****

**Administrative procedures handbook**

**Our Mission is to facilitate the effective resolution of civil disputes through the delivery of efficient and accessible legal aid and mediation services and to effectively manage and administer the State’s criminal legal aid schemes**

**November 2018**

**Twelfth Edition**

****

**Administrative procedures handbook**

**October 2018**

**Civil Operations**

**First issued June 2010  
Second Edition issued March 2011**

**Third Edition June 2011**

**Fourth Edition September 2011**

**Fifth Edition March 2012**

**Sixth Edition August 2012**

**Seventh Edition September 2013**

**Eighth Edition March 2014**

**Ninth Edition February 2015**

**Tenth Edition January 2016  
Eleventh Edition May 2017**

**Twelfth Edition**

**Administrative Procedures Handbook 2018**

**Introduction**

*“The principal functions of the Board shall be… to provide, within the Board’s resources and subject to the other provisions of this Act—*

*(i) legal aid and advice in civil cases to persons who satisfy the requirements of this Act, and*

*(ii) a family mediation service;”*

*-* *Civil Legal Aid Act 1995*, as amended

This handbook has been produced with the aim of providing a reference detailing all necessary procedures for the running of a law centre.This handbook is an “operating manual” for all law centre staff. Information specific to legal matters can be found in the separate **Circular on Legal Services***.* Template letters in this handbook are to be used by staff where necessary unless otherwise stated.

***Who is this handbook for?***

This handbook has been written for all existing staff as well as newcomers to the Board. The directions and procedures in this handbook apply to staff in law centres – solicitor, paralegal, and clerical staff. Aspects of the handbook may also be relevant to other staff.

For the purposes of this handbook the term “law centre” includes all law centres unless the context indicates otherwise. It also includes (unless otherwise stated) the Dolphin House Service, Childcare Unit, and Law Centre (Montague Court), which operate in similar manner to other law centres, notwithstanding their specialised remits.

***How the handbook works***

The handbook provides two types of information – general background information on our procedures in an area – **why we do things this way,** and detailed procedures which must be carried out – **how we do things.**

**Important information and procedures are in a box like this!**

Information in a box falls into three categories. Procedures are headed with the word **“Procedure”** and incorporate a step-by-step guide to the way a particular activity should be carried out. Important messages and directions are also in a box.

There are also cross references like this:

**🡺 Chapter 6**

With an 🡺 Arrow symbol indicating that there is more information about the procedure in another Chapter.

EOSThe EOS logo means that the section in question contains information or procedures relating to EOS, the Board’s Case Management System.

***Updates to procedures***Procedures may change from time to time. Updates to procedures will be circulated by email in the form of amendments to this handbook. Such amendments will supersede the existing handbook and should be printed off and inserted in the appropriate place.

Feedback in relation to the procedures outlined in the handbook is encouraged and should be forwarded to a member of staff in Civil Operations or to a member of the Professional Practice Work Group for consideration.

***Other sources of information***

Apart from this handbook, other sources of information that might be consulted include

* The **Circular on Legal Services, a guide to decision making and best practice** contains detail on legal matters**.**
* The **Family Mediation Procedures Handbook** provides an operating manual for the running of the Board’s mediation offices.
* The **Staff Handbook** and **Manager’s Handbook** provide information on Human Resources policies and procedures. They are distributed to all new staff members and managers respectively by Human Resources.
* The **IT Help Manuals** contain detailed information on the use of the IT system.
* **An information pack** containing information about certain legal issues.

***About the Legal Aid Board***

The Legal Aid Board is a State body established by the Oireachtas by law (the Civil Legal Aid Act 1995). Our purpose is to provide mediation in family disputes, legal advice, and representation in family and civil disputes to people who cannot afford to pay for a private lawyer. A civil dispute is one which is between individuals or individuals and organisations (as opposed to criminal cases, which concern the prosecution of criminal offences). As well as family disputes, civil disputes can include such matters as disputes regarding a contract, cases where someone has allegedly committed a civil wrong (“tort”) and the wronged person is looking for damages, and disputes regarding property. In Part 1 of the 🡺 **Circular on Legal Services,** you can read more about what is and what is not covered by civil legal aid and advice.

We do not provide legal aid to persons accused of criminal offences, though we have responsibility for the administration of a number of what are called “ad hoc” legal aid schemes connected with criminal law matters.

The Minister for Justice and Equality appoints the Board for a five year term. There is a Chairperson and twelve other members, at least two of which are barristers and at least two of which are solicitors. There are also two staff members appointed and one of these is also usually a solicitor. The term “the Board” is sometimes used to mean the Chairperson and members of the Board (sometimes referred to as the “statutory Board” or the “Board of the Legal Aid Board”) and sometimes used to mean the organisation as a whole. Both usages are correct. The Legal Aid Board is a body corporate (a legal person) and has a continuing existence independent from its membership, which changes from time to time.

***What we do***

The Legal Aid Board has two main functions:

* To provide mediation in family disputes
* To provide legal advice and legal aid in civil cases.

This handbook deals mainly with the provision of legal advice and legal aid. On iLAB, our intranet, you can find the 🡺 **family mediation procedures handbook**, where you can read more about how we provide mediation in family disputes. Mediation involves both parties sitting down with a mediator who helps them come to an agreement. Family mediation may, for many separating couples, be a more appropriate way of solving their dispute than going down the legal route. But it is not appropriate for everyone, particularly where there are domestic violence issues. Family mediation is currently available to everyone and is free of charge. There are sixteen mediation offices located nationwide. You will find information in this Handbook, particularly in 🡺 Chapters 3 & 6 , about when it is appropriate to refer applicants to family mediation.

There are certain requirements, laid down in the Act and the Regulations that were made under the Act, to get civil legal aid and advice.

The applicant:

* Must have income after set allowances are deducted, of less than €18,000 per year
* Must have capital assets, excluding the home in which they live, of less than €100,000

The topic of the case:

* Must be a civil matter – not a criminal case
* Must not be a “designated matter” (one of a list of matters, set out in the Act, for which civil legal aid and/or advice is not available – e.g. defamation and most property disputes)

Where legal aid is provided:

* It must be in the District Court, Circuit Court, High Court, Court of Appeal, or Supreme Court, or a reference from one of those courts to the Court of Justice of the European Union, or at a designated Tribunal – the only designated Tribunal at present is the International Protection Appeals Tribunal (It is possible that in the future other Tribunals may be designated by the Minister)
* The case must meet *merits* criteria – principally that the applicant would take the case if they were paying for it privately and that a solicitor or barrister would advise the applicant to take the case if they were paying for it privately.

There are exceptions to the above that you will encounter. For example, we provide limited legal aid and advice services to certain alleged victims of crime. The above is just a general guide. You will find more information on what is covered by civil legal aid and advice and the application of the merits criteria in the 🡺 **Circular on Legal Services,** while there is a full guide to assessing a person’s financial eligibility in 🡺 **Chapter 4** of this Handbook.

🡺 Part 1 of the Circular contains more detailed information on what civil legal aid and advice is and what it covers

The function of our civil legal aid and advice service is to make the services of solicitors and, where necessary, barristers available to qualifying persons. There are two ways in which we do this:

* Our directly delivered service, through thirty four law centres located nationwide, staffed by solicitors, paralegals, and clerical staff directly employed by the Legal Aid Board
* Our solicitors panels, comprised of solicitors in private practice who have agreed to provide services on terms and conditions put in place by the Board.

The law centre is the primary method of providing services, but the solicitors panel provide an important supplementary service in certain areas of law. There is also a barristers panel, comprised of barristers who have agreed to provide services on terms and conditions put in place by the Board.

We publish a number of leaflets regarding the services we provide and also on applying for legal services. The leaflets published to date provide general information, in non-legalistic language, on a range of family law remedies which are currently available. The leaflets are available at law centres and mediation offices, on our website [www.legalaidboard.ie](http://www.legalaidboard.ie) as well as court offices and Citizen’s Information Centres throughout the country.

There is a Legal Aid Fund consisting of a grant from the Department of Justice and Equality, contributions from aided persons and other income for example recovery of costs in some cases. The Legal Aid Fund is the money which is available to the Board to provide our services.

