

Notes for Legal Aid Applicants

- Legal Aid in Jersey is granted to individuals who cannot otherwise afford to pay the full cost of legal representation, and who need that representation.
- The Legal Aid Scheme in Jersey is mostly funded by the legal profession. The lawyer appointed is permitted to charge a reasonable fee, but must act within the Legal Aid Guidelines as set down by the Law Society.
- You can view a copy of the Legal Aid Guidelines by arrangement with the Legal Aid Office. Whilst these notes are intended to be helpful, they do not cover every aspect of the Legal Aid Scheme.

Making an Application for Legal Aid

To make an application for Legal Aid you will need to complete a fairly detailed application form which will include details about your family's financial situation. These forms are available from:-

Acting Bâtonnier
40 Don Street
St Helier
Jersey
JE1 4XD

E-mail: email@legalaid.je
Telephone: 0845 800 1066
Fax: 01534 601708

If you have been charged with a criminal offence, you must supply your charge sheet.

If you have any documents or correspondence relevant to your application please supply the same.

If you need Legal Aid for a child, the parent with whom that child lives will usually be expected to make the application.

If you are given a Legal Aid certificate, you should then take this immediately to the law firm who has been appointed to act for you. That firm will then make an appointment for you to see a suitable person.

If you are in custody, the Police or Prison Service Officers will help you to submit your application.

Am I entitled to Legal Aid?

At the Legal Aid Clinic the Acting Bâtonnier will consider your application and will decide whether to give you a Legal Aid certificate.

Legal Aid is normally only given to people who live in Jersey. You may be eligible if you live elsewhere and have been charged with a criminal offence, or need legal advice in relation to a child who does live here.

Legal Aid is not available for every type of legal dispute or problem. The Acting Bâtonnier will decide whether your case, in accordance with the Legal Aid Guidelines, is one for which Legal Aid is available.

In deciding whether to grant Legal Aid, the Acting Bâtonnier will decide whether your case is at first sight strong enough to merit Legal Aid being given. This is a “merits test”. Special rules apply to Legal Aid which is given in certain types of cases for example personal injury claims.

The Acting Bâtonnier will also decide whether you are financially eligible for Legal Aid. This is done on the basis of the financial information in your application form and is based on your household income and capital. This includes the income and capital of your spouse or partner. Children who need Legal Aid are assessed on their parent’s financial position, and the parent will meet any fees charged.

Different guidelines will be used by the law firm that acts for you when deciding what you will be billed.

Can I choose my lawyer?

No. The lawyer appointed to help you will be the next lawyer on the Rota which is administered by the Legal Aid Office. Only in unusual circumstances will this not be the case.

If the lawyer originally appointed cannot act for you then a new lawyer may have to be appointed.

What will I have to Pay?

Your lawyer is entitled to charge you a reasonable fee (usually a percentage of the Factor A Rate fixed annually by the Court) in accordance with the Legal Aid guidelines. The guidelines include quite detailed rules about what you can be charged. These rules take into account your household income and capital as well as any settlement obtained in your case.

In relation to Family Matters: Your lawyer is able to charge you in accordance with your financial circumstances at the time that you are billed. You should specifically note that funds and/or property obtained through the division of assets in a family matter shall be taken into account when legal fees are charged, including those assets arising from the sale or transfer of the former matrimonial home.

| Income | Liability for Contribution of Factor A Rate |
|-------------------------|--|
| £45,000+ | 100% maximum unless otherwise indicated by the Acting Bâtonnier |
| £35,000 -£45,000 | 75% maximum |
| £25,000 -£35,000 | 50% maximum |
| £15,000 -£25,000 | 25% maximum |

The lawyer acting for you must provide you with a detailed engagement letter which should set out how you will be billed and provide an estimate of your legal fees. You must keep your lawyer up to date with any change in your finances, and if the fee position changes your lawyer should in turn keep you up to date.

You may be asked to make payments on account of fees provided that the amount you are asked to pay is fair. If you do not believe it is fair, you must raise this immediately with the law firm acting for you and then with the Legal Aid Office.

Complaints

If you have a complaint about your lawyer, discuss this first with the law firm that have been appointed. If this does not resolve it, raise your complaint with the Acting Bâtonnier.

If you wish to complain about a fee note issued to you, you have the right to seek adjudication on those fees from the Acting Bâtonnier. If you wish to do this, you must contact the Legal Aid office as soon as possible or you may lose the right to complain.

Can my Certificate be Taken Away?

Yes, in certain circumstances. It is impossible to list every example, but the reasons could include:

- A failure to disclose financial information or evidence in reply to a reasonable request; or a failure to provide complete or accurate information.
- Where it becomes clear that your case does not have enough merit.
- If you fail to give instructions to your lawyer or refuse to accept reasonable advice.
- Where your conduct is such that you become undeserving of assistance in the view of the Acting Bâtonnier or Bâtonnier. This could include being abusive or violent towards a lawyer or staff member.

Can I Appeal?

If you are unhappy with any decision made by the Acting Bâtonnier, or their staff, you have the right to ask for the issue to be referred to the Bâtonnier.