

Advice and assistance and civil legal aid



Keycard 2019

About the Keycard

This Keycard sets out the various eligibility limits, contributions and clawback levels in advice and assistance and civil legal aid in force from **8 April 2019**.

During the course of this year there may be further updates and changes to this Keycard.

For more guidance on eligibility, contributions and clawback, refer to the Scottish Legal Assistance Handbooks, available on our website www.slab.org.uk .

Last updated: 6 April 2018

Contents	Page
<u>Advice and assistance</u>	
▪ <u>Documentary evidence of your client’s financial circumstances</u>	3
▪ <u>Assessing eligibility - Capital</u>	6
▪ <u>Assessing eligibility - Income</u>	8
▪ <u>Contributions for advice and assistance</u>	11
▪ <u>Contributions for diagnostic civil advice and assistance</u>	12
▪ <u>Authorised expenditure</u>	13
▪ <u>Clawback and regulation 16(3)</u>	14
<u>Civil legal aid</u>	
▪ <u>Financial eligibility</u>	16
▪ <u>Clawback limits</u>	18

Definitions used

Partner

Partner

In this Keycard, the word “partner” means someone the applicant normally lives with as a couple, whether or not they are married and of the same or different sex.

The resources of the applicant’s spouse or partner must be included in the assessment of the applicant’s eligibility unless:

- there is a contrary interest in the matter for which the advice is sought
- the applicant and their spouse or partner are separated - by “*separated*” we mean that they consider the marriage or relationship to be at an end.
In all cases where the applicant is a prisoner, “*living separate and apart*” would only apply where the marriage or relationship is at an end.
- it would be inequitable or impracticable to aggregate their resources. If you consider it to be “*inequitable*” you must provide details of why you consider that the resources should not be aggregated. This must include details of any exceptional financial difficulties the applicant or partner may be facing during the assessment period of 7 days up to the grant of advice and assistance. If you consider it to be impracticable, you should also explain why it is not possible to contact the partner to obtain information on their resources where this is not known by the applicant.

Further information and guidance on these aspects of aggregation of partners’ resources, can be found in the Advice and Assistance sections of the legal aid Handbook.

Child

The definition of a child, for the purposes of assessment of disposable income and capital, given in the Advice and Assistance (Scotland) Regulations 1996 and the Civil Legal Aid (Scotland) Regulations 2002 is the definition of a child as that given in [section 1\(5\)](#) of the Family Law (Scotland) Act 1985 (“the 1985 Act”).

When assessing the financial eligibility of children seeking civil advice and assistance and civil

legal aid, the resources of any person who owes an obligation of aliment to that child, within the definition given in section 1(1)(c) or (d) of the 1985 Act, must be included, along with the child's resources in establishing financial eligibility, unless:

- in the particular circumstances it would be unjust or inequitable to do so. If you consider this is the case, please contact us for advice before admitting the applicant to advice and assistance. When making an application for legal aid, please address the reasons why we should not take such resources into account, having regard to our published guidance.
- the child has a contrary interest with the person who owes a duty of aliment as described in section 1(1)(c) or (d) of the 1985 Act.
- This does not apply when assessing the financial eligibility of children seeking children's advice and assistance. Further details can be found in the Children's Legal Aid Keycard.

Subject matter of dispute

We have published detailed guidance in the Civil Handbook - Part 4 Chapter 2.19

Subject matter of dispute means property which is at issue in the dispute or proceedings, and may not be available to the client at the conclusion of the matter.

It is not enough to show that a global crave for payment of a sum of money is being made. Rather, it is ownership of the property or asset that must be at issue in the proceedings. Simply because an asset which could be used to satisfy the opponents claim exists, does not necessarily mean that an asset is in dispute. We will consider whether the opponent is disputing ownership of the assets, or that ownership will only be resolved by the court action.

Advice and assistance

Documentary evidence of clients' financial circumstances

Solicitors are responsible for deciding if their clients are financially eligible for advice and assistance. You should refer to the regulations, this Keycard and the guidance in the Legal Assistance Handbooks about assessing disposable income and capital.

If you apply the tests incorrectly, we can withhold or recover payments made to solicitors' firms for work done under an incorrect grant of advice and assistance. Our guidance is designed to avoid the risk of making an incorrect grant.

