued for the original offence that has led to the Confiscation/ Restraint/ Receivership proceedings. If no representation order is in place, the applicant should submit an application to the LAA using the Apply for criminal legal aid service (or an oral or written application to the High Court judge or appropriate office). These proceedings are not means tested.
3rd Party	Confiscation, Restraint or Receivership	Associated Civil Work. Apply for exceptional funding – email the Exceptional & Complex Cases Team. Complete CIV APP1 and CIV MEANS 1 or 2
All Clients	Certificate of Inadequacy	An application for a certificate of inadequacy in respect of a confiscation order made in CJA 1988 or DTA 1994 proceedings is made to the High Court. Submit an application for a representation order using the Apply for criminal legal aid service. These proceedings are not means tested.

Proceedings under the Proceeds of Crime Act 2002

Status of client	Proceedings	Funding
Charged with a Criminal Offence	Confiscation, Restraint or Receivership under Part 2 of the Act	These additional proceeding are covered under the representation order issued for the original offence that has led to the Confiscation/ Restraint/ Receivership proceedings. If no representation order is in place, the applicant should submit an application using the Apply for criminal legal aid service. These proceedings are not means tested.
Accused of an offence/under criminal investigation	Confiscation, Restraint or Receivership under Part 2 of the Act	Advice and Assistance under CRM1-2, but only provides for work outside of Court and outside of Police Station Advice
Neither charged nor accused of a criminal offence.	Confiscation, Restraint or Receivership under Part 2 of the Act	Associated Civil Work. Apply for exceptional funding – email the Exceptional & Complex Cases Team. Complete CIV APP1 and CIV MEANS 1 or 2
All Clients	Confiscation, Restraint or Receivership under Part 5 of the Act	Associated Civil Work. Apply for exceptional funding – email the Exceptional & Complex Cases Team. Complete CIV APP1 and CIV MEANS 1 or 2
All Clients	Forfeiture Proceedings	Associated Civil Work. Apply for exceptional funding – email the Exceptional & Complex Cases Team. Complete CIV APP1 and CIV MEANS 1 or 2
All Clients	Certificate of Inadequacy	An application for a certificate of inadequacy in POCA proceedings is to the Crown Court that made the confiscation order Submit an application using the Apply for criminal legal aid service. These proceedings are not means tested.
All Clients	Enforcement Proceedings	Representation will be subject to a means assessment. A fresh application for a Representation Order should be submitted using the Apply for criminal legal aid service.

24 Annex G: Statutory provisions protecting witnesses from cross- examination

In some cases, people will choose to represent themselves. There are certain circumstances where HMCTS will intervene to protect witnesses.

Cases involving sexual offences

The Youth Justice and Criminal Evidence Act 1999 (YCEA) prevents cross-examination by the applicant of victims in sexual offences cases (section 34). If this possibility arises, the court will ask the applicant to instruct a solicitor/advocate to carry out the cross-examination.

Applications for legal aid will be subject to means testing.

If the applicant:

- Fails to choose a solicitor/ advocate, or,
- Has their application for legal aid refused in the magistrates, or,
- Is appearing unrepresented in the Crown Court

The court will consider whether it must appoint a solicitor or advocate. If the court appoints a representative, payment will be made via Central Funds.

Any representative appointed in the Crown Court to cross-examine only will also be paid out of central funds.

Cases involving assault

In the case of assault, the prohibition on cross-examination, as provided for by section 35 of YCEA, applies only if the witness is a child or had given evidence chiefly by video recording or in some other way when a child. For these purposes, 'child', in the case of an assault, means a person under the age of 14.

In cases to which section 34 or 35 does not apply, section 36 permits the prosecution to apply for an order prohibiting cross-examination or permits the court to decide to make such an order.

See also 9.5.1 Contrary interest in relation to contrary interest and cases involving domestic abuse.

25 Annex H: Interpreters Costs

Pre-court work

If it has been necessary for a solicitor to incur interpreter's costs to assist with work carried out before the first court hearing and even perhaps before charge, the Justices could order payment from central funds, applying the judgment of Lord Justice Auld in R (on the application of Hale) v North Sefton Justices [2002] EWHC 257 (Admin).

Auld defined 'proceedings' very broadly for the purposes of the court agreeing payment from central funds for pre-court work. The question was whether it could reasonably be said that the advice being sought/given was 'in the proceedings' even though a charge had not yet been preferred.

Solicitors who want to submit a claim for pre-court work should agree it with a court officer beforehand. This is current practice when claiming on central funds.

Cost of interpreters in court proceedings

Where the police or other investigating agency charge a person with an offence and detain or bail that person for a magistrates' court hearing within two working days of charge (i.e. the following day or over a weekend or Bank Holiday), the police or investigating agency will arrange the interpreter for the court hearing. It is important that so far as possible the interpreter arranged for court is not the one who interpreted at the police station either for the police or the applicant's solicitors at any stage prior to the court appearance. If, however, it is not possible to find another interpreter (i.e. the language is rare), then the court and all parties must be notified of the intention to use the same interpreter for the court proceedings and agree to that course of action.

Where the court appearance is more than two working days (not including Saturdays) after the charge or summons, it is the responsibility of the court to arrange for an interpreter if an applicant requires one.

In both instances, the interpreter's costs will be paid for by the court out of central funds.

If an applicant requires an interpreter for Crown Court proceedings, the court is responsible for arranging the attendance and payment of an independent interpreter (Prosecution of Offences Act 1985 s.19(3)(b)). This is then paid out of central funds.

Cost of interpreters in investigation stage

If an interpreter is required when a solicitor is giving advice during the investigation stage of a case, the interpreter's costs may be included as a disbursement when claiming for payment under the 2025 Standard Crime Contract.

26 Annex I: Prescribed proceedings

Prescribed proceedings are civil proceedings that have been prescribed as criminal for the purpose of legal aid. They have been prescribed as criminal due to the nature of the proceedings, such as the risk of imprisonment.

S14 (h) of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 allows the Lord Chancellor to prescribe civil proceedings as ‘criminal’. This allows them to be funded under the criminal legal aid scheme instead of the civil legal aid scheme.

The civil proceedings which the Lord Chancellor has prescribed as criminal are listed at:

Regulation 9 of The Criminal Legal Aid (General) Regulations 2013 as amended by The Criminal Legal Aid (General) (Amendment) Regulations 2015, The Civil and Criminal Legal Aid (Amendment) Regulations 2015 and The Criminal Legal Aid (General) (Amendment) Regulations 2020.

As they are criminal solely for the purposes of funding a client has to apply for a representation order to be represented with the benefit of legal aid.

The prescribed proceedings are set out in the table below, together with a summary of the funding and application process.

26.1 Funding and application process

This depends on the nature of the proceedings and the venue in which they are heard.

26.1.1 Magistrates’ court

A fresh application is required even where a rep order is in place for the main proceedings from which the prescribed proceedings follow. This should be submitted in the usual way via the Apply for criminal legal aid service.

The application will be subject to the IoJ test.

All prescribed proceedings in the magistrates’ court are subject to means testing. You should therefore answer 'Yes' to the question 'Is this application subject to the means or passported test?'. This will ensure that your application goes to the correct processing queue. A specialist group of caseworkers deal with this type of application.

The only exception is where breach of a part 1 injunction or civil contempt are being heard in the Youth Court. For operational efficiency, we ask that you tick ‘No’ to this question. Designated caseworkers process all contempt and breach of part 1 injunctions. Although the means test applies, it is waived for youths.

Applications to vary or discharge Prescribed Proceedings are criminal proceedings, and so funded under a representation order, subject to passing the means and interests of justice test.

26.1.2 Crown Court

Where the prescribed proceedings follow from ordinary criminal proceedings in the Crown Court (so that they are part of those proceedings or incidental to them) and a representation order is already in place in respect of the main proceedings, that representation order will cover the prescribed proceedings. CCMT will already have been applied at the point of the original application for the representation order. No new legal aid application (or CCMT assessment) is required.

However, where no representation order is in place, public funding for any subsequent prescribed proceedings requires a fresh application. An appeal to the Crown Court is considered separate from the main proceedings so will also require a fresh application. Applications should be submitted in the usual way via the Apply for criminal legal aid service.

The application will be subject to the IoJ test.

Whereas all prescribed proceedings in the magistrates' court are means tested and require a new application, those heard in the Crown Court are less straightforward. This is because while most fall within the scope of the Crown Court means testing scheme (CCMT), a small number do not.

Under the Criminal Legal Aid (Contribution Orders) Regulations 2013, as amended by the Criminal Legal Aid (Contribution Orders) (Amendment) Regulations 2013, CCMT only applies to criminal proceedings:

- in respect of an offence for which an individual may be, or has been, sent by a magistrates' court for trial at the Crown Court
- in respect of which a bill of indictment has been preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933(1)
- which are to be heard in the Crown Court following an order by the Court of Appeal or the Supreme Court for a retrial
- In respect to appeals to the Crown Court from the magistrates' court in proceedings against conviction, sentence, or order.

See Regulation 6 (Part 2 Crown Court Trials) and Regulation 40 (Part 3 Appeals to the Crown Court).

Applying those criteria (and the usual provisions regarding criminal proceedings, such as the rule that representation orders for criminal proceedings cover preliminary or incidental proceedings), CCMT applies to all prescribed proceedings in the Crown Court other than those relating to:

- parenting orders
- orders being considered where a person has been committed for sentence
- civil contempt such as breach of ASBCPA part 1 injunction
- appeals against the magistrates' court decision not to order compensation for the banning notice when a football banning order refused

26.1.3 Civil venues

Proceedings in civil venues such as the county court or family court are non means tested. You should submit a non-means tested application using the Apply for criminal legal aid service. You must answer 'No' to the question 'Is this application subject to the means or passported test?'. This will ensure your application is directed to the correct processing queue. A specialist group of caseworkers deal with this type of application.

26.1.4 High Court

Proceedings in the High Court are non means tested.

26.1.5 Court of Appeal

Applications must be made direct to the Court of Appeal. Proceedings in the Court of Appeal are non means tested.

26.2 List of prescribed proceedings

Legislation (Act and relevant section)	Proceedings	Funding and application process
	Civil Proceedings in a magistrates' court arising from failure to pay a sum due or to obey an order of that court where such failure carries the risk of imprisonment	Means tested application using the Apply for criminal legal aid service
Crime and Disorder Act 1998 8(1)(b) and 8(1)(c)	Parenting Orders made on conviction of a child or young person, or where an anti-social behaviour injunction, criminal behaviour order or a sex offender order is made in respect of a child or young person	**Magistrates' court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non means tested application using the Apply for criminal legal aid service
Crime and Disorder Act 1998 9(5)	Application made to discharge or vary a Parenting Order made under s8 (1) (b) or 8(1) (c).	**Magistrates' court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non means tested application using the Apply for criminal legal aid service
Crime and Disorder Act 1998 10	Appeal against a Parenting Order made under s8 (1) (b) or s8 (1) (c).	**County court** Non means tested application using the Apply for criminal legal aid service **Crown Court** Means tested application using the Apply for criminal legal aid service
Football Spectators Act 1989 14B, 14G, 14H and 21B	Football Banning Order sought by relevant authority.	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Football Spectators Act 1989 14D and 21D	Appeal against a Football Banning Order made under s14B, s14G, s14H or s21B.	**Crown Court** Means tested application using the Apply for criminal legal aid service

Anti-Social Behaviour Crime and Policing Act 2014 80(5)(a), 82(3)(a) and 83	Closure Orders relating to criminal behaviour: Sought by relevant authority where a person has engaged in or is likely to engage in behavior that constitutes a criminal offence on the premises. Although Closure Orders may also relate to disorderly or offensive behaviour, only those relating to criminal behaviour have been prescribed as criminal for the purpose of legal aid.	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Anti-Social Behaviour Crime and Policing Act 2014 84	Appeal against a Closure Order made under s.80(5)(a) where the Closure Order related to criminal behaviour.	**Crown Court** Means tested application using the Apply for criminal legal aid service
Sexual Offences Act 2003 97 and 100	Proceedings relating to notification orders and interim notification orders.	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Sexual Offences Act 2003 101	Appeals against notification and/or interim notification orders made under s. 97 or s. 100.	**Crown Court** Means tested application using the Apply for criminal legal aid service
Sexual Offences Act 2003 103A, 103E and 103F	Proceedings relating to sexual harm prevention orders and interim sexual harm prevention orders.	**Magistrates' court/Youth Court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non means tested application using the Apply for criminal legal aid service
Sexual Offences Act 2003 103H	Appeals against sexual harm prevention and/or interim sexual harm prevention orders made under s.103A, 103E or 103F	**Crown Court** Means tested application using the Apply for criminal legal aid service **Court of Appeal** Application made direct to Court of Appeal – non means tested
Sexual Offences Act 2003 122A, 122D and 122E	Proceedings relating to sexual risk orders and interim sexual risk orders.	**Magistrates' court/Youth Court**: Means tested application using the Apply for criminal legal aid service

