

This appendix contains some examples of people who would, or would not, qualify financially for solemn criminal legal aid under the new proposals. The consultation paper set out in more detail the basis for these calculations. The table below sets out some of the limits and allowances used, which are the same as those currently used for summary criminal legal aid.

Disposable income limit	£211 or less
Allowances from income	<ul style="list-style-type: none"> • for a spouse or partner £36.65 a week; and • for other dependants £56.11 a week each.
Capital disregard	£1,639
Capital allowances	<ul style="list-style-type: none"> • 1st dependant £335 (but only where that spouse/partner is dependent); • 2nd dependant £200; • each subsequent dependant £100 each.

Some of the examples refer to median case costs - for further explanation of this, you should refer to paragraph 1.13 of the consultation paper.

Calculations are based on weekly income and outgoings. (Monthly outgoings are, therefore, multiplied by 12, then divided by 52.) "Capitalised income" is weekly disposable income multiplied by 26 - see paragraphs 2.1 and 3.17.

EXAMPLE 1

Scenario

Case category: assault - sheriff court

Single man, on benefits, £80 week, including housing and council tax benefit. No dependants. Deposit account £1,000.

Calculation

<i>Income</i>		<i>Income received</i>	<i>Amounts to be deducted</i>	<i>Total of amounts to be deducted</i>	<i>Disposable income</i>
Total weekly income		£80			
Less:	• 100% weekly outgoings		£0		
	• Allowances		£0		
Total		£80		£0	
Total disposable income					£80

As this disposable income is less than £211, the applicant qualifies on income.

<i>Capital</i>		<i>Capital</i>	<i>Amounts to be deducted or disregarded</i>	<i>Total of amounts to be deducted</i>	<i>Disposable capital</i>
Bank account		£1,000			
Less:	• Allowances		£0	£0	
Total		£1,000		£0	
Total available capital					£1,000

As this available capital is less than £1,639, the applicant qualifies on capital.

EXAMPLE 2

Scenario

Case category: fraud - sheriff court

Married woman, earns £320 a week, husband earns £300 a week, no children, mortgage £300 a month, council tax £200 a month. No savings, house value £100,000.

Husband's income exceeds £211, so no spouse allowance given, and only 50% of the outgoings allowed.

Calculation

<i>Income</i>		<i>Income received</i>	<i>Amounts to be deducted</i>	<i>Total of amounts to be deducted</i>	<i>Disposable income</i>
Total weekly income		£320			
Less:	<ul style="list-style-type: none">• 50% weekly outgoings (independent spouse)		*£57.69		
	<ul style="list-style-type: none">• Allowances (no allowance for husband)		£0		
Total		£320		£57.69	
Total disposable income					£262.31

*Outgoings calculated as (£300 + £200) x 12, divided by 52 to give weekly figure (£115.38). Only 50% of this amount is allowed.

<i>Capital</i>		<i>Capital</i>	<i>Amounts to be deducted or disregarded</i>	<i>Total of amounts to be deducted</i>	<i>Disposable capital</i>
House (to be disregarded)		£100,000	£100,000		
No other capital					
Total		£100,000		£100,000	
Total available capital					£0

This disposable income is over the £211 threshold, but the excess (£51.31) multiplied by 26 amounts to £1,334.06. This is less than the median case cost for a trial (£2,749) but more than that for a plea (£1,241). We could therefore make a conditional grant of legal aid in this case.

EXAMPLE 3

Scenario

Case category: rape - High Court

Married man, earns £250 a week. Wife earns £100 a week. 1 child. Rent £150 a month. Council tax £100 a month. Deposit account £11,000.

Calculation

<i>Income</i>		<i>Income received</i>	<i>Amounts to be deducted</i>	<i>Total of amounts to be deducted</i>	<i>Disposable income</i>
Total weekly income		£250			
Less:	• 100% weekly outgoings		*£57.69		
	• Allowances				
	○ spouse		£36.65		
	○ children (1 X £56.11)		£56.11		
Total		£250		£144.73	
Total disposable income					£99.55

*Outgoings calculated as (£150 + £100) x 12, divided by 52 to give weekly figure.