**Table of Contents**

[Chapter 1 General 1-1](#_Toc530660794)

[1. What is a law centre? 1-1](#_Toc530660795)

[2. Services provided by law centres 1-2](#_Toc530660796)

[3. Structure of a law centre 1-3](#_Toc530660797)

[4. Head Office 1-4](#_Toc530660798)

[Chapter 2 General office procedures 2-1](#_Toc530660799)

[1. Law centre opening hours 2-1](#_Toc530660800)

[2. Reception 2-1](#_Toc530660801)

[3. Customer service 2-2](#_Toc530660802)

[4. Using the telephone 2-5](#_Toc530660803)

[5. Sending and receiving written correspondence 2-7](#_Toc530660804)

[6. Using the IT system - basics 2-21](#_Toc530660805)

[7. EOS and Typing 2-28](#_Toc530660806)

[8. Office meetings 2-37](#_Toc530660807)

[9. Health, safety, and security procedures 2-38](#_Toc530660808)

[10. Other office procedures 2-41](#_Toc530660809)

[Chapter 3 Applying for legal services 3-1](#_Toc530660810)

[1. Applying for legal services 3-1](#_Toc530660811)

[2. The pilot online application system 3-13](#_Toc530660812)

[3. Validating the application 3-16](#_Toc530660813)

[4. Anti-money laundering checks 3-25](#_Toc530660814)

[5. Risk assessment 3-29](#_Toc530660815)

[6. Identifying for possible prioritisation 3-35](#_Toc530660816)

[Chapter 4 Passporting and Financial Assessments 4-1](#_Toc530660817)

[1. Passporting 4-1](#_Toc530660818)

[2. The financial assessment – general principles 4-3](#_Toc530660819)

[3. Rules for determining the applicant’s gross income 4-5](#_Toc530660820)

[4. Income of spouses and partners of applicants for legal services 4-8](#_Toc530660821)

[5. Allowances for the purpose of assessing disposable income 4-9](#_Toc530660822)

[6. Determining financial eligibility and calculating the income contribution 4-11](#_Toc530660823)

[7. Calculating a capital contribution 4-18](#_Toc530660824)

[8. Applicants who are financially ineligible 4-26](#_Toc530660825)

[9. Change in financial circumstances at a later date 4-39](#_Toc530660826)

[10. Frequently Asked Questions 4-42](#_Toc530660827)

[11. Legislation regarding financial eligibility and contributions 4-45](#_Toc530660828)

[Chapter 5 Managing the applications record and offering appointments 5-1](#_Toc530660829)

[1. The applications record 5-1](#_Toc530660830)

[2. Risk and the applications record 5-5](#_Toc530660831)

[3. Offering information on family mediation 5-6](#_Toc530660832)

[4. Identifying for referral to the solicitor’s panels 5-9](#_Toc530660833)

[5. Identifying for referral to Law Centre (Montague Court) 5-10](#_Toc530660834)

[6. Offering appointments to applicants 5-11](#_Toc530660835)

[7. Paying and recording the financial contribution 5-42](#_Toc530660836)

[8. Monitoring for payment of outstanding contributions 5-51](#_Toc530660837)

[9. Requests from the courts for information about applicants 5-51](#_Toc530660838)

[Chapter 6 Referring to Family Mediation, the Solicitors Panels, and Other Specialist Services 6-1](#_Toc530660839)

[1. Family mediation 6-1](#_Toc530660840)

[2. The Solicitors Panels 6-2](#_Toc530660841)

[3. The Dolphin House Service 6-4](#_Toc530660842)

[4. The Childcare Unit at Chancery Street, Dublin. 6-5](#_Toc530660843)

[5. Referring to the solicitors panel 6-6](#_Toc530660844)

[6. Referring medical negligence and personal injuries cases to Law Centre (Montague Court) 6-13](#_Toc530660845)

[Chapter 7 Client Care and Complaints 7-1](#_Toc530660846)

[1. Dealing with the public 7-1](#_Toc530660847)

[2. Clean desk policy and confidentiality 7-3](#_Toc530660848)

[3. Visitors or callers causing difficulties 7-5](#_Toc530660849)

[4. About complaints 7-6](#_Toc530660850)

[5. Change of solicitor requests 7-14](#_Toc530660851)

[6. Dealing with unreasonable complainant behaviour 7-18](#_Toc530660852)

[7. Customer Charter 7-22](#_Toc530660853)

[8. Freedom of information 7-22](#_Toc530660854)

[9. Data protection 7-25](#_Toc530660855)

[Chapter 8 Working with files 8-1](#_Toc530660856)

[1. Opening a file 8-1](#_Toc530660857)

[2. File management 8-1](#_Toc530660858)

[3. Closing, storing and destroying files 8-4](#_Toc530660859)

[4. Storing and destroying non-client files 8-1](#_Toc530660860)0

[Chapter 9 Financial procedures 9-1](#_Toc530660861)

[1. Recording financial information related to a case on EOS 9-1](#_Toc530660862)

[2. Managing the local bank account 9-1](#_Toc530660863)

[3. Petty Cash 9-10](#_Toc530660864)

[4. Documenting cash receipts 9-16](#_Toc530660865)

[5. Daily cashing up 9-23](#_Toc530660866)

[6. Managing Solicitor’s role re finances 9-23](#_Toc530660867)

[7. Approving Counsel fees 9-25](#_Toc530660868)

[8. Contacting Finance by post or email 9-25](#_Toc530660869)

[Chapter 10 Management information requirements 10-1](#_Toc530660870)

[1. EOS reports 10-1](#_Toc530660871)

[2. Professional risk declarations 10-14](#_Toc530660872)

[3. Declarations re familiarisation and compliance with the contents of the Board’s Administrative Procedures Handbook 10-14](#_Toc530660873)

[4. Human Resources reporting requirements 10-15](#_Toc530660874)

[Chapter 11 Managing performance 11-1](#_Toc530660875)

[1. PMDS – an overview 11-1](#_Toc530660876)

[2. ePMDS and goal setting 11-1](#_Toc530660877)

[3. Completing the Mid-year Review 11-2](#_Toc530660878)

[4. Completing the End of Year Review 11-2](#_Toc530660879)

[5. Support for ePMDS 11-3](#_Toc530660880)

[Chapter 12 Appendices 12-1](#_Toc530660881)

[Appendix A – Structure of Head Office 12-1](#_Toc530660882)

[Appendix B – Style Guide – May 2017 (Version 1.1) 12-2](#_Toc530660883)

[Chapter 13 Abhaile 13-1](#_Toc530660884)

[1. Introduction 13-1](#_Toc530660885)

[2. The Solicitor Consultation Service 13-3](#_Toc530660886)

[3. The Duty Solicitor Service 13-9](#_Toc530660887)

[4. The PIA Review Legal Aid Scheme 13-12](#_Toc530660888)

[6. Queries 13-19](#_Toc530660889)

# General

This chapter deals with:

1. What is a law centre?
2. Services provided by law centres
3. Structure of a law centre
4. Head Office

## What is a law centre?

A law centre is a Legal Aid Board public office which provides **legal aid** and **legal advice** on matters of civil law to people who cannot afford to pay for a solicitor privately. You can find information about where our offices are located at [www.legalaidboard.ie](http://www.legalaidboard.ie)

### Specialised services

Most of the law centres deal with a wide range of civil matters. To improve its service delivery in certain matters, the Board has established a number of specialised services:-

### Medical Negligence and Personal Injuries Unit, Law Centre (Montague Court)

Law Centre (Montague Court) in Dublin operates as a law centre specialising in medical negligence and personal injuries cases.

### Dolphin House Service

This is a dedicated service for the Dublin area based at the District Court, Dolphin House, East Essex Street, Dublin D02 RR76. The centre is a specialist service dealing with private family law matters in the District Court - generally applications for domestic violence orders, care of children, and maintenance for spouses and children - by referring persons to a private practitioner. 🡺 Chapter 6 deals with the Dolphin House Service in greater detail.

### Childcare Unit, Chancery Street As part of the dedicated District Court service for the Dublin area, we established a dedicated childcare unit operating as a specialist law centre at the District Court, Chancery Street, Dublin D07 A599. This deals with applications for legal aid by parents whose children are the subject of an application by Tusla either to take them into care or to supervise them in their own homes.

### International protection cases

A specialised service which provides legal services to persons applying for international protection and in appropriate cases, on immigration, deportation and matters relating to human trafficking is provided by Dublin Smithfield, Cork Popes Quay and Galway Seville House law centres.

### Co-location of law and mediation centres

We have established an integrated law and mediation centre in Kilkenny, with the goal of promoting mediation as an option for the resolution of family disputes. There are other locations, such as Dublin Jervis Street, where separate law centres and mediation offices are co-located in the same building.

In this Handbook, the term “law centre“ is used to refer to all Legal Aid Board offices where legal services are provided to members of the public, regardless of their title, and including for most purposes (save where there is a specific reference to tasks that must be undertaken by solicitors) the Dolphin House Service.

## Services provided by law centres

### Legal advice

Legal advice is any oral or written advices given by a solicitor or a barrister in civil matters. It can include writing letters on a client’s behalf and acting for them in negotiations with other persons. Legal advice is provided by solicitors in the Board's law centre network.

### Legal aid

Legal aid means representation by a solicitor or barrister in civil proceedings in the District Court, Circuit Court, High Court, Court of Appeal, Supreme Court and the Court of Justice of the European Union. Legal aid is available also for representation before the International Protection Appeals Tribunal and in certain cases before Coroner’s Inquests.

Legal aid is provided by solicitors employed by us in our law centres. In certain cases, legal aid may be provided by solicitors in private practice who are contracted by the Board and placed on a panel for this purpose.

🡺 The Circular on Legal Services, Part 1 contains a longer definition of civil legal aid and advice

It also tells you about the types of cases for which we provide legal services

### Civil and criminal matters

It is important to be aware of the distinction between a civil and criminal matter. We can provide legal aid in most civil matters. A limited number of matters are excluded from the scope of civil legal aid. A **civil matter** may be described as a matter which concerns disputes between individuals or individuals and organisations. The 🡺 **Circular on Legal Services** gives details of the matters covered by the Civil Legal Aid Act 1995.

Criminal matters – which concern the prosecution of offences which carry a criminal penalty, i.e. a fine, community service, or imprisonment – are outside the scope of the Civil Legal Aid Act and not dealt with by us. Legal aid for defendants (the person who is accused of having committed the crime) in criminal matters must be sought from the Court and the grant or refusal of legal aid is at the discretion of the Judge. We provide certain services to victims of crime:

* we may give legal advice, and in certain circumstances legal aid, to a complainant (that is, the person against whom the crime has allegedly been committed)in rape and certain sexual assault cases.
* We can also give legal advice to alleged victims of human trafficking.
* We may provide legal aid to complainants or witnesses in certain criminal proceedings in the case of an application for the release of counselling records, if they are the person to whom those records relate.