Most clients should be able to give you documentary evidence of their financial position. When arranging an initial meeting with you, the client should be asked to bring documentary evidence of their capital and income with the proof of identity you need to sign up new clients, whether legally aided or not. This advice applies equally to repeat clients. It is not safe for you to assume that your client's financial position has not changed since the last time you gave them advice.

Keep a copy of the verification, or how you satisfied yourself that the client was eligible, on your file so that it can be seen by a quality assurance peer reviewer or a SLAB compliance auditor.

We recommend that you should see, wherever practicable, the following evidence:

For income:

Keycard – effective date 8 April 2019

- where the client is employed - a recent wage slip or bank statement
- where the client receives passport benefits - we will check this directly with the DWP.
- where the client receives benefits - a letter of award (in the few cases where is paid this way), a bank statement (which might be an ATM receipt showing the credit) or mobile banking app.

For capital:

- the most recent bank statement and statement/passbook for savings; and/or certificate of investments held.

In Legal Aid Online, the available options include ‘bank statement’ and ‘wage slip’. Only use the ‘Other’ option if the document you have seen is not listed. Otherwise, it will delay your application because we need to check it. Quite often we see ‘bank statements’ selected and then in the “Other” option something like “I have seen the client’s bank statement”. You don’t need to duplicate the information.

Where you have not seen a statement and you select the evidence option “Applicant has signed online declaration form” you should note in the file why it was not possible to see a statement(s) and what information your client gave about any capital savings they may have in those accounts.

No verification available

We appreciate that in some circumstances, clients may not have documentary evidence available when consulting a solicitor. For example:

- in an emergency;
- where they are a victim of domestic abuse and cannot return home;
- where they are part of an acrimonious dispute which prevents access to documentation; or
- where they are in custody.

Where they do not have access to documentary evidence, you may be satisfied from the limited information available, but you should then seek verification from the client at the earliest opportunity, and before seeking any increase in authorised expenditure.

We understand that there are situations where obtaining evidence of income and capital will be difficult, and this guidance sets out the information which we need to help us ensure that you have taken reasonable and practicable steps to assess that clients are financially eligible to receive assistance.

Custody Cases

If the client is serving a sentence or on remand, and received no income during the previous seven days, you should enter their income as “Nil”, and at the question on how they are supported answer “Serving a sentence” or “On remand” as appropriate. However, you must be clear that they did not receive any income during this seven day period, especially if they are paid monthly. You must also ask them about any savings or other capital they could use to fund their case.

Police Station cases

For procedure under Part 1 of the Criminal Justice (Scotland) Act 2016, police station advice for Section 44 consultations and Section 32 police interviews is covered by advice and assistance. The grant of A&A and the claim for payment should be made at the same time after the advice has been provided, using the ‘Police Station Advice’ tab in Legal Aid Online. Some of the other

features of this are:

- Clients and solicitors do not need to sign an online mandate form;
- There is no financial test or client contributions, so no income or capital needs to be verified;
- The initial levels of authorised expenditure of £225 for S44 consultations, and £550 for S32 interviews mean that increases in expenditure will be needed less frequently.

Where attempts have been made to obtain verification

If you have been unable to see verification but have taken reasonable steps to obtain this, make sure you let us know about this. You should let us know what steps have been taken, e.g. number of letters, number of phone calls etc at the question *'If you have not been able to obtain financial verification for income, please explain how you were satisfied that you could grant advice and assistance and what reasonable steps you took or are taking to obtain this information'*.

Nil Income and/or Capital

If your client has no income/capital:

- Tell us this and how they are supported if they have no income and are not in custody or on remand;
- Tell us if they are supported by parents, family, friends etc.;
- If the applicant has a bank account, you should try to get a bank statement from the client to confirm the position. Again, if this is not provided by the client, make sure you tell us about the steps you have taken to obtain this.

Verification if there is no capital:

If the client has no capital, please do not say something like “cannot prove a nil”. Most applicants will have at least one bank account especially if they own or rent their home, have any regular outgoings which are paid by standing order or direct debit or receive a salary or state benefits. The balance(s) held in these accounts should be recorded in the application as capital savings. Where the account is a current account or the only account held by the applicant, the balance held in the account once all monthly standing orders and direct debits have deducted should be recorded. You can then select “Bank Statement” from the capital verification options as evidence seen.

