

CIVIL LEGAL AID

INTRODUCTION

Legal Aid is a scheme designed to financially assist members of the public who are or who will be involved in legal proceedings and are unable to afford the services of an Advocate.

Legal Aid is available for most types of civil legal proceedings (although there may be exceptions).

If you wish to apply for legal aid you should consult an Advocate making it clear that you want to apply for civil legal aid.

The initial cost of seeing an Advocate may be covered under the Legal Advice and Assistance Scheme ("The Green Form Scheme") (see below for further details). To help you select an Advocate to represent you there is a list of Advocates who are prepared to undertake legal aid work. This list is called "Legal Aid Panel of Advocates" and is available from the Public Counter of the Isle of Man Courts of Justice.

The application forms are only available through an Advocate. The Advocate you approach will help you complete the form and is responsible for submitting it to the Civil Legal Aid Office. In order for the Advocate to complete the application you will need to provide full details of your income and expenditure.

CRITERIA FOR GRANTING CIVIL LEGAL AID

Before any legal aid certificate can be issued, there are two aspects that the Legal Aid office must consider. They are:

1. Whether the proceedings have legal merit. (This point will be dealt with between the Advocate and the Legal Aid Certifying Officer.)
2. Whether the applicant is financially eligible for Legal Aid - ie whether the applicants finances are considered to be within the required limits for legal aid under the Legal Aid (Financial Resources) Regulations 1997 :-

To determine whether an applicant is financially eligible for legal aid the Legal Aid Office will undertake a means test.

If you are in receipt of either Income Support or Family Income Supplement, in the Isle of Man, you automatically qualify financially for free civil legal aid and a means test is not required.

If you are not receiving either of the above, a determination of your financial resources will be undertaken to calculate your disposable resources per annum.

Before this determination can be done, the Legal Aid Office will require comprehensive evidence in support of your income and expenditure. Examples of this are mentioned below.

Once all the requested information has been received the means test can usually be concluded.

As a brief and general explanation as to how your disposable income is calculated, these are the main sources that are used as part of the calculation.

SOURCES OF INCOME

Earnings - The GROSS income (earnings before deductions) of the applicant (which includes any overtime) is used when determining their means. The last three months/12 weeks wage/pay slips are required. The total of these are averaged out over a year to give an annual gross income.

Spouse/Cohabitees Earnings - As above (unless Divorce)

Benefits - This is the annual total of any benefits received by the applicant and is based on the submission of evidence to confirm the frequency and amounts.

Maintenance - The amount of any maintenance paid to you is included as an annual figure. This would need to be supported by written evidence.

Other - Any other income which would affect the amount of your "disposable income" would fall into this category, examples of this would be housekeeping from a lodger or receipt of pension.

EXPENDITURE/OUTGOINGS

Allowances - There are certain allowances which are made dependant on whether you have a spouse and whether you have any dependant children.

Rent - The annual amount of rent paid. Evidence such as a copy rent book would need to be submitted.

Mortgage - The amount of any **mortgage interest** paid over a year. Evidence such as a certificate issued by the bank would be required.

Board and Lodgings - If you are a lodger, then the amount you pay for rent ie excluding standard amounts taken into account for heating, lighting, food etc if appropriate is included.

Rates - If you are responsible for paying the rates for your home then this is taken into consideration. Evidence such as a copy bill would be required.

Other - An example of other expenditure would include maintenance paid by you.

The total of your outgoings is deducted from the total of your income leaving a balance which is your disposable resources.

Once this figure has been calculated your financial eligibility for legal aid is based on the following scale:

<u>Amount of disposable resources</u>			<u>Amount of contributions</u>		
Exceeds (per annum)	Does not exceed (per annum)	Percent of costs to be paid	Maximum Amount Payable	First 11 Payments	Final Payment
NIL	4,000.00	NIL	NIL	NIL	NIL
4,000.00	5,000.00	10%	500	42.00	38.00
5,000.00	6,000.00	25%	1,000	84.00	76.00
6,000.00	7,000.00	50%	1,500	126.00	114.00
7,000.00	8,000.00	75%	2,000	168.00	152.00
8,000.00		100%	IN FULL	N/A	N/A

As you will see from this scale, if your disposable income is less than £4,000.00 per annum you are financially entitled to receive free legal aid.

If your disposable income is between £4,000.00 and £8,000.00 per annum you are entitled to legal aid but you will have to make contributions as required over a period of twelve months.

If your disposable income exceeds £8,000.00 per annum then you are not financially eligible for legal aid.

Contributions are normally paid over twelve months with the maximum amount payable being £2,000.00.

When the legal proceedings for which you have received legal aid are completed you may be entitled to a refund of part or all your contributions. This depends on the outcome of the proceedings and whether the contributions you have paid exceed the required percentage of the Advocates bill of costs.

Example 1

If the net resources of an applicant are calculated at £5,500.00 per annum they would be required to pay 25% of the Advocates bill. An offer would be sent to the applicant and if accepted they would pay 11 monthly payments at £84.00 with the twelfth and final payment being £76.00, making a total of £1,000.00.

If, after assessment the Advocates bill came to £3,000.00 the applicant would be liable for 25% of this total, which would be £750.00.

As the total of the contributions, in this example, exceeds the required percentage of the bill a refund of £250.00 would be issued to the applicant.

Example 2

If the net resources of an applicant are calculated at £7250.00 per annum they would be required to pay 75% of the Advocates bill. An offer would be sent to the applicant and if accepted they would pay 11 monthly payments at £168.00 with the twelfth and final payment being £152.00, making a total of £2,000.00.

If, after assessment the Advocates bill came to £10,000.00 the applicant would be liable for 75% of this total, which would be £7,500.00.

The total of the contributions, in this example, is less than the required percentage of the bill. The applicant is not liable for the balance as they have paid the maximum contribution required.

GREEN FORM SCHEME

In addition to civil legal aid, you may be entitled to legal advice and assistance from an Advocate under the Green Form Scheme which enables the Advocate to carry out approximately 2 to 3 hours work for you.

The rules governing financial eligibility are different from those for legal aid but as a general rule if you qualify for legal aid you are likely to qualify for advice and assistance under this scheme.

If you have a legal problem and require advice from an Advocate you should consult an Advocate making it clear that you want to apply for assistance under the Green Form Scheme.

Unless you are receiving Family Income Supplement or Income Support the Advocate will require details from you and your spouse (if applicable), income and expenses.

Your eligibility will be calculated by the Advocate from whom you seek the advice.

Dependant on the result of those calculations, you may be required to make a contribution towards the cost of the advice.

IMPORTANT NOTE

1. This document has been prepared to give you general guidance about Civil Legal Aid It is not a complete and authoritative statement of the relevant legislation.

If you want more advice about anything to do with Civil Legal Aid you can contact this office by any of the following methods:

Letter: **Civil Legal Aid and Legal Costs Section**, Isle of Man Courts of Justice,
Deemsters Walk, Bucks Road, Douglas, Isle of Man, IM1 3AR.

Telephone: 01624 685977

Fax: 01624 685367

E-mail: legalaid@registry.gov.im

2. Should you require information in relation to criminal legal aid, which is dealt with on an entirely different basis, you should contact the clerk to the Court before which you are to appear:

Letter: **Clerk to**, Isle of Man Courts of Justice,
Deemsters Walk, Bucks Road, Douglas, Isle of Man, IM1 3AR.

Telephone: Summary Court 01624 685469/685470
High Court 01624 685253

Fax: Summary Court 01624 685475
High Court 01624 685236

E-mail: summarycourt@registry.gov.im
highcourt@registry.gov.im