

Criminal Advice & Assistance/ABWOR Keycard 2024



About the Keycard

This Keycard sets out the various eligibility limits and contributions in Criminal advice and assistance and ABWOR in force from **8 April 2024**.

There are separate Keycards for:

- Civil advice and assistance/ABWOR and legal aid, which can be accessed [here](#).
- Children's advice and assistance/ABWOR and legal aid which can be accessed [here](#).

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

For more information on eligibility and contributions, please refer to the Legal Assistance guidance available on our website at www.slab.org.uk.

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Definitions used

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. A contrary interest exists where the applicant’s partner is a co-accused, complainer or crown witness
- 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*” or “*impracticable*” you must provide details of why you consider that the resources should not be aggregated. 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.

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.

Assessing eligibility on capital

Disposable capital

£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.

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

To calculate disposable capital, you should:

- calculate your client’s total capital
- deduct from the total capital the standard allowances
- disregard the level of capital shown in the section below if the applicant or their partner is of pensionable age (60 or over).

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.

Examples of capital include:

- the amount that could be borrowed against all land and buildings the client or their partner own, including interests in timeshares

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- 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.

Advice and Assistance Income and Capital Disregards

In addition, you should **NOT** include any of the following payments and benefits as capital, but where benefits have been accumulated by your client as savings, they should then be assessed as capital in the normal way:

- Adult disability payments and short term assistance given in accordance with the Disability Assistance for Working Age People (Scotland) Regulations 2022
- Armed forces independence payments under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011
- Back to work bonus (payable under the Jobseekers Act 1995)
- Carer Support Payments
- Child disability payments and short term assistance given in accordance with the Disability Assistance for Children and Young People (Scotland) Regulations 2021
- Child maintenance bonus
- Child support maintenance (paid through the Child Maintenance Service)
- Community Care (Direct Payments) Act 1996 payments or any direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013
- Cost of living crisis payments via the Social Security (Additional Payments) Act 2023 and Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2023
- Employment and Support Allowance - Contributory
- Jobseeker's Allowance - contribution-based
- Personal Independence Payments under Part 4 of the Welfare Reform Act 2012
- Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 payments (financial redress for historical child abuse), or any relevant payments made or due to be made prior to the date of commencement of the redress scheme
- Scottish Child Payments
- Scottish Infected Blood Support Scheme payments
- Severe Disablement Allowance
- Social Security (Additional Payments) Act 2022 (cost of living)
- Social Security Contributions and Benefits Act 1992 (except statutory sick pay) including:

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- Adoption pay
- Attendance allowance
- Bereavement allowance
- Bereavement payment
- Child benefit
- Christmas Bonus for pensioners
- Council tax benefit
- Disability living allowance
- Guardian's allowance
- Housing benefit
- Incapacity benefit
- Industrial injuries disablement benefit including Exceptionally Severe Disablement Allowance and Constant Attendance Allowance
- Invalid care allowance (carer's allowance)
- Statutory maternity pay (non-occupational)
- Statutory shared parental pay (non-occupational)
- Widowed parent's allowance
- State Pension Credit under the State Pension Credit Act 2002
- State retirement pension
- Tax Credits under the Tax Credits Act 2002
- Universal Credit
- Victoria Cross or George Cross payments
- War widow's and widower's pension, and war disablement pension
- Welfare Fund payments
- Windrush Compensation Scheme payments
- Windrush connected payments - any other payments made.
- Winter fuel payments paid by virtue of the Social Fund Winter Fuel Payments (Temporary Increase) Regulations 2022 (cost of living).

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.

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

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

Disregards for applicants of pensionable age

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

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.

Assessing eligibility on income

Disposable income

£245 a week maximum for eligibility

“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.

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

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.

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.

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We 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 what is 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, for example 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. We are not able to check cases where the applicant is not in receipt of a passport benefit. You should obtain verification of non-passport benefits.

Always make sure that passport benefits are entered in the correct place to allow the automatic link to check these with the DWP. Do not enter these benefits as non-passport benefits as this will not be checked with the DWP. If this is entered incorrectly then we will 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 (not paid in terms of the Child Support Act 1991)
- 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.
- rental income from other properties.

Disregarded Benefits

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

Do NOT include any of the payments shown in the [Capital disregards on pages 4 and 5 above](#).

Allowances

Do not make an allowance for any child for whom Foster care or Kinship care allowance is paid. You should deduct the following standard allowances from income:

Partner living with the applicant	£51.75
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Any dependent person, adult (other than partner) or Child, who is wholly or substantially maintained, being a member of the applicant's household	£83.24
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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 dependant who is not part of the household.

Clients' contributions

Disposable income range	Maximum contribution
Disposable income not exceeding £105 a week	£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

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 [Advice and Assistance guidance](#) on our website 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 income and capital 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.

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

For income

- 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 or a bank statement/ATM receipt

For capital

- the most recent bank statements showing any savings
- a certificate of any investments held.

Keep a copy of the verification, or details as to 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.

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. The declaration is not to be used as an automatic substitute for seeing statements.

No verification available

We appreciate that in some circumstances, clients may not have documentary evidence available when initially 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 that they are eligible and give them advice. However, this should be on agreement that they will provide the evidence at the earliest opportunity. You should obtain the verification before seeking an increase in authorised expenditure.

If the client doesn't provide evidence, you must show in your application that reasonable attempts have been made to contact them.

Where client is in prison

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.

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, such as the number of letters and/or phone calls 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 were supported in the last seven days if they have no income and were not in custody or on remand
- Tell us if they are supported by parents, family and/or friends.

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.

Verification update

Where you are updating us on the verification you have now seen or advising what steps you have taken to obtain verification then you submit a verification update. Please do not send this information via an online message.

Initial limits of authorised expenditure

For criminal advice and assistance and criminal ABWOR cases, the initial limits of expenditure can be £50, £115, £215, £250, £290, £385, £500, £600, or £750, depending on the type of criminal advice and assistance or ABWOR being used:

- **£50** 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.
- **£115** 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.
- **£215** applies to advice given in connection with solemn criminal matters.

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- **£500** 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 Criminal Justice Social Work report (CJSW) is being considered, the holiday court supplement when it applies, with the balance for any outlays.
- **£750** 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 Criminal Justice Social Work report (CJSW) is being considered, the holiday court supplement when it applies, with the balance for any outlays.
- **£215** applies for ABWOR cases for Parole Board proceedings.
- **£290** applies for any other cases where ABWOR is available on a chargeable basis if a second or subsequent diet has been ordered by the court.
- **£215** applies where it relates to ABWOR for any other post-conviction criminal matter.
- **£385** 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.
- **£250** 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.
- **£600** 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.