If your client has no bank account:

You should select “Other” from the capital verification options and then provide information about how you satisfied yourself that your client does not have any capital.

[Back to contents](#)

Assessing eligibility

A client's income and capital must be within the current financial limits to qualify for advice and assistance.

We recommend you assess their disposable capital before assessing income, since if they do not qualify on capital, they are ineligible for advice and assistance - even if they receive "passport" benefits (that is, Universal Credit, Income Support, an income-related employment and support allowance or income-based jobseeker's allowance).

Assessing eligibility on capital

Disposable capital - from 8 April 2019

£1,716 maximum for eligibility*

A person whose disposable capital exceeds the capital limit of £1,716 is **NOT** eligible for advice and assistance, whatever their disposable income or eligibility for a passport benefit.

To calculate disposable capital, you should:

- calculate your client's total capital
- deduct from the total capital the standard allowances
- disregard the levels of capital shown in the section below if the applicant is of pensionable age.

* This limit does not apply to advice and assistance given to suspects being questioned by the police at police stations where no financial tests now apply.

Working out your client's total capital

Capital means savings and anything else of value the client and their partner, if appropriate, own.

This excludes the client's main residence and the value of any disputed assets which are part of the subject matter of the advice.

Examples of capital include:

- the amount that could be borrowed against all land and buildings the client or their partner own, other than the client's main home, including interests in timeshares
- money in the bank, building society, post office, premium bonds, national savings certificates etc.
- investments, stocks and shares, including ISAs
- money that can be borrowed against insurance policies
- the value of other non-essential possessions, such as a boat, a caravan, second car, jewellery (but not wedding or engagement rings), antiques or items bought for investment
- money owed to the client or their 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.

You should **NOT** include in capital:

- the home in which the client and their partner live
- the client's household furniture and clothing

- the client’s tools and equipment they need for work
- the value of any property or item that is the subject of the dispute.

Do not assume that an applicant has no capital when they are in receipt of benefits - in certain circumstances a person can have up to £16,000 in capital and still receive benefits.

Standard allowances

Standard allowances against capital are deductible for the following persons:-

- a partner whose resources have to be aggregated - who is considered as the first dependent **and/or**
- a dependent person who is wholly or substantially maintained.

For the first such dependent	£335
For the second such dependent	£200
For each other such dependent	£100

No allowances should be made for any children where the applicant receives Foster Care Allowance.

Disregards for applicants of pensionable age

Where the applicant is of **pensionable age** (60 in all cases), with a weekly disposable income (excluding investment income) below £105, you should **disregard capital** as:

Weekly disposable income up to £10	disregard £25,000
Weekly disposable income £11 - £22	disregard £20,000
Weekly disposable income £23 - £34	disregard £15,000
Weekly disposable income £35 - £46	disregard £10,000
Weekly disposable income £47 - £105	disregard £5,000

Examples

Applicant of a pensionable age, with no dependents, capital of £21,500 and a weekly disposable income of £20 is entitled to a disregard of £20,000. This leaves them with Disposable Capital of £1500, which is below the eligibility limit of £1,716 so they are financially eligible for advice and assistance.

Applicant of pensionable age, with no dependents, capital of £25,000 and a weekly disposable income of £20 is entitled to a disregard of £20,000. This leaves them with Disposable Capital of £5,000 which exceeds the eligibility limit of £1,716 so they are **not** eligible for advice and assistance.

[Back to contents](#)

Assessing eligibility on income

Disposable income - from 8 April 2019

£245 a week maximum for eligibility*

A person whose disposable income exceeds the income limit of £245 a week is **NOT** eligible for advice and assistance, whatever their disposable capital, unless they receive a passport benefit (Income Support, an income-related employment and support allowance, income-based jobseeker's allowance or Universal Credit).

“Income” means the total income, from all sources, which the client and their partner received or became entitled to during or in respect of the seven days up to and including the date of the application.

This excludes income that is the subject matter of the dispute - for example, maintenance being claimed which is part of the subject matter of the advice. Deduct income tax and national insurance contributions from income.

*This limit does not apply to advice and assistance given to suspects being questioned by the police at police stations where no financial tests now apply.

