



# Advice and assistance reforms update

## ADVICE AND ASSISTANCE REFORMS INCLUDING NEW FORMS

This update tells you more about changes to advice and assistance from 1 May 2007. Please read on overleaf for full details.

If you wish to attend one of our information seminars, either book online at [www.slab.org.uk](http://www.slab.org.uk) or use this page. Please note seminars start at 6pm.

### Information seminars - which one do you wish to attend?

- Stirling - **Monday 26 March** - Stirling Highland Hotel, Stirling
- Aberdeen - **Tuesday 27 March** - Hilton Aberdeen Treetops
- Inverness - **Tuesday 3 April** - Marriott Inverness
- Edinburgh - **Wednesday 4 April** - Apex International, Grassmarket, Edinburgh
- Glasgow - **Tuesday 10 April** - Radisson SAS, Argyle Street, Glasgow
- Dundee - **Wednesday 11 April** - Apex Dundee
- Ayr - **Tuesday 17 April** - Ayr Racecourse, Ayr
- Dumfries - **Wednesday 18 April** - Station Hotel, Dumfries
- Central Scotland - **Wednesday 25 April** - Dakota, M8 Eurocentral Junction

1. What is your name and firm?

2. Information on the location of venues and further details are available on our website. If you wish to be sent this information, do you wish it sent by:

- LP/DX/post - what is your address?  email - if by email, what is your email address?

3. Please give us the names of any colleagues who will also attend this seminar.

4. **Legal Aid Online** - if you are interested in finding out more about Legal Aid Online, how to get started, including learning about training and support, do you wish to:

- register my firm's interest in using Legal Aid Online so that we can contact you

### Return your booking form:

- fax back to: 0131 220 4878
- or email your details to: [general@slab.org.uk](mailto:general@slab.org.uk)
- or post to: Communications, Scottish Legal Aid Board, at our usual address

Please return your form at least 2 days in advance of the session you will attend.



# *Advice and assistance reforms update*

Issue 4

13 March 2007

This update mailshot contains important information in relation to changes in advice and assistance coming into force on **1 May 2007**.

The changes affect both civil and criminal practitioners.

Please ensure that all staff involved in providing advice and assistance are made aware of its contents.

## Introduction

This is the latest in a series of updates issued by the Board that will inform you about the changes being made to the operation of advice and assistance - for both civil and criminal cases.

The next phase of the reforms comes into operation on **1 May 2007**.

This update provides details about this phase of the reforms, including details of the:

- major changes in **civil advice and assistance**, which will come into force on 1 May 2007
- new **civil and criminal** advice and assistance application and increase forms which will come into use on 1 May 2007
- local seminars which we are holding in March and April 2007 to inform you about the changes. Please complete the booking form on the front of this mailing if you wish to attend.
- services available through Legal Aid Online which can bring benefits to your firm for how you deal with applications and accounts.

The update also contains information for **civil legal aid practitioners** on changes to eligibility rules on pension credit which come into effect on 9 April 2007 where **delaying applications for certain clients may benefit them**.

# 1. Reform of civil advice and assistance

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The civil advice and assistance scheme currently provides help in around 130,000 cases every year, on a wide range of matters and given by a large and widespread body of solicitors. The reforms aim to promote access to justice for those who need it, while appropriately balancing fair reward for the profession, retaining high-quality provision, promoting early intervention and securing best value for taxpayers' money.

In January 2006, we held a series of roadshows around the country with the Law Society of Scotland to discuss the reforms. The implementation of the reforms was subsequently delayed due to issues with the Scottish Executive's drafting of the required regulations, but the discussions at these roadshows helped to further shape the procedures required for the new process.

In addition, various suggestions were made by practitioners for additional case categories which helped determine the list of categories. The finalised case categories list is included at section 2 of this update.

The regulations have now been drafted to allow the next phase of the reforms to come into force on **1 May 2007**.

The key elements of the reform of civil advice and assistance are:

## Phase 1 - already implemented

- An increase in fee rates for all civil and children's advice and assistance. Fee rates were increased by 21% (including the 5% increase in July 2004) in April 2005 applying to fees for work done or outlays incurred on or after 30 April 2005.

## Phase 2 - now being implemented on 1 May 2007

The main aspects of the changes to be implemented in 1 May 2007 are:

- The introduction of specific categories of case where advice from a solicitor is appropriate.

- Where a client has a problem that is reflected in this list, the solicitor can grant and provide full advice and assistance in the same way as the current system. The list of case categories is shown at section 2.
- The introduction of **advice and assistance by way of a diagnostic interview**. You can give advice and assistance by way of a meeting or other associated work on matters of Scots law that do not fall within the list of case categories, up to the maximum limit of £35, which cannot be increased. There is an amended client contribution scale to reflect this.

Where you identify a material or significant issue during the diagnostic interview, you can ask the Board to allow you to grant full advice and assistance.

- There will no longer be a minimum fee for civil advice and assistance.
- Further extension of the template system for increases in authorised expenditure in certain types of case. Templates allow a single, substantial increase in authorised expenditure from the outset of the case to allow the solicitor to undertake all of the work normally required for the type of case concerned.

