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## A guide to civil legal aid

A horizontal banner at the top of the page features a repeating pattern of the Scottish Legal Aid Board logo. The logos are rendered in a light, semi-transparent color, except for one central logo which is in the dark blue color of the main logo.

**Civil legal assistance helps people to get legal advice (“advice and assistance”) and the help of a solicitor to put their civil case in court (“civil legal aid”). This leaflet explains more about these types of assistance and helps you work out whether you are likely to qualify financially for them.**

Valid from April 2010

## Contact us

Do you want to:

- find your nearest legal aid solicitor
- find out more about legal aid
- order our leaflets?

Call our **Legal Aid Helpline** on **0845 122 8686** (open seven days a week from 7am to 11pm), or visit our website **[www.slub.org.uk](http://www.slub.org.uk)**. Our website also contains details of our service standards.

If you have questions about the forms you need to fill in or your **financial eligibility**, call our financial assessment unit on **0845 123 2330** (weekdays 8.30am to 5pm).

Our general telephone number is **0131 226 7061**. Calls by BT Text Direct are welcome.

Our address is 44 Drumsheugh Gardens, Edinburgh EH3 7SW.

Our email address is **[general@slub.org.uk](mailto:general@slub.org.uk)**.

We do **not** provide legal aid directly; this is done by solicitors. We manage the legal aid system.

## Other useful contacts

Law Society of Scotland, 26 Drumsheugh Gardens, Edinburgh EH3 7YR. Telephone: 0845 113 0018. Website: [www.lawscot.org.uk](http://www.lawscot.org.uk)

Free advice is available from organisations such as Citizens Advice Scotland ([www.cas.org.uk](http://www.cas.org.uk)), Money Advice Centres ([www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk)) or Shelter (which deals with housing issues – [www.scotland.shelter.org.uk](http://www.scotland.shelter.org.uk)). Please go to their websites or look in Yellow Pages for their contact details.

## Our leaflets

- A guide to civil legal aid
- Civil legal aid - information for applicants
- Civil legal aid - what you may have to pay
- Guidance for opponents in civil legal aid cases
- Legal aid for children
- A guide to criminal legal aid
- Complaints and comments about the Scottish Legal Aid Board
- Access to information.

## Contents

1. What is civil legal assistance?
2. Civil advice and assistance
3. Civil legal aid
4. Who can give me advice and assistance, or legal aid?
5. How do I find a solicitor who can give me civil legal assistance?
6. Can I get free advice without applying or if I do not qualify for civil legal assistance?
7. How can I find out what I might have to pay?
8. How do I pay you my contributions?
9. What else should I think about before I apply for help?
10. How will you use the information I give you?
11. What if I am unhappy with how you or my solicitor has acted?
12. How can I work out if I qualify financially for advice and assistance, or legal aid?

## 1 What is civil legal assistance?

We can provide funding to help people who qualify to get legal advice and the help of a solicitor to put their case in court (“representation”), in civil cases. It may be free or you may have to pay a contribution towards the cost of your case.

There are two kinds of help you may be able to get:

- First, there is **advice and assistance**. This helps pay for advice from a solicitor on any matter of Scots law, civil or criminal, for example to try to settle a dispute for you without going to court. However, it does not normally pay for representation in court.
- Second, there is **civil legal aid**. (Since this leaflet deals only with civil matters, where we refer to “legal aid”, we mean civil legal aid.) This helps pay for your solicitor to act for you in court. It covers the preparation work, as well as the hearing itself, and can provide funding for advocates and experts if needed. Most cases begin with advice and assistance; legal aid may be the next step if necessary. We will usually tell you within 32 days of receiving your application for legal aid whether it has been successful (30 days if your solicitor applies online). This does not include any periods where we have asked you or your solicitor for more information, and we are waiting for a response.

We explain more about both of these below. Together, they are called **civil legal assistance**. If you need help with a criminal matter, see our leaflet *A guide to criminal legal aid*. Children looking for legal aid should see our leaflet *Legal aid for children*. Read how to get these leaflets on the inside front cover.

**If you do not qualify for advice and assistance, you may still qualify for legal aid, and vice versa – ask your solicitor about this.** Some people need only advice and assistance, others need only legal aid, and some need both. Many people start the legal process with advice and assistance, and then move on to legal aid.

If you decide to apply, you must do so through a solicitor.

### **1.1 What is a civil matter?**

Here are some examples of civil matters that you may be able to get help with:

- divorce and other matters affecting families and children
- trying to get compensation for injuries after an accident or for medical negligence
- housing matters such as rent or mortgage arrears, repairs and eviction
- debt and welfare rights
- matters relating to immigration, nationality and asylum.