Calculating eligibility on income

To calculate eligibility on income, you should:

- check if your client receives a passport benefit (see below)
- calculate your client's net weekly income
- deduct from the net weekly income the standard allowances
- calculate if they qualify and if they have to pay a contribution.

When calculating monthly income, multiply it by 12 and then divide by 52 to work out the weekly figure. To make assessment easier, round the figure up or down to the nearest pound.

Passport benefits - automatically eligible on income

If the client or their partner receives a passport benefit:

- Income Support
- an income-related employment and support allowance
- income-based jobseeker's allowance
- Universal Credit

they qualify automatically on income for advice and assistance and will not have to pay a contribution. However, you must still assess your client's disposable capital.

SLAB will verify a client's receipt of one of the passporting benefits named above with the Department of Work and Pensions (DWP). To assist us in doing so, we have provided some information about the information required.

Applicant's names

Please do not provide two surnames like “Smith or Jones”. Our automatic link with the DWP will not be able to confirm the benefits where two names are provided.

Please check the spelling of the name - e.g. McDonald or MacDonald. Again, the DWP automatic link will not confirm passport benefits where the name is spelt incorrectly.

Remember, if benefits are claimed in the name of the applicant’s partner, we also need the partner’s details (forename, surname, date of birth and National Insurance number) for the DWP check.

Other benefits and the DWP link

Our link with the DWP only checks the position with passport benefits. Many solicitors state “SLAB link to check” on cases where the applicant is not in receipt of a passport benefit. We are not able to check these cases. Tax credits cannot be verified by the automatic DWP link - working tax credits and child tax credits are awarded by HMRC.

Always make sure that passport benefits (Income support, Job Seeker’s Allowance, Employment and Support Allowance, and Universal Credit) are entered in the correct place to allow the automatic link to check these with the DWP. Do not enter these benefits as “Other benefits” as this will not be checked with the DWP, and we will come back and ask you to confirm what verification you have seen.

Calculating net weekly income

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.

Various benefits which the client may receive are disregarded in the financial assessment.

Do not include:

- Working Tax Credit
- Child Tax Credit
- Pension Credit
- Child Benefit
- Attendance Allowance
- Bereavement Allowance
- Bereavement Payment
- Child Maintenance Bonus
- Child Support Maintenance (only if paid through the Child Support Agency)
- Christmas Bonus
- Contribution-based Jobseeker’s Allowance
- Contribution-based Employment and Support Allowance
- Council Tax Benefit
- Disability Living Allowance (DLA)
- Guardian’s Allowance
- Housing Benefit
- Incapacity Benefit (Incap)
- Industrial Injuries Disablement Pension (IIDP)
- Care (Invalid) Allowance
- Personal Independence Payment
- Armed Forces Independence Payment
- Severe Disablement Allowance
- Sums payable to holders of the Victoria Cross or George Cross
- War Disablement Pension
- War Widow’s/Widower’s Pension
- Widowed Parent’s Allowance
- Sickness Benefit
- State Retirement Pension
- Statutory Maternity Pay (non-occupational)
- Statutory Sick Pay (non-occupational)

Particular situations

- **Adults with Incapacity** - you must assess all income and capital **for the adult concerned, not those of the person making the application**. Unlike civil legal aid, there are no circumstances where the application of the financial eligibility test has been waived.
- **Foster Care Allowance, Adoption Allowance and Kinship Carers Allowance** - do not include any of these allowances the applicant receives in the calculation for disposable income. Do not deduct dependant's allowances for capital and income for any of the foster children.
- **Applications from children**
The resources of any person who owes an obligation of aliment to that child, within the definition given in section 1(1)(c) or (d) of the 1985 Act, must be included, along with the child's resources in establishing financial eligibility unless it would be unjust or inequitable to do so (see page 3 above).
- **Mental Health** - Where ABWOR is to be provided no means assessment is required.

Allowances

You should deduct the following standard allowances against income for the maintenance of:

Partner living with the applicant	£41.75
Any dependant person, adult (other than partner) or child (but do not include any foster children), who is wholly or substantially maintained, being a member of the applicant's household	£66.90

Deduct the actual maintenance paid for the last seven days, not the standard allowance, if:

- the applicant and partner are living apart
- the applicant is paying maintenance for a dependent who is not part of the household.