The distinction between civil and criminal matters is not always obvious. For example, a failure to comply with an access order, though dealt with in the family law courts rather than the criminal courts, may be treated as a criminal matter, though there are also civil enforcement orders available. However it should be noted that the fact that a person may be imprisoned does not necessarily mean that the matter is a criminal matter. The golden rule should be: if you are in doubt over whether the matter is civil or criminal, ask a solicitor in the law centre or allow the person to make an application for legal services in any case.

A person presenting a summons in which the complainant/prosecutor is named in the format “The People (at the suit of the Director of Public Prosecutions)” or “Director of Public Prosecutions (at the suit of Garda x)”, or in which the parties are named as Prosecutor and Accused/Defendant, is usually involved in a criminal case and should be advised that the Board is unable to deal with criminal matters and they should seek legal aid from the court. However, if unsure, ask a solicitor, or allow the person to make an application for legal aid.

## Structure of a law centre

Law centres vary in size and staff make up as follows:-

* The smaller law centres are staffed by a Managing Solicitor Grade II, a Law Clerk/ Legal Clerk, and a Clerical Officer
* Medium sized law centres will be managed by a Managing Solicitor Grade II, with one to three Solicitors – Grade III, a Legal Clerk / Law Clerk, and a number of clerical officers
* The larger law centres are managed by a Managing Solicitor Grade I, with four or more solicitors, a Legal Clerk, and a number of clerical officers.

It should be noted that this staff make up is not ‘cast in stone’ and is subject to change depending on resources and potential efficiencies.

### Duties of law centre staff

This section sets out in general the duties of law centre staff. It is not a replacement for the detailed Job Specifications available from Human Resources, but a guide to the general role of each staff member.

### Managing Solicitor – Grades I and II

The managing solicitor has full and general responsibility for the provision of legal services in the law centre, through the management of the staff and resources in the law centre. Where there is both a managing solicitor grade I and II appointed to a law centre, the Managing Solicitor Grade I is the manager of the centre while the Grade II assists with the management functions. The managing solicitor manages the staff and physical resources of the centre and is accountable for the general performance of the centre and the provision of professional services in accordance with the relevant legislation and guidelines.

The managing solicitor is a practicing solicitor and will take on clients.

In the case of an office (e.g. the Dolphin House Service) which is not managed by a managing solicitor, the term “managing solicitor” in this Handbook also refers to the manager of such an office.

### Solicitor - Grade III

Solicitors - Grade III are responsible for providing an efficient and effective legal service to clients. They give legal advice to those who are eligible and require the Board’s services. They also provide legal aid - representation in courts. They represent clients in court and in certain cases they may retain a barrister to assist and to provide the advocacy services.

### Law/Legal Clerks

The role of the paralegal in the law centre is to assist solicitors in the provision of legal services to the public through direct legal/client output and supporting (administrative functions). Paralegals may assist solicitors in the drawing up of court/legal documentation; take notes at court hearings, and or conducting meetings with and taking attendances from clients.

### Clerical Officers

Clerical officers provide administrative support to ensure the effective operation of the law centre. Clerical officers duties include determining financial eligibility, reception duties, entering information on the computer system, being involved in the applications procedure, typing, answering the phone, sending letters, ordering stationary, doing the post, taking information and other support activities.

In smaller law centres, the clerical officer and law/legal clerk should be familiar with each other’s duties and be able to deputise during each other’s temporary absence from the law centre. The clerical officer role is not specifically limited and it may also involve an element of taking information from clients.

## Head Office

The Board’s Head Office is located in Quay Street, Cahirciveen, Co. Kerry V23 RD46. A number of head office functions are located in the Board’s Dublin offices.

### Structure of Head Office

The Board’s staff is headed by a Chief Executive appointed by the Minister for Justice and Equality, upon the recommendation of the Public Appointments Service. A number of Directors report directly to the Chief Executive.

**🡺 Appendix A** shows the structure of the Board’s support services.

### Head office sections

Law Centres will have interaction with most Head Office sections on a regular basis. Two sections relate primarily to service delivery, Civil Operations which manages the law centre network, and Legal Services which deals with matters such as grant/refusal of legal aid.

### Civil Operations

This Section has overall responsibility for the delivery of the legal aid service through the law centre network. The Section is responsible for service delivery and for developing proposals for legal aid policy development. It handles complaints in relation to delivery of services by law centres. It also has a role in relation to responding to complaints against private practitioners and provides quality assurance in relation to services provided by them.

### Legal Services

The consideration of certain applications for legal aid is assigned to the staff in Legal Services, based in Cahirciveen. Legal Services is divided into a number of Units and each law centre is allocated to a Unit.

EOSMuch of the regular correspondence between a law centre and Legal Services can be generated through EOS. This includes applications for legal aid certificates and for amendments to certificates. Legal Services respond through EOS.

A unit within Legal Services, Legal Services Unit 4, process certain applications for legal aid, such as from the Central Authority for Maintenance Recovery / Child Abduction, from complainants in rape cases, and administers our solicitors’ and barristers panels. Unit 4 also deals with general enquiries from members of the public.

For non-client related queries, group email addresses should be used by law centre staff.

### Information Technology

Information Technology (IT) deals with the provision of IT systems, hardware, software and support for the Board. Law centres may need to contact IT from time to time. The **IT Helpdesk** is based in Cahirciveen. Calls may be placed with the IT Helpdesk by clicking the **Log Servicedesk Call** button in the Lotus Notes email application, which is the preferred method of contacting IT Unit. Where Lotus Notes is not available (for example, in the case of a general system or network outage) call **066 9471076.**

IT Unit has produced comprehensive help manuals which are available via the **IT Help Manuals** tile in Lotus Notes and should first be consulted prior to contacting IT Unit.

### Human Resources

Human Resources (HR), based in Cahirciveen, deals with personnel matters, including recruitment, bullying and harassment, industrial relations, and disciplinary matters.

HR have produced a comprehensive 🡺 **Staff Handbook** and a 🡺 **Manager’s Handbook** which are available on your Lotus Notes Workspace and which should be consulted regarding general HR queries.

To contact HR, the group email **HR Cahirciveen** is available. Queries regarding flexitime and attendance (see 🡺 **Chapter 10**) should be emailed to the group **Time Management**.

Some HR functions are now dealt with by the National Shared Services Office. You can find details of NSSO and the functions it looks after on iLAB.

### Research, Learning and Development

Research, Learning and Development, based in Montague Court is responsible for the Board’s training and research functions.

As part of the training function, it organises training courses, is responsible for booking staff on external training courses, planning training and development, study and examination leave, advance and refund of fees, and change management in the Board.

The research function comprises the Board’s **Library** service which holds copies of legal texts and other documentation and provides a query service, and the **Refugee Documentation Centre** which holds materials relating to international protection law and which provides a legal query service and a country of origin information service. The Library can also conduct Property Registration Authority (Landdirect) searches and Company/Director searches as well as caselaw, legislation and journal article searches. If you require assistance with searching, contact the LAB Library. All law centre staff can request access to the Landdirect website, through the LAB Library, which allows access to conduct these searches. Research and Information also provides training on country of origin information research, information skills and legal databases which are available to Board staff.

The Library offers an electronic catalogue of materials it holds, which can be accessed on the Portal page for all Board users via a link in the top menu bar or on the left hand pane under LAB/RDC Library. A user manual is also available on the LAB Portal. A username and password can be obtained by contacting the group email **Resarch, Learning and Development.**

Staff can refer to the Library Services Guides for further information on library services which are available to them. The guides are on the Portal page under LAB/RDC Library. Staff may contact the library at (01) 477 6250 or by emailing the LAB Library email group.

Access Officer

Under the Disability Act 2005, all Government Offices are required to appoint one or more **Access Officers** to help customers with disabilities to access their services, buildings and information. Therefore, in accordance with section 26(2) of the Disability Act 2005 the Legal Aid Board appointed an Access Officer who is responsible for providing or arranging for, and coordinating assistance and guidance, to persons with disabilities accessing services provided by the Board. It is essential that all staff members are instructed as to who the Board's access officer is and how they may be contacted, and be able to refer clients onwards for advice when required.

The Access Officer can be contacted at [mmdonnelly@legalaidboard.ie](mailto:mmdonnelly@legalaidboard.ie)

Disability Liaison Officers

All Civil Service Departments/Offices are required to have a **Disability Liaison Officer (DLO)** whose role is to:

* Act as the point of contact for Civil Servants with disabilities, their managers and Human Resources Sections
* Assist and support Civil Servants with disabilities, in confidence, and their line managers by providing necessary information, appropriate contacts, guidance, suggestions and advice
* Assist in the implementation of best Human Resource practices in line with equality legislation
* Facilitate increased awareness of disability throughout the organisation
* Attend meetings of the Civil Service Disability Liaison Officers Network.

The Disability Liaison Officers can be contacted at **DLO**.

### Organisation

Organisation deals with buildings and facilities, including the provision of furniture, office supplies, and telephone lines, and buildings maintenance. Organisation has introduced a facility whereby law centres may order stationary and certain office supplies locally, via the Internet. 🡺 **Chapter 2** details how to use this facility.