Sexual Offences Act 2003 122G	Appeals against sexual risk and/or interim sexual risk orders made under s.122A, 122D and 122E.	**Crown Court** Means tested application using the Apply for criminal legal aid service
Powers of Criminal Courts (Sentencing) Act 2000 Part 1A of Schedule 1	Proceedings relating to Parenting Orders for failure to comply with orders under s.20 of that Act (to attend youth offender panel).	**Magistrates' court (Youth Court)** Means tested application using the Apply for criminal legal aid service
Protection from Harassment Act 1997 5A	Proceedings relating to restraining orders on acquittal.	**Magistrates' court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non means tested application using the Apply for criminal legal aid service
Serious Crime Act 2007 19, 19A, 20 and 21	Proceedings relating to the making or varying of Serious Crime Prevention Orders by the Crown Court (where the defendant is convicted, acquitted or successfully appeals their conviction).	**Crown Court** Non means tested application using the Apply for criminal legal aid service
Serious Crime Act 2007 24	Appeals against Serious Crime Prevention Orders made by the Crown Court	**Court of Appeal** Application made direct to Court of Appeal – non means tested
Criminal Justice and Immigration Act 2008 100, 101, 103 and 104	Proceedings relating to: • the making of a Violent Offender Order (or Interim Violent Offender Order) • the varying, renewing or discharging of a Violent Offender Order	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Criminal Justice and Immigration Act 2008 106	Appeals against Violent Offender and/or interim Orders made under s100, s101, s.103 or s.104	**Crown Court** Means tested application using the Apply for criminal legal aid service

Crime and Security Act 2010 26, 27 and 29	Proceedings relating to the Domestic Violence Protection Notices or Domestic Violence Protection Orders under s.26, 27 and 29	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Tribunals, Courts and Enforcement Act 2007 13	Proceedings relating to an appeal against a decision of the Upper Tribunal in proceedings in respect of— • a decision of the Financial Services Authority • a decision of the Bank of England • (iii) a decision of a person in relation to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008 or the Banking Act 2009	**Court of Appeal** Application made direct to Court of Appeal – non means tested
Anti-Social Behaviour Act 2003 20 and 28	Proceedings relating to parenting orders in respect of: • exclusion from school • criminal conduct and anti-social behaviour	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Anti-Social Behaviour Act 2003 22 and 26	Appeal against a Parenting Order made under s.20 or 28.	**Crown Court** Means tested application using the Apply for criminal legal aid service
Stalking Protection Act 2019 1, 4, 5	Proceedings relating to the making, varying, renewing or discharging of a stalking protection order or interim stalking protection order	**Magistrates' court** Means tested application using the Apply for criminal legal aid service
Stalking Protection Act 2019 7	Appeal against a stalking protection order or interim stalking protection order made, varied, renewed or discharged	**Crown Court** Means tested application using the Apply for criminal legal aid service
Female Genital Mutilation Act 2003 Paragraph 3 of Schedule 2	Proceedings relating to the making of female genital mutilation protection orders other than on conviction and related appeals	**Family court** Non means tested application using the Apply for criminal legal aid service **High Court**

		Non means tested application using the Apply for criminal legal aid service
Female Genital Mutilation Act 2003 Paragraph 6 of Schedule 2	Proceedings relating to the varying or discharging of a female genital mutilation protection order made under paragraph 3	**Family court** Non means tested application using the Apply for criminal legal aid service **High Court** Non means tested application using the Apply for criminal legal aid service
Modern Slavery Act 2015 14(1)(b) and (c), 15, 20 and 21	Proceedings relating to: • the making of a Slavery and Trafficking Prevention Order where defendant found not guilty of an offence by reason of insanity or found to be under a disability and has done the act charged • the varying, renewing or discharging of a Slavery and Trafficking Prevention Order • the making of an Interim Slavery and Trafficking Prevention Order	**Magistrates' court/Youth Court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non means tested application using the Apply for criminal legal aid service
Modern Slavery Act 2015 22	Appeal against a Slavery and Trafficking Prevention Order	**Crown Court** Means tested application using the Apply for criminal legal aid service **Court of Appeal** Application made direct to Court of Appeal – non means tested
Modern Slavery Act 2015 23, 27 and 28	Proceedings relating to the making, varying, renewing or discharging of a Slavery and Trafficking Risk Order, and to the making of an Interim Slavery and Trafficking Risk Order	**Magistrates' court/Youth Court** Means tested application using the Apply for criminal legal aid service
Modern Slavery Act 2015 29	Appeals against: • a Slavery and Trafficking Risk Order (or Interim Slavery and Trafficking Risk Order)	**Crown Court**

	• variation, renewal or discharge of a Slavery and Trafficking Risk Order • refusal to vary, renew or discharge a Slavery and Trafficking Risk Order	Means tested application using the Apply for criminal legal aid service
Article 6(1) of the Human Rights Act 1998	Civil contempt other than in the face of the court, including breach of part 1 injunctions or gang injunctions under Anti-Social Behaviour Crime and Policing Act 2014	Non means tested application using the Apply for criminal legal aid service
Offensive Weapons Act 2019 14, 26 & 27	Proceedings relating to stand alone applications for knife crime prevention orders (KCPOs) Only in relation to KCPOs applied for and made in the metropolitan police district for the pilot running to 23:59, 31 March 2023 (thereafter legal aid is available for a further 6 months for reviews and applications to vary and discharge a KCPO)	**Magistrates' court/Youth Court** Means tested application using the Apply for criminal legal aid service
Offensive Weapons Act 2019 28	Appeals relating to stand alone applications for knife crime prevention orders (KCPOs) Only in relation to KCPOs applied for and made in the metropolitan police district for the pilot running to 23:59, 31 March 2023 (thereafter legal aid is available for a further 6 months for appeals)	**Crown Court** Means tested application using the Apply for criminal legal aid service
The Sentencing Act 2020 (Sentencing Code) 342H	Proceedings relating to the variation, renewal and discharge of serious violence reduction orders (SVROs)	**Magistrates' court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non Means tested application using the Apply for criminal legal aid service
The Sentencing Act 2020 (Sentencing Code) 342I	Appeals relating to serious violence reduction orders (SVROs)	**Crown Court** Means tested application using the Apply for criminal legal aid service **Court of Appeal** Application made direct to Court of Appeal – non means tested

Domestic Abuse Act 2021 31(3), 31(5),31(6) and 44	Proceedings relating to the making, variation, or discharge of Domestic abuse protection orders (DAPOs) Only the making of, variation, or discharge of DAPOs made on the magistrates' court or Crown Court's own motion at the point of acquittal or sentence are prescribed proceedings. Applications made by the police to the magistrates' court are civil for the purpose of legal aid. This is the case, even where a hearing also covers a breach of a Domestic Abuse Protection Notice. Note, however, that the DAPN is not in scope for criminal legal aid either, if heard at the same time as an application for a DAPO. An application for Exceptional Case Funding may be required. Note, where the court decides to vary/discharge a DAPO under s.44(2)(b) of the Domestic Abuse Act then this is not in scope of criminal legal aid. An application for Exceptional Case Funding may be required. See also the note below this table.	Any work will be incidental to the substantive proceedings and covered by the Representation Order in existence for those. A standalone application is possible should there be no Representation Order for any substantive proceedings: **Magistrates' court** Means tested application using the Apply for criminal legal aid service **Crown Court** Non Means tested application using the Apply for criminal legal aid service
Domestic Abuse Act 2021 46	Appeals relating to domestic abuse protection orders (DAPOs) made on the magistrates' court or Crown Court's own motion. Note, should there be an appeal on the variation/discharge, under s.46(4) or s.46(5) then this is not in scope of criminal legal aid. An application for Exceptional Case Funding may be required. See also the note below this table.	**Crown Court** Means tested application using the Apply for criminal legal aid service **Court of Appeal** Application made direct to Court of Appeal – non means tested
Domestic Abuse Act 2021 26(2)	Breach of a Domestic Abuse Protection Notice (DAPN) where it is not being dealt with together with an application for a DAPO. See also the note below.	**Magistrates' court** Means tested application using the Apply for criminal legal aid service

Domestic abuse protection orders and notices

The Domestic Abuse Act 2021 introduces a new civil Domestic Abuse Protection Notice (DAPN) that can be issued by the police to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims.

These are being piloted in Greater Manchester, Bromley, Sutton, Croydon and by the British Transport Police with further expansion into other areas as the pilot progresses.

The magistrates' court will deal with a breach of a DAPN. Breaches under 26(2) of the Domestic Abuse Act 2021 are in scope as prescribed proceedings and representation will require a means tested application using the Apply for Criminal Legal Aid service. Prior to 21 May 2025, breaches dealt with under 26(2)(b) of the Act (where the hearing is held at the same time as the hearing for the DAPO) were out of scope and therefore fell under Exceptional Case Funding.

Police will make an application for a DAPO to a magistrates' court. However, there are alternative application routes so that victims and specified third parties can apply for a DAPO directly to the family court. Criminal, family, and civil courts can also make a DAPO of their own volition during existing court proceedings.

It is important to note that where an application is made by the police to the magistrates' court, the making, variation, discharge, and appeal of the order is civil for the purpose of legal aid. Only the making of, variation, or discharge of DAPOs made on the criminal magistrates' court or Crown Court's own motion at the point of acquittal or sentence are prescribed proceedings. See table above.

Note, prior to 21 May 2025, when a court decided to vary/discharge a DAPO made on the criminal magistrates' court or Crown Court's own motion under s.44(2)(b) of the Domestic Abuse Act then this was not in scope of criminal legal aid and an application for Exceptional Case Funding would have been required.

Similarly, prior to 21 May 2025, were there an appeal on the variation/discharge, under s.46(4) or s.46(5) then this was not in scope of criminal legal aid. For the avoidance of doubt, from 21 May 2025, both proceedings under s.44(2)(b), and those under s.46(4) and s.46(5) are in scope of criminal legal aid.

Breach of a DAPO will be a criminal offence in the magistrates' court and Crown Court, and you should apply for a representation order using the apply for criminal legal aid service. It will be means tested in both the magistrates' court and the Crown Court.

Breach can also be treated as contempt in the High Court, county court and family court. Where it is being heard in the High Court, county court or family court, you should also provide evidence of the proceedings.

Where the individual breaches a DAPO made in a civil venue this will be treated in the same way as other civil contempt. See section 6.13 for how to apply for criminal legal aid in these circumstances.

27 Annex J: Magistrates' Court Means Test Examples

The means test in the magistrates' court is made up of an initial income test, which compares an applicant's **adjusted income** with a lower and upper income threshold. Every applicant's income is adjusted to take into account the number and age of any dependents they might have and their partner's income. These are the weighting factors shown in 9.3 Initial means test formula.

The upper and lower income thresholds act as a proxy for identifying whether an applicant has an adjusted annual disposable income above the limit of £3,398.

The adjusted income thresholds are currently set at:

- Lower Threshold – annual household income below £12,475
- Upper Threshold – annual household income above £22,325

Where the applicant's adjusted income falls between the upper and lower income thresholds, a more detailed means assessment (known as the 'full means test') is carried out to assess their annual disposable income. This takes into account a range of actual expenditure and also builds in a cost of living allowance.

Once all these costs are accounted for, if the applicant has an annual disposable income greater than £3,398 they are deemed capable of paying privately for their defence costs in the magistrates' court (which are estimated to average at £1,500).

Example 1

The applicant is single and has no dependants. Their annual income exceeds £22,325 and, therefore, they are ineligible for a Representation Order in the magistrates' court. If their annual household income is less than £12,475 a year, they will be eligible for a Representation Order in the magistrates' court, with no further assessment required.

Example 2

The applicant lives with a partner and their annual household income is £34,000. The applicant's weighted income is calculated as follows:

£34,000 divided by a weighting factor of 1.64 (obtained by adding 1.00 for the applicant + 0.64 for their partner), which equals £20,732**.** The applicant's weighted income is below the upper income threshold and the assessment will move to the full means test.

Example 3

The applicant is a single parent with a dependent child aged 2 at the end of the period of calculation (i.e. the date of application) and has an annual household income of £15,000. The adjusted income is calculated as follows:

£15,000 divided by 1.30 (obtained by adding 1.00 for the applicant + 0.30 for the child), which equals £11,538. The applicant's weighted income is below the lower income threshold, so the applicant is financially eligible in the magistrates' court without the need for further assessment.

Example 4

The applicant lives with a partner and two children aged 9 and 13 at the end of the period of calculation (i.e. the date of application) and annual household income is £50,000 with adjusted income as follows:

£50,000 divided by 2.46 (obtained by adding 1.00 + 0.64 + 0.38 + 0.44), which equals **£20,325**. The applicant's weighted income is below the upper income threshold, and the full means test would be undertaken to establish their annual disposable income.

28 Annex K: Crown Court Means Test Examples

These examples are designed to show a range of circumstances where **income** contributions during the course of proceedings may be required. Examples of contributions from capital/equity are not included.

The means test for Crown Court cases is based on the same calculation formula and thresholds as for magistrates' court cases except for the disposable income threshold being less than £37,500 for Crown Court trials rather than £3398. The initial income test still applies, and every applicant's income is adjusted to take account of his or her family circumstances.

The key difference for the Crown Court scheme is that applicants may still be eligible for a Representation Order[45] where their disposable income exceeds the £3398 threshold. Those with a disposable income of between £3399 and £37,499 will be eligible for a Representation Order but will be expected to make a contribution from their income towards their defence costs during the course of proceedings. Those whose disposable income is equal to or exceeds £37,500 will be ineligible for legal aid in a Crown Court Trial (for Appeals to the Crown Court these applicants will be eligible subject to a contribution from income should their appeal be unsuccessful or abandoned).