[Back to contents](#)

Clients' contributions

This applies to criminal, children's and civil advice and assistance, except diagnostic civil advice and assistance (for more information about this, read page 10) - see the next table for these contributions.

Disposable income range	Maximum contribution
Disposable Income not exceeding £105	£0
Exceeding £105 but not exceeding £112 a week	£7
Exceeding £112 but not exceeding £119 a week	£14
Exceeding £119 but not exceeding £126 a week	£21
Exceeding £126 but not exceeding £133 a week	£28
Exceeding £133 but not exceeding £140 a week	£35
Exceeding £140 but not exceeding £147 a week	£42
Exceeding £147 but not exceeding £154 a week	£49
Exceeding £154 but not exceeding £161 a week	£56
Exceeding £161 but not exceeding £168 a week	£63
Exceeding £168 but not exceeding £175 a week	£70
Exceeding £175 but not exceeding £182 a week	£77
Exceeding £182 but not exceeding £189 a week	£84
Exceeding £189 but not exceeding £196 a week	£91
Exceeding £196 but not exceeding £203 a week	£98
Exceeding £203 but not exceeding £210 a week	£105
Exceeding £210 but not exceeding £217 a week	£112
Exceeding £217 but not exceeding £224 a week	£119
Exceeding £224 but not exceeding £231 a week	£126
Exceeding £231 but not exceeding £245 a week	£135

Civil advice and assistance - diagnostic cases

A different contribution scale applies to diagnostic civil advice and assistance.

Diagnostic civil advice and assistance is where the client's problem is not among the specific categories approved for standard advice and assistance, and you are providing advice and assistance by way of a diagnostic interview, deciding whether further assistance can be offered, or if the client needs to be advised to contact another agency for help.

Where there is a diagnostic interview, the maximum contribution payable is £35.

Disposable income range	Maximum contribution
Exceeding £105 but not exceeding £134 a	£7
Exceeding £134 but not exceeding £163 a	£14
Exceeding £163 but not exceeding £193 a	£21
Exceeding £193 but not exceeding £222 a	£28
Exceeding £222 but not exceeding £245 a	£35

[Back to contents](#)

Initial limit of authorised expenditure

Civil advice and assistance

The standard initial limits of authorised expenditure in civil advice and assistance are:

- Diagnostic - **£35**
- Standard - **£95**

The initial limit of **£180** applies in certain specified situations where either advice and assistance or ABWOR is given. The £180 initial limit for advice and assistance applies where

- (a) you are satisfied the matter is likely to be resolved only by preparing for proceedings in a civil court for which legal aid is available, and
- (b) it is likely (on the information provided to you) the applicant will qualify on financial grounds for civil legal aid, and
- (c) it is reasonable in the circumstances of the case.

The £180 initial limit for ABWOR also applies in relation to a petition by a debtor for the sequestration of his estate (inclusive fees are prescribed for this work).

Criminal advice and assistance

For criminal advice and assistance and criminal ABWOR cases, the initial limits of expenditure can be £35, £90, £185, £550, £200, £225, or £165, depending on the type of criminal advice and assistance or ABWOR being used:

- **£35** applies for general advice and assistance, where advice is being given prior to the service of a complaint or direct measure, or if the direct measure is accepted.
- **£90** applies for standard advice and assistance where advice is being given after the issue of a summary complaint or if the direct measure is being challenged.
- **£90** applies to advice given in connection with solemn criminal matters.
- **£185** applies for ABWOR cases on a block fee basis in JP court cases. This covers the standard JP Court block fee with the additional fee for any diet where a social enquiry report (SER) is being considered, together with £10 for any outlays.
- **£550** applies for ABWOR cases on a block fee basis in the Sheriff Court. This covers the standard Sheriff Court block fee with the additional fee for any diet where a SER is being considered, together with an allowance for any outlays.
- **£165** applies for ABWOR cases for Parole Board proceedings, or if a second or subsequent diet has been ordered by the court for any other cases where ABWOR is available on a chargeable basis
- **£90** applies where it relates to ABWOR for any other post-conviction criminal matter.
- **£200** applies for ABWOR cases for challenging Investigative Liberation or Bail Undertaking conditions, or applications for Post Charge Questioning. This covers the initial fee if the case is completed without a court hearing or the higher fee for the first court appearance and the add on fee for subsequent appearances.
- **£225** applies for Section 44 consultations in police stations. This covers the telephone call or attendance fees (and the higher fee for an attendance with a vulnerable client), up to 2 hours travel, mileage and any other outlays.
- **£550** applies for Section 32 interviews in police stations. This covers the telephone call fees, or the up to 2 hours attendance fee, the 2 to 4 hours attendance fee, with the additional fees for each hour thereafter, up to two hours traveling, mileage and any other outlays.