Other queries should be directed to the group email **Organisation.**

### Finance

Finance is responsible for the Board’s accounts and banking functions, including payment of all invoices. Law centres must file returns to Finance Unit on a monthly basis (see 🡺 **Chapter 9**).

Payroll and the payment of travel and subsistence claims are now dealt with through the National Shared Services Office’s Payroll Shared Services Centre in Killarney. Instructions for the use of the PSSC’s online portal can be found on iLAB Alternatively, the PSSC Helpdesk can be contacted at 076 100 2702 or by email to [helpdesk@pssc.gov.ie](mailto:helpdesk@pssc.gov.ie) .

### Contacting a section of Head Office, a law centre or a mediation office

On occasion, you may need to call a specific section or office in the Legal Aid Board . The **Telephone Directory** application, available through the LAB Portal, allows staff to obtain individual telephone numbers for Head Office staff, as well as Law Centres and Mediation Offices.

**Procedure 1.1 – Using the telephone directory**

1. Open Internet Explorer
2. Click Favourites 🡪 LAB Portal
3. Enter your username and password (if unsure, contact IT Unit)
4. Click “Telephone Directory” (underneath the Legal Aid Board logo)
5. To contact a Head Office staff member, click “By Section/Unit” under View. To contact a Law Centre staff member, click “By Law Centre” . To contact a mediation office staff member, click on “By family mediation office”.
6. Click on the name of the Section/Unit/Law Centre/Mediation Office you require
7. Click on the office location you require
8. A list of staff in that unit, based at that location, will appear. Click the staff member’s name you require

The Telephone Directory can also give you the telephone numbers of law centres, by clicking “By Law Centre” under View. If you need to contact a mediation office then click under “By Family Mediation Office ”. It also has an alphabetical list of all staff employed by the Board.

### Updating the telephone directory

Staff now have access to edit their own telephone directory records.

**Procedure 1.2 – Updating your telephone directory record**

1. Follow 🡺 **Procedure 1.1** to find your own entry in the Telephone Directory
2. Click the Edit button at the top of the page
3. Update the details as required.
4. Click the Save button to save the details.

You cannot edit your name, email address, or grade. Contact Human Resources Section if you need any of these details changed.

If the Edit button is missing, click the “Help” button. An email will be automatically generated to IT Unit who will correct the problem.

You can also add a photograph to your telephone directory entry.

**What do I do if I want to have my photo added to my Telephone Directory entry?**

On a mobile phone please take a photo and text or Whatsapp to 0879092735. Include your name.

or

Email the photo to cgodwyer@legalaidboard.ie

iPhone users are advised to email the photo.

This telephone number and email address may change from time to time. Human Resources will inform you of any changes.

By sending in your photograph you are consenting to have your photograph used on our network and any internal publication that we may produce.

**What type of photo should I send?**

* The photo should be taken of the head and shoulders, with the head centred in the photo (similar to a passport photo)
* You should look directly at the camera
* The background should be plain and light coloured

### Communications from Head Office to law centres

Communications from Head Office may be made by telephone or email, the LAB Portal, or iLAB. Head Office may issue general communications to all law centres which take the following forms:-

### Chief Executive’s newsletter

The Chief Executive issues a periodical newsletter to staff which is available on iLAB.

### Office Notices

From time to time various Head Office sections may issue Office Notices announcing events, changes to office procedures, and other relevant information. These will normally be circulated by email and placed on iLAB.

### Circulars and amendments to the Handbook

Civil Operations may from time to time issue Circulars or notices which amend the Circular on Legal Services or the Administrative Procedures Handbook to take account of new developments. Such Circulars or notices should be inserted into the Circular or Handbook, as appropriate and supersede the original version or any previous amendments.

### iLAB

iLAB is our intranet. It contains a wide range of information including Office Notes, Circulars, Department of Finance Circulars, Private Practitioner Panels, Minutes of Meetings and other documentation. A discussion forum is also available.

MinutesMinutes of past meetings of the Board, the management advisory team, and various other committees and workgroups are available on iLAB.

### Employee participation

Outside of the law centre there are a number of ways employees of the Board can become involved in the wider business of the Board as follows:-

### Legal Aid Board

Two employees are appointed to the statutory Board by the Minister. They serve a five year term.

### Work Groups

Special purpose Work Groups or committees are formed from time to time to assist with various projects. They are normally disbanded as soon as the project for which they were founded is finished, though some, such as the Professional Practice Work Group, are ongoing.

***Vision and change initiative***

Three work groups have been set up: a group to consider communications; customer service / client care; staff development and well-being, and legal services/family mediation synergies. Minutes of meetings and other news from the vision and change initiative can be found on iLAB.

### Staff publications

We have three staff publications which are published on iLAB from time to time

* *Legal Ease*, our legal information bulletin
* *The Researcher*, a bulletin on events in the international protection area
* *LABlite*, our social newsletter

Staff are welcome to contribute to any of the publications. Contact details for the editorial teams of each publication are available by consulting the latest edition.

# General office procedures

This chapter deals with:

1. Law Centre opening hours
2. Reception
3. Customer service
4. Using the telephone
5. Sending and receiving correspondence
6. Using the IT system – basics
7. EOS and Typing
8. Office meetings
9. Health, safety, and security procedures
10. Other office procedures

## Law centre opening hours

Law centres are staffed Monday-Friday, 9:15am-12:45pm and 2:00pm-5:30pm (5:15pm on a Friday). Managing solicitors have responsibility for ensuring there is adequate staff cover on working days and there should be at least one staff member on premises during these times.

Public opening hours are 10:00am-12:30pm and 2:00pm-4:00pm. The law centre should be accessible and staff available to meet public visitors during these hours. Public visitors outside these hours can be seen by appointment.

Some law centres now open longer hours on a pilot basis. Any variation to the standard hours must be approved by the Director of Civil Legal Aid.

## Reception

Law centres operate a “Reception” arrangement whereby a staff member or staff members, will be available to answer the phone and deal with public callers. The managing solicitor may draw up a rota for the clerical officers (and/or law clerks as necessary) to operate this position.

The duties of Reception are to:-

* deal with public callers
* answer the main phone (and where appropriate to transfer calls to the correct person)
* to check the law centre general email inbox
* To check the fax machine and distribute incoming faxes

It is open to the managing solicitor to assign other specific duties to the reception person.

The reception / waiting area should display up to date reading material and should be kept as clear as possible 🡺 **Chapter 7** deals with Client Care and maintaining confidentiality.

The Board’s information leaflets should be available for perusal and, where possible, information leaflets from other relevant service and support providers should be available.

**Dealing with the public is a duty of every staff member**

### Dealing with personal callers

Law centres will, depending on their size and catchment area, have many personal visitors to the centre each day.

### Visitors during public opening hours

Visitors who attend during public opening hours should, in normal circumstances, be invited into the premises. If there is more than one visitor to the law centre, they should be invited to take a seat in the waiting area and dealt with in the order they arrived at the centre.

For routine matters – filling out application forms (where this is being done by the applicant themselves, unassisted), payment of contributions, and signing legal aid certificates – the visitor may be dealt with in the reception area. However, in the circumstances where an applicant / client wishes to discuss an aspect of their case, an appropriate appointment should normally be made for them to see their solicitor. If appropriate, a consultation room or a free office should be utilised in order to see an applicant / client who needs to discuss a matter in private. It is essential that a client / applicant’s business is kept confidential.

### Visitors outside public opening hours

A visitor outside public opening hours should be seen only by appointment. Other visitors outside opening hours should be asked to call the law centre for an appointment. A law centre member of staff should use their judgement as to what constitutes an “emergency”, or in case of doubt, ask their managing solicitor, or if he/she is absent from the law centre, a senior member of staff on duty. A degree of flexibility can be used in such circumstances, particularly with visitors who are slightly early or late.

### Clients / applicants who bring children with them for an appointment

Where a visitor brings their children with them for an appointment with the intention of leaving them in the law centre’s reception area or waiting room unsupervised, staff may make a judgement that the children are not capable of being left unsupervised in the reception area or waiting room. This may be for example, if the children appear of insufficient age.

If staff make such a judgement, the appointment should be re-arranged for a more convenient time. If this is queried, staff members should explain that the Board does not permit young children to be left unaccompanied in reception areas.

A mother is permitted to breastfeed an infant in any area of the law centre. Staff should not raise any objections, nor may they ask the mother to breastfeed elsewhere.

## Customer service

In all dealings with the public, regard should be had to the provisions of the Board’s Customer Service Action Plan, available on iLAB. A key element of the Plan relates to how the Board interacts with its customers.

### Courtesy

Care should be taken to ensure that every caller who visits the centre or communicates by phone or letter is dealt with courteously.

A humane approach is crucial. Many of those approaching the Board will be upset and nervous and will have found it difficult to contact the centre in the first place. Many will not have had legal difficulties before and they may be at a low point in their lives. It is essential that the approach should always be sympathetic and that explanations should be given where possible.

Each client with an appointment should be discreetly greeted by name and not kept waiting past the appointed time. It is the responsibility of the clerical staff to provide a friendly greeting.

### Visitors causing difficulties

Visitors causing difficulties should be dealt with in line with the principles contained in 🡺 **Chapter 7,** which deals with Client Care.

### Queries concerning legal services

**A staff member should give information only if satisfied that it is correct**

If there is any doubt, the query should be referred to somebody who is in a position to provide the correct information.