Applicants with adjusted income above the lower income threshold will be subject to full means test in order to calculate their annual disposable income and therefore whether they are eligible and, if so, the required income contribution where appropriate. Applicants who are required to pay an income contribution will have this clearly stated on the Contribution Order, which will accompany the Representation Order, both of which are issued by the LAA. Applicants who are ineligible will receive a Refusal Notice.

Those applicants with annual disposable income below the £3,398 disposable income threshold will have a Contribution Notice issued alongside the Representation Order. This will explain that they are not required to make an income contribution.

In addition, those applicants who are convicted in the Crown Court, who have capital or equity in excess of £30,000 and who have not covered their defence costs during the course of proceedings, will be liable for a further contribution. This is also explained on the Contribution Notices and Contribution Orders.

Example 1

Applicant is on a passporting benefit. Due to their passporting benefit status, they will not be required to make a contribution – either from income or capital – towards their defence costs.

Example 2

Applicant is married with two children aged 10 and 7 and an annual household income of **£34,500**. The adjusted income is as follows:

£34,500 divided by 2.36 (1.00 + 0.64 + 0.34 + 0.38), which equals **£14,619**. Because the applicant's adjusted income is above the lower adjusted income threshold, the full means test would be carried out to establish annual disposable income and therefore whether an income contribution is required. So:

Annual household income:	£34,500	
Adjusted living allowance:	£13,396	(£5,676 x 2.36)

[45] Subject to the relevant forms being fully completed, signed and submitted.

Outgoings	£20,271
Annual disposable income	£833

An income contribution is not required because the annual disposable income is below the threshold of £3,398.

Example 3

Applicant is married with no children and an annual household income of £45,000. The adjusted income is as follows:

£45,000 divided by 1.64 (1.00 + 0.64), which equals £27,439. Because the applicant's adjusted income is above the lower income threshold the full means test would be carried out to establish the annual disposable income and therefore whether an income contribution is required. So:

Annual household income:	£45,000
Adjusted living allowance:	£9,309 (£5,676 x 1.64)
Outgoings	£20,440
Annual disposable income	£15,251

An income contribution is required, and this is calculated as follows:

Annual disposable income	£15,251
Multiplied by 90%	£13,726
Divided by 12	£1,143.83

The monthly contribution would be £1,143.83. The total contribution would be £6,862.95 (£1,143.83 x 6) or £5,719.13 (£1,143.83 x 5) if paid in a lump sum or on time each month.

Example 4

Applicant is married with no children and an annual household income of £75,000. The adjusted income is as follows:

£45,000 divided by 1.64 (1.00 + 0.64), which equals £45,732. Because the applicant's adjusted income is above the lower income threshold the full means test would be carried out to establish the annual disposable income and therefore whether an income contribution is required. So:

Annual household income:	£75,000
Adjusted living allowance:	£9,309 (£5,676 x 1.64)
Outgoings	£25,500
Annual disposable income	£40,191

The applicant is ineligible because their disposable income exceeds the £37,500 Crown Court eligibility threshold. The applicant is deemed to have sufficient resource to pay privately and is refused legal aid.

29 Annex L: Case Costs

In some circumstances, an applicant who is required to make an income contribution may have a very high disposable income such that collecting 90% of it over six months equates to a value in excess of their expected case costs.

Very few applicants will likely be in this position, but to guard against an applicant vastly overpaying, the Regulations include a 'maximum income contribution', which represents 90% of the range of defence costs for each class of case.

What this means is that the amount payable under an income contribution order will not exceed the specified amount for the class within which the offence falls (regardless of the classification of the offences charged in the indictment).

Where the applicant is charged with offences falling within more than one class, the relevant class shall be that for which the specified amount is the highest.

The table below shows the class of offence and a range of indicative case costs, including the maximum income contribution:

Type of offence	Guilty plea	Cracked trial	Trial	Maximum income contribution
	Average cost	Average cost	Average cost	
Class A homicide and related grave offences	£6,472	£23,184	£71,535	£185,806
Class B offences involving serious violence or damage, and serious drugs offences	£2,779	£4,204	£6,835	£29,453
Class C lesser offences involving violence or damage, and less serious drugs offences	£1,900	£2,411	£3,622	£7,970
Class D sexual offences and offences against children	£2,860	£3,819	£5,806	£13,776
Class E burglary etc	£2,672	£3,057	£3,539	£6,731
Class F other offences of dishonesty (specified offences and offences where the value is £30,000 or less)	£1,280	£1,599	£2,206	£6,754

Class G other offences of dishonesty (specified offences and offences where the value involved exceeds £30,000 but does not exceed £100,000)	£3,226	£7,727	£12,544	£117,368
Class H miscellaneous other offences	£2,025	£2,399	£2,819	£7,427
Class I offences against public justice and similar offences	£2,495	£3,273	£5,119	£28,023
Class J serious sexual offences	£2,702	£5,306	£7,921	£17,892
Class K other offences of dishonesty (high value) (if the value involved exceeds £100,000)	£6,482	£19,884	£32,954	£153,039

What this means is that if an applicant has been charged with a Class F offence and their income contributions exceed £6,754, then the collection and enforcement agency will stop taking contributions once this level has been reached.

30 Annex M: Judicial Apportionment

Application for apportionment of costs

An applicant convicted on one or more, but not all, of the offences for which they were charged, may apply to the Crown Court under regulation 26 of the Criminal Legal Aid (Contribution Orders) Regulations 2013 for an order whereby they will only be liable for a proportion of the costs of their representation on the grounds that it would be manifestly unreasonable to pay the whole amount.

An application under regulation 26 must be made in writing using the Judicial Apportionment form available on GOV.UK.

An application must be made within 21 days of the Sentence Order Date or of the date the defendant is otherwise dealt with following conviction and will be considered by the trial judge who will determine the percentage of costs to be paid by the applicant.

The Crown Court has a discretion to extend time where there are 'cogent and compelling reasons to do so' following *R (on the application of the Director of Legal Aid Casework) v The Crown Court at Southwark and Ian Swingland [2021] EWHC 397 (Admin) (Swingland)*, which at paragraph 38 sets out the test to be applied when granting a judicial apportionment application out of time.

The application should state the grounds on which the application is made and the proportion (as a percentage) of the costs that it would be reasonable for the defendant to pay.

The trial judge, or where he/she is not available a judge nominated by the resident judge, must consider the application and grant or refuse it. Where the application is granted, the judge should state on the order the percentage of costs payable and the reason for the decision. Where the application is granted, the order shall not require any other co-defendant to pay any of the applicant's costs and a copy of the granted order must be sent to the applicant and their solicitor.

If a judicial apportionment order is granted by the judge, the court will provide written confirmation to you and your client. The court does not need to notify the LAA. It is the responsibility of an applicant and their solicitor to submit a copy of the notice to the LAA.

The solicitor and barrister must then submit the Judicial Apportionment Order with any claim for payment from the Legal Aid fund (LF1 and AF1). If the LAA does not receive a copy with the bill we will be unable to apply the apportionment, and the applicant could be asked to pay more of their legal aid costs.

There is no right of appeal from refusal.

31 Annex N: End of process guidance

If, at the end of the case the applicant:

Receives a not guilty verdict (on all counts)

Any income contributions will be refunded in full with interest (at 2%). Any enforcement costs incurred if the applicant did not pay on time may be deducted from any refund issued.

Very occasionally the applicant may be required to make a contribution towards their defence costs, even if they have been found not guilty, such as where they misled the police, prosecution, or the court, or otherwise appear to have brought the prosecution on themselves by their own conduct. The judge would decide this. This is a 'Wasted Costs Order' and a matter for the judge/ Court, and is not a legal aid contribution.

The DRC is responsible for issuing any refund. See the Key Players section for contact details.

Receives a guilty verdict (on any or all counts)

If the applicant has paid less than the actual costs, they may have to pay some or all the balance from capital if they have £30,000 or more of capital assets (including equity).

If they have paid more than the actual costs (calculated at the end of the case) – any overpayment will be refunded with interest.

If an applicant is found guilty of some, but not all counts, then they can apply to the court for a Judicial Apportionment. The application must be made within twenty-one days. See Annex M: Judicial Apportionment above.

When will applicants have to pay from their capital?

Once the case has finished, the applicant's capital position must be confirmed, and the final defence cost established. Confirming the capital position includes a range of checks with third parties, such as Land Registry and credit reference agencies. Where there is an amount to pay from capital, the Debt Recovery Company will notify the client by way of a Capital Contribution Order detailing the amount they owe, how to pay and when.

In certain circumstances, the DRC can enter into repayment agreements.

If they don't pay - what are the sanctions?

If the applicant has been assessed as able to contribute from their assets, it is important that payment is made. Where payment is not made in full, or an arrangement made, there is a range of enforcement measures available to ensure any money outstanding is paid in full. Please see 6.6.5 Collection & enforcement.

How do applicants pay from equity?

If the equity can't be released and there are no other ways of making the payment, applicants could ask to delay payment and if payments are not made straight away, a charge could be put on the property until the debt is repaid. This could accrue interest at 8%.

It is important to understand that placing a charge on a property is only one of a range of enforcement actions available and would only happen once the convicted applicant had been given the opportunity to pay but failed to do so.

Will you force people to sell their family homes after they have been convicted?

Placing a charge on a property is very different from asking or forcing someone to sell their home. The individual circumstances of each case will be considered before taking enforcement action.

Applying for an order for sale is a last resort.

An order for sale requires an application to the courts and any decision to apply for an order for sale needs to carefully consider the individual circumstances of each case and take into account a range of factors, such as the interests of co-owners and the extent of their equity, or whether any dependants live in the property.

32 Annex O: Debt Recovery Company's role in collecting criminal legal aid contributions

This section sets out the Debt Recovery Company's role and procedures, who to contact with queries, and how to make complaints.

The Legal Aid Agency (LAA) is responsible for collecting criminal legal aid contributions and must ensure that recovery is made in appropriate circumstances.

The LAA contracts with Advantis Credit Ltd. as our Debt Recovery Company (DRC) for Crown Court Means Testing (CCMT).

Where a defendant has been asked to pay an income or capital contribution they are given 28 days to make each required payment. Where payments are missed we expect the DRC to ensure that money owed to the taxpayer is recovered swiftly. Where there is persistent failure to pay we expect the DRC to take all steps available to them to enforce the outstanding debt.

With regards to procedure, in all cases, the DRC acts on instruction from the LAA.

Income contributions are calculated by the LAA's National Crime Applications Teams (NCAT) and provided to the DRC. The DRC will look to collect on every case where an Income Contribution Order has been issued by the LAA unless and until the LAA advises otherwise.

- The DRC set up an account for the defendant within 1 working day of receiving the file from the LAA
- The introduction letter - they send an initial contact letter within 1 working day of creating the defendant's file. Advises amount due, date, payment methods etc and invites them to get in touch to arrange payment
- The Reminder Letter - Max 5 working days before payment due reminder sent (letter and phone)
- The Broken Arrangement Letter - Within 5 working days of missed payment –Letter and phone call to defendant. 2 missed payments triggers enforcement action which could involve attachments of earnings, vehicle clamping orders, or bailiffs etc.
- Finally, the Default Notice - A further 5 working days after the broken arrangement letter is sent for a second time and payment remains outstanding – default notice is sent to defendant notifying them of the commencement of enforcement action

Please note, if we have been notified by the Insolvency Service that the applicant has entered a breathing space or mental health crisis moratorium in relation to their contributions, the LAA and DRC will cease to contact them to ask for payment or to enforce (except where a Final Attachment of Earnings or Charging Order is already in place).

Capital contributions Orders are issued by the DRC on our behalf, and these are calculated based on information provided by the defendant on their application and on the basis of fraud prevention checks.

Imprisoned Defendants

The DRC may not always be aware that a defendant has been remanded in custody or is serving a prison sentence and will continue writing to defendants at their last known address until such time as they are updated.

If the DRC is informed that a defendant has been imprisoned, either by the LAA or by someone calling or writing to advise that the defendant is not at their address, the DRC will use the prisoner location service to identify the current location of the defendant and update their details accordingly so that correspondence is sent to the defendant in prison.

Dealing with family members

The DRC cannot recover debts from family members. The liability remains with the defendant. It is therefore the defendant's responsibility to ensure payment. Under the Data Protection Act 2018 and Relevant General Data Protection Regulations the DRC will only discuss cases with parties other than the defendant or their solicitor with the permission of the defendant. Even on cases where permission has been given to discuss matters with a member of the defendant's family, the DRC will always be clear that the debt is the defendant's and the debt can only be enforced or recovered against assets which belong to the defendant.

Complaints

The DRC has a dedicated welfare and complaints manager and all complaints about the DRC's conduct should be directed to them in the first instance. The DRC look to respond to all complaints within 5 working days of receipt, or, if further information is required from the LAA or further investigation is needed, they will confirm receipt in 5 working days and look to respond in full within 10 working days.

The LAA monitors all complaints received by the DRC to ensure that service standards are being met.

Should your clients or their family members have concerns about the DRC's conduct, then we would advise them to put their complaint in writing to the DRC. Please see the Key Players sections for contact details.