Children's advice and assistance

£95 is the initial limit of authorised expenditure for children's advice and assistance.

Increases in authorised expenditure

An increase in authorised expenditure is only effective from the date we grant it.

We cannot authorise increases retrospectively and if you do any work not covered by the authorised expenditure at any given time, we cannot pay for it.

Clawback and regulation 16(3)

Clawback limits

The solicitor's right to prior payment of fees and outlays out of any property recovered or preserved for a client under advice and assistance does not apply to property recovered or preserved by virtue of certain family proceedings listed in regulation 16(2)(b) of the Advice and Assistance (Scotland) Regulations 1996, to the extent set out in the regulation.

Please note the exemption under Regulation 16(2)(b) affecting money or the value of property recovered or preserved by virtue of certain family proceedings, no longer applies where advice and assistance was provided on or after 1 April 2011.

The limits to be applied are:

	Amount
Date of order or settlement prior to 1 December 2002	£2,500
Date of order or settlement on or after 1 December 2002 (and not covered below)	£4,200
Date of application for advice and assistance between:	
06 April 2003 and 11 April 2004	£4,275
12 April 2004 and 10 April 2005	£4,395
11 April 2005 and 09 April 2006	£4,531
10 April 2006 and 08 April 2007	£4,653
09 April 2007 and 06 April 2008	£4,821
07 April 2008 and 05 April 2009	£5,009
06 April 2009 and 11 April 2010	£5,259
12 April 2010 and 01 April 2011	£5338
On or after 1 April 2011	NIL

In relation to advice and assistance granted on or after 1 April 2011 **no exemption** can be applied to:

- any dwelling recovered or preserved for the client as a result of advice and assistance given to them by the solicitor;
- any money paid under an order made by the Employment Appeal Tribunal which continues in existence under section 20 of the Employment Tribunals Act 1996 or under any settlement arrived at to prevent or bring to an end proceedings in which such an order may be made;
- any payment of money in accordance with an order made under section 21 of the 1996 Act by the Employment Appeal Tribunal;
- any payment of money in accordance with an order made by an employment tribunal or under any settlement arrived at to prevent or bring to an end proceedings in which such an order may be made.

Regulation 16(3)

We pay fees and outlays according to the steps set out in section 12(3) of the Act. The Fund only pays as a last resort - you must first look to the client's contribution, expenses paid by the opponent and property recovered or preserved by the applicant (subject to the exemptions set down in regulation 16(2) of the Advice and Assistance (Scotland) Regulations 1996.

If money or property is recovered, you can apply to us to waive this charge because either:

- it would cause grave hardship or distress to the client [regulation 16(3)(a)]; or
- payment of your account from the money or property could only be effected with unreasonable difficulty or after unreasonable delay, provided you have taken all reasonable steps to have your account paid out of the money or property [regulation 16(3)(b)].

If, after we have paid a solicitor's account under regulation 16(3)(b), we find that the person who received advice and assistance has:

- either received expenses, or recovered or preserved property, and
- not told us about it

we can recover the amount of fees and outlays paid, less any amount which would have been properly payable by way of fees and outlays under section 12(3)(d) of the Act had the person declared the expenses or property to us.

For further information about clawback under advice and assistance, and payment under regulation 16(3), you should refer to Part 7 chapter 1 of the Civil Legal Assistance Handbook.