## 2 Civil advice and assistance

### 2.1 What will advice and assistance cover?

Advice and assistance covers a wide range of matters, so long as:

- they are matters of Scots law
- you qualify financially, and
- financial help is not available to you from someone else, such as a trade union, insurance company or professional body.

As well as advising you about the matter you have raised, your solicitor can:

- advise you on whether you have a legal case to take forward
- try to negotiate with the other party to settle it
- advise you whether to apply for legal aid to take the matter to court
- write letters for you or get reports.

Your solicitor cannot represent you in court under legal aid for some kinds of case, such as:

- small claims of less than £3,000, unless the claim involves personal injury
- some actions relating to bankruptcy.

However, they may be able to advise you on these.

### 2.2 How do I qualify financially for advice and assistance?

Your solicitor will decide whether you meet the financial eligibility limits for advice and assistance set by Parliament. Both your weekly disposable income and your disposable capital (savings and items of value you own) must be within set limits. Generally, you will qualify if your savings and anything of value that you own (excluding the home you live in) are worth £1,664 or less, and:

- you receive income support, income-based jobseeker's allowance, or income-based employment and support allowance
- your weekly disposable income (after you pay certain bills and allowances) is less than £238.

If you are a pensioner, you may still qualify even if your savings and what you own are worth more than £1,664.

For advice and assistance, you will not have to pay a contribution from capital, but you may still have to pay one from income, depending on how much you get.

You can follow the steps in section 12.1 to work out whether you qualify financially for advice and assistance. Or you can use the online calculator on our website at [www.slab.org.uk](http://www.slab.org.uk). The information in this leaflet and on our website is only a guide. You should talk to a solicitor, who will confirm whether you meet the financial eligibility limits for advice and assistance. To find a solicitor, see section 5.

It is important that you give your solicitor correct information on your financial position. They will need to know about your income, savings and dependants (children or other people you are supporting). You should take along evidence of these when you first visit your solicitor. For example, you should take:

- recent wage slips, or accounts if you are self-employed
- pension payment advice from an ex-employer or take your pension or benefit book
- current benefit award letters or notifications
- details of all savings or accounts - for example a bank / building society/post office statement or passbook.

If you do not provide this evidence at the start, your application may be delayed. Your solicitor can only start working for you if they are satisfied that the information you have given about your financial circumstances is right.

If you are married or living with a partner, your solicitor will normally need also to know the same information about their income and savings, unless:

- you are separated
- they are the person you have a legal problem with or they are the opponent in your case
- it would be unfair or too difficult to do so.

Your solicitor will also have to be sure that the matter you are asking for advice on is a question of Scots law.

## 3 Civil legal aid

### 3.1 What will legal aid cover?

If you and your solicitor agree that using advice and assistance will not solve your problem, and that you need to take your case to court, you may need to apply for legal aid.

If you decide to apply for legal aid, your solicitor will give you a copy of our leaflet *Civil legal aid - information for applicants*, which gives more information about the legal aid process.

### 3.2 How do I qualify for legal aid?

You and your solicitor will fill in application forms about the nature of the case and your financial situation, and send these to us. We assess all applications in the same way and we must follow rules set down in law by Parliament. You must qualify on all the tests before we can grant legal aid.

To grant legal aid, we have to decide that:

- you qualify financially
- you have a legal basis for your case (sometimes called “probable cause”)
- it is reasonable you should receive legal aid - for example, it may not be reasonable to grant legal aid if the person you are trying to sue has no money; or your case will cost much more than it is worth; or it looks unlikely that you will succeed
- financial help is not available to you from someone else - like a trade union, insurance company (some types of case might be covered by, say, your household or car insurance policy) or professional body.

Both your yearly disposable income and your disposable capital (savings and items of value you own) must be within set limits. In general, you pay nothing towards legal aid if:

- your disposable income is £3,415 or less and your disposable capital is £7,617 or less, or
- you are or your partner is receiving income support, income-based jobseeker’s allowance or income-based employment and support allowance.

However, you will have to pay a contribution if your:

- yearly disposable income is between £3,415 and £25,450, or
- disposable capital is between £7,617 and £12,626.

And you:

- will not be eligible for legal aid at all if your yearly disposable income is more than £25,450
- may not be eligible for legal aid if your disposable capital is more than £12,626.

Even if your capital is more than £12,626, you may still qualify if you are a pensioner, or if we believe that it would be in the interests of justice to grant legal aid. Your solicitor can advise you about this.

For more details about whether you qualify for legal aid, you can follow the steps in section 12.2. These explain terms like “disposable income” and “disposable capital”, and any allowances you may have. You can also use the online calculator on our website at [www.slab.org.uk](http://www.slab.org.uk).

Remember: you should only use your own calculations as a rough guide. If you decide to apply for legal aid, you must do so through a solicitor. To find a solicitor, see section 5. We will assess your application to decide if you qualify. We will look at your financial eligibility, whether you have a legal basis for your case, and whether it is reasonable to grant legal aid in the circumstances.