Please note, should the complaint relate to the value of an Income or Capital Contribution Order, the DRC will not be able to assist with this and such complaints should be made to the National Crime Applications Team

33 Annex P: Standard paragraphs for client care letters

It is important that clients understand how legal aid works in criminal proceedings, and what their responsibilities are under the scheme. These suggested paragraphs have been designed for solicitors to use in their client care letters. They are optional and can be amended by firms to fit the circumstances of their clients.

Do you have to pay for your case in the magistrates' court?

We will apply for legal aid to cover your case in the magistrates' court, and have asked you to complete the application forms. The decision to award legal aid is made on the basis of both the details of your case (called the Interests of Justice Test) and the financial information you provide (called the Means Test). It is therefore very important that you complete the forms accurately and (where necessary) send evidence to support the information you provide. If you do not tell the truth on your legal aid application about your income, assets, and expenditure you could be prosecuted.

If you are under 18 or on certain benefits you do not need to pay for the work we do for you in the magistrates' court. These benefits are Universal Credit, Income Support, Income-Based Job Seeker's Allowance, Guaranteed State Pension Credit, and Income-related Employment and Support Allowance. You need to provide your National Insurance Number so that the benefit can be checked.

In all other circumstances your finances will be assessed to decide whether you are eligible for legal aid. Your annual household income and family circumstances will be taken into account and then:

• If your annual household income is £12,475 or less you get free legal aid

• If it is £22,325 or more you are not eligible for legal aid

The assessment of your income makes an allowance for a partner or any children that you have living with you, so it is important that you include details of these on the form.

If your annual household income is more than £12,475 but less than £22,325 then the Legal Aid Agency will look at your disposable income. This is the money you're left with after you've paid your main bills. A standard amount is allowed for some bills such as gas, electricity, and insurance, and there is an allowance for a partner and/or any children. If you're left with:

• £3,398 or less a year (£283.17 or less a month) you get free legal aid

• More than £3,398 a year (£283.17 a month) you are not eligible to receive legal aid

If you do not think you can afford to pay privately, or you think that a mistake has been made, you can ask for a review of your legal aid assessment.

Do you have to pay for your case in the Crown Court?

If your case is heard in the Crown Court, your financial situation will be assessed with one of the following outcomes:

- You don't have to pay for the work that we do for you because you have been awarded legal aid to cover all your costs.
- You have to pay a contribution towards our costs because you can afford to pay from your income, capital, or both.

- You have to pay privately for all the work that we do for you.

You will be asked to provide evidence of your income and assets. If you do not provide this evidence, your payments could be increased. If you do not tell the truth on your legal aid application about your income, assets, and expenditure you could be prosecuted.

You will not have to pay towards the costs of your case if you are under 18 when you make your application or if you receive any of the following benefits: Universal Credit, Income Support, Income-Based Job Seeker's Allowance, Guaranteed State Pension Credit, and Income-related Employment and Support Allowance.

If your annual household disposable income is £37,500 or more (the money you're left with after you've paid your main bills, and taking into account your family circumstances, such as a partner and/or any children) then you will not be eligible for legal aid and you will have to pay privately for any work that we do for you.

You will have to pay a contribution towards the costs if your annual disposable income is above £3,398. A standard amount is allowed for some bills such as gas, electricity, and insurance, and there is an allowance for a partner and/or any children. Where you are required to pay towards your legal costs, you will receive a Contribution Order from the Legal Aid Agency giving details of how much you must pay, and how to make the payments. The first payment will be due within 28 days of your case being committed, sent, or transferred for trial. The payments will be collected by a private company on behalf of the Legal Aid Agency, and they will also write to you. You must tell the LAA about any changes to your financial circumstances during your case because a change may affect the amount you have to pay towards your defence costs. If you do not think you can afford to pay, or you think that a mistake has been made, you can ask for a review of the amount the LAA has told you to pay.

At the end of the case, if you are found not guilty, any payments you have made will be refunded with interest. If you paid late or not at all and action was taken against you, the costs of this action will be deducted from the refund.

If you are found guilty, you may also have to pay towards your defence costs from any capital assets you may have. This would only apply if:

- You have £30,000 or more of assets, for example: savings, equity in property, shares or Premium Bonds; and
- Any payments you have already made have not covered your total defence costs.

You will be told at the end of your case if you have to make a payment from capital. The Collection and Enforcement Agency for the Legal Aid Agency will notify you of the amount you owe once your legal costs have been finalised.

34 Annex Q: Hints and tips on applying for legal aid

This section is designed to help you avoid rejects and have your applications processed first time. By following these hints and tips you will reduce delays for you and your client, and reduce the administrative cost of resubmitting applications.

The paper forms guidance, which can be found in Annex R: Forms Guidance and separately on GOV.UK, may also assist as for example the completeness criteria and evidential requirements remain the same, The benefit of the Apply for criminal legal aid service is that depending on how you answer preceding questions only those questions potentially relevant to our determination will appear, thus shortening in many cases the information to be provided.

The Apply for criminal legal aid service significantly reduces the number of applications that are rejected however there are still a few things providers should consider when competing an application.

If your client has a partner they will need to ensure that the partner details section of the application is complete.

Where the partner is not a victim, prosecution witness or co-defendant with a conflict then details of their financial circumstances will also need to be declared in the application.

If your client has been remanded into custody by the court.

Where your client is remanded into custody by the court, please ensure that you click Yes to the court custody question.

Please note we cannot assume income automatically stops. See **Income details for applicants in court custody** on page 33.

Defendants remanded into custody by the court are able to self-certify their income and outgoings and are not required to provide documentary evidence endorsing the information declared in their application. Please be aware that the rules allowing an applicant to self-certify do not extend to those defendants held in police custody for whom any appropriate documentary evidence is required before an application can be processed.

Interest of Justice Test requirements

Under the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 legal aid should (subject to means testing) only be granted in cases where it is in the interests of justice for the defendant to be represented.

Each application for legal aid is considered individually, against all the relevant factors, known as the Widgery[46] criteria and listed below. It may be appropriate to refer to additional factors not on this list, but they must be relevant to the interests of justice and when completing the forms, applicants must make it clear which of the factors they are relying on to support their application.

[46] Further information regarding the Widgery Criteria can be found in pages 4-13 of the Guidance on the Consideration of Defence Representation Order Applications - August 2013 which is available on GOV.UK: www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

The 'Widgery Criteria':

- It is likely that I will lose my liberty
- I have been given a sentence that is suspended or non-custodial. If I break this, the court may be able to deal with me for the original offence
- It is likely that I will lose my livelihood
- It is likely that I will suffer serious damage to my reputation
- A substantial question of law may be involved
- I may not be able to understand the court proceedings or present my own case
- I may need witnesses to be traced or interviewed on my behalf
- The proceedings may involve expert cross-examination of a prosecution witness
- It is in the interests of another person that I am represented
- Any other reasons.

In some cases, two or more factors may combine together to justify a decision to grant when neither by itself would have sufficed. When such a combination is relied upon, this should clearly be noted on the application.

It is the responsibility of the applicant (with the assistance of a solicitor), to provide sufficient relevant information to support an application. Where insufficient information is provided the application will be refused rather than returned. Where refused, an Interest of Justice decision can be appealed if the application is resubmitted with further information.

It is not a requirement that a list of previous convictions be provided for the purposes of completing their application as these are often not available at the time the application is submitted. However, if an application is to rely upon previous convictions, it is important that sufficient information about them is given.

A comprehensive guide to the Interests of Justice test is available on GOV.UK:

www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

When is it mandatory to provide the National Insurance Number on an application for legal aid?

Scenario		NINO Mandatory	NINO not Mandatory
Means assessed magistrates' cases			✓
Crown Court cases		✓*	
Passported cases where the applicant is remanded into court custody	Summary Only Case		✓
	Committal for sentence		✓
	Either Way resolved in the magistrates' court		✓
	Crown Court Case	✓*	
Applicant produced from police custody		✓	
Passported application where the applicant provides documentary evidence to demonstrate that they receive the appropriate benefit			✓
Applicant is passported on an age basis – Under 18			✓
Applicant is a foreign national living in the UK		✓**	
Applicant is an illegal immigrant living in the UK			✓
Applicant is a tourist visiting the UK			✓
Partner NINOs	If the benefits claim is made by the partner	✓	
	If the benefits claim is made by the applicant		✓

Notes
* If the NINO is not available the LAA will process your application but will then issue your client an evidence request for it to be provided within 14 days
** If a NINO has not been assigned to the applicant by the Home Office they should provide an Application Registration Number/Card

Obtaining the applicant's National Insurance number if they do not know what it is.

We do not expect you to approach the DWP or HMRC as they can only tell the individual themselves, but the following links may help clients

Get a proof of benefit letter - GOV.UK

Find your National Insurance number - GOV.UK

The latter sets out:

- where they might find their NINO - such P60, payslips, benefit letters, bank statements
- how to request it online if they can prove their identity

- how to request HMRC post it to the address they have on record if they cannot prove their identity online - by calling them on 0300 200 3500 or posting form CA5403.

If your client is unable to prove their identity to obtain their NINO online, and they cannot access their usual address to which it would be sent, for example, due to bail conditions, you should explain what you and your client have done to obtain it. You will need to confirm that you have exhausted all possible sources such as payslips.

If you have lost contact with your client after the conclusion of proceedings you will need to tell us what attempts have been made to get in touch with them, such as letters, text messages, and phone calls.

The Benefit Bypass – Avoiding delays caused by a failed or undetermined benefit check

When you click **Check Benefits Status** within the Apply for criminal legal aid service, a 'real time' link to the DWP benefits checker will confirm the Passported Benefit status within a few moments.

When completing the forms, if your client is unsure of the specific benefit they receive or the DWP link returns a result of either ***NO*** or ***undetermined***, and you have checked the information submitted is correct, the applicant will be required to complete further questions, confirming the applicant and partners financial situation including any capital and equity. This is known as the Benefit Bypass and will enable NCAT to carry out a means assessment.

Alternatively, they can provide evidence.

Please note, for Crown Court cases, if the applicant is in receipt of a passported benefit and the DWP link fails, it is in their interests to provide proof of the benefit (i.e. DWP letter) rather than using the 'Benefit Bypass'. This is because passported applicants are exempt from any contributions from capital or equity if they are convicted and using the Benefit Bypass could mean that they are liable at the end of the case.

Evidential Requirements (bailed defendants only)

The table below sets out the evidence required for the different types of income and outgoings considered in the means test.

Income type	Evidence required?	Description
Employed income	Yes	The most recent available wage slip, dated within 3 months of making the application.
Temporary workers (for example agency workers or students)	Yes	Applicants with temporary contracts should provide wage slips as they are assessed on their income at the time of their application and once that employment ends, they should submit a fresh application reflecting the change in their
Employed – Cash in hand income	Yes	If a payslip cannot be provided, then bank statements showing wages paid in or a letter from the person employing them should be obtained. Annotate all credits with their source and frequency.
Self employed income	Yes	The evidence below is in order of preference - Set of Trading Accounts - Tax Return - Bank Statement Annotate all credits with their source and frequency. - Cash Book

Contractors	Yes	For the purposes of the means assessment contractors are treated as self employed and are therefore subject to the same evidential requirements.
Income from benefits	No	N/A
Other income (maintenance, drawings from savings or rental income)	Yes	Bank Statements for the three months preceding the application, showing the income declared by your client in their application. Annotate all credits with their source and frequency.
Private pension income more than £1000 per month	Yes	Annual Pension statement or bank statements showing the pension being received by your client.
Private pension income less than £1000 per month	No	N/A
Trust fund income	Yes	Trust fund statement or bank statements Annotate all credits with their source and frequency.
Student Loan	No	N/A
Outgoings over £500 per month (Rent/mortgage, maintenance, childcare)	Yes	Rent: Rental agreement Mortgage: mortgage statement Maintenance and childcare: receipt of payment or bank statements N.B. In Crown Court cases any outgoings over £500 per month that are not evidenced will be limited to £500 per month in the applicant's mean assessment; however, for magistrates' court cases the application will be rejected.
Outgoings under £500 per month	No	N/A

Makes sure it's clear how the applicant is supporting themselves

Whether they are employed, self-employed, unemployed and in receipt of benefits, or supported by friends and family, the form needs to clearly define how your client is supporting themselves or being supported by others on a day to day basis. If an application is completed to state that your client has no income, then it must include a full explanation of how they are managing to cover their day-to-day living expenses.

If your client declares outgoings on the application and these exceed their income, they will also need to explain how they are able to afford their outgoings before an application can be processed.

Completing the declarations

In the vast majority of instances an assessment will not be conducted if your client has not signed the applicant declaration form. If your client cannot sign the form because they suffer from severe mental health issues you should refer to 3.5.7 Applicants with mental health problems for further guidance.

Missing partner signatures

Where your client has a partner, the application should be completed to include information on both of their personal details and financial circumstances. The partner should also sign the relevant declaration on the applicant declaration form.

The table below sets out the limited number of circumstances where the application can be accepted without a partner's signature and common scenarios where it cannot. If one of the exceptions in the table applies, the applicant must explain the reasons for a lack of their partner's signature and what attempts have been made to obtain it prior to submitting the application.

Note that electronic signatures are acceptable – see 3.4.6 Signing the form above for more information.

