



Do I qualify financially for advice and assistance – in criminal or children’s cases?

This leaflet can help you work out if you are likely to qualify financially for help with legal costs for “advice and assistance” in criminal and children’s cases.

Children’s cases are proceedings that arise under Part II of Chapters 2 and 3 of the Children (Scotland) Act 1995. These are proceedings in connection with children’s panel hearings.

Valid from April 2008.

Contact us

Do you want to:

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

Then call our **Legal Aid Helpline** on **0845 122 8686** (open 7 days a week from 7am to 11pm), or visit our website www.slab.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@slab.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

To find your local Citizens Advice Bureau, please look in Yellow Pages or go to the Citizens Advice Scotland web site, at www.cas.org.uk.

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
- Do I qualify for advice and assistance – in criminal or children's cases?
- Criminal legal assistance if you are in custody
- Criminal legal assistance if you are not in custody
- Complaints and comments about the Scottish Legal Aid Board
- Access to information.

The Scottish Legal Aid Board can provide funding for legal advice and "representation" (a solicitor putting their case in court or other proceedings) for people who qualify. This may be free, or you may have to pay 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. It could cover advice about criminal matters or children's matters. For example, it might cover:
 - Advice if you have been, or think you may be, charged with a criminal offence. In some circumstances, your solicitor may be able to appear in court for you under something called "Assistance by Way of Representation".
 - Advice if you have to attend a children's hearing (which could include advice to the child if they are old enough to understand and directly instruct a solicitor to act for them, and advice to the child's parents or carers). It will not however cover a solicitor appearing for you at a children's hearing, or in court.

As well as giving you advice, your solicitor may be able to take some action on your behalf, such as writing letters and attending meetings with a procurator fiscal, another solicitor or a Children's Reporter.

- Second, there is legal aid. This will provide funding for your solicitor to take your case to court. This could be for:
 - a criminal case where you are being prosecuted by the Crown or
 - in a children's case that has been referred from a children's panel hearing to the sheriff court or where you want to appeal a decision of a children's panel hearing.

Children's legal aid is also available to appeal to a Sheriff Principal or even to the Court of Session, the decision that a sheriff has reached in a sheriff court.

Children's legal aid is not however available for a solicitor to attend any actual children's panel hearing even where the related court proceeding is ongoing.

Criminal legal aid and Children's legal aid can however cover the preparation work, as well as the court hearing itself, and can provide funding for advocates and experts if needed and if the Legal Aid Board grants permission in advance for this to happen. Most cases begin with advice and assistance, and legal aid may be the next step if necessary.

The following guidelines will help you to work out whether you are likely to qualify for advice and assistance in **criminal** or **children's** cases. It does not show whether you are likely to qualify for legal aid, and you will need to read our other leaflets, or speak to your solicitor, to see if you are likely to qualify. You may qualify for legal aid even if you don't qualify for advice and assistance as different tests are applied.

If you decide to go ahead with your application, this must be made through a solicitor.

For information about criminal legal aid, see our leaflets, *Criminal legal assistance if you are in custody*, or *Criminal legal assistance if you are not in custody*.

For information on the different types of legal aid available for children see our leaflet *Legal aid for children*.

For information on whether or not you qualify for civil legal aid, see our leaflet *A guide to civil legal aid*.

Information on how to get these leaflets is shown on the inside front cover of this leaflet.

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1 How do I qualify financially for advice and assistance?

Your solicitor will decide whether you meet the financial eligibility limits for advice and assistance as set by Parliament.

What to take when you first visit a solicitor:

It is important that you give your solicitor correct information on your financial position. As well as your income and savings, they will need to know about your dependants (children or other people you are supporting). You should take along evidence of this when you first visit your solicitor. If you do not provide this evidence at the beginning, your application may be delayed. Unless your solicitor is satisfied that the information you have given about your financial circumstances is right, they cannot start working for you. For example, you should take:

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

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

- you are separated, or
- (criminal cases) your spouse or partner is the person you have a legal problem with and they would be 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.

Both your weekly **disposable income** and your **disposable capital** must be within set limits. (See section 2 for what we mean by "disposable income and capital").

Generally –

If your savings and anything of value that you own (but **not** the **home** you live in) are worth £1,561 or less (note, if you are a pensioner, you may still qualify even if you own more than this).

AND EITHER

- you receive Income Support or Income-based Job Seeker's Allowance

OR

- your weekly disposable income (after you pay certain bills and allowances) is less than £223

you will qualify for advice and assistance.

You will not have to pay a contribution from capital, whatever your level of savings or value of items that you own.

But, you may still have to pay a contribution depending on your level of income; see the table in section 2, step 7.

For more details as to whether or not you qualify for advice and assistance, you can also follow the steps in section 2.

Or you can use the on-line calculator on our website at **www.slab.org.uk**

The information in this leaflet 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 6.

2 Do I qualify for advice and assistance?

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. This applies even where you are a child where it is unlikely that you will be receiving any income but you could well have savings (capital).