The figures shown change each year. Please ensure that you have an up-to-date version of this leaflet.

### 3.3 What if I need work doing urgently?

Before we decide whether we can grant you legal aid, your solicitor may be able to do urgent work on your behalf in court - for example, to apply for an order to prevent someone assaulting you. However, you may have to pay us for this work, even if:

- you decide not to go ahead with the case, or
- we later refuse your application for legal aid.

## **4 Who can give me advice and assistance, or legal aid?**

You can get both kinds of help only through a solicitor. This may be a solicitor working in private practice, a law centre or other advice agency, or employed by us.

## **5 How do I find a solicitor who can give me civil legal assistance?**

To find a solicitor who is registered to give civil legal assistance:

- call our Legal Aid Helpline on 0845 122 8686 (open seven days a week from 7am to 11pm)
- visit our website [www.slab.org.uk](http://www.slab.org.uk).

You can also get information about local solicitors from the Law Society of Scotland and from your local Citizens Advice Bureau (see the inside front cover of this leaflet for contact details).

The Board also runs its own civil legal assistance offices in certain areas. These are staffed by solicitors who we employ to take on legal aid cases for people who are eligible for legal aid but cannot find a local solicitor.

To contact the civil legal assistance office Highland and Islands (Highland, Moray, Western Isles, Orkney and Shetland) call on 0845 123 2353, visit the website [www.slab.org.uk/civiloffice](http://www.slab.org.uk/civiloffice) or email [mail@pvs.slab.org.uk](mailto:mail@pvs.slab.org.uk).

A similar service is available in Argyll and Bute: please call 01546 604 106.

We also run advice surgeries and do other work on civil law matters in prison and community links centres across the Lothians.

## 6 Can I get free advice without applying or if I do not qualify for civil legal assistance?

Free advice is available from various organisations such as Citizens Advice Scotland, Money Advice Centres or Shelter (which deals with housing issues). They may be able to help with your case, and help you decide whether you need legal advice (see the inside front cover of this leaflet for contact details). You may also find that you can get help through your union or insurers.

## 7 How can I find out what I might have to pay?

Legal assistance is not always free. If we grant you advice and assistance or legal aid, you may have to pay something towards the cost of one or both, as we explain below.

We will pay your solicitor's bill. However, we have a responsibility to try to get back the money we have paid. To cover the costs, we will use:

### **For advice and assistance:**

- first, any contributions you pay (see section 7.1) – which depend on your income
- second, any costs your opponent pays
- third, if the first two are not enough, part or all of any money or property you win or keep (this is known as "clawback")
- fourth, if the first three are not enough, our own funds.

In some cases, you might not have to use the property or money you win or keep to pay your solicitor's bill, if you can show that to do so would cause you grave hardship or distress.

### **For legal aid:**

- first, any costs your opponent pays
- second, any contribution you have to pay to us
- third, if these first two are not enough, part or all of any money or property you win or keep
- fourth, if these are not enough, our own funds.

For more information about what you may have to pay, see our leaflet *Civil legal aid – what you may have to pay*.

If you do have to pay something, you pay your solicitor direct for advice and assistance. They can do work only up to a set financial limit under advice and assistance. If they want to do more work, costing more, they have to ask us to agree that they can do it. If we don't agree to this, your solicitor:

- cannot ask you to pay separately for this while continuing with legal assistance
- may ask you if you want them to continue to work for you privately. If you do this, they must fully explain to you, and you must agree to, their terms of business before they can start working for you again.

However, for legal aid, you pay us your contribution.

## **7.1 Contributions**

You may have to pay a contribution towards advice and assistance and legal aid. These are worked out differently – see sections 12.1 and 12.2 to work out roughly what you might have to pay. Please contact our financial assessment unit if you have any queries about what you have to pay. If you do have to pay, the amount will depend on your income, savings and property.

For advice and assistance, your solicitor should tell you at the start of your case:

- what you have to pay, if anything, for advice and assistance (there are rules about how much your solicitor can ask you to pay)
- whether you might have to pay out of any money you keep or win.

For legal aid, your solicitor should be able to tell you if you are likely to have to pay anything. But if we decide to grant legal aid, we will tell you:

- exactly how much your contribution, if any, will be
- how long you can pay the instalments over.

For legal aid, you can normally pay contributions from income in monthly instalments. Generally, the more you have to pay, the more time we will give you.

When you apply for legal aid, it is important that you ask your solicitor to calculate and tell us the likely cost of your case. This may save you money, as we can initially limit any contribution you must pay to the amount that your solicitor estimates. But if the case ends up costing more than the estimate, we will work out the difference between:

- the estimate and the contribution we originally calculated you could pay
- the estimate and the actual cost of the case.