All staff are expected to be in a position to provide general information about the scope of the service (e.g. the requirement of a means and a merits test, the location of law centres etc.)

When giving information, a person should **not** be informed that he/she is ineligible for legal services (on financial or other grounds) without also being told that this may be confirmed, by the managing solicitor (or, if not available, another experienced solicitor), or, if necessary, through the normal applications procedure.

If the enquiry is one which cannot be dealt with by the law centre because, for example, it has to do with Government policies underlying the Act, etc. - then the enquirer should be referred to Head Office (as should all enquiries in cases of doubt).

**Head Office: 066 9471000**

**LoCall: 1890 615 200**

(Note that the above LoCall number is for the use of the general public. Staff of the Board using the Board’s telephone system should use the standard 066 number).

### Queries on matters of law

The basic rule to be followed in relation to all enquiries, where legal matters arise, is to refer the matter to a solicitor.

We have published sixteen information leaflets, mainly on family law topics. You should keep copies of these on display in your law centre’s reception.

### Queries concerning individual applicants/clients

Information concerning the cases of individual applicants/clients should be treated in strict confidence and should, in no circumstances, be discussed with third parties. For this purpose, a “*third party*” is any party, other than the client, who makes an enquiry about the case except:-

* members of the Board or its staff, who may require the information in the normal course of dealing with applications for legal services or the proper management of the organisation; and
* a lawyer representing an opposing party or a witness or other person directly involved where, in the opinion of the solicitor representing the particular client, it is essential, and would be part of normal practice, to make certain information available for the purpose of dealing properly with the client’s case.

Third parties include other law centres for this purpose.

The standard reply to all third parties should be to the effect that we are bound by the terms of the Act to observe confidentiality (Section 32) and that we interpret this to mean that information cannot be given to third parties in any circumstances. A template letter is provided in EOS. Every other assistance should be provided, including, if appropriate, details of the application and appeal procedures. See also 🡺 **Chapter 5** under **Requests from the Courts for information about applicants.**

**EOS** To access a template in EOS, click the Documents tab, choose **Add New Document.** If you are in the APP01.Application Received workflow, you will find the template below in the Suggested Templates

APP01.Letter to third party re confidentiality  
*APP01.Application Received workflow*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore,

Co. Dublin

1st September 2016

**RE: QUERY**

Dear Mr Smith,

I refer to your enquiry of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ regarding \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

We are unable to disclose any information relating to the named individual. We are bound by the terms of the Civil Legal Aid Act 1995to observe confidentiality and we interpret this to mean that we cannot give information to third parties under any circumstances.

Section 32 of the Civil Legal Aid Act 1995states:

“Save as is otherwise specifically provided for by this Act, the relationship between a solicitor or barrister and an applicant for, or a person in receipt of, legal aid or advice and the rights and privileges arising out of such relationship shall be the same as the relationship between, and the rights and privileges arising out of the relationship between, a solicitor or barrister and his or her client not being an applicant for, or a person in receipt of, legal aid or advice.”

It is our policy to issue a letter to an applicant, on request, detailing:

* The date on which they made their application;
* The matter to which the application relates;
* Whether further information is required from the person;
* Whether the application has been determined and, if so, the outcome; and
* The estimated time of appointment at the law centre.

If you have any queries in relation to making an application for legal services, or our general policies or procedures, please contact the law centre.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**  
**Law Centre ( )**

### Media queries on the Act and individual cases

Media queries concerning the Act are primarily a matter for Head Office staff who are responsible for press matters.

In practice, many queries from local media are dealt with by the managing solicitors of the relevant law centres. In the case of enquiries from local press, Head Office should be informed of the contact made and provided with copies of any press coverage.

In the case of enquiries from the national media, the proper course is to refer the enquirer to the Director of Corporate Services.

### Other press contacts

Members of staff have occasionally been asked to appear on radio or television, etc.

The following procedure should be followed in all such cases:-

* clarification should be sought as to whether the officer is expected to appear in a personal capacity or as a representative of the Board;
* an indication should be sought as to the nature of the matters to be discussed; and
* Head Office should be consulted before any decision to appear is conveyed.

The Director of Corporate Services in consultation with the Chief Executive will then consider the matter with a view to deciding what arrangement should apply.

Where a staff member is not specifically appearing on radio or television, but at a public meeting or lecture where his/her comments are likely to be picked up by the media, the principles outlined above will also apply.

## Using the telephone

### Telephone lines

Organisation deal with the installation of communications equipment in law centres in conjunction with IT Unit.

All law centres have at least one main phone line and one fax line.

**Procedure 2.1 - Answering the phone:**

1. The phone should be answered slowly and clearly <<Law Centre Name>> “Law Centre”, <<Your Name>, “speaking, how can I help you?”
2. Listen to the caller’s query, and through the use of appropriate questions, enquire as to the nature of the query.
3. If the caller is seeking information about the Board, provide the information as appropriate or direct the client to the appropriate office to answer the query.  
   **OR**If the caller wishes to apply for legal services, 🡺 **Chapter 3**
4. Be courteous to the caller at all times and thank the caller.

**If you are unsure, refer to a more experienced member of staff or direct the caller to the appropriate person.**

### Transferring calls and taking messages

Most office phone systems will feature a button that allows a call to be transferred to another extension on the same system. On some systems this is marked “Cnf/Trn”, on others “Transfer”. It may be labelled differently or with a symbol on the system in your law centre.

When transferring a call, the person to whom the call is to be transferred should be asked whether they are available to take the call. Under no circumstances should a call be transferred without warning to another extension, or without telling the caller that you are going to transfer the call.

In the event that the required person is unable to take the call, they should be informed of the details of the call via the phone message facility in Lotus Notes. This can be found in Create 🡪 Special 🡪 Phone Message.

All applicant / client related messages should be sent via EOS and not via manual methods. Non client related queries can be sent via email.

### Holding calls

The “Hold” button on the phone will place a call on hold. A call should be placed on hold only if necessary to obtain information from other staff members. The caller should be advised that you will place the call on hold for a few moments to obtain information and be assured that you will return to them once you have obtained the information required. You must seek the caller’s agreement before you place them on hold.

**Procedure 2.2 – Transfer and message taking procedure**

1. Obtain the name (and law centre/section/other organisation, if appropriate) of the person calling and the staff member they are trying to reach.
2. Advise the caller that you are going to transfer the call to another staff member and the name of that staff member.
3. Press the transfer button and wait for a dial tone, then dial the extension of the staff member concerned.
4. Advise the staff member of the caller’s details and ask if they are willing to accept the call.
5. If they are willing to accept the call, **hang up**. **OR**
6. Press the line number that the call was received on (eg “Line 1”).
7. Advise the caller that the staff member they were seeking is unavailable and that you are willing to pass a message to them.
8. If the caller does not wish you to pass a message to the other party, thank the caller and wait for them to end the call, then **hang up.  
     
   OR**
9. If the caller wishes you to pass a message to the other party, enquire as to whether the message is in relation to an existing client.
10. If it is in relation to a client, obtain the client’s name, and send an Internal Memo using the IT system.
11. If it is not in relation to a client, open the Email application in Lotus Notes. Click Create 🡪 Special 🡪 Phone Message. Enter the details of the message and click **Send.**

### Using the answering machine

Depending on the system installed in the law centre, the main phone will either have a voicemail facility (activated by pressing the “Divert to Voicemail” button) or will be connected to a standalone answering machine. The answering machine/voicemail facility should have a facility to take messages and an appropriate message should be placed on the answering machine as follows:

*“You have called \_\_\_\_\_\_\_\_\_\_\_\_ Law Centre[[1]](#footnote-2). We are open 10:00am – 12:30pm and 2:00pm – 4:00pm. You should call back during opening hours. Alternatively, if you would like to leave a message, please do so after the tone and a member of staff will return your call. Please remember to leave a name and contact number. Thank you.”*

The answering machine/voicemail facility should be switched on daily at 12:45pm and 5:30pm (5:15pm on Friday). It should be switched off daily at 9:15am and 2:00pm at which point the person on Reception duty should check the messages and return calls and/or inform relevant staff members of messages received, as necessary.

In the unlikely event that it is necessary to operate the answering machine during office hours a message should be left inviting the person to leave their contact details and the person should be contacted as soon as possible.

Permission for a law centre to deviate from these opening times must be sought and obtained from the Director of Civil Legal Aid.

Some law centres may have phone systems where each phone has an individual voicemail facility. If this is the case, staff members should ensure their voicemail is set up and switched on each time they are away from their desk for an extended period. They should also ensure that their voice message is updated appropriately, particularly if they are likely to be away from their desk for a significant period of time e.g, on holidays.

### Outbound telephone calls

It is normally necessary to dial “0” or “9” before making an outbound telephone call. This varies from law centre to law centre. In some law centres you must choose an outgoing telephone line by pressing the appropriate line button (eg “Line 1”).

Outbound telephone calls should normally be made for business purposes only. A certain amount of personal usage is allowed, but this must be kept to a minimum.

## **Sending and receiving written correspondence**

A large volume of written correspondence, by post/DX, fax, and e-mail, is sent and received daily by law centres.

It is the responsibility of the managing solicitor to manage the incoming and outgoing post on a daily basis. The managing solicitor may delegate some of this task to the Reception person, however the managing solicitor must ensure that he or she is opening the post as often as possible (and at least twice a week) and that while they are on leave, the Managing Solicitor Grade II (or acting manager in a smaller law centre) is carrying out this task.