	Summary Only and Either Way Pre Committal		**Indictable Only and Either Way Post Committal**	
Scenario	**Signature required?**	**Is any additional information required for the court to process the application?**	**Signature required?**	**Is any additional information required for the court to process the application?**
Partner is a co-defendant with a contrary interest, a victim or prosecution witness in the case against the applicant	No	The partner questions must be completed accordingly	No	The partner questions must be completed accordingly
If the applicant has been remanded into court custody or is serving a custodial sentence	No	The applicant must provide reasons for the lack of their partner's signature at the further information question of the application.	Yes	The application can be processed but an evidence request will then be made for the missing signature
Where the partner is in hospital **and** physically unable to sign.	No	The applicant must provide the hospital and ward as part of the written explanation for the missing signature in the application.	No	The applicant must provide the hospital and ward as part of the written explanation for the missing signature in the application.

The partner has not signed the form, but the applicant has provided evidence of their income	No	The applicant must provide reasons for the lack of their partner's signature when completing the application.	Yes	The application can be processed but an evidence request will then be made for the missing signature
The applicant's partner is abroad	Yes	The application declaration form should be emailed or faxed to the absent partner for them to sign and return and resubmitted to the LAA.	Yes	The application can be processed but an evidence request will then be made for the missing signature
The partner has not signed the forms because the applicant does not want to make their partner aware of the proceedings	Yes		Yes	

If your client is remanded into custody, we do not assume that their household income ceases.

Employed applicants who fail the means test and later lose their job will need to complete a fresh application that reflects the change in their circumstances and, if in custody for less than 3 months, provide a P45 or a letter from their former employer that sets out the terms of the termination of their employment. Evidence is not required if they have been in custody for 3 months or more.

For those applicants who are self-employed and have failed the means test, the evidence required to support a change in financial circumstances application will depend on whether they are a sole trader or employ others. For a sole trader, it is sufficient to complete a change in circumstances application stating sole trader remanded in custody. For all other Self-employed types closing accounts demonstrating that a business has ceased trading would be required.

Guidance for completing paper forms CRM14 and CRM15

Legal Aid Agency

Guidance for **CRM14**

- This guidance and the forms to which it refers are available in Welsh.
- If you need help or advice when you use this Guidance, please contact a solicitor (but see *About evidence* on page 3, and question 38 when you may ask the Court for advice).

When you fill in the form

- Answer all the questions from 1 to 39 unless there is an instruction to move to a later question. For example, if you answer **No** to question 34 you should then answer question 36 because question 35 will not apply to you.

34 Has a court remanded you in custody?
☑ No: Go to **36** ☐ Yes: Go to **35**

- For most questions answer **No** or **Yes**: and if you answer **Yes**, answer the remaining parts of that question. You will usually see an arrow pointing to these.

2 Do you have a usual home address?
☐ No ☑ Yes → Your usual hom

- **Do not** fill in any parts of the two boxes at the top of page 1 of the form for *Case type* and *Priority case*, unless your solicitor has told you how to answer.
- We suggest that before you answer each question, you check the side panel and read any notes before you answer that question. In the side panel there may be signs, either:

(!) GUIDANCE or (!) EVIDENCE

8 Do you have a partner?
(!) GUIDANCE ☐ No: Go to **9** ☐ Yes: Go to **10**

Use form CRM14

to apply for legal aid if your case is:

- dealt with in a Magistrates' Court
- a Crown Court trial
- a Committal for sentence
- an appeal to the Crown Court
- a Retrial or Voluntary Bill in the Crown Court.
- Confiscation, Restraint or Receivership proceedings
- Enforcement proceedings.

We use the information you provide on this form and forms CRM15 (and CRM15C) to decide whether you may receive legal aid – and if so, whether it will be free or whether you must pay part of the cost.

Use this Guidance as you work through the questions on the form. If you do not, you may not fill in the form correctly.

A correctly completed form includes:

all questions being answered fully

and evidence being provided when we require it.

GUIDANCE

Where you see this sign on the form, we want you to go to the question number on pages 5 to 12 of this Guidance. Read the advice opposite the GUIDANCE sign.

EVIDENCE

Where you see this sign on the form, we want you to go to the question number in the table on pages 5 to 12 of this Guidance. Read the advice opposite the EVIDENCE sign. This will tell you about the evidence which we need you to provide for that question. See also *About evidence* on page 3.

- Do not cross out any question just because it does not apply to you. If you do, we will send the form back to you and ask you to explain.

- Make sure we can read your answers. The form may be copied so we suggest you use a pen with black or a dark ink. If we cannot read your answers, we will return the form.

- If you have a partner (see question 8) you must also fill in their details throughout the form where these details are required – **unless you answer Yes to question 12 because your partner is involved in the case as a victim, prosecution witness or as a co-defendant who has a conflict of interest** (in these circumstances, you should follow the instructions on the form). This may mean that when you answer some of the later questions on the form you will not provide details for your partner and your partner will not have to sign the declaration. In all other circumstances, you must provide details for your partner, even if you have been remanded into custody by the court or are already a serving prisoner.

- Before you fill in the form, you may find it helpful to read the declaration at question 39, which you must sign when you have completed the form, and the guidance for question 32 on page 11 of this Guidance.

- It is important that you are accurate when you fill in the forms.

  We will check the information you provide with the Department of Work and Pensions, HM Revenue and Customs and other organisations. If you tell us anything on → the application that is not true or leave anything out:

  you may be prosecuted. This could result in you going to prison or paying a fine

  or you may have to repay all of the cost of the legal aid which you have received, and your legal aid may be taken away. This may mean that you have to pay your solicitor's costs using your own money.

  or if your case is in the Crown Court, the Legal Aid Agency may vary the amount of any Contribution Order under which you have to pay towards the cost of your legal aid.

  Warning: if your case is being heard in the Crown Court and we send a form back to you because it is not completed fully or correctly, and later we receive a form that we accept, the representation order that grants you legal aid will begin on the date when we receive the correct form. This may mean that you pay some of your solicitor's costs using your own money. So when you fill in the form, use this Guidance to help you apply correctly.

When you have filled in this form

- Check your application to make sure that there are no empty boxes where you should have given information.

- Make sure you have signed and dated the declaration.

- If you have a partner, make sure they have signed and dated at question 38

- Send the form, and any evidence you have to provide with the form, to the LAA. If you send the forms and evidence by post, we suggest you consider using recorded delivery. This will give you proof that you posted the documents and a record that they have been received by the LAA.

About evidence

We may need to see evidence that proves the information you give in this form and in any other forms you use to apply for legal aid, is true. The evidence we need to see is described on pages 5 to 12 of this guidance.

If you have genuine difficulty in providing evidence we require, you or your solicitor should contact the LAA for advice.

Rules about evidence

There are rules about who needs to provide evidence and when they need to provide it.

These rules are:

- If your case is in the magistrates' court and you are in prison or detention centre, **you do not need to provide evidence.**

- If your case is in the magistrates' court and you are on bail

  or you are committed to the Crown Court for sentence

  or you appeal to the Crown Court,

  you must provide the evidence with this form.

- If your case is a trial in the Crown Court, **you must provide the evidence but you have 14 days to do this, beginning on the day on which you sign the form CRM14.**

If you have to provide evidence but you do not provide it according to these rules, the following may happen:

if your case is dealt with in the magistrates' court only, we may delay considering your application. We will usually return the application form to you and ask you to send it back to us with the appropriate evidence.

or if your case is dealt with in the Crown Court and the missing evidence is about your income, we may ask you to pay £900 each month or all of your disposable income, whichever is the greater.

or if your case is being dealt with in →

the Crown Court and the evidence refers to your capital, we may wait to see if you are convicted.

If you are convicted, we may remove the £30,000 capital allowance and ask you to pay the full cost to the legal aid fund.

Remember:

- A correctly completed application includes the evidence we require being provided according to these rules.
- If you have any doubts about whether to send the evidence described in this guidance (the requirement for which is indicated by the evidence symbol in the panel on the forms), send it with the forms.

About the granting of legal aid

When we decide whether to grant you legal aid, we will use two tests of your case:

1. **The Interest of Justice Test**
   This considers whether it is in the interest of justice that a solicitor represents you.

   A means assessment.
   We look at the income and outgoings, and savings, investments and property of you and your partner (if you have one) to decide **whether you are financially eligible, in the magistrates' court and in Crown Court trials. Where you are eligible for funding for a Crown Court trial your income and outgoings are also used to assess whether you have to contribute to your defence costs.**

The outcome of these tests
This depends on the type of case for which you require legal aid and the court where your case will be heard.

Your completed form CRM14 should show at the top of page 1 the type of case for which you require legal aid.

If your case is heard and dealt with in a magistrates' court
You will get free legal aid if you pass both tests.

If your case is committed for sentence from the magistrates' court to the Crown Court,
You will get free legal aid if you pass the means assessment.

If your case is a Crown Court trial, or your case is a retrial or a Voluntary Bill
You will get legal aid if your disposable household income is less than 37,500. However, if your income or capital, or both, are above a certain level, you may have to contribute towards the cost of your solicitor and defence under a Contribution Order.

If you appeal to the Crown Court against your conviction, sentence or order of a magistrates' court
You will get legal aid if you pass the Interests of Justice Test. However, you may have to pay towards the cost of your representation in the appeal, under a Contribution Order if you do not pass the means assessment and:

your appeal is not successful

or you abandon the appeal.

If you are applying in relation to Confiscation, Restraint or Receivership proceedings

These proceedings are not means tested but are subject to the Interests of Justice Test. You should complete form CRM14.

If you are subject to Enforcement proceedings

Your representation will be subject to a means assessment. You should complete a new form CRM14, and CRM15 if necessary.

If you want to know more:

- Your solicitor will be able to tell you more about the Interest of Justice Test and the means assessment.
- You may also find out more about the financial assessment by reading the guidance at:

  www.gov.uk/criminal-legal-aid-means-testing

  Your solicitors will also have a copy of the same

1 GUIDANCE **National Insurance Number**

You must provide this number if:

you receive one of the benefits listed in question14. If you are included on your partner's benefit claim, you will need to give your partner's National Insurance Number at question 11.

or you are over 18 when you apply and your case is going to the Crown Court for trial, retrial or a Voluntary Bill.

LETTERS	NUMBERS	LETTER

If you cannot provide a National Insurance Number, and you answer Yes to question 14 on form CRM14 (we call the benefits listed for this question, 'passported benefits')

you must provide recent evidence instead – for example, a benefit book, a notice of entitlement or letter from a Job Centre Plus which sets out the benefits which you receive. **This evidence must be dated within the last 3 month**s

Application Registration Card (ARC) Number

This is for applications from foreign nationals. If you are a foreign national, we expect you to provide your ARC number which is printed on your Application Registration Card. If you are alleged to be an illegal immigrant, you may have a limited amount of information to give. However, we would still expect you to provide your name, address and as many details as possible about your financial position.

3 LETTERS; 2 NUMBERS	6 NUMBERS	LETTER

8 GUIDANCE A Partner is someone to whom you are married or in a civil partnership with, or someone who you usually live with as a couple. This includes where you are living apart due to any reason other than a breakdown in your relationship that is likely to be permanent.

9 GUIDANCE Separation means no longer living together or your relationship has broken down, not only separation with a court order.

11 GUIDANCE **National Insurance Number**

You must provide this number if:

your partner receives one of the benefits listed in question14.

or your partner is over 18 when you apply and your case is going to the Crown Court for trial, retrial or a Voluntary Bill.

LETTERS	NUMBERS	LETTER

If your partner cannot provide a National Insurance Number, and you answer Yes to question 14 on form CRM14 (we call the benefits listed for this question, 'passported benefits')

Your partner must provide recent evidence instead – for example, a benefit book, a notice of entitlement or letter from a Job Centre Plus which sets out the benefits which your partner receives. **This evidence must be dated within the last 3 months**.

Application Registration Card (ARC) Number

This is for applications from foreign nationals. If your partner is a foreign national, we expect you to provide your partner's ARC number which is printed on their Application Registration Card. If your partner is alleged to be an illegal immigrant, you may have a limited amount of information to give about your partner. However, we would still expect you to provide your partner's name, address and as many details as possible about their financial position.

3 LETTERS; 2 NUMBERS	6 NUMBERS	LETTER

14 GUIDANCE **About the benefits which you receive**

If you tell us that you or your partner receive any of the benefits listed for this question, we will use your National Insurance Number, or your partner's, to check with the Department for Work and Pensions (DWP) that the information you give about the benefits is correct. If it is, you will automatically pass the means assessment. However, for some cases you may also have to pass the Interest of Justice Test.

If our checks with the DWP do not confirm the information you gave, we will tell you. You may then either provide evidence to support the information that you gave on the form or complete questions 15 to 22 on the CRM14 and form CRM15 where these questions direct you to.

15 GUIDANCE The figure of £12,475 a year (or £1,039.58 a month or £239.90 a week) is a gross amount – the amount before income tax and other deductions are taken away.

So if the sum of your income and your partner's income from all sources, **before income tax is taken away**, is £1,039.58 a month or £239.90 a week or more, you must complete form CRM15 as well as this form.

16 GUIDANCE **Income from employment**

Give the total income from all employment. Before you answer this question, read the guidance for question 17.

If you work for an **agency**, you may not be classed as an employee of the company you are working for.