You must then pay the smaller of these two amounts.

You may get some of your contribution back if the case costs less than you have paid us, or if we get back some of the costs from your opponent.

## **7.2 If you lose the case**

If you take your case to court and receive legal aid, this does not mean your opponent's costs are covered. So, if you lose your case, the court may order you to pay some or all of your opponent's costs, or you may agree to pay them as part of a settlement. In either case, you must pay any such costs yourself – we cannot pay them for you. Your solicitor will give you more information about this when you are deciding whether to take the case to court.

## 8 How do I pay you my contributions?

The figures below deal with contributions for legal aid that you pay to us. They do not apply to contributions towards advice and assistance. You pay these direct to your solicitor, who will tell you how much you have to pay.

If you have to pay a contribution to us based on income, we will normally allow you to pay in instalments. We'll tell you how many instalments, and over how long a period. This will depend on the total amount you have to pay. Normally, we will allow contributions of:

- up to £500 to be paid in 20 monthly instalments
- £501 to £1,000 to be paid in 30 monthly instalments
- £1,001 to £1,500 to be paid in 36 monthly instalments
- £1,501 to £2,000 to be paid in 42 monthly instalments
- over £2,000 to be paid in 48 monthly instalments.

If you think you will have difficulty paying over that period, sometimes we may allow you to pay over a longer time. You will have to show us reasons why we should allow you to do so. Staff in our treasury department will be happy to discuss this with you.

If your contribution is based on your capital, we will normally ask you to pay this in one lump sum.

## 9 What else should I think about before I apply for help?

Before you apply for advice and assistance or legal aid, please consider what you may have to pay in the end. We explain more about this in our leaflet *Civil legal aid – what you may have to pay*.

When you apply for legal aid, your solicitor will give you a leaflet, *Civil legal aid – information for applicants*, explaining more about legal aid.

Please read the leaflets carefully. Your solicitor will be able to estimate how much, if anything, you may have to contribute, and explain how this is calculated. If there is anything you are not sure about, you can contact our financial assessment unit (see the inside front cover).

Remember that if you wish to go on from advice and assistance to legal aid, you should ask your solicitor to calculate and tell us the likely cost of your case. As mentioned in section 7, this may save you money.

Your solicitor will also be able to give you advice about how clawback (see section 7) could affect you. If you win or keep any money or property because of the action, you may have to use this to meet the costs of the case. If this may affect you, they should give you a copy of the leaflet *Civil legal aid – what you may have to pay*.

Your solicitor may tell you that you are not eligible for legal assistance, but that they would be willing to take your case on by charging you their private rate. If this happens, we recommend that you:

- ask your solicitor to explain fully their reasons for this
- make sure you understand and agree to their terms of business before they start working for you.

Remember that you can always contact our financial assessment unit if you have any queries about your financial eligibility.

The information you give about your financial circumstances must be complete and accurate. If you deliberately give us false information:

- we may stop your legal aid
- you may have to repay the cost of legal aid you have received for your case
- criminal proceedings may be taken against you.

## 10 How will you use the information I give you?

By applying for legal aid, you permit us to discuss the information within the Board and, where necessary, with other people outwith the Board. For example, we may check your earnings with your employer, or the benefits you are claiming with the Department for Work and Pensions.

Solicitors representing the Law Society of Scotland may also see information in your application as part of the random quality assurance checks that the Society makes.

By law, we have to be very careful about how we use information that people give us. We will normally only pass on information to do with an application for legal aid if the person who gave us it has given their permission, or if the law says we must. However, if you ask someone like your MSP to contact us about your case, we will assume that, by doing so, you permit us to discuss it with them.

We also have duties to keep certain information confidential, and to supply other information, under the Data Protection and Freedom of Information Acts. For example, we can't give you personal information about another person. But you have the right to ask us about information we hold on you, and some other information that we record about legal aid and how we work.

We sometimes use the information to check your identity, if you phone us. We also collect certain details to make sure that our ways of working do not discriminate unlawfully, and do allow equal opportunities and access for all.

If you would like to know more about how we use information we are given, please read our leaflet *Access to information*, which explains how:

- you can find out what information we hold about you
- we will treat any information we hold about you
- you can get access to other records and official information we keep.

## 11 What if I am unhappy with how you or my solicitor has acted?

Our leaflet *Complaints and comments about the Scottish Legal Aid Board* explains our complaints procedure. You can get this from us: please see our contact details on the inside cover of this leaflet. Or you can find the leaflet on our website at [www.slab.org.uk](http://www.slab.org.uk).

### **If your complaint is about your solicitor**

You should first speak to him or her. If you are still not satisfied, you should speak to the person in the firm who deals with complaints, and they will try to resolve the problem.

If your complaint is to do with legal aid, we would like you to send us a copy of any correspondence or notes about the matter.