As this disposable income is less than £211, the applicant qualifies on income.

<i>Capital</i>		<i>Capital</i>	<i>Amounts to be deducted or disregarded</i>	<i>Total of amounts to be deducted</i>	<i>Disposable capital</i>
Bank account		£11,000			
Less:	• Allowances				
	○ spouse		£335		
	○ 2 nd dependant		£200		
	• Capital disregard		£1,639		
Total		£11,000		£2,174	
Total available capital					£8,826

This capital exceeds the median case cost for a plea (£7,965) but is less than the median case cost for a trial (£13,356).

We could therefore make a conditional grant of legal aid in this case.

EXAMPLE 4

Scenario

Case category: RTA - sheriff court

Married man, earns £500 a week, wife earns £180 a week, two children, mortgage £450 a month, council tax £150 a month, loan £150 a month. Deposit account £8,000, house value £150,000.

Calculation

<i>Income</i>		<i>Income received</i>	<i>Amounts to be deducted</i>	<i>Total of amounts to be deducted</i>	<i>Disposable income</i>
Total weekly income		£500			
Less:	• 100% weekly outgoings		*£173.08		
	• Allowances				
	○ spouse		£36.65		
	○ children (2 X £56.11)		£112.22		
Total		£500		£313	
Total disposable income					£178.05

*Outgoings calculated as (£450 + £150 + £150) x 12, divided by 52 to give weekly figure.

As this disposable income is less than £211, the applicant qualifies on income.

<i>Capital</i>		<i>Capital</i>	<i>Amounts to be deducted or disregarded</i>	<i>Total of amounts to be deducted</i>	<i>Disposable capital</i>
House (disregarded)		£150,000	£150,000		
Bank account		£8,000			
Less:	• Allowances				
	○ spouse		£335		
	○ 2nd dependant		£200		
	○ 3rd dependant		£100		
	• Capital disregard		£1,639		
Total		£158,000		£152,274	
Total available capital					£5,726

This available capital is greater than the median case trial cost (£3,720). The applicant is therefore ineligible.

EXAMPLE 5

Scenario

Case category: sexual offence - High Court

Married man, earns £500 a week, wife earns £300 a week, two children, mortgage £450 a month, council tax £200 a month, loan £150 a month. Deposit account £12,000, house value £200,000.

Calculation

<i>Income</i>		<i>Income received</i>	<i>Amounts to be deducted</i>	<i>Total of amounts to be deducted</i>	<i>Disposable income</i>
Total weekly income		£500			
Less:	• 50% weekly outgoings (independent spouse)		*£92.31		
	• Allowances				
	○ spouse		£0		
	○ children (2 X £56.11)		£112.22		
Total		£500		£198	
Total disposable income					£295.47

*Outgoings calculated as (£450 + £200 + £150) x 12, divided by 52 to give weekly figure. Only 50% of this amount is allowed

This disposable income is over the £211 threshold.

<i>Capital</i>		<i>Capital</i>	<i>Amounts to be deducted or disregarded</i>	<i>Total of amounts to be deducted</i>	<i>Disposable capital</i>
House		£200,000	£200,000		
Bank account		£12,000			
Less:	• Allowances				
	○ spouse		£0		
	○ 1st dependant		£335		
	○ 2nd dependant		£200		
	• Capital disregard		£1,639		
Total		£212,000		£202,174	
Total available capital					£9,826

This available capital is less than the median case trial cost (£13,356).

The *balance of case costs* after deducting the available capital from the median trial cost is £3,530.

We have to decide whether the applicant can afford to pay this balance from his income. His disposable weekly income exceeds the £211 threshold by £84.47. His *capitalised income* (that sum multiplied by 26) is therefore £2,196.22.

The capitalised income is less than the balance of case costs. The applicant is therefore eligible.