All correspondence should be sent by the most appropriate method. With a view to reducing the cost to the Board of postage, all written correspondence between offices of the Board must be by email or other electronic method (eg. through EOS) except for situations where Rules of Court or another legal requirement means that post must be used, e.g. for service of proceedings (where service by post is itself permitted). Where a signature is required a scan of that signature should suffice in the majority of instances.

**Post and DX**

### DX Exchange

The Board, in common with many other law firms (and other businesses), subscribes to the DX Exchange service operated by DX (Group) plc. DX Exchange is a private postal system. While the Board has the choice of using An Post or DX for its outgoing mail, DX must be used instead of An Post where a DX address is available. A small number of law centres (Kilkenny, Portlaoise, Chancery Street, and Dolphin House) do not use the DX service.

DX addresses for Board offices are available on the Telephone Directory on the LAB Portal. Otherwise, DX addresses may be looked up on the DX website at **www.dxdelivery.com**

A law centre should operate two out-trays which should be located in Reception, marked “Post Out” and “DX Out” to ensure post to be sent by An Post and DX are separated and sent separately. Otherwise a letter to be sent or received by DX should be regarded as in all respects the same and equal to a letter sent or received by An Post.

### Incoming mail

All law centres must have a set of post trays (popularly called “pigeon holes”) in place in the office where staff may pick up their incoming mail. Each solicitor must have their own in tray.

Some law centres will have the DX delivered direct to their offices; however, many will need to collect their DX from a local collection point which may be a local private solicitor’s office or another business.

An Post mail should arrive direct to the law centre during the morning, however the time will differ according to local arrangements. When the mail arrives the mail should be dealt with in accordance with Procedure 2.3.

**Procedure 2.3 – Dealing with incoming mail**

**Can we double check that we are replicating the procedure set out in Circular 2/09.? For example the Circular says managing solicitor should open the post as often as possible and at least twice a week whereas below we talk about it being done twice a week where possible. Might be easier just to cut and paste the circular.**

1. Check that the date on the date stamp is correct with today’s date.
2. Incoming mail should be separated. Any mail marked **Personal / Addressee Only** should be placed in the post tray of the person concerned without being opened.
3. Any other mail should be opened carefully and stamped with the date.
4. Any mail for specific persons should be placed in their post tray.
5. Mail generically addressed to the “Law Centre” should be given to the solicitor dealing with the client in question. Mail not relating to a particular client should be brought to the Managing Solicitor’s attention for direction as to the action to be taken.

**At least twice a week, where it is possible, the Managing Solicitor/Acting Manager should open the post. When the managing solicitor opens the mail, they should complete the above procedure as far as step 2, then review the post in accordance with 🡺 Procedure 2.4, and then carry out steps 3-5 of this procedure (or ask a CO to carry out same).**

**Procedure 2.3 – How to deal with post**

1. Post should be opened as often as possible by the managing solicitor (at least twice a week).
2. All envelopes should be opened by the managing solicitor other than those addressed to a specific person and marked either ‘Personal’ or ‘Addressee Only’ which should be placed directly in the addressee’s pigeon hole / post tray;
3. Post, other than the letters referred to above, but including letters marked ‘private and confidential’, should be reviewed by the managing solicitor. It is considered that in the normal course this review would involve no more than a cursory glance at each letter. The managing solicitor’s concern is to ensure that an appropriate professional service is being provided thus they should be looking out for expressions of client dissatisfaction, allegations by clients of a failure to proactively manage their case or to respond to their contacts, allegations by another solicitor of a failure to respond appropriately or to deal with the case in a professional manner or other material that would give rise to a concern about the service being provided;
4. Following review, letters should be stamped with the date of their receipt and distributed to the appropriate pigeon holes;
5. Incoming mail relating to an applicant or client can be scanned and uploaded to EOS. **🡺 Procedure 2.4**
6. The managing solicitor should discuss any issues of concern identified in correspondence with the relevant solicitor or staff member in order to satisfy himself / herself that a professional service is being provided. If the managing solicitor has a concern about the adequacy or appropriateness of the service he / she should identify those concerns to the solicitor and should monitor on a regular basis whether the concerns are being addressed by the solicitor. If the concerns are not being addressed, the solicitor should be so informed in writing and the concerns must be brought to the attention of the Director of Civil Legal Aid;
7. In the event that areas of major concern are identified from a review of the post, the managing solicitor should identify those issues to the solicitor in writing and the concerns must be brought to the attention of the Director of Civil Legal Aid immediately;
8. If correspondence is of the nature of a complaint or a request for a change of solicitor, 🡺 **Procedure 7.3** should be followed; and
9. In the event of a managing solicitor being out of the office, the post should be opened by another solicitor, or in the absence of another solicitor, another member of staff.

If contact is made by either letter or e-mail, it is the Board’s best practice to:-

* issue an interim response within seven working days of receipt;
* a substantive response within 15 working days.

Arrangements must be put in place to ensure correspondence does not go unanswered where the staff member to whom the correspondence is addressed is absent from the office. Accordingly, where a solicitor is on leave, mail addressed to that solicitor should be given to the managing solicitor who will give it to the solicitor dealing with the absent solicitor’s files, or otherwise decide on a course of action. Mail directed to a non-solicitor member of staff may be dealt with by the Reception person. If in doubt as to the appropriate response, the query should be directed to the managing solicitor.

### Scanning incoming post

**EOS**All incoming post relating to applicants or clients **must** be uploaded to the applicant/client file on EOS. This is so the maximum benefit of EOS can be realised by having all applicant/client related correspondence available electronically in one place.

**Procedure 2.4– How to scan incoming post**

1. Incoming mail should be opened according to the procedure in Procedure 2.3
2. Use your photocopier’s scanning facility to scan the letter in and send it to your email inbox
3. In Notes, open the email received from the scanner and click the “Upload to EOS” button.
4. In the dialog box that appears, enter the applicant’s name or file number. **Note:** If an applicant/client has multiple cases, it is important to upload the correspondence to the correct case.
5. Enter in a name for the document and choose the correct correspondence type. **Note:** It is important to give the document a **full descriptive name. The name you enter will be the name it is given in the table of contents of a brief to Counsel.**
6. Click the Upload button to upload the email to EOS.

Some law centres may have scanners that work differently to the above or are not photocopier based. The detailed operation of your photocopier/scanner is outside the scope of this Handbook – see its User Manual for details.

There is no need to maintain a register of incoming and outgoing post. Nor is it necessary to keep a record of non-applicant/client related phone calls.

### Outgoing communications

All outgoing letters, faxes and e-mails from the Board **must** include the name and contact numbers of the staff member dealing with the correspondence except where the correspondence is inter-parties correspondence to a solicitor. Letters and faxes must be on the Board’s headed notepaper while emails must include an appropriate signature.

It is a requirement that *proceedings* must be issued in the name of the law centre, this does **not** mean that an individual staff member cannot sign correspondence. A clerical officer or law clerk may sign a letter which they are sending on behalf of a solicitor (if they are authorised by the solicitor concerned to do so), but must place the letters “p.p.” (*per procurationem*) before their own signature.

**All outgoing letters must include the sender’s name except where the correspondence is inter parties correspondence to a solicitor.**

The sign off on a letter sent by a clerical officer or paralegal should be in the format:  
  
  
**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
John Smith**

**Law Centre (Wicklow)**

The sign off on a letter sent by a solicitor should be in the format:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Solicitor**

**Law Centre (Wicklow)**

All correspondence must be written in plain English using only technical and official terminology where absolutely necessary. All letters to applicants/clients should be generated using EOS and where a precedent is available it should be used unless a solicitor has determined that it is not appropriate for the particular case. If no precedent is available, the free text letter or blank word document templates should be used, as appropriate.

The Style Guide is at 🡺 Appendix B

It is recognised that in a legal environment, the use of a certain amount of legal terminology will occur, but this should be minimised and explained wherever possible.

All staff should place outgoing mail in the Post Out / DX Out trays in Reception by 4:15pm each afternoon. (This time may be adjusted locally in the event that the DX pickup is before 4:15pm).

Mail to be sent by DX should be addressed in the following format:

**Montague Court Law Centre 🡨** Name of law centre or firm

**DX 149 🡨** Exchange number

**DUBLIN 🡨** Exchange name.

Any mail to an **applicant or client** should be marked **PRIVATE AND CONFIDENTIAL.**

Mail sent by post to a Republic of Ireland address should use the recipient’s Eircode wherever possible. You can look up the Eircode at [www.eircode.ie](http://www.eircode.ie) . The Eircode for every law centre is available on our Telephone Directory.

A copy of all correspondence sent, by whatever medium, should be kept on the client or other appropriate file.

### Sending files

Files may only be sent by (in order of security), Courier or Registered Post.

### Use of envelopes

All correspondence must be placed in properly sealed envelopes.

Staff must be careful with the use of windowed envelopes. The correspondence must be placed in these envelopes carefully and must be checked that our logo or anything else that could identify the Board is not visible.