If you remain unhappy about the situation, you can contact the Scottish Legal Complaints Commission (see later).

### **If your complaint is about your advocate**

You should first speak to him or her. If you remain unhappy about the situation, you can contact the Scottish Legal Complaints Commission (see later).

If your complaint is to do with legal aid, we would like you to send us a copy of any correspondence or notes about the matter.

## **The Scottish Legal Complaints Commission**

This Commission is independent of the legal profession and handles complaints about the service provided by legal practitioners. It does not cost you anything to make a complaint to the Commission. The Commission can also look at the way professional bodies (such as the Law Society of Scotland or the Faculty of Advocates) handle any complaints about misconduct and professional discipline, and can enforce its recommendations.

Contact the Scottish Legal Complaints Commission, The Stamp Office, 10–14 Waterloo Place, Edinburgh, EH1 3EG, telephone 0131 528 5111, email [enquiries@scottishlegalcomplaints.org.uk](mailto:enquiries@scottishlegalcomplaints.org.uk). Or see their website [www.scottishlegalcomplaints.org.uk](http://www.scottishlegalcomplaints.org.uk).

### **If your complaint is about the courts**

To complain about the court, or court staff, that dealt with your case, contact the Scottish Court Service, Hayweight House, 23 Lauriston Street, Edinburgh, EH3 9DQ, telephone 0131 229 9200. Or find out more about their complaints procedure on their website at [www.scotcourts.gov.uk](http://www.scotcourts.gov.uk).

### **If your complaint is about a judge or sheriff**

To complain about the conduct of a judge or sheriff, write to the Scottish Government, Constitutional Law and Courts Directorate, Legal System Division, Courts and Administrative Justice Team, 2W St. Andrews House, Regent Road, Edinburgh, EH1 3DG.

## 12 How can I work out if I qualify financially for advice and assistance, or legal aid?

To work out if you are financially eligible for:

- advice and assistance – go to section 12.1
- legal aid – go to section 12.2.

The figures shown change each year. Please ensure that you have an up-to-date version of this leaflet.

**Remember, if you do not qualify for advice and assistance, you may still qualify for legal aid, and vice versa – ask your solicitor about this.**

### 12.1 Do I qualify financially for advice and assistance?

For criminal matters and for matters relating to children's proceedings, please see our leaflet *Do I qualify for advice and assistance – in criminal or children's cases?*

To qualify, you must show that both your income and your capital (savings and items of value you own) are within the current financial limits set by the Scottish Parliament.

Follow these steps to work out whether you are likely to qualify financially. You can also use the online calculator on our website to see if you qualify financially at **[www.slab.org.uk](http://www.slab.org.uk)**.

These figures are only a guide, and your solicitor will:

- go through them with you if you decide to apply
- confirm the exact figures
- tell you if you are eligible.

**Step 1:**

**Do you have a partner whose income and capital we need to consider?**

By “partner”, we mean someone you normally live with as a couple, whether you are:

- married or not
- of the same or different sex.

If you have a partner, you must include their resources in the total figures in each step, unless:

- you are living apart
- they are part of your legal problem or would be the opponent in your case
- it would be unreasonable or too difficult to do so – if so, you should speak to your solicitor.

**Step 2:**

**Do you or does your partner receive income support or income-based jobseeker’s allowance or income-based employment and support allowance?**

If either of you receives one of these benefits, you qualify automatically on income for advice and assistance and will not have to pay a contribution. Go straight to step 8 to check if you qualify on capital.

If neither of you receives these benefits, move on to step 3.

**Step 3:**

**Work out your net weekly income.**

By “net weekly income”, we mean your total income, from all sources, you and your partner receive or are entitled to in a week, minus tax and National Insurance contributions if you are employed or self-employed. If you get any income monthly, multiply the monthly amount by 12 and then divide by 52 to work out the weekly figure. To make adding up the figures easier, round up or down to the nearest pound.

This is only a guide to whether you are likely to be financially eligible. If you apply for advice and assistance, your solicitor will:

- go through these figures with you
- work out your net income for the seven days up to and including the date of your application
- tell you if you are eligible.

### You must include:

- earnings (including any tips), drawings or profits from business
- maintenance payments (unless paid through the Child Support Agency)
- private or employee pensions
- occupational sick pay
- occupational maternity pay
- student grants or bursaries (but not student loans)
- National Asylum Support Service (NASS) payments
- money received from friends and relatives (other than loans)
- income from savings and investments
- dividends from shares.