We need to see evidence of your employment, or your partner's, or both if you both work. This evidence may be a wage slip or a salary advice. The evidence should be as recent as possible but must be dated within the last 3 months before the date of the application form.

EVIDENCE See *About evidence* on page 3.

Income from other benefits

For the purposes of the means assessment some benefits such as Housing Benefit, Disability Living Allowance and Carer's Allowance are disregarded and you should not declare benefits on the form. See section 12.6.1 Disregarded benefits of the Criminal Legal Aid Manual for a full list of disregarded benefits

Benefits in kind

If you receive 'benefits in kind', their value should also be included when calculating whether your total income is more than £12,475 a year. Please enter their value in the any other sources of income box and state 'benefits in kind'. Benefits in kind are benefits which you or your partner receives from your work instead of money. →

GUIDANCE

Examples of benefits in kind are:

- the use of a company vehicle
- fuel allowance (or vehicle and fuel allowance)
- free accommodation
- luncheon vouchers
- payments for relocation of where you live
- vouchers for children
- private health insurance
- help with mortgage payments.

Income from other sources which you have not described in the form so far.

For example, financial support from anyone (not just friends or family), or from someone who allows you to use assets or money.

17 GUIDANCE **Self-employment (working for yourself)**

If you are not sure whether you are self-employed, these questions may help you decide:

- Do you give invoices to clients for the work you do for them?
- Do you have a number of different clients who you work for?
- Do you find the work that you do?
- Are you responsible for the losses of your business as well as receiving the profits?
- Can you hire other people to do the work you've taken on?
- Have you invested your own money into your business?
- Do you provide major items of equipment, which are essential for your work?
- Have you had to fill out a self-assessment tax return for His Majesty's Revenue and Customs (HMRC)?

If you answer **Yes** to most of these questions, then you are probably self-employed. However, being self-employed does not mean that you cannot also work for someone else (as an employee).

Types of self-employment

Sole-traders

Many small businesses are sole-traders. This means that you receive all the income

generated by the business to keep for yourself or to re-invest. You are in complete control and can make decisions as you choose. Sole-traders also assume complete responsibility for liabilities and debts. As a sole-trader you are required to make an annual self-assessment tax return to HMRC. You must also keep records showing your business income and expenses.

Partnerships

In a partnership, two or more people share the risks, costs and responsibilities of the business. Each partner is self-employed and takes a share of the profits. Each partner usually shares in the decision-making and is personally responsible for any debts of the business. A partnership is not the same as a limited company. You should answer **Yes** to this question even if you are a **sleeping partner** (that is,

you are not involved in the partnership, but you are entitled to a share of the business and its profits). →

The partnership itself **and** each individual partner must make an annual self-assessment tax return to HMRC. The partnership must also keep records showing business income and expenses.

Company director

A company director is anyone registered as a director of a limited company (this does not include charities). A company director does not need to hold shares in that company.

Shareholder

For the purposes of this form shareholder means anyone who holds a number of shares in a **private limited company**.

Sub-contractor

If you are a **subcontractor** you undertake work which you get from a contractor. From 6th April 2007, the Construction Industry Scheme (CIS) places an obligation on contractors to make a monthly return. CIS paper vouchers will not be used after this date.

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19 GUIDANCE

The form may help you answer this question: check whether the *Case type* box at the top of page 1 has been completed. If it has not, ask a solicitor how you should answer this question. It is important that you answer the question correctly because your answer will decide whether you have to fill in form CRM15 and give us details of your property, savings, investments, outgoings and other matters.

As a rough guide, a summary offence will usually be dealt with in a magistrates' court only – but remember that your answer to this question depends on the most serious offence that you have been charged with.

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21 GUIDANCE

Before you answer this question, ask yourself whether you or your partner have any of the following types of saving:

- Bank accounts
- Building society accounts
- Cash ISAs
- National Savings or Post Office Accounts

- Any other cash investments
- National Savings Certificates
- Premium Savings Bonds

Ask yourself whether you or your partner have any of the following types of investment:

- Stocks, including gilts and government bonds
- Shares
- Personal Equity Plans (PEPs)
- Share ISAs
- Unit Trusts
- Investment Bonds
- Other lump sum investments

You should answer No to this question if:

you have nothing more than a **single** current account, into which your benefit/ wages/ salary are paid

and you have not already been directed to complete a CRM15 because of your answers to Questions 15 to 20

If you have already been directed to complete a CRM15 then you will need to declare all bank/building society accounts including any current accounts here and when you provide details on the CRM15.

23 GUIDANCE

You should ask a solicitor to help you answer this question (and questions 24 to question 31).

Your solicitor can provide you with the proper legal reasons why you should be given legal aid.

Your solicitor may want to consult the Guidance on the Consideration of Defence Representation Order Applications. This is available at:

www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

24 GUIDANCE

The class of offence

This question must be answered for all either way or indictable offences. Your solicitor will be able to help you answer it.

The class of offence is vital to ensuring we decide whether you must pay a contribution towards the cost of your legal aid, and if so, the amount.

If the form tells us the wrong class of offence and you are required to pay towards the cost of your legal aid, you could pay more than you should.

29 GUIDANCE

Reasons for wanting legal representation

Your solicitor will be able to help you with this question and this guidance.

1

It is likely that I will lose my liberty if any matter in the proceedings is decided against me

Loss of liberty does not include non-custodial sentences but does include remand into custody and prison sentences (including hospital orders).

Solicitors: If the entry point for this offence in the magistrates' guidelines is not custody, please explain why you think custody is likely in this case: for example, relevant previous convictions or aggravating features of the offence. Please give dates of relevant convictions, if you know them.

2

I have been given a sentence that is suspended or non-custodial. If I break this, the court may be able to deal with me for the original offence

You should give details of your sentence, its conditions, the alleged breach and say whether this is the first or subsequent breach of the order.

3

It is likely that I will lose my livelihood

The loss of livelihood should be a direct result of the conviction or sentence – please provide supporting evidence where possible. This would normally refer to your current livelihood, although it can apply if someone is genuinely unemployed for a short period between jobs. If you plan to plead guilty, please explain how legal representation might help you avoid losing your livelihood.

4

It is likely that I will suffer serious damage to my reputation

Reputation refers to good character, including honesty and trustworthiness, and is not related to social class or position. 'Serious' damage is judged to happen in cases where the disgrace of a conviction is more than the direct effect of the penalty. If you plan to plead guilty, please explain how legal representation might help you avoid serious damage to your reputation.

5

A substantial question of law may be involved (whether arising from an act, judicial authority or other source of law)

This applies where any matter in relation to the proceedings raises a point of law, which you cannot be expected to deal with unaided. Please explain why the question of law is relevant to the case. Questions of fact alone are not relevant. Where possible, please list the cases or laws, which give rise to the question of law.

6

I may not be able to understand the court proceedings or present my own case

There may be a number of reasons why you may not be able to understand court proceedings or to present your own case. These may include (but are not limited to) mental or physical disability, poor knowledge of English, age or vulnerability. The ability to understand proceedings or to present your own case is also likely to

depend on how complicated the case is.

7

Witnesses may need to be traced or interviewed on my behalf

You may need witnesses to be traced or interviewed to see whether they can support your case. This may be because you are pleading not guilty, or because you are pleading guilty and need help with a plea of mitigation (an explanation for the offence given on behalf of a guilty party in order to excuse or partly excuse the offence committed in an attempt to minimise the sentence). You should explain why you need legal representation to trace or interview witnesses.

8

The proceedings may involve expert cross-examination of a prosecution witness (whether an expert or not)

Expert cross-examination is likely to be needed where you are pleading not guilty and you expect the prosecution to call witnesses whose evidence you want to challenge. You are likely to need a lawyer to carry out expert cross–examination on your behalf if the evidence to be given by the prosecution witness is complicated or technical.

9

It is in the interests of another person (such as the person making a complaint or other witness) that I am represented

If you are charged with a sexual or violent offence, or where the person making a complaint is a child, it would not be appropriate for you to cross-examine in person. This criterion should not be used to argue that legal representation is in the general interests of your family or of the court.

10

Any other reasons

Please provide full details of any other reasons (which you have not mentioned elsewhere on the form) why you think it would be in the interests of justice that you are represented. For example, legal representation might be justified if you are likely to receive a demanding community sentence if convicted or if defence witnesses need skilful examination.

30 GUIDANCE If you have been charged with another person, the court may appoint a solicitor who is not the solicitor you have asked to represent you.

32 GUIDANCE You must answer **1** , **2** , **and** **3** but you may prefer to check the box

labelled ‘I prefer not to say’.

Your answers to this question will help us understand more about the people who apply for legal aid. As a result, we or HM Courts and Tribunals Service on our behalf, may produce management or research information. This will only be published in a statistical or anonymous form.

The protection of the information which you provide in the forms

- The Legal Aid Agency is the ‘data controller’ (as defined in the Data Protection Act 2018) and Relevant General Data Protection Regulations. You have the right to look at the personal information held about you, to inspect it, and have it corrected if it is wrong.

- We understand that your answers are personal information. We will treat the information that you provide confidentially, subject to the Data Protection Act 2018 and Relevant General Data Protection Regulations. The **Protect-Personal** notice at the top of page 1 of the forms warns court staff to take care to protect the information in the form.
- We may share the information you provide with law enforcement agencies, and organisations such as the Department for Work and Pensions, HM Revenue and Customs, Land Registry, Companies House, and sometimes Credit Reference Agencies. We will share the information only if it is necessary to protect public funds or where we are lawfully required to do so.
- We will keep information for as long as is necessary to – fulfil our duties under the Legal Aid Sentencing and Punishment of Offenders Act 2012.
- If you provide false or inaccurate information and we identify fraud, we will pass details to fraud prevention agencies which work to prevent fraud and money laundering. You can find information about these agencies by going to the *Fair Processing Notice* at:

  www.justice.gov.uk/legal-aid/make-an-application

Other sources of information we use to decide whether to grant you legal aid

- We (and others such as enforcement agencies) may use the information recorded by fraud prevention agencies.
- If necessary, we may use information we may already hold about you (we may hold information because you have applied for civil legal aid or criminal legal aid before).

36 EVIDENCE **Income from employment**

We need to see evidence of your employment, or your partner's, or both if you both work. This evidence may be a wage slip or a salary advice. The evidence should be as recent as possible but must dated within 3 months of the application form being completed

See *About evidence* on page 3.

38 GUIDANCE **Your partner's declaration**

If your partner is unable to sign the declaration – for example, because they are in hospital, you must tell us the reasons and give contact details in case we decide

to check that information. You should provide this information below your signature on your own declaration at question 39.

If your partner does not sign the declaration before you send us the application, and you do not give a satisfactory reason at the end of question 39, we may return your application and tell you that your partner must sign.

This may happen for example, if your partner is working away from home. However, if your case goes to the Crown Court for trial, the court may make a representation order giving you legal aid.

The court will then issue a reminder to tell you that your partner needs to sign the form. This will happen even if you have been remanded into custody by a court.

If that happens and your partner still does not sign the form, you may be asked to pay £900 a month (or more if your monthly disposable income is higher than that).

If you are having real difficulty obtaining your partner's signature to the declaration, you or your solicitor may ask the court for advice.

Guidance for completing paper forms CRM14 and CRM15

Legal Aid Agency

Guidance for **CRM15**

When you fill in this form

The form is designed like form CRM14. For instance, in some questions we ask you to give details for both you and your partner.

Remember:

- Answer all the questions from 1 to 39 unless there is an instruction to move to a later question.
- The advice for form CRM14 on pages 1, 2, 3 and 4 of this Guidance applies to this form also.
- ⓘGUIDANCE

  This means that we want you to go to the question number in the table on pages 14 to 22 of this Guidance document.
- ⓘEVIDENCE

  This means that we want you to go to

  the question number in the table on pages 14 to 22 of this Guidance. We may need to see evidence that confirms the information that you give in this form and in any other forms you use to apply for legal aid. The evidence we need to see is described on pages 14 to 22.
- ⓘCRM15C

  This means that we want you to use the form CRM15C if you need more space to answer some of the questions: see the box opposite.
- You may not have to provide the evidence we ask for: see *Rules about evidence* on page 3 of this Guidance.
- You may not have to give information about your partner if you answered **Yes** to question 12 on form CRM14.

Use form CRM15 if:

You have completed form CRM14 and you have been directed by your answer to either question 15, 17, 18, 20 or 21 to complete this form

or your financial circumstances have changed and you are notifying us of the details of the change.

Use form CRM15C if:

You need to give more information when you answer questions 2, 5, 13, 24, 25, 26, 28 or 29 of this form.