Follow these steps to work out whether you are likely to qualify financially. These figures are only a guide, and your solicitor will go through them with you if you decide to go ahead with your application. They will confirm the exact figures and will be able to tell you if you are eligible to receive advice and assistance.

You can also use the on-line calculator on our website to see if you qualify financially at **www.slab.org.uk**

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 or not you are married and of the same or different sex.)

If you have a partner, you must include their resources in the total figures at each of the following steps (unless you are living apart, or in other situations where it would be unreasonable or too difficult to do so – speak to your solicitor if you think this applies to you).

Step 2

Do you or your partner receive Income Support or income-based Jobseeker's Allowance?

If you receive either of these benefits, **you qualify automatically on income** for advice and assistance and will not have to pay a contribution. But now go straight to step 8 to check if you qualify on capital.

If you do not receive these benefits, move on to step 3.

Step 3

Work out your net weekly income

(This means your pay less tax and National Insurance contributions if you are employed.)

This is the total income, from all sources, you and your partner receive or become entitled to in a week.

If you apply, your solicitor will work this figure out for the seven days up to and including the date of your application.

If any payments are made monthly, multiply these 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. Your solicitor will go through these figures with you if you go ahead with your application, and will be able to 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 do not include 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 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/widower's pension
- widowed parent's allowance
- working tax credit.

This is your total **net weekly income** – write the figure in this box

£

Step 4

If you pay maintenance, work out what you pay weekly

Weekly maintenance payment – write the figure in this box

£

box 4

Step 5

Add together the following allowances for your partner and each dependent relative (adult or child)

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

Partner	£ 34.45
Dependants: for each child	£ 52.59
Dependants: for each adult (other than partner)	£ 52.59

These are your **weekly allowances** – write the figure in this box

£

box 5

Step 6

Work out your total weekly disposable income

Take your net weekly income (see step 3), and take away any expenses and allowances at steps 4 and 5 - the figure you come to is your “weekly disposable income”.

Figure in box 3 (net weekly income)

£

box 3



MINUS

Figure in box 4 (maintenance payments)

£

box 4



MINUS

Figure in box 5 (allowances)

£

box 5



EQUALS

Weekly disposable income

£

box 6

Step 7**Does this weekly disposable income qualify you for funding?**

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

Weekly disposable income	Contribution
Disposable income £95 or less	No contribution
More than £95 but not more than £102	£7
More than £102 but not more than £109	£14
More than £109 but not more than £116	£21
More than £116 but not more than £123	£28
More than £123 but not more than £130	£35
More than £130 but not more than £137	£42
More than £137 but not more than £144	£49
More than £144 but not more than £151	£56
More than £151 but not more than £158	£63
More than £158 but not more than £165	£70
More than £165 but not more than £172	£77
More than £172 but not more than £179	£84
More than £179 but not more than £186	£91
More than £186 but not more than £193	£98
More than £193 but not more than £200	£105
More than £200 but not more than £207	£112
More than £207 but not more than £214	£119
More than £214 but not more than £223	£124
More than £223	Not eligible

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

If your weekly disposable income is more than £223, then **you do NOT qualify** for advice and assistance.

If it is £223 or less, then you qualify on income, but you should see Step 8 to check if you qualify on capital.

Step 8

Now work out your total capital

Now that you have calculated if you qualify on income grounds, you need to work out if you qualify on capital.

Add up all your capital (and the capital of your partner if appropriate) – this means **savings and anything else of value that you own**.

Examples of capital include:

- 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 other non essential possessions, such as a boat, 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.

Your **total capital** – write the figure in this box

£

box 8

Step 9

Add up the following allowances against capital for each dependent relative (adult or child) living with you

The allowances are:

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

Your **total allowances** are – write the figure in this box

£

box 9

Step 10

Work out your total disposable capital

Take your total capital (see step 8), and take away any allowances in step 9. The figure you come to is your "total disposable capital".

Figure in box 8 (total capital)

£

box 8



MINUS

Figure in box 9 (allowances)

£

box 9



EQUALS

Total disposable capital

£

box 10

For advice and assistance, if your total disposable capital is **£1,561** or less, you qualify on capital.

If your total disposable capital is more than **£1,561**, you do NOT qualify for advice and assistance.

Step 11

Do you qualify?

You are likely to qualify for advice and assistance if:

- your disposable income (the figure in box 6) is £223 or less (or you are on Income Support or income-based Jobseeker's Allowance) and
- your disposable capital (the figure in box 10) is £1,561 or less.

If you are a pensioner, even if your capital is more than £1,561 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 7). You will not have to pay a contribution based on your capital for advice and assistance.

3 What I may have to pay

Legal aid is not always free. If you are granted advice and assistance, you may have to pay your solicitor a contribution towards the cost of it, as we explain below.

Your solicitor can only do work 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 they do work that we have not agreed to, they cannot ask you to pay for that extra work.

If we don't agree that your solicitor can do the extra work, or spend more money, your solicitor may ask you if you want them to continue to work for you privately. If you agree to this, they must fully explain to you, and you must agree to, their terms of business before they can start working for you again.