**Procedure 2.5 – Dealing with outgoing mail**

1. Mail to be sent by An Post should be franked using the franking machine. A chart should be displayed on the wall beside the franking machine detailing the current prices.
2. Mail to be sent by DX should be stamped with the law centre’s DX Stamp (will typically read “From Legal Aid Board, DX” Number).
3. Any Private and Confidential mail should be clearly marked.
4. The mail to be sent by An Post should be brought to the local postbox. If there is a separate postbox for franked mail it should be used.
5. Mail to be sent by DX may be collected from the law centre. If this is not the case, it should be brought to the local collection point.

**Postage is expensive. Ensure you weigh and insert the correct amount on the machine.**

Franking machines are now installed in all premises and need to be used for all mail to be sent by An Post (other than FREEPOST items).

Franking machines need to be topped up with credit from time to time. Some newer franking machines can be topped up using the system software on the franking machine itself. For others, you must ring the franking machine company. The actual procedure varies from machine to machine, if you are unsure, consult the franking machine user manual, or ask another member of staff.

### Letters to prisoners

Letters to prisoners must be placed in a sealed envelope marked “Correspondence from solicitor” and then placed in a second envelope with the prison address of the prisoner on it.

Note that following this procedure is no guarantee that post will not be opened by the prison authorities. However, Rule 44(4) of the Prison Rules 2007 provides that:

*“A letter sent to a prisoner by a person or body referred to in this Rule shall be given to the prisoner without delay and shall not be examined to any greater extent than is necessary to determine that it is such a letter. If any such letter is to be examined, it shall only be opened in the presence of the prisoner to whom it is addressed.”*

Such a “person or body” includes his/her legal advisor.

Law centres should ensure that applicants who are prisoners are aware of the risk of correspondence to and from the law centre being opened by the prison authorities pursuant to the provisions of the Rules and the measures that can be taken to mitigate such risks.

### Courier service

The use of the courier service should only be made in such cases where delivery into the hands of the recipient is of the utmost urgency. The use of the DX, scanners, and fax machines should negate the use of couriers in most instances. A log of use of couriers is kept for checking against invoices, which can then be paid from the local bank account.

A record of use of the courier service should be kept along the following lines:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_ **LAW CENTRE COURIER RECORD**  **Courier Company Name: Telephone No: Account No: Password (where applicable):**  **Month: \_\_\_\_\_\_\_\_\_\_\_\_** | | | | |
| **Date** | **Time:** | **From:** | **To:** | **Ordered By:** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

This should be kept on record and may be used where Organisation requires the law centre to verify that the invoice received from the courier company matches the actual use of couriers by the law centre.

### Photocopying

An economic approach should be taken to the use of photocopying. Where possible, double sided copying should be done. Consideration should also be given to re-using paper where only one side has previously been used, except where client confidentiality reasons arise. Confidential documents should not be left on the copier.

### Shredding printed material

All inbound correspondence received, and copies of final versions of correspondence sent or other documentation relevant to the case, should be printed and placed on files. They may not be shredded or otherwise disposed of, except on disposal of the file in accordance with the guidelines in **🡺 Chapter 8.**

From time to time you may need to print draft versions of documents that may not be appropriate to be placed on a file. Such documentation must be confidentially shredded as it arises.

**Under no circumstances** should any documentation with applicant / client details on it be placed in a public waste disposal / rubbish facility. We are under an obligation to keep such client details confidential. This includes any material with names, addresses, telephone numbers, ID numbers, or any other personal details, or any other details of a case, whether ongoing or completed. In the case of such material, the confidential shredding procedure above applies.

If in any doubt as to whether a document should be confidentially shredded or not, consult with the managing solicitor.

🡺 **Chapter 8** contains procedures for destruction of client files which have been closed for certain periods.

**Fax**

### Fax machines

All offices of the Board are provided with a fax machine. Fax machines are available for written correspondence which needs to be received on a same day basis and where email is not available or appropriate. However, **email (including scanning letters, documents, correspondence etc) should be preferred over fax wherever possible.** Prior to sending any fax, the staff member should consider whether sending the correspondence via email is possible, and where it is possible, use email instead.

The fax cover sheet illustrated on the next page should be filled out appropriately and included with each fax. The design illustrated is the only design of fax cover sheet which it is permitted for law centres to use. Law centres should maintain a supply of blank copies of the fax cover sheet in a suitable location adjacent to their fax machine:

### Standard fax cover sheet for use by all Law Centres

**Email**



clúdach FAICS/fax cover sheet

|  |
| --- |
| **Do/To:** |
| **Ó/From:** |
| **Uimhir Telefón/ Telephone No:** |
| **Dáta/Date:** |
| **Uimhir Faics/Fax No:** |
| **Tagairt/Re:** |
| **Líon Leathanaight/No. of pages:** |

[**Teachtaireacht**](http://www.irishdictionary.ie/dictionary?language=irish&word=teachtaireacht)**/ Message:**

**Tá an t-eolas tarchurtha beartaithe don duine nó aonán amháin a seoladh an teachtaireacht chucu agus d'fhéadfadh ábhar rúnda agus/nó pribhléideach a bheith i gceist. Tá cosc ar atarchur, scaipeadh nó úsáid an eolais, nó beart ar bith a thógáil ag brath ar an eolas seo, ag daoine nó aonáin nach iad an faighteoir beartaithe. Más trí earráid go bhfuair tú an teachtaireacht seo, déan teagmháil leis an seoltóir le do thoil.**

**The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender.**

E-mail is a system whereby written correspondence can be sent via computer. Solicitors / staff should consider on a case by case basis whether email is the most appropriate form of communication with the client for the particular case.

### About the email system

The email system is based on Lotus Notes and messages, once delivered, are saved in a Lotus Notes database and displayed in your inbox. To open the email database in Lotus Notes, click the icon on your Lotus Notes workspace with your name on it (eg. “John A Smith”).

The section **🡪 “Using the IT system”**, later in this chapter, tells you how to access Lotus Notes.

### About email addresses

Both external and internal e-mail is available to all staff. Internal email refers to email between staff members, while external email refers to persons, companies, or organisations outside the Board.

There are four types of email addresses you will use:-

* Lotus Notes (internal) email addresses
* Lotus Notes (internal) email groups
* Lotus Notes email addresses for staff of the Department of Justice and Equality
* Internet (external) email addresses

You can use Lotus Notes email addresses to contact all other members of the Board’s staff. Lotus Notes email addresses consist of your full name (including a middle initial) and a path. For example, John Smith’s email address might be John A Smith/Users/Legal Aid Board. To find a person’s email address, start typing their name into the “To:” field and press Enter. Lotus Notes will either complete the address for you or give you list of staff whose names start with those letters.

Email groups allow you to contact many people at once. All law centre staff are members of two email groups, “Everyone” and “Law Centres”. These groups, which contact all staff and all law centre staff respectively, should only be used with the authorisation of your Managing Solicitor. In addition, all the staff in your law centre are members of a group entitled “Law Centre –“ [Name of Centre], so for example, all staff in Law Centre (Blanchardstown) are members of the group “Law Centre – Blanchardstown”. You may be a member of other groups depending on your grade and whether you are a member of a committee or Work Group.

Lotus Notes email addresses may also be used to contact members of staff of the Department of Justice and Equality and some of its other agencies (principally the Irish Naturalisation and Immigration Service, International Protection Appeals Tribunal, and Private Security Authority). These addresses (in the format Jane A Smith/JUSTICE or similar) are all available on the “Global Directory Catalog” tile on your Lotus Notes workspace and can be used in the same way as internal email addresses. It is rare that staff in law centres will need to use these addresses, but if you do need to contact a DJE staff member they should be used instead of external addresses as they are more secure.

All Legal Aid Board Lotus Notes (internal) email addresses have external aliases which either take the form [username@legalaidboard.ie](mailto:username@legalaidboard.ie) or in some limited cases [yourname@legalaidboard.ie](mailto:yourname@legalaidboard.ie) . So John Smith’s internet email might be [jasmith@legalaidboard.ie](mailto:jasmith@legalaidboard.ie) or [johnsmith@legalaidboard.ie](mailto:johnsmith@legalaidboard.ie) . IT Unit will assist you in obtaining your external email address.

**Remember, e-mail is effectively on our headed paper! It can be traced back to the place, date and time of sending.**

### Composing an email

**Procedure 2.6 – Composing a new email**

1. Click “New Message” on the toolbar in the email database.
2. Click in the “To:” field to enter the address of the person you are sending it to.
3. Click in the “CC:” (carbon copy) field to add persons to copy the email to.
4. Ensure that a subject has been entered in the Subject field.
5. Enter the text of the email in the body field and proof read prior to sending.
6. Lotus Notes now automatically spell checks emails and underlines misspellings. To correct a misspelling, right click the misspelt word and choose the correct word. When ready click “Send” on the email database toolbar.

**Once the "send" button is clicked, e-mail cannot be stopped**

If the email relates to an applicant/client you should now upload the email to EOS:

1. Click the “Sent” view in the Lotus Notes email database.
2. Locate the email you just sent and double click it to open it.
3. Click the “Upload to EOS” button
4. In the dialog box that appears, enter the applicant’s name or file number. **Note:** If an applicant/client has multiple cases, it is important to upload the correspondence to the correct case.
5. Enter in a name for the document and choose the correct correspondence type. **Note:** It is important to give the document a **full descriptive name. The name you enter will be the name it is given in the table of contents of a brief to Counsel.**
6. Click the Upload button to upload the email to EOS.