You can get a copy of form CRM15C from www.gov.uk/government/publications/criminal-legal-aid-application-forms

Question		Guidance and Evidence requirements for questions on CRM15
1	GUIDANCE	If you have already been assessed for legal aid and you are submitting a new application because you or your partner has had a change in financial circumstances you should tick the box next to "A change of my financial circumstances"
2	GUIDANCE	If you or your partner are employed by someone else as an employee, you must give the employer's full name and address. If you do not, we will not accept your application. If you work for an **agency**, you may not be classed as an employee of the company you are working for. See question 3. If you are a **subcontractor** you undertake work which you get from a contractor. Since 6th April 2007, the Construction Industry Scheme (CIS) contractors have been obliged to make a monthly return. A subcontractor is classed as being self-employed. If you receive income from being self-employed, employed in a business partnership or employed as a company director or shareholder **only**, see question 3. **Deductions** You should complete the question to the best of your ability. Where deductions information is missing, the court can still process your application. If the information you provide does not match the supporting evidence your application will be reassessed once the evidence is received. If your case is in the Crown Court, this could mean a change to whether you need to pay contributions to the cost of your case from your income and the amount.
	EVIDENCE	**If you receive cash in hand**, you should provide documents that prove the amount you declare in the form. **If you receive a wage or salary**, you should provide the most recent available pay slip. This must be dated within the last 3 months. We would prefer the evidence to show your National Insurance Number and the total earnings for the financial year so far. If you cannot provide this evidence, then you should ask your employer for a letter on the company notepaper stating the amount you have earned in the past 12 months. If you work for more than one employer, we need evidence from each employer.
3	GUIDANCE	We need to know the number of businesses, partnerships or private companies from which you or your partner receive an income. You may be employed in more than one of these so you may put a number in more than one of the answer boxes (do not leave any boxes empty – put NIL if a box does not apply to you). **Self-employment** If you are not sure whether you are self-employed, these questions may help: • Do you give clients invoices for the work you do for them? → • Do you have a number of different clients that you work for? • Is it up to you to find the work that you do? • Are you responsible for the losses of your business as well as receiving

the profits?

- Can you hire other people to do the work you've taken on?
- Have you invested your own money into your business?
- Do you provide major items of equipment, which are essential for your work?
- Have you had to fill out a self-assessment tax return for His Majesty's Revenue and Customs (HMRC)?

If you have answered **Yes** to most of these questions then you are probably self-employed. Working for yourself (being self-employed) does not mean that you cannot also work for someone else (as an employee).

Types of self-employment:

Sole-traders
Many small businesses are sole-traders. This means that you receive all the income generated by the business to keep for yourself or to re-invest. You are in complete control and can make decisions as you choose. Sole-traders also assume complete responsibility for liabilities and debts.

As a sole-trader you are required to make an annual self-assessment tax return to HMRC. You must also keep records showing your business income and expenses.

Partnership
In a partnership, two or more people share the risks, costs and responsibilities of the business. Each partner is self-employed and takes a share of the profits. Usually each partner shares in the decision-making and is personally responsible for any debts of the business. A partnership is not the same as a limited company. You should answer **Yes** to this question even if you are a **sleeping partner** (that is, you are not involved in the partnership, but you are entitled to a share of the business and its profits).

The partnership itself **and** each individual partner must make an annual self-assessment tax return to HMRC. The partnership must also keep records showing business income and expenses.

Directorship
A company director is anyone registered as a director of a limited company (this does not include charities). A company director does not need to hold shares in that company.

Shareholder
For the purposes of form CRM15, a shareholder means anyone who holds a number of shares in a **private limited company**.

Sub–contractor
If you are a **subcontractor** you undertake work from a contractor. From 6th April 2007, the Construction Industry Scheme (CIS) places an obligation on contractors to make a monthly return. CIS paper vouchers will not be used after this date.

Agency worker
If you work for an **agency**, you may not be classed as an employee of the company you are working for.

4 GUIDANCE If you or your partner have submitted a self assessment tax return (SA100) in the last

2 years, HM Revenue and Customs should have provided you with a tax calculation sheet (SA302) showing your income for the year and the tax liability that HMRC has calculated that you should pay in relation to that income.

EVIDENCE

You must provide a copy of your P60 or your tax calculation sheet (SA302)

5 GUIDANCE

Based on your type of employment, complete the breakdown of your income, to the best of your ability.

We understand that some parts of this question may not be relevant to your type of employment. However, if a particular part has not been addressed (which we believe would be relevant), we will return your application to you.
If you think a part of the question does not apply to you, please follow the instruction in the panel on the form and say so in the answer box for that part.

Self-employed income

There are three main types of income you are likely to get if you are self-employed:

- ***Turnover***: The total of invoices (sales) issued during an accounting period, excluding any VAT.
- ***Drawings***: Money or goods that the owner or partner takes out of the business for personal use.
- ***Profit***: This is your turnover minus expenses such as travel, rent and rates and telephones.

EVIDENCE

If you are a sole trader:
You must provide the annual self-assessment tax return that you make to HMRC **or** records which show your business income and expenses.

If you are in a business partnership:
You must provide your tax return and the partnership's tax return and/or the partnership's most recent business accounts when applying for legal aid.

If you are a director:
You must provide your company's business accounts and/or your full self-assessment tax return when you apply for legal aid.

If you are a shareholder:
You must provide the most recent copy of your completed business accounts **or** your full self-assessment tax return form (SA100). It is not sufficient to provide your tax calculation sheet only, because not everything that is counted as a deduction in your tax calculation is an allowed outgoing on the means assessment.

If you are a subcontractor:
You should provide a *Statement of payment and deduction*.

If you work for an agency:
You must supply wage slips for the last three months to date.

For a full list of the evidence requirements, please refer to the Criminal Legal Aid Manual, which is available on the GOV.UK:
www.gov.uk/government/publications/criminal-legal-aid-manual

6 GUIDANCE

The benefits referred to are also called ‘benefits in kind’. These are any benefits which you receive, usually from your employer, either instead of, or in addition to,

a cash payment, wage or salary. For example:

- a company car
- fuel allowance (or car and fuel allowance)
- private health insurance
- free accommodation
- luncheon vouchers
- childcare vouchers
- help with paying your mortgage
- relocation payments.

HM Revenue and Customs treats benefits such as these as taxable income even though they are not received in cash. If you receive any of these you must tell us about them because their value is counted as income in the means assessment.

EVIDENCE

You need to provide a copy of form P11D. You can obtain this form from HM Revenue and Customs.

7 GUIDANCE

Child Benefit

If you or your partner are entitled to Child Benefit but have opted out of receiving this because of the High Income Child Benefit Charge, then you should enter NIL or 0.00. You will still need to declare the children for whom you are entitled to Child Benefit at question 8.

If you or your partner are still in receipt of Child Benefit, but the High Income Child Benefit Charge applies, then you should enter the full amount of Child Benefit that you or your partner receive. The amount of Child Benefit that you pay back through the charge will be reflected by the evidence that you supply of the tax you pay.

Other benefit
Do not put housing benefit – we ask about this in question 15.

8 GUIDANCE

If you have opted not to receive Child Benefit due to the High Income Child Benefit Charge then you should still tell us the ages, at their next birthday, of any children for which you or your partner are entitled to receive Child Benefit.

9 EVIDENCE

If your pension before tax is £1000 or more per month, you must provide either a recent bank statement (within the last 3 months) to show the amount which you receive from a private pension, or your annual pension statement which shows how much you will receive.

10 EVIDENCE

If your maintenance income is £500 or more each month, you should provide documents that confirm this.

11 GUIDANCE

Savings and Investments include:

- Bank Accounts
- Building Society accounts
- Cash ISA's

- National Savings certificates
- Post office accounts
- Stocks, including gilts and government bonds
- Shares
- Personal Equity Plans (PEPs)
- Share ISAs
- Unit Trusts
- Investment Bonds
- Other lump sum investments.

EVIDENCE

If you receive interest or income from savings or investments, you should provide bank statements for the last 3 months.

12 GUIDANCE

Income from other sources
This does not refer to income from a directorship, shareholding or a trust fund.

EVIDENCE

If you have income from rent:
You must provide bank statements for the last 3 months.

If you have income from rent or any other source:
You must provide bank statements that show that you or your partner are now receiving, and have been receiving this income, for the last 3 months.

13 GUIDANCE

If you do not have any income and do not get any benefits, you need to tell us how you support yourself and pay for things like your bills or day-to-day living expenses. The court will look at the reasons you have given and decide whether it is acceptable. If you are subject to a restraint or freezing order, you need to tell us about this and clarify whether all assets are restrained. If you have any income or an asset that is not included in the orders, please declare this on the form when you answer the questions.

14 GUIDANCE

Rent
Is where you pay someone for a house or flat in which you live.

Board and lodgings
Is where you pay for a room in someone's house, treated as bed and breakfast, or for a flat in the property with or without food.

15 GUIDANCE

Tell us the total amount which you and your partner, together, pay for the rent and mortgage. If you or your partner receives housing benefit, take away the amount you receive in housing benefit from the total amount you pay for the rent and mortgage, to give the final amount that you should declare on the form.

Water, gas, electricity and other household expenditure
We do not ask you to tell us the amounts you pay for these household bills because the means assessment automatically includes a living allowance which takes your family circumstances and these payments into account. This living allowance covers payments for food, clothing, education, transport and utility payments like water, heating and power.

For more information about the Living allowance see section 9.4 of the Criminal Legal Aid Manual (CLAM) which can be found on the on the GOV.UK: www.gov.uk/government/publications/criminal-legal-aid-manual

EVIDENCE

If your housing costs, after deducting housing benefit, are more than £500 per month, you will need to provide evidence of this. This could be a copy of your tenancy agreement or mortgage statement.

We may also need evidence that you are paying this, so we may ask for bank statements too.

16 EVIDENCE

If your Council tax is more than £500 per month, you will need to provide evidence of this. This could be a document from your council.

17 GUIDANCE

When you answer this question you must make sure you state how much of the cost of your board and lodging, is for food. If you don't we will assume that half the cost of your board and lodging is for food.

18 GUIDANCE

Childcare costs can be taken into consideration in the means assessment if they are paid to a registered childcare provider. Unless there are exceptional circumstances (such as disability of the child) you should only make such a deduction for a dependent child aged 15 or under. For more information on childcare costs, see section 13.5 of the Criminal Legal Aid Manual (CLAM)

EVIDENCE

If your childcare costs are more than £500 each month, you must provide a receipt of payment or bank statement.

19 GUIDANCE

Maintenance payments made to:

a spouse or civil partner

or a former spouse or civil partner

or a child

or a dependent relative

can be taken into consideration in the means assessments. However, these outgoings can only be taken into account if the recipient does not live in the applicant's household. For further information please see section 13.6 of the Criminal Legal Aid Manual (CLAM).

EVIDENCE

If you pay more than £500 per month, you must provide evidence that you pay the amount you have declared on the form. This may be a receipt of payment or bank statement.

20 GUIDANCE

You should only include the following legal aid contributions:

- Civil legal aid contributions that you or your partner may be paying
- Criminal legal aid contributions being paid by your partner if you were previously included in their assessment.

You do not need to tell us about any contribution that you are making on an existing Crown Court case because our records will show this and we will include any contributions you are paying in our assessment. You will only be asked for one contribution at a time.

21 EVIDENCE

If you have paid income-tax within the 40% bracket, you must provide a copy of your P60 or your tax calculation sheet SA302 (which shows your tax liability).

22 GUIDANCE

Your solicitor will tell you whether to answer **No** or **Yes**. Or you may find the answer on page 1 of form CRM14 under *Case type*.

23 GUIDANCE

If you jointly own a property or land with your partner, you should only refer to this property in the box marked ‘you and your partner jointly’ (in these circumstances enter **NIL** in the box marked **You** and the box marked **Your partner**).

24 GUIDANCE

You must provide sufficient information so that we can verify your property or land. If the information isn’t sufficient, we will not accept your application and we will return it to you.

25 GUIDANCE

2

Other owners of a share of property or land
This would usually apply if you have bought your property on a shared ownership basis, with for example the housing association; or if someone other than you or your partner (if you have one) owns a share of your property. This would include ex-partners and partners with a contrary interest in the case. **Do not include a share owned by a mortgage lender**.

4

Market value
We do not expect you to obtain a valuation or mortgage statement to answer this part of the question but you should provide a reasonable estimate (we will check the information you provide with other parties such as the Land Registry).

You must provide sufficient information so that we can verify it. If the information isn’t sufficient, we will not accept your application and we will return it to you.

26 GUIDANCE

You need to tell us about all of your bank and building society accounts, including your current account, and any accounts that are empty or overdrawn.

You should also tell us about any accounts into which you or your partner has benefits, wages or salary paid.

Sort code or Account number:

These are usually on bank statements (there may be several codes). However, if you do not know this information, we will accept your application providing you have put the name of the bank or building society, and of the branch for each account.

Balances in an account: we do not expect you to put an exact balance (unless you have statements available when you fill in the form). But you should put a reasonable estimate.

You must provide sufficient information so that we can verify it. If the information isn’t sufficient, we will not accept your application and we will return it to you.

EVIDENCE

You will need to provide documents that support the information you have given on the form, such as:

- Bank statements for the last 3 months, for each account

- Building society statements or pass books showing transactions for the last 3 months, for each account
- Cash ISA statement or a certificate for each Cash ISA
- National Savings or Post Office Account statements covering the last 3 months, for each account
- Statement, passbook, certificate covering transactions for the last 3 months.

See *About evidence* on page 3.

27 GUIDANCE **Premium Savings Bonds**:
The holder number is a 9 digit number. If you do not have the holder's number or the cash value, you should confirm that you have Premium Savings Bonds (answer **Yes**) and give a reasonable estimate of the value.

You must provide sufficient information so that we can verify it. If the information isn't sufficient, we will not accept your application and we will return it to you.

EVIDENCE Certificates for all Premium Savings Bonds or the Bond Record (this may be called a Summary). See *About evidence* on page 3.

