

GUERNSEY LEGAL AID SERVICE

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APPLICATIONS FOR CIVIL LEGAL AID

INFORMATION SHEET – Revised May 2011

Persons resident in the Bailiwick seeking legal aid in civil matters should deal directly with Advocates. There is in force a scheme called the Green Form Scheme. It provides for persons of limited financial means to have an initial consultation with an Advocate to decide whether they require access to the Courts. If access to the Courts is required then help will be given towards applying for a Legal Aid Certificate. If an Advocate feels that a matter can be resolved without going to Court then it may be possible to do so within the Green Form Scheme.

To apply for advice and assistance under the Green Form Scheme a person should contact a Firm of Advocates. Most Firms in Guernsey are prepared to do work under the Green Form Scheme but particular Advocates may not be available. The Firm will assess the applicant's financial means. The person will either receive advice and assistance free of charge or be required to pay a contribution of 20, 40, 60 or 80% towards the Advocate's costs. The value of the services provided is presently limited to £334.

The financial eligibility for advice and assistance is based upon figures currently used by the Social Security Department (SSD) and methods of assessment are similar. They are based on a person's present financial circumstances. A person will be unable to benefit from the Green Form Scheme if they and their partner have assets, other than their home, worth £20,000 or more. The higher the income of the person and their partner, the more likely it is that the person may have to pay part of the advocate's costs. A person currently on Supplementary Benefit qualifies automatically. It is stressed that, in common with SSD, no account is taken of a person's indebtedness or the requirements of their personal lifestyle.

The means test involves looking at the total income of a person and their partner and then giving an allowance for housing, any maintenance being paid, and a personal allowance called "Weekly requirements" (which are the same figures allowed by the SSD when assessing whether someone is eligible for Supplementary Benefit.) When all the allowances have been deducted from the income, any money left over is called "assessed residual weekly income". If a person's assessed residual weekly income is zero or less then that person would qualify for advice and assistance without needing to pay a contribution towards legal costs. If a person's assessed residual weekly income is £200.01 or more, they would not qualify. In between these extremes is a sliding scale of contributions. Your Advocate will carry out the calculation to see if you are eligible for Advice and Assistance under the Green Form. You must take proof of all income for the previous week with you to the first appointment with the advocate.

If a person is in dispute with their partner then the partner's income is disregarded. Similarly, if there is a dispute as to the ownership of assets, then the value of those assets is disregarded.

During the initial meeting with an Advocate it may become clear that court action is needed. If this is so then a person will need to apply for a Legal Aid Certificate. This involves two things:-

First, the Advocate must provide a professional Opinion to the effect that the case is strong enough to justify the use of public funds.

Secondly, the person must fill in a detailed financial means test form – Form 1F. This is available from Advocates or the Legal Aid Office. If a person needs help in completing the Form then this can be given at the Legal Aid Office, or any other person can help. However, an Advocate who helps will not be paid for such a service out of public funds. The Form 1F is assessed by the legal aid office on a similar basis to the Green Form but is based on income for the previous 13 weeks.

Once the Administrator of the Legal Aid Service receives a professional Opinion from an Advocate and the financial means form from the applicant, then consideration can be given to granting a Legal Aid Certificate. The Administrator will look at the strength of the case and the cost of running it and balance these against the benefits likely to be gained. If a person has assets other than their home worth £20,000 or more it is unlikely that they will be granted a legal aid certificate. That is also the case if the assessed residual weekly income is more than £200.01 per week. The Administrator does, however, have some discretion. It is probable that the legal aid will at first be limited to taking certain steps after which a full review will be made. There will be reviews as a case proceeds. A grant of legal aid may also have a requirement that a person pays part of the Advocate's costs by way of contribution. There will be a condition that the applicant repays the States from any assets recovered or preserved.

There is always the possibility that a person who does not qualify for legal advice and assistance under the Green Form Scheme might be granted a Legal Aid Certificate, but they will need to pay for the initial Advocate's opinion.

The sort of case which may be covered by the Green Form Scheme or full legal aid includes divorce, family problems, civil claims including personal injury cases and criminal cases. If you are unsure whether your case may be eligible for legal aid, please contact this office or your advocate.

Persons who are required by the SSD to make applications for affiliation and maintenance will be referred to an Advocate by SSD. They should make an appointment with an advocate once they have the necessary letter from the SSD.

Legal aid is not available to a person living in the Bailiwick in connection with any legal matters outside the Bailiwick. For example, if a Guernsey resident has an accident whilst on holiday in Spain then public funds cannot be used to assist their claim. A person living in one island of the Bailiwick who wishes to have advice involving the law of another island must first obtain agreement of the Administrator before making an appointment with an Advocate. Persons living outside the Bailiwick must first obtain agreement from the Administrator before seeking advice from an Advocate under the Green Form Scheme. Such persons are, in principle, entitled to legal aid in matters involving a Bailiwick Court. For example, a holidaymaker from Holland could apply for advice under the Green Form Scheme and might also be given legal aid to bring a claim against a Guernsey resident following an accident in Guernsey.

Please also see the Frequently Asked Questions leaflet which is available from the Legal Aid Office or an Advocate.

Any questions relating to legal aid in the Bailiwick should be addressed to the Guernsey Legal Aid Service at the address given at the start of this information sheet. Please note the office is open between 8.30am and 4.30 Monday to Friday.