### Do not include:

- attendance allowance
- back to work bonus
- bereavement allowance
- bereavement payment
- child benefit
- child maintenance bonus
- child support maintenance (paid through the Child Support Agency)
- child tax credit
- Christmas bonus
- contribution-based employment and support allowance
- contribution-based jobseeker's allowance
- council tax benefit
- disability living allowance
- guardian's allowance
- housing benefit
- incapacity benefit
- industrial injuries disablement pension
- invalid care allowance
- pension credit
- severe disablement allowance
- state retirement pension
- statutory maternity pay (non-occupational)
- statutory sick pay (non-occupational)
- sums payable to holders of the Victoria Cross or George Cross
- war disablement pension
- war widow's or widower's pension
- widowed parent's allowance
- working tax credit.

This is your total net weekly income - write the figure in this box:

£

box 1

**Step 4:**

**If you pay maintenance, work out what you pay weekly.**

Write your weekly maintenance payment in this box:

£

box 2

**Step 5:**

**Add together the following allowances for your partner and each dependant (adult or child).**

By a "dependant", we mean a child, or a person living with you who has no income of their own.

Partner	£37.30
Dependants: for each child	£57.57
Dependants: for each adult (except your partner)	£57.57

These are your weekly allowances - write the total figure in this box:

£

box 3

**Step 6:**

**Work out your total weekly disposable income.**

Take your net weekly income (see box 1), and take away your weekly maintenance payment (box 2) and your weekly allowances (box 3). The following table helps you do this. The figure you come to is your weekly disposable income.

Figure from box 1 (*net weekly income*)



MINUS

Figure from box 2 (maintenance payment)



MINUS

Figure from box 3 (weekly allowances)



EQUALS

weekly disposable income

box 1

box 2

box 3

box 4

### Step 7:

**Does your weekly disposable income mean you qualify for advice and assistance?**

If your weekly disposable income is more than £238, then you do not qualify for advice and assistance.

If it is £238 or less, then you qualify on income, but you should see step 8 to check if you qualify on capital. You may have to pay a contribution - see step 12.

### Step 8:

**Now work out your total capital.**

Now you have calculated whether you qualify on income, you need to work out if you qualify on capital. By "capital", we mean savings and anything else of value that you own.

Add up all your capital and that of your partner (unless we do not have to consider their resources - see step 1).

## Examples of capital are:

- the amount that could be borrowed against all land and buildings you or your partner own (but not including the home that you live in), including interests in timeshares
- money in the bank, building society, Post Office, Premium Bonds, National Savings Certificates and so on
- investments, stocks and shares
- money that can be borrowed against insurance policies
- the value of any non-essential possessions, such as a boat, a caravan, second car, jewellery (but not wedding or engagement rings), antiques or items bought for investment purposes
- money that is owed to you or your partner
- money due from the will of someone who has died
- money due from a trust fund
- money that can be borrowed against business assets
- redundancy payments.

## Do not include:

- the home you live in
- your household furniture and clothing
- tools and equipment you need for work
- the value of any property or item that is the subject of the dispute.

This is your **total capital** - write the figure in this box:

£

box 5

## Step 9:

**Add up the following allowances against capital for each dependant (adult or child) living with you.**

The allowances are:

for the first dependant	£335
for the second dependant	£200
for each additional dependant	£100

These are your allowances - write the total figure in this box: £

£

box 6

**Step 10:**

**Work out your total disposable capital.**

Take your total capital (box 5) and take away your allowances (box 6).

The figure you come to is your total disposable capital.

Figure from box 5 (*total capital*)



**MINUS**

box 5

Figure from box 6 (allowances)



**EQUALS**

box 6

**total disposable capital**

box 7

For advice and assistance, if your total disposable capital is £1,664 or less, you qualify on capital. If you are a pensioner, you may qualify even if your capital is more than £1,664 - speak to your solicitor about this.

## Step 11:

### Do you qualify for advice and assistance?

You are likely to qualify for advice and assistance if:

- your disposable income (the figure in box 4) is £238 or less (or you are on income support, income-based jobseeker's allowance, or income-based employment and support allowance)
- your disposable capital (the figure in box 7) is £1,664 or less. But if you are a pensioner with capital of more than £1,664, you may still qualify - speak to your solicitor about this.

If you think you qualify, make sure you have checked whether you will have to pay a contribution based on your income (see step 12). For advice and assistance, you will not have to pay a contribution your capital.

If you decide to apply for advice and assistance, you should take along evidence of your income and capital when you first visit your solicitor. For example, you should take:

- recent wage slips or accounts if you are self-employed
- pension or benefit order books
- current benefits award letter or benefits notification
- details of any savings - for example a bank statement or passbook.

If you do not provide this evidence at the start, your application may be delayed. Your solicitor can only start working for you if they are satisfied that the information you have given about your financial circumstances is right.

Your solicitor will also have to be sure that the matter you are asking for advice on is a question of Scots law.