28 GUIDANCE **National Savings Certificate**:
The holder number is a 9 digit number. If you do not know your Holder number you can enter your customer number (the customer number is an 8 digit number followed by a dash and two digits). If you do not know the cash value, you should confirm that you have a National Savings Certificate (answer **Yes**) and give a reasonable estimate of the value.

You must provide sufficient information so that we can verify it. If the information isn't sufficient, we will not accept your application and we will return it to you.

EVIDENCE All National Savings Certificates or a passbook. See *About evidence* on page 3.

29 GUIDANCE **If you have any investments**:
The information you declare must be sufficient so that they can be identified. If the information provided is not sufficient to identify the investment your application form will be returned to you. For example, if you have shares to the value of £5,000, you should tell us how the shareholding is made up, such as National Express £2,000, Marks & Spencer £1,500, HSBC £1,500.

You must provide sufficient information so that we can verify it. If the information isn't sufficient, we will not accept your application and we will return it to you.

EVIDENCE

You will need to provide documents that support the information you have given on the form, such as:

- Certificate for each Stock held
- Latest dividend counterfoil for each company in which you hold shares
- Certificate for each PEP investment
- Certificate for each Share ISA investment
- Certificate for each Unit Trust investment
- Certificate for each Investment Bond

- Statement, passbook, certificate covering transactions for the last 6 months

See *About evidence* on page 3.

30 GUIDANCE **Trust funds**
If you have been remanded into custody by the court, you should give us a reasonable estimate of the amount held in the trust fund and the yearly dividend. But, if you have been released on bail, we expect you to get this information before you submit your application.

EVIDENCE You need to provide the original trust document.

See *About evidence* on page 3.

31 GUIDANCE Restraint orders will be brought against a defendant by the Crown Prosecution Service in relation to proceeds of crime charges to prevent the defendant from dissolving their assets. If you are subject to a restraint order, you would have been formally notified by the court where your case is being heard.

Freezing orders are made by the High or County Court to stop a defendant from disposing of assets or removing them out of the country pending resolution of a dispute.

EVIDENCE If you answered Yes, provide a copy of the restraint order or freezing order.

32 GUIDANCE If you have been charged with an either-way or indictable offence, you may have to contribute to some or all of the defence costs; this could be from your income, your capital or a combination of both. Please note: If your disposable income is equal to or exceeds £37,500 you will not be eligible for legal aid in a Crown Court trial and will have to pay privately.

33 GUIDANCE **Motor Vehicles**

You should tell us about all motor vehicles that you own by yourself or with anyone else by providing the vehicle registration numbers.

34 GUIDANCE You should only tick **Yes** if you have been remanded into custody by the court.

35 GUIDANCE If your case is heard in a magistrates' court and it decides whether you are guilty or not guilty, you should tick **Yes**. If your case will be committed to the Crown Court for trial you should tick **No**.

36 GUIDANCE A 'correctly completed form' includes not only all questions being answered fully, **but evidence being provided to confirm the information you give, when we require it** (See *About evidence* on page 3). The checklist should help you to make a correct application. Please keep in mind that:

EVIDENCE If you have genuine difficulty in providing evidence we require, you or your solicitor may contact the LAA.

Hardship and eligibility review (CRM16) form completion guidance

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 application using the Apply for criminal legal aid service.

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 Apply for criminal legal aid service.

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 application using the Apply for criminal legal aid service.

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 application in the Apply for criminal legal aid service. They should make a note in the further information field that a CRM16 is attached.

In all other circumstances your solicitor must email the CRM16 and accompanying evidence to Nationalcrimeteam@justice.gov.uk

Data protection

The information about data protection on the application in the Apply for criminal legal aid service 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 LAA or Advantis Credit 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 application, for example, because of a temporary suspension, and/or have additional outgoings to those we asked you about on the application).

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
- 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 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 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 shows the 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.

36 Annex S: Guidance on Retention of Files and Evidence

LAA File Retention Policy

All legal aid applications (files) will be retained by the Legal Aid Agency for a minimum of 7 years in accordance with the retention policy. The 7 years run from the date the final bill is paid, or the date any debt is discharged, whichever is later.

Provider's Obligations:

Providers are required to keep the applicant's declaration form for 7 years from the date their file is closed. This can be either the hard copy containing the wet signature, or it can be scanned and kept electronically as a PDF document. If the client has signed the application digitally, it should be deleted after use and not saved to use again.

37 Annex T: State Benefits

Type of benefit	2025/26 Weekly Rates	Weekly rates from 06.04.26
Child Benefit[47]		
Eldest/only child	£26.05	£27.05
Each subsequent child	£17.25	£17.90
Incapacity Benefit		
Long-term rate paid after 24 weeks at short-term higher rate or to those who are terminally ill	£141.25	£146.60
Short-term rate Lower rate paid to the unemployed or those not entitled to SSP Higher rate paid after 28 weeks of SSP		
Claimant under pension age		
Lower rate	£106.65	£110.70
Higher rate	£126.10	£130.90
Claimant over pension age		
Lower rate	£135.50	£140.65
Higher rate	£141.25	£146.60

[47] Whilst everyone responsible for a qualifying child is entitled to claim Child Benefit, anyone with an individual income over £60,000, or who has a partner whose individual income exceeds £60,000, will have to pay back some or all of the benefit by way of a tax charge. The High Income Child Benefit Charge is 1% of the Child Benefit received for every £200 of individual income over £60,000 (the full amount of Child Benefit has to be paid back where income exceeds £80,000). Those affected can choose not to receive Child Benefit payments or to pay the tax charge through Self Assessment or PAYE. Please see **Annex R: Forms Guidance** on how to complete the application form if the charge applies to your client.

Type of benefit	2025/26 Weekly Rates	Weekly rates from 06.04.26
Pensions		
Basic pension (New State Pension)	£230.25	£241.30
Basic pension (Old State Pension)	£176.45	£184.90
Spouse or civil partner (Old State Pension)	£105.70	£110.75
Maternity Allowance £184.03 a week or 90% of average weekly earnings, whichever is less. Self-employed claimants get £27 a week if they have not paid enough NI for the full rate. Unemployed claimants doing unpaid work for the business of their self-employed spouse or civil partner get £27 a week.	£187.18	£194.32
Statutory Maternity Pay (SMP) 90% of average earnings for the first 6 weeks, then the lesser of standard rate or 90% of average weekly earnings	£187.18	£194.32
Statutory Neonatal Pay	£187.18	£194.32
Statutory Paternity Pay SPP/SAP: claimant paid lesser of the standard rate or 90% of average weekly throughout the claim.	£187.18	£194.32
Statutory Shared Parental Pay (ShPP) Standard rate or 90% of average weekly earnings, whichever is lower.	187.18	£194.32

Type of benefit	2025/26 Weekly Rates	Weekly rates from 06.04.26
Statutory Adoption Pay (SAP)		
90% of average earnings for the first 6 weeks, then the lesser of standard rate or 90% of average weekly earnings	£187.18	£194.32
Statutory Parental Bereavement Pay	£187.18	£194.32
Statutory Sick Pay (SSP)	£118.75	£123.25
Income support		
	Depends on applicant's circumstances but at least £72.90 if no income.	Depends on applicant's circumstances but at least £75.65 if no income.
Contribution based Job Seeker's Allowance (also called New Style Job Seeker's Allowance)		
Aged under 25	£72.90	£75.65
Aged 25 or over	£92.05	£95.55
Income-based Job Seeker's Allowance		
Single person aged under 25	£72.90	£75.65
Single person aged 25 or over	£92.05	£95.55

Type of benefit		2025/26 Weekly Rates	Weekly rates from 06.04.26
	Dependent children	£84.66	£87.88
	Lone parent aged under 18	£72.90	£75.65
	Lone parent aged 18 or over	£92.05	£95.55
	Couple - both under 18	£72.90	£75.65
	Couple - both under 18 – higher rate	£110.15	£114.35
	Couple - one under 18, one under 25	£72.90	£75.65
	Couple - one under 18, one 25 and over	£92.50	£95.55
	Couple - Both 18 or over	£144.65	£150.15
	Premiums for also available, such as for disability, disabled children, caring responsibilities		
Contribution-based Employment and Support Allowance (also called New Style Employment and Support Allowance)			
	Assessment Phase		
	Under 25	£72.90	£75.65
	Over 25	£92.05	£95.55
	Main Phase – additional component		
	Work related Activity Group	£36.55	£37.95
	Support Group	£48.50	£50.35
Income-related Employment and Support Allowance			
Income-related ESA has been replaced by Universal Credit, although it continues to be paid in some circumstances.			
	Assessment Phase		
	Under 25	£72.90	£75.65
	Over 25	£92.05	£95.55
	Main Phase – additional component		
	Work related Activity Group	£36.55	£36.55
	Support Group	£48.50	£48.50

Type of benefit		2025/26 Weekly Rates	Weekly rates from 06.04.26
Guarantee state pension credit[48]			
This benefit tops up income to:			
	Single	£227.10	£238.00
	Couple	£346.60	£363.25

[48] The age claimants can apply for Pension Credit is gradually going up to 65 in line with the increase in women's State Pension age and any further increase in the State Pension age.

38 Annex U: Further Guidance & Tools of the Scheme

Below is a list of links to assist administering the scheme, plus additional tools that may assist with submitting applications and bills.

Practical guidance on the Criminal Legal Aid scheme

www.gov.uk/criminal-legal-aid-means-testing

Financial eligibility calculator for criminal legal aid

You can use the calculator before submitting an application to quickly check if your client is likely to pass the means test. The calculator may be particularly useful if you are trying to estimate eligibility for more complex means cases or to estimate contribution levels in the Crown Court.

www.gov.uk/criminal-legal-aid-means-testing

Consideration of IoJ Guidance

Solicitors can access the guidance on considering the IoJ criteria on GOV.UK:

www.gov.uk/work-out-who-qualifies-for-criminal-legal-aid

CR14, CRM15 and CRM15C forms and completion guidance

www.gov.uk/government/publications/criminal-legal-aid-application-forms

CRM16 application form and completion guidance

www.gov.uk/government/publications/crm16-review-on-the-grounds-of-hardship

Frequently asked questions about the Apply for criminal legal aid service are on the Legal Aid Learning website:

https://legalaidlearning.justice.gov.uk/apply-faq/

Online Support Team

For technical queries relating to the Apply for criminal legal aid service or Sign in to Legal Aid Services (SiLAS) please call the Online Support Team on 0203 334 6664

Pro forma for transfers, withdrawals and added offences

Pro forma for transfers, withdrawals and added offences (www.gov.uk)

Motor Vehicle Order Scheme Guidance

Practical guidance on the Motor Vehicle Order scheme for those who are subject to an application for a clamping order or vehicle sale order and wish to contest the application can be found on GOV.UK:

www.gov.uk/criminal-legal-aid-means-testing

This guidance may also be relevant to any other person who shares ownership of the vehicle or who relies on the vehicle for transport.

Novation policy

The Novation Policy is available on GOV.UK:

www.gov.uk/government/publications/novation-policy

The Criminal Bills Assessment Manual (CBAM) and other practical guidance on the billing process

https://www.gov.uk/funding-and-costs-assessment-for-civil-and-crime-matters

Criminal Legal Aid Claim Code Guidance

www.gov.uk/legal-aid-submit-a-claim

39 Annex V: Definitions

Freezing Order

An order made by the court against an individual, preventing them having access to their assets.

The Representation Authority

The agency (LAA) that has the responsibility of processing the legal aid application.

Aggregation of means

The total amount of the applicant's and their partner's (where applicable) income to be included in the assessment.

Income Contribution

The amount of the monthly contribution required during the course of proceedings. This is based on an applicant's disposable income and is capped at six contributions (or five if paid promptly or in advance).

Final Contribution

The contribution required, following conviction, where the applicant has combined capital and equity assets over £30,000 and the Income Contributions (if any) have not covered the costs of defence.

Contribution Notice

The notification that an applicant either does not have to make an income contribution or, advance notice that a contribution will be required if the case progresses to the Crown Court. This is issued alongside the Representation Order.

Contribution Order

The notification that an applicant is required to make a contribution from capital during the course of proceedings and confirms the amount that is required to be paid.

Final Contribution Order

The notification that an applicant is required to make a contribution following conviction and confirms the amount that is required to be paid.

Representation Order

The notification that defence costs are being paid via legal aid.

Applicant

When we refer to applicant throughout the guidance material, we are referring to applicant and partner in cases where their income has been aggregated.

Partner

Partner is used to refer to your husband, wife, or civil partner, who you are not separated from due to a breakdown in the relationship which is likely to be permanent, or the person you live with as if they were your husband, wife, or civil partner.

40 Annex W: Glossary

CMIT	Case Management Improvement Team
CJS	Criminal Justice System
CCO	Capital Contribution Order
DoB	Date of Birth
DRC	Debt Recovery Company
DWP	Department for Work and Pensions
HMCTS	His Majesty's Courts and Tribunals Service
HMRC	His Majesty's Revenue and Customs
ICO	Income Contribution Order
IoJ	Interests of Justice
LAA	Legal Aid Agency
MAAT	Means Assessment and Administration Tool.
MoJ	Ministry of Justice
NCAT	National Crime Applications Team
NI	National Insurance
NINO	National Insurance number
RDCO	Recovery of Defence Costs Order