## Phase 3 - no date fixed for implementation yet

- Changes to applicants' financial eligibility and contributions for high value cases to more accurately reflect that civil advice and assistance may be provided over a lengthy period of time and involve high levels of expenditure. Proposals for these changes are still being discussed with the Law Society of Scotland and the Scottish Executive. We intend to consult more widely with the profession and others on these changes.

## 2. Civil advice and assistance - list of case categories where full advice and assistance is appropriate

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### Family/Matrimonial Related

- Divorce
- Separation
- Variation
- Contact
- Aliment/Child Support Agency
- Residence
- Adoption (including Freeing Order for Adoption)
- Matrimonial Homes
- Child Abduction/Hague Convention applications
- Co-habitee rights under family law
- Civil Partnerships

### Other Processes

- Interdict (including interdicts under Matrimonial Homes (Family Protection) (Scotland) Act 1981)
- Interdict (to include "other", "matrimonial" and "protection from abuse" interdicts and including non-harassment orders)
- Reparation
- Breach of Contract
- Contempt of Court (including minutes for failure to obey)
- Fatal Accident Inquiry
- Judicial Review
- Reduction
- Declarator
- Bankruptcy/Petition by Debtor
- Implement
- Delivery
- Summary Application
- General Defence to any Action (i.e. where a client is in receipt of a writ)
- Criminal Injuries Compensation Agency
- Appeals to Courts and Tribunals
- Statutory Discrimination
- Restoration of driving licence
- Anti Social Behaviour Orders
- Sexual Offences prevention Orders
- Proceeds of crime

### Executory Related

- Wills
- Executories

### Housing Related

- Recovery of Heritable Property (including Eviction and Mortgage Rights Acts)
- Conveyancing
- Division and Sale
- Landlord and Tenant
- Heritable rights
- Homelessness

### Children's Related

- Parts I and III of the Children's Scotland Act 1995

### Social Welfare Related

- Immigration/Asylum
- Mental Health
- Adults with Incapacity
- Benefit Appeals/Reviews
- Employment
- Education
- Debt (where debts exceed £500, and the advice does not include debt rescheduling and repayment plans)
- Community Care - assessment of need, eligibility/charging for services and direct payments.

## 3. New advice and assistance forms - for both civil and criminal matters - come into use 1 May 2007

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As part of the process of civil advice and assistance reform, new intimation and increase forms are being introduced. As the reforms mark a separation between civil, children's and criminal advice and assistance, new and separate intimation forms for advice and assistance and ABWOR on civil and criminal matters are now being introduced.

The new children's advice and assistance application and increase forms were issued in December 2006 and are already being used widely. The new civil and criminal advice and assistance forms follow a similar style to these children's forms.

We will also be introducing new accounts synopsis forms for civil, criminal and children's advice and assistance.

The introduction of the new forms will also see us change to a new paperless computer system. This means that forms will be electronically scanned, and what you write will be automatically put into our computer system. We expect that our new system will bring a number of benefits to the profession, such as quicker processing. The style of the new forms has been updated to enable us to use our new paperless computer system.

**The new civil and criminal forms must be used for all grants of advice and assistance made from 1 May 2007 onwards.**

**Although the advice and assistance reforms only affect civil and children's matters, the new forms for criminal advice and assistance and ABWOR must also be used from 1 May 2007.**

### **Moving to using the new forms**

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We will automatically issue you with a starter pack of the new advice and assistance forms. We will be issuing the starter packs in April.

The number of starter pack forms you receive will be based on the number of intimations of advice and assistance you currently make. We will shortly be writing

to you with further information on how many forms we plan to send you. Therefore at present you do not need to do anything to get the new forms.

### **Supporting the move to the new forms**

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To help support the move to the new forms we will be issuing a wide range of guidance, including how to complete the forms and some example model applications.

We will also be issuing new associated guidance, such as on template increases for civil advice and assistance.

We will be featuring the new forms and associated guidance at our information seminars.

### **Legal Aid Online**

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The change in forms is also an ideal opportunity for you to consider using our Legal Aid Online service, where you can make advice and assistance applications, increase requests and send accounts through the internet. Many practitioners have seen benefits in using Legal Aid Online.

You should note that we will not be providing "interactive" pdf versions of the new advice and assistance forms, which have previously enabled the forms to be completed on computer. One reason for this change is that if forms are printed on a normal desktop printer, the layout will not match that of the printed forms we supply you, and will not be read by our computer systems.

Now, by using Legal Aid Online, you can make applications on computer and then send them to us securely through the internet, making it faster and easier for you. Therefore, if you currently use pdf forms for completion on computer, you will need to move on to Legal Aid Online service.

You can read more about Legal Aid Online in section 5, as well as information on finding out more and registering to use the service.

## 4. Information seminars

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We are running a series of evening seminars in late March and April 2007 to fully explain the new civil advice and assistance system and the introduction of the new civil and criminal forms.