**Step 12:**

**Check what you may have to pay.**

Depending on your disposable income, you may have to pay a contribution - this is calculated on the following scale:

**Table 1**

Weekly disposable income	Contribution
Disposable income £102 or less	No contribution
More than £102 but not more than £109	£7
More than £109 but not more than £116	£14
More than £116 but not more than £123	£21
More than £123 but not more than £130	£28
More than £130 but not more than £137	£35
More than £137 but not more than £144	£42
More than £144 but not more than £151	£49
More than £151 but not more than £158	£56
More than £158 but not more than £165	£63
More than £165 but not more than £173	£70
More than £173 but not more than £180	£77
More than £180 but not more than £187	£84
More than £187 but not more than £194	£91
More than £194 but not more than £201	£98
More than £201 but not more than £208	£105
More than £208 but not more than £215	£112
More than £215 but not more than £222	£119
More than £222 but not more than £229	£126
More than £229 but not more than £238	£135
More than £238	Not eligible for advice and assistance

If you have to pay a contribution, you pay it to your solicitor. They will discuss with you how to pay it, either as a lump sum or in instalments.

*Diagnostic advice and assistance*

Sometimes your solicitor may grant you “diagnostic” advice and assistance. This allows them to find out more about your problem and decide whether they can help you with it under advice and assistance. Table 2 below shows how much you are likely to have to pay for this work. The most you will have to pay is £35. Your solicitor will discuss with you how you can pay.

If they decide they can help you with your problem under full advice and assistance, they can ask you for a contribution as shown in table 1. If they do, any contribution you have paid towards the diagnostic advice and assistance will be taken off the contribution you pay towards full advice and assistance

If your weekly disposable income is more than £238, you do not qualify for diagnostic advice and assistance. If it is £238 or less, then you qualify on income, but you should see step 8 to check if you qualify on capital.

**Table 2**

Weekly disposable income	Maximum contribution
£102 or less	No contribution
More than £102 but not more than £130	£7
More than £130 but not more than £158	£14
More than £158 but not more than £187	£21
More than £187 but not more than £215	£28
More than £215 but not more than £238	£35
More than £238	Not eligible for advice and assistance

**Step 13:**  
**What next?**

If you qualify and want to apply for advice and assistance, you do so through a solicitor. For information on how to find a solicitor, see section 5.

If you think that you will also want a solicitor to take your case to court, read the following pages to see if you qualify financially for legal aid.

**Remember, if you do not qualify for advice and assistance, you may still qualify for legal aid, and vice versa – ask your solicitor about this.**

**If you do not qualify**, free advice is available from various organisations such as Citizens Advice Scotland, Money Advice Centres or Shelter (which deals with housing issues). They may be able to help with your case, and help you decide whether you need legal advice (see the inside front cover of this leaflet for contact details). You may also find that you can get help through your trade union or insurers.

## 12.2 Do I qualify financially for legal aid?

Legal aid provides funding for your solicitor to take your case to court. It covers the preparation work, as well as the hearing itself. It can provide funding for advocates and experts if they are needed.

Follow these steps to work out whether you are likely to qualify financially for legal aid, or use the online calculator on our website at [www.slab.org.uk](http://www.slab.org.uk). Whichever you use, treat your calculations as a rough guide only.

You will also have to satisfy us that you have a legal basis for your case and that it is reasonable to use public funds for it.

If you decide to go ahead with your application, we will assess it fully to decide if you qualify. You must apply through a solicitor. For information on how to find a solicitor, see section 5.

### Step 1:

#### **Do you have a partner whose income and capital we need to consider?**

By “partner”, we mean someone you normally live with as a couple, whether you are:

- married or not
- of the same or different sex.

If you have a partner, you must include their resources in the total figures in each step, unless:

- your partner has an opposing interest in the case, or
- you are living apart because you consider your relationship to be at an end.

**Step 2:**

**Do you or does your partner receive income support, income-based jobseeker's allowance or income-related employment and support allowance?**

If either of you receives one of these benefits, you qualify automatically on both income and capital for legal aid, and we will not ask you to pay a contribution towards the cost of your case.

If neither of you receives these benefits, move on to step 3.

**Step 3:**

**Work out what you expect your total income (before tax) to be in the next year.**

For legal aid, we calculate your income on what you can expect to earn in the 12 months following the date we receive your application.

To make adding up the figures easier, round up or down to the nearest pound.

**You must include:**

- earnings, drawings or profits from business
- maintenance payments you receive – either from an individual person or through the Child Support Agency
- pensions
- state benefits
- tax credits
- statutory sick pay
- statutory maternity pay
- student grants
- money received from friends and relatives
- income from savings and investments
- dividends from shares.

This is your gross annual income – write the figure in this box:

£

box 1

**Step 4:**

Work out how much you expect to pay in the next year for expenses and allowances that apply to you.

