



Legal Assistance Update

20 July 2012

To all legal aid practitioners

Changes to Legal Aid Online - verification of financial eligibility in advice and assistance and ABWOR

We are making significant changes to the Legal Aid Online financial verification process for advice and assistance. These changes will be implemented from Friday 27 July 2012.

We have been reviewing the operation of financial verification in advice and assistance to make the whole process more efficient. We are making the process easier for you to provide the information we need, to reduce the occasions where we have to ask you for further information and therefore reduce the time it takes for both you and us to process these applications.

It is important that all solicitors and support staff in your firm dealing with advice and assistance applications are made aware of this change because the information is required before you can submit your account for processing. This mailshot has been sent to all solicitors in your firm and an email notification has been sent to firm administrators. The changes will increase efficiencies both for the Board and for firms: drop-down lists will save users time when inputting details and it will allow us to process applications more quickly.

There is no change to our policy on financial verification or our guidance - you can read this in the Civil Legal Assistance Handbook, Part III, Chapter 2A or in the Criminal Legal Assistance Handbook, Part III, Chapter 2.6. Further guidance on verification of financial eligibility in criminal advice and assistance and ABWOR cases will be issued next week to give further detailed advice on how to comply with the regulations on financial verification.

In summary, the changes are:

- You will be asked to identify the documentary evidence you have seen of the applicant's financial circumstances (capital and income) from a list of options.
- At the time you send the application for advice and assistance, if you have not seen documentary evidence of the applicant's financial circumstances but can provide a reasonable explanation for this in the application, we will assess this and let you know if it is approved.
- At the time you send the application for advice and assistance, if you have not seen documentary evidence of the applicant's financial circumstances but are attempting to do so, you must tell us this in the application and send an update to us when you have seen it or an explanation as to why it is not available.
- For applications made on or after 27 July, in circumstances where you have not seen documentary evidence and, *after you send the application*, this subsequently

becomes available or you can give an explanation as to why it is not available, you will do this through a new screen: **Advice and assistance - Verification Updates**. We will process the information you have provided and update the status of the application, where appropriate.

- For applications made on or after 27 July, we will no longer accept information about financial verification provided in an online notification.
- For all advice and assistance, where there is no documentary evidence or reasonable explanation why it is not available, you will not be able to submit an account (paper or online) until this information is provided. You will be able to draft an account.

We will continue to do checks of the documentary evidence provided by applicants for all advice and assistance applications. As part of these checks, we may contact your firm and ask for copies of the documentary evidence provided by applicants about their financial eligibility. You must, therefore, keep copies of these documents.

To discuss any advice and assistance financial verification issues, you should contact the Civil & Children's Advice and Assistance Verification Unit or the Criminal Applications Department. Please do not contact the Accounts Department.

How to provide financial verification information

You will be asked to identify what documentary evidence you have seen of the applicant's financial circumstances (income and capital) from a list of options (see Screen 1 below).

Screen 1

Initial Expenditure Sought £ 95 £ 180

Client's signature obtained

Date Application Granted 19/07/2012

I have seen the most recent evidence of the applicant's income Yes No

Benefit Award Letter (passport & non passport)

Wage Slip

Bank statement

Post Office Statement

Building Society Statement

Confirmation letter Inland Revenue / HMRC

Other

I have seen the most recent evidence of the applicant's capital Yes No

Bank statement

Building Society statement

Post Office statement

Applicant Signed AA/LAO/CRIM or CIV (Revised June 2011) - or AA/FIN

Other

Additional Information Yes No

Information
After saving a draft you will have the option to generate the Application Printable Summary

The documentary evidence should, as far as possible, reflect the applicant's income or capital position in the 7 days prior to their application; although we appreciate that most payslips and bank statements will be monthly.

If you have seen documentary evidence not included in the list of options - select 'Other' and you must enter an explanation of the evidence you have seen in the free text box which will appear.

If the applicant has been unable to provide the most recent evidence of their income or capital - you should answer 'No' and enter an explanation as to why it is not available or the steps you have taken or are taking to obtain this in Screen 2 (see below).

Applicants in receipt of a passport benefit - If the applicant declares that they receive a passport benefit, they have supplied their National Insurance number but you have not seen documentary evidence of the benefit, you should answer 'No'. As we can verify these benefits through our link with the DWP, you should enter 'DWP link' in the free text 'Details' box in Screen 2.

For criminal advice and assistance - if the applicant is in custody and that is the reason why you have not seen documentary evidence, you should state that in the free text 'Details' box in Screen 2. We will consider the reason given and respond to you.

Screen 2

and stage reporting, where appropriate, at any stage during or after the advice and assistance. confirm that I have not provided advice and assistance/ABWOR in connection with the same matter.

I have begun to give advice and assistance on the date shown below.