We believe that these seminars will provide practitioners with a good opportunity to learn about how the new system will operate and to raise any queries about its operation with senior officials from the Board.

The seminars will **start at 6pm** and close at 7.30pm. Refreshments will be available for 5.30pm, together with demonstrations of our Legal Aid Online service.

You can obtain CPD for these seminars. They are free and open to staff in your office involved in legal aid work.

We request that you complete the online booking form on our website or the attached booking form to reserve a place at a seminar. You can find details of the venues including location maps on our website or we will send information to you where requested on the booking form.

For any seminar booking queries, contact the Board's Communications Department on **0131 240 1985** or email [general@slab.org.uk](mailto:general@slab.org.uk)

### Seminar dates and locations

- Stirling - **Monday 26 March** - Stirling Highland Hotel, Stirling
- Aberdeen - **Tuesday 27 March** - Hilton Aberdeen Treetops
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- Edinburgh - **Wednesday 4 April** - Apex International, Grassmarket, Edinburgh
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## 5. Legal Aid Online

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The introduction of the new advice and assistance forms is an ideal time to consider trying Legal Aid Online.

Legal Aid Online is a free, quick, easy and secure way to process legal aid. Legal Aid Online allows you to make applications and create accounts using the internet, help your clients and get paid faster.

Legal Aid Online is available for advice and assistance applications, increases and accounts. Both solicitors and administration staff can use the system. All you need is access to the internet from your computer.

Over 100 firms are already using Legal Aid Online, and seeing the benefits. We are continuing to develop and improve the service based on feedback. We are also expanding the service - Civil Legal Aid Online will be available shortly.

By moving to online, you can see a number of benefits including:

- faster processing of applications and accounts
- faster payments
- cut down on paperwork
- more accurate information gathering
- work at times convenient for you
- quicker decisions.

Amongst the features in Advice and Assistance Online that you can benefit from are:

- quick form filling - with pick lists and automatic filling in of previously given information so eliminating duplication of effort
- less errors and delays - as an electronic form can't be sent if there is incomplete or incorrect information
- your administration staff can fill out and process web forms
  - immediate - no need to rely on postal services
  - you can track progress from initial application to payment with information on all contact and decisions made.

Legal Aid Online makes it easier for you to make applications, and reduces bureaucracy. Some of the items that are input or calculated automatically for you:

- Keycard allowances
- contributions
- your firm's details and repeat client details
- time and line entries with automatic calculation of fees, linked to the Board's fees tables
- totals by fees, travel, court dues, etc
- all data previously recorded - no re-typing.

Remember that interactive pdf forms which enable you to complete them on computer will not be available with the new forms - instead you should move to using our Legal Aid Online service.

### Finding out more

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You can find out more about Legal Aid Online on our website [www.slab.org.uk](http://www.slab.org.uk) in the legal profession section.

There will also be demonstrations of Legal Aid Online at each of the seminars.

### How to get started with Legal Aid Online

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To start using Legal Aid Online, please register your details with us. Registration is free, quick and easy.

We will be in touch to discuss setting you up for our online service. Your move to Legal Aid Online will be supported with help and training to get you up and running.

You can register your details:

- by completing question 4 on the attached seminar booking form
- online, by going to the legal profession section of our website and following the links to Legal Aid Online
- or contact our Legal Aid Online team on 0131 240 2013 or [online@slab.org.uk](mailto:online@slab.org.uk)

## 6. What's next

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We aim to assist you prepare for the changeover to the new forms and second phase of the reforms that are effective on 1 May 2007 through regular information updates and our programme of information seminars.

Further updates about the reform of advice and assistance will be issued over the next few weeks. These will provide guidance on the more detailed operation of the scheme, how to use the forms and other related changes to our guidance.

You should also note that we will be issuing in early April a new Keycard which will incorporate civil advice and assistance reform information for the annual uprating in eligibility limits which will come into effect on 9 April 2007.

You should now reserve a place at one of our seminars, and look out for our next reform update.

### Information for civil legal aid practitioners

#### Pension credit - eligibility for civil legal aid

Currently in determining if someone is financially eligible for civil legal aid, pension credit must be included in the calculation for eligibility on income. (For advice and assistance eligibility, pension credit is not included in the calculation).

The annual changes to financial eligibility will come into effect on 9 April 2007 - we will be writing with details of these together with a new Keycard in early April.

To coincide with the annual changes, Scottish Ministers and the Scottish Parliament have agreed to change the eligibility rules for a state pension credit under the State Pension Credit Act 2002 for civil legal aid. With effect from 9 April 2007, income from pension credit will **NOT** be included in assessing eligibility.

It may therefore be of benefit to clients who receive pension credits to delay making an application for civil legal aid until 9 April 2007:

- depending on their other financial circumstances, to make them more likely to qualify financially, or
- if they are likely to qualify but with a contribution to pay, to be assessed with a lower contribution amount (because pension credit income will then be excluded from the calculation).

You should therefore consider this change to eligibility rules and discuss with your client if they are affected by this change how best to proceed in their individual circumstances.