Include these expenses and allowances:

- income tax and National Insurance contributions
- maintenance payments you make
- childcare expenses incurred because of work
- expense of travelling to and from work
- housing costs:
  - mortgage or rent repayments (less any housing benefit)
  - endowment policy premiums (if paid in connection with a mortgage)
  - costs of accommodation (if you do not rent or pay a mortgage)
  - council tax (less any discounts).

These are your annual expenses - write the figure in this box:

£

box 2

**Step 5:**

Add together the following allowances for your partner and each dependant (adult or child).

By a "dependant", we mean a child or person living with you who has no income of their own.

Partner	£1,945
Dependants: for each child	£3,002
Dependants: for each adult (other than partner)	£3,002

These are your allowances - write the figure in this box

£

box 3

**Step 6:**

**Work out your total disposable income.**

Take your gross annual income (see box 1), and take away the expenses (box 2) and allowances (box 3). What you have left is your total disposable income.

Figure from box 1 (*gross annual income*)

£   
box 1



**MINUS**

figure from box 2 (*expenses*)

£   
box 2



**MINUS**

figure from box 3 (*allowances*)

£   
box 3



**EQUALS**

**total disposable income**

£   
box 4

**Step 7:****Now work out your capital.**

By “capital”, we mean money and anything else of value that you own. Add up all your capital and that of your partner (unless we do not have to consider their resources – see step 1).

**Examples of capital are:**

- the value of all land and buildings you or your partner own, other than the home you live in, including interests in timeshares
- money in the bank, building society, Post Office, Premium Bonds, National Savings Certificates and so on
- investments, stocks and shares
- money that can be borrowed against insurance policies
- the value of any valuable possessions, such as a boat, a caravan, jewellery (but not wedding or engagement rings), antiques or items bought for investment purposes
- money that is owed to you or your partner
- money due from the will of someone who has died
- money due from a trust fund
- money that can be released from your or your partner’s business or borrowed against business assets.

**Do not include:**

- tools and equipment you need for work
- the value of any property or item that is the subject of the court case (for example, a holiday cottage would normally count, but not if ownership was being disputed as part of a divorce settlement)
- the value of the house you live in.

This amount is your total disposable capital – write in the box:

£

box 5

## Step 8:

### Do you qualify for legal aid?

You have to meet the financial tests for both income and capital. If you qualify, you may have to pay a contribution from income, capital or both.

If your disposable income (see box 4) is:

- more than £25,450, you are not eligible on income and do not qualify for legal aid
- £3,415 or less, you are eligible on income and will not have to pay a contribution from income
- between £3,415 and £25,450, you are eligible on income but will have to pay a contribution.

To work out what this contribution will be, use the following table.

Total disposable income £   
box 4

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#### If the figure in box 4 is between £3,416 and £11,193

First take away £3,415 from the figure in box 4 and write the result in box a. Then take the figure in box a and divide it by 3. Write the result in box b. This is the contribution you will be asked to make from your income.

£   
box a

£   
box b

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#### If the figure in box 4 is between £11,194 and £15,270

Take away £11,193 from the figure in box 4. Write the result in box c. Then take the figure in box c, divide by 2 and write the result in box d.

£   
box c

Add £2,566 to the figure in box d and write the result in box e. This is the contribution you will be asked to pay from your income.

£   
box e

**If the figure in box 4 is more than £15,271 but less than £25,450**

Take away £15,271 from the figure in box 4 and write the result in box f. Then add £4604 and write the result in box g. This is the contribution you will be asked to pay from your income.

£		box f
£		box g

If you qualify on income, and your disposable capital (see box 5) is:

- £7,617 or less, you are eligible on capital and will not have to pay a contribution from your capital
- between £7,618 and £12,626, you are eligible on capital but will have to pay a contribution - this will be equal to the difference between your capital figure and £7,617
- more than £12,626, we will normally refuse legal aid if we think you can afford to proceed without it. This will depend on the type of proceedings you are involved in, and how costly these are likely to be.

If your capital is more than £12,626 you may still qualify if you are a pensioner, or if we believe that it would be in the interests of justice to grant legal aid. Your solicitor can advise you about this.

**Step 9:**

**What you may have to pay.**

See section 7 earlier, *How can I find out what I might have to pay?*

**Step 10:**

**What next?**

Even if you qualify financially for legal aid, you will still have to meet other tests, such as having a legal basis for your case. We will decide if you meet these tests and qualify.

You must apply for legal aid through a solicitor. See section 5 for information on how to find a solicitor.

**Remember, if you do not qualify for legal aid, you may still qualify for advice and assistance, and vice versa – ask your solicitor about this.**

**If you do not qualify**, free advice is available from various organisations such as Citizens Advice Scotland, Money Advice Centres or Shelter (which deals with housing issues). They may be able to help with your case, and help you decide whether you need legal advice (see the inside front cover of this leaflet for contact details). You may also find that you can get help through your trade union or insurers.