Initial Expenditure Sought £ 95 £ 180

Client's signature obtained

Date Application Granted 19/07/2012

I have seen the most recent evidence of the applicant's income Yes No

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

Applicant is serving a sentence 3969 left

I have seen the most recent evidence of the applicant's capital Yes No

If you have not been able to obtain financial verification for capital, 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

Applicant is serving a sentence 3969 left

Additional Information Yes No

Information
After saving a draft you will have the option to generate the Application Printable Summary

Save Draft

Previous step

Submit

What do the changes mean in practice?

Generally, three situations arise in relation to the requirement to see documentary evidence and we have set out the outcomes for each below. We have highlighted where there are differences in the processes for civil and children's advice and assistance and criminal advice and assistance.

Scenario 1 - You have seen evidence of income and capital

We will process the application as normal and, if all other elements of the application are accepted, you will receive a confirmation notification. If it is a criminal ABWOR application that requires approval of the appointed solicitor provision, the interests of justice or other merits test, we will also have to assess these.

If at the time you grant advice and assistance, you have not seen financial evidence of the applicant's capital or income and (i) provide an explanation for this, or (ii) you tell us that you are making attempts to do so, in civil cases, the Case Status (you can see this in View Case) will default to: **Pending**. In criminal cases, the status will default to: **Granted - pending financial verification** or **Pending**.

Scenario 2 - You have not seen evidence but can provide an explanation as to why it is not available

We will review your explanation and if it is satisfactory, your application will be processed as normal. If your explanation is not satisfactory, we will send you a notification to tell you this and you can address these issues and send an update using the **Verification Updates** screen (for grants of advice and assistance made after 27 July) or by online notification (for grants prior to 27 July). You will be able to draft an account at this stage but you will not be able to submit it online or in paper format until we accept the explanation.

Scenario 3 - You have not seen evidence but you are making attempts to do so.

You can tell us this and the Case Status will be 'Pending' or 'Granted - Pending Financial Verification' until we receive an update from you which you should send using the **Verification Updates** screen (for grants of advice and assistance made after 27 July) or by online notification (for grants prior to 27 July). You will be able to draft an account at this stage but you will not be able to submit it online or in paper format until you see evidence or provide an explanation as to why it is not available and we accept this.

Can you still do work and ask for an increase in authorised expenditure?

Yes, in all of these circumstances, you can continue to do work and apply for an increase in authorised expenditure. The Legal Assistance Handbooks provide information about continuing to do work and our approach to increases. You can read about it in the: Civil Legal Assistance Handbook Part III, Chapter 2A or the Criminal Legal Assistance Handbook Part III, Chapter 2.6.

Although in general you should not act until you have verified your client's capital and income by seeing documentary evidence, we accept that occasionally it may not be possible, at least in the early stages of the case, to get that evidence. If documentary evidence is not available, this may be only temporary and you should continue, as the case progresses, to try to get it. With each application for an increase you should explain why it is not reasonably possible to obtain documentary evidence of financial eligibility.

Can you send an account?

For all types of advice and assistance, where the Case Status in View Case is '**Pending**' or '**Granted - pending financial verification**' you can draft an account but you cannot submit an account (online or paper) until you provide an update about the financial evidence and we accept it or we accept your explanation as to why it is not available. This is a change to the current process.

This does not mean that you always have to see evidence; we will always consider your explanation as to why none is available. There is no change in our overall approach to verification in this regard.

If you try to submit an account online, an error message will appear and you will not be able to submit it. If you send a paper account and the Case Status in View Case is 'Pending' or 'Granted - Pending Financial Verification', we will return the account to you. Only when you have provided the information required and we have approved it, will we accept your paper account for processing.

If you have any enquiries about Financial Verification, please contact the Civil & Children's Advice and Assistance Financial Verification Unit or the Criminal Applications Department. Please do not contact the Accounts Department.

How do you send us an update about financial verification information?

For grants of advice and assistance made on or after 27 July, you must send an update using the **Verification Update** screen - you can read more about this in the 'How to update us about financial verification' section below.

For grants of advice and assistance made before 27 July, you must send an online notification.

How to update us about financial verification

To make the verification process more efficient, we have created a specific **Advice and assistance - Verification Update** screen (see Screen 3 below). If the Case Status in View Case is 'Pending' or 'Granted - pending financial verification', you should use this screen to update us about the financial verification you have seen or give an explanation if it is not available. It will help you to provide all the information we need, the application will automatically update with this information and we can process the information faster.