[Back to contents](#)

Civil legal aid

Passported benefits - automatically eligible

If the client receives or is included in their partners claim for any of the following benefits, they will not have to pay a financial contribution towards their case if their application is successful:

- Income Support
- Income based Employment and Support Allowance
- Income based Jobseekers Allowance
- Universal Credit

We will verify a client's receipt of one of the passporting benefits named above with the Department of Work and Pensions (DWP). Our link with the DWP only checks passport benefits. We are not able to verify any other benefits in payment. To assist us please do not provide two surnames like "Smith or Jones". Our automatic link with the DWP will not be able to confirm the benefits where two names are provided. Please check the spelling of the name as the DWP link will not confirm the benefit where the name is spelt incorrectly.

Remember, if the benefit claimant is the applicant's partner, we also need the partner's details to be correct for the DWP check.

Eligibility limits

To do work as a matter of special urgency under regulation 18, you have to complete the online declaration form which is designed to assist you to assess your client's financial eligibility. The form can be found either in section D of the CIV/SOL Family or CIV/SOL Non Family applications or in the Special Urgency application. To complete the form you need to apply the current eligibility limits and allowances, which are:

Disposable income

The lower disposable income limit, on or below which a person will not have to pay a contribution from income	£3,521
The upper disposable income limit, above which a person will be ineligible on income	£26,239

Allowances for a partner and dependents

Partner living with the applicant	£2,177
For any dependent person who is wholly or substantially maintained, being a member of the applicant's household, who is not entitled to any income from any source in their own right	£3,488

Particular situations

- **Adults with Incapacity**

Where the applicant is seeking a guardianship order relating to the welfare of the Adult or a combined order dealing with welfare and the financial affairs of the Adult no assessment of financial

circumstances need be undertaken. If the orders sought deal solely with the financial affairs of the Adult, or relate to other orders such as variation or recall of orders etc, you must assess the disposable income and capital of the Adult concerned, not those of the person making the application.

- **Pension credits**

You should disregard any income from a state pension credit under the State Pension Credit Act 2002. However, you should fully assess any other income.

- **Applications from children**

The resources of any person who owes an obligation of aliment to that child, within the definition given in section 1(1)(c) or (d) of the 1985 Act, must be included, along with the child's resources in establishing financial eligibility unless it would be unjust or inequitable to do so. If you consider this to be the case, please seek further advice from SLAB.

Calculating income contributions

If someone's disposable income exceeds £3,521 they are eligible on income, but will have to pay a contribution. The following table sets out how the contribution should be calculated

Disposable income	Contribution rates applied to income in that range
Below £3,521	0%
£3,522 - £11,540,	33%
£11,541 - £15,743	50%
£15,744- £26,239	100%
Over £26,239	Not eligible

Disposable capital

The lower capital eligibility limit, on or below which a person will not have to pay a contribution	£7,853
The upper capital eligibility limit, above which SLAB may refuse a person legal aid if it considers they can afford to proceed without it	£13,017

If someone's disposable capital is between £7,853 and £13,017 they are eligible on capital, but will have to pay a contribution. This contribution is equal to the difference between their capital and **£7,853**.

Unlike advice and assistance there are no statutory allowances from capital for partners or dependants.

Clawback limits

You should refer to the Civil Legal Assistance Handbook for guidance on clawback.

The requirement for someone receiving civil legal aid to pay any net liability to the Fund does not apply to property recovered or preserved under certain family proceedings listed in regulation 33(b) of the Civil Legal Aid (Scotland) Regulations 2002, to the extent set out in the regulation. **This exemption no longer applies to civil legal aid granted on or after 1 April 2011.**

Date of order or settlement prior to 1 December 2002	£2,500
Date of order or settlement on or after 1 December 2002 (and not covered below)	£4,200
Date of application for civil legal aid between:	
6 April 2003 and 11 April 2004	£4,275
12 April 2004 and 10 April 2005	£4,395
11 April 2005 and 9 April 2006	£4,531
10 April 2006 and 8 April 2007	£4,653
9 April 2007 and 6 April 2008	£4,821
6 April 2009 and 11 April 2010	£5,259
7 April 2008 and 5 April 2009	£5,009
6 April 2009 and 11 April 2010	£5,338
12 April 2010 and 31 March 2011	£5,338
On or after 1 April 2011	NIL

In relation to civil legal aid granted on or after 1 April 2011 no exemption can be made in respect of any money payable under an order made by the Employment Appeal Tribunal or under any settlement arrived at to prevent or bring to an end proceedings in which such an order may be made.

[Back to contents](#)