Contributions

You may have to pay a contribution towards advice and assistance – see section 2 to work out roughly what you might have to pay.

If you do have to pay, the amount will depend on your income and savings or property you own.

Your solicitor should tell you at the beginning of your case, what you have to pay if anything for advice and assistance.

Once you have paid the amount of contribution due no-one should ask you to pay anything more towards this help.

4 What else should I think about before I apply for help?

Before you apply for advice and assistance, please consider what you may have to pay in the end.

Your solicitor will be able to estimate how much, if any, contribution you may have to pay, and explain how it is calculated.

Your solicitor may tell you that you are not eligible for legal advice and assistance, but that they would be willing to take your case on by charging you their private rate. We recommend that you –

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

The information you give about your financial circumstances must be complete and accurate. If you deliberately give your solicitor or us false information, we may stop your legal aid, you may have to repay the cost of any advice and assistance and legal aid you have received for your case, and criminal proceedings may be taken against you.

5 What next?

If you qualify and want to go ahead with your application for **advice and assistance**, this must be made to a solicitor. Only a solicitor can initially provide you with advice and assistance. For information on how to find a solicitor who is registered with us to provide advice and assistance and legal aid see section 6.

6 How do I find a solicitor?

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

- call our **Legal Aid Helpline** on **0845 122 8686** (open 7 days a week from 7am to 11pm)
- or visit our website **www.slabb.org.uk**.

You can also get advice 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).



يمكنك الحصول على نشرة "هل أنا مؤهل للحصول على المشورة والمساعدة في قضايا الأطفال والقضايا الجنائية" باللغة العربية بالاتصال بمجلس المساعدات القانونية الإسكتلندي على العنوان المذكور على الصفحة الداخلية من الغلاف الأمامي.

আপনি এই পুস্তিকা "আমি কি শিশু-সম্পর্কিত এবং অপরাধ-মূলক কেসে পরামর্শ ও সহায়তা পাওয়ার যোগ্যতা অর্জন করেছি" বাংলায় পেতে হলে স্কটিশ লিগাল এইড বোর্ডের সাথে যোগাযোগ করতে পারেন, যাদের ঠিকানা ভেতরের সামনের পাতায় দেওয়া আছে।

與蘇格蘭法律援助委員會聯繫，你便可以這份小冊子--“我有資格獲得兒童和刑事案件的諮詢和幫助(繁體中文)嗎？”。聯繫地址在封裏。

Gheibh thu a' bhileag seo "A bheil mi freagarrach airson comhairle agus cuideachadh ann an cùisean eucorach agus cùisean chloinne?" ann an Gàidhlig, le fios a chur gu Bòrd Taic Laghail na h-Alba aig an t-seòladh air taobh a-staigh na duilleig aghaidh.

आप इस पुस्तिका "क्या मैं बच्चों के और फौजदारी मामलों में सलाह और सहायता के लिए पात्र हूँ" को हिन्दी में, आवरण पृष्ठ के भीतर दिये पते पर संपर्क करके प्राप्त कर सकते हैं।

与苏格兰法律援助委员会联系，你便可以这份小册子--“我有资格获得儿童和刑事案件的咨询和帮助(简体中文)吗？”。联系地址在封里。

ਤੁਸੀਂ ਇਹ ਲੀਫਲੈਟ "ਕੀ ਮੈਂ ਬੱਚਿਆਂ ਦੇ ਅਤੇ ਫ਼ੌਜਦਾਰੀ ਮਾਮਲਿਆਂ ਵਿਚ ਸਲਾਹ ਅਤੇ ਸਹਾਇਤਾ ਦੇ ਯੋਗ ਹਾਂ" ਪੰਜਾਬੀ ਵਿਚ ਇਸਦੇ ਅੰਦਰਲੇ ਮੁੱਖ ਸਰਵਰਕ ਤੇ ਦਿਤੇ ਪਤੇ 'ਤੇ ਸਕਾਟਿਸ਼ ਕਾਨੂੰਨੀ ਸਹਾਇਤਾ ਬੋਰਡ ਨਾਲ ਸੰਪਰਕ ਕਰਕੇ ਹਾਸਿਲ ਕਰ ਸਕਦੇ ਹੋ।

"Ceza veya çocuk davalarında tavsiye ve yardım almaya hakkım var mıdır?" adlı broşürün Türkçesini edinmek için ön kapağın iç yüzündeki adresten İskoç Hukuki Yardım Kurulu (Scottish Legal Aid Board) ile irtibata geçiniz.

آپ یہ لیفٹ "کیا میں بچوں کے متعلقہ اور کریمینل مقدمات میں مشورہ اور مدد لینے کا حقدار ہوں" سکاٹش لیگل ایڈ سے اگلے صفحے کے اندر دیئے گئے ایڈریس پر رابطہ کر کے اردو میں حاصل کر سکتے ہیں۔

You can get this leaflet in some other languages, or in Braille, large print or audio tape by contacting the Scottish Legal Aid Board.