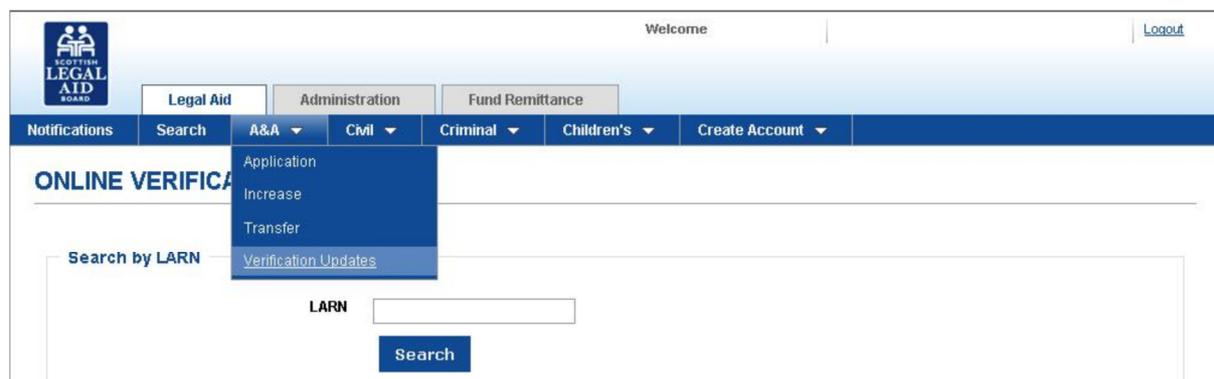
If at any time after you submit your original application, you are unable to verify the applicant's capital or income, you should provide an update as soon as possible. You do not have to wait to do this until you are ready to submit an account. If you do it at an earlier point, this will mean that, when you are ready to send your account, you do not need to complete the verification update process first and your account can be processed.

For grants of advice and assistance made on or after 27 July, please do not send *online notifications* about financial verification - for example, telling us about the documentary evidence you have seen. This is an inefficient way of providing the information and may mean that you do not provide all the information we need.

How to send an update

Select the **A&A** tab and choose **Verification Updates**.

Screen 3



The screenshot shows the user interface for the Scottish Legal Aid Board. At the top left is the logo for the Scottish Legal Aid Board. To the right of the logo is a 'Welcome' message and a 'Logout' link. Below the logo is a navigation bar with tabs for 'Legal Aid', 'Administration', and 'Fund Remittance'. Below the navigation bar is a menu with options: 'Notifications', 'Search', 'A&A', 'Civil', 'Criminal', 'Children's', and 'Create Account'. The 'A&A' menu is open, showing options: 'Application', 'Increase', 'Transfer', and 'Verification Updates'. The 'Verification Updates' option is selected. Below the menu is a search bar with the text 'Search by LARN' and a 'LARN' input field. Below the input field is a 'Search' button.

Once you have entered the LARN, you will first be asked to update the applicant's income and capital information. You may need to do this if you sent the application without any income or capital information or if the evidence you have now seen shows that the amounts are different to those originally declared. If this is not relevant to your application, you can go to the next screen.

Screen 4

Application - Financial Statement

Applicant's Circumstances

i If financial verification has only now become available and you need to change the income or capital amounts previously entered, you can do so below. The applicant's contribution will be automatically recalculated. If the applicant no longer qualifies for advice and assistance, you will not be able to submit the verification update and the application will remain pending financial verification.

Does the applicant have a spouse or partner living in the applicant's usual place of residence? Yes No

Number of Dependents

Capital

i **Information**
To the nearest pound, provide the total capital (including money, savings, investments, land or property).

Capital Applicant	<input type="text" value="0"/>
Total Capital	0.00
Total Capital Allowances (deductions)	0.00
Disposable Capital	0.00

Income Details

Does the applicant receive passport benefits? Yes No

Earnings Yes No

Non-passport benefits Yes No

While small differences in the amounts declared will be understandable, we may ask for further information about larger differences or items not originally declared. If the changes make the applicant ineligible for advice and assistance or change the amount of the contribution, the system will automatically re-calculate and tell you this. On the next screen, you will be able to update us about the financial evidence you have seen. Or if it is not available, you can tell us about the steps you have taken to obtain this, or tell us why the evidence is not available.

Screen 5

Declaration By Practitioner

 Having considered all the information provided to me by the applicant and all matters that I am obliged to consider under the Legal Aid (Scotland) Act 1986 and the regulations made under that Act, I am satisfied that the applicant is eligible to receive advice and assistance in relation to this matter. I also consent to the disclosure of this application and associated papers, and the client case file for quality assurance purposes including peer review, and stage reporting, where appropriate, at any stage during or after the advice and assistance. confirm that I have not provided advice and assistance/ABWOR in connection with the same matter.

Initial Expenditure Sought £95.00
Date Application Granted 19/07/2012

I have seen the most recent evidence of the applicant's income Yes No

Benefit Award Letter (passport & non passport)
Wage Slip
Bank statement
Post Office Statement
Building Society Statement
Confirmation letter Inland Revenue / HMRC
Other

I have seen the most recent evidence of the applicant's capital Yes No

If you have not been able to obtain financial verification for capital, 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.

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When we receive the information and we are satisfied with it, you will receive a confirmation message and, where appropriate, the case status will show it is granted. You will then be able to send an account.

If you would like to discuss these process changes, please contact:

- Civil and children's advice and assistance - Ann Forbes-Partington - 0131.240.2072
- Criminal advice and assistance - Alison Craig - 0131.240.2098