**Drafting the email**

* Always use plain English and be clear about your message
* Be as formal and professional as you would be in any other form of correspondence
* Be polite and respectful towards the person you are sending it to.
* Know what your message is and make sure the person receiving it would too
* Make sure you are sending it to the appropriate person
* If you expect an acknowledgement or reply within a certain time, make that clear
* Remember that tone is harder to express in an email. If the tone of your email is sending the wrong message, it may be better to make a phone call instead
* Sarcasm and/or emotion should be left out of emails. As well as being unprofessional, it may be hard for the reader to detect.
* Follow up with a phone call if necessary.

Before you click send:

* Re-read the email
* Make sure you are satisfied with its content and that it is conveying the correct message.
* If the email needs to be approved prior to sending make sure you have that approval.
* Double check the address of the intended recipient.

You may be required to copy your email to your line manager or other staff and if so you should insert their email addresses in the “CC:” (carbon copy) field. The “BCC:” (blind carbon copy) field acts the same as the “CC:” field, but only the person to who the message has been blind copied to knows that they have received the message. For this reason we recommend that you only use this field where necessary.

### Emails to clients or about clients or applicants

Emails to clients or applicants may only be sent to **one client / applicant at a time.** That is to say, the same email should **not** be sent to multiple clients or applicants or copied to multiple clients or applicants.

In the case where a staff member needs to send the same email to different clients / applicants the “Copy into New” feature in Lotus Notes may be used to generate a new copy of the email and the recipient’s email address entered in the “To” field and any greeting adjusted accordingly. In an email, click More 🡪 Copy Into New 🡪 Message.

In the case where communication to or from head office about the same issue relates to a number of clients / applicants, the e-mail must only contain reference to one applicant or client as the copy e-mail to be placed on the file must only refer to one individual.

**EOS**Documents created on EOS should be emailed to clients using EOS. To email a document to a client, check the box beside the document’s name, then click the “Send Email” link. Note that there is no spell check in EOS, so you should read carefully the text of any email you send using EOS prior to sending.

### Sending a secure email

The Board has obligations under the Data Protection Act to keep personal and confidential data secure. The Department of Finance Data Protection guidelines advises that staff should ensure that all email containing personal, private, sensitive or confidential data should be encrypted when being sent outside the organisation.

To send an encrypted email **simply type ‘Secure:’ at the start of your subject line** and send as usual. Documents sent using EOS will automatically have this text in the Subject field. As soon as the encrypted email has been opened on the recipient’s PC an email will be sent to the sender to confirm the email has been accessed and displayed.

Staff should ensure that email containing personal (i.e. all correspondence with or relating to a client), private, sensitive or confidential data should be encrypted when being sent outside the organisation. Recipients should be encouraged to respond using the secure system.

Further information on client confidentiality can be found in 🡺 **Chapter 7.**

### Reading an email sent securely

Where a staff member has sent an email securely, the person to whom they have sent the email has the option of replying securely.

In order to read securely sent emails, you must first register your Legal Aid Board **external** ([username@legalaidboard.ie](mailto:username@legalaidboard.ie)) address with Cisco Systems’ secure email facility. This must be done the first time you are sent a secure email.

**Procedure 2.7 – Reading a secure email**

1. Open the secure email.
2. Save the securedoc.html attachment to your desktop
3. Open the securedoc.html file in Internet Explorer
4. If this is your first time using the secure email facility, you will be unable to connect to the server. When prompted, click “Help”, and you will be taken to the registration page. Ensure the email address you enter is in the format [username@legalaidboard.ie](mailto:username@legalaidboard.ie) (**not** User X Name/Users/Legal Aid Board)  
   **OR**  
   Enter your password and click “Open” to download the email.

**Fuller instructions, including screenshots, can be found on iLAB.**

### Signature

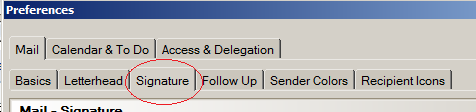
You should end all emails leaving the law centre/mediation office/section with a signature along the following lines:

|  |  |
| --- | --- |
| **AN. Other**  **Clerical Officer**  **Law Centre (Gardiner Street)**  **Legal Aid Board**  **45 Lower Gardiner Street,**  **Dublin D01 P523**  **DX 112 002 TALBOT STREET**  **Tel: 01- 8745440**  **Fax: 01- 8746896**  **Email: another@legalaidboard.ie** | Name of staff member  Position (optional if you work in Head Office)  Law Centre/Mediation Office/Section  (include if you work in Head Office, otherwise optional)  Address  (include Eircode at end of last line of address)  DX Exchange(omit if office has no DX service)  Telephone number  Fax number  Email |

Do not include any other information in your signature. You should ensure that if the name of your section or law centre changes, that it is kept up to date. For example, we no longer use the title “Refugee Legal Service” and this should be omitted in favour of the law centre name (e.g. “Law Centre (Smithfield”).

**How to set up your signature**

1. In Lotus Notes, open the email application, and then choose Actions --> More ---> Preferences…, then click the Signature tab to add your signature in.



1. Choose "Rich Text" as the type of signature you want.
2. Enter the signature in the Rich Text field.
3. Highlight the signature you have entered, then click the “T” symbol. Choose “Color” from the menu and then Blue.

1. Click “OK” to save.

This means that you will not have to type in your signature, each time you send an email. You don’t have to include a signature on emails which are being sent to other staff in your law centre. Include it on emails to staff of the Board outside your law centre.

Emails sent using EOS do not, by default, include this signature. Copy and paste your signature into the Message field of any email sent using EOS.

**Special symbols for phone, fax, and email**

If you wish, you can use special symbols ****instead of Tel., Fax, and Email. This is optional.

To use the special symbols you will need to copy and paste them into your signature.

You can copy them from this Handbook.

You will be unable to use the special characters and the blue colour in emails sent using EOS. Type “Tel”, “Fax, and “Email” into the blank spaces that will be left in your signature.

The special symbols are part of the Wingdings and Wingdings 2 fonts.

**:** SelectWingdings 2 font and type “,” (comma)

**:** SelectWingdings 2 font and type “7”

**:** SelectWingdings font and type “\*” (astrix/star) using the numeric keypad.

### Attachments

You can attach documents, pictures, and other material to your email. There are two ways to do this:-

* Drag (click the file, then keep the left mouse button depressed) a file from a Windows Explorer window into the email. If Lotus Notes is not visible, you may need to drag the file over the Lotus Notes button on the Windows taskbar to make it appear.  
  **OR**
* In Lotus Notes, choose File🡪 Attach… . In the dialog box that appears, navigate to the file and click Attach.

Virus and malware protectionThe Board automatically scans all email for viruses, so it is not necessary to do this. However, you should nonetheless absolutely refrain from including any programs (files ending in .EXE, .COM, or .BAT) or VBScript files (.VBS) in your attachments.

The Board employs a program which scans all outgoing and incoming email for potentially hazardous material. Often this may block legitimate incoming or outgoing email. If an email is blocked by this system, an automatically generated email will appear in your inbox and the sender/recipient will be notified also. If the email is legitimate, you can apply to IT Unit to have it released.

**Procedure 2.8 – Asking IT Unit to release a blocked email**

1. Double click the automatically generated email to open it.
2. Click Forward 🡪 Forward on the toolbar.
3. Enter “IT Cahirciveen” as the address to send the email to.
4. Enter a short message politely asking IT Unit to release the message, stating that it is business-related.
5. Click Send on the toolbar.
6. **Procedure 2.9 – Setti**

In your use of the Board’s email system you should remember at all times to adhere to the Board’s Computer Usage Policy which is detailed later in this Chapter, and an up-to-date version of which can be found on the LAB Bulletin Board.

### Printing, filing, and archiving emails

Emails are generally stored in your inbox. All emails over 6 months are automatically moved to an archive database. This can be accessed for the first time by clicking Tools 🡪 Archive 🡪 Mail Archive in the folder list in your main mail database. After that, it can be accessed by clicking the Archive tile (labelled “Jane A Jones (Archive)” or similar) in your Lotus Notes Workspace.

Note that due to constraints on server space, IT Unit has allocated only a certain amount of space to each staff member’s email database (this includes Inbox, Outbox, Sent, Drafts, and any Folders). While the archiving process will stop the quota being reached in normal circumstances, it can still be reached in certain circumstances (for example, if you are sent a large volume of large attachments). You will be warned automatically by Lotus Notes if you are running out of space (known as reaching your disk quota).

**If you are running out of space, you must delete items from your inbox. Once you run out of space, you will not be able to save drafts or receive emails and outgoing emails will not be saved in your Sent folder. Staff with smartphones will not be able to use the email function on their phone if their mailbox is full.**

All emails relating to an applicant or client should be printed and placed on the physical client file. To print an email, choose File 🡪 Print and then click the Print button. The email may then be deleted from your inbox by pressing the “Del” key on your keyboard. (It is not however permanently deleted until you empty your Trash folder – to do so click on the Trash folder and click “Empty Trash” on the toolbar.) Likewise any other emails relating to any other topic on which a physical file exists should be printed and placed on the relevant file, and deleted from your Inbox.

|  |
| --- |
| **You must not keep any client related emails in your Lotus Notes inbox They must be printed and uploaded to the relevant EOS file and then deleted** |

### Saving emails

In certain circumstances, you may want to keep an electronic copy of your email outside of the Lotus Notes environment. Lotus Notes can save email in either plain text (ASCII) format or Rich Text Format, a format which preserves formatting such as bold and italics and which is compatible with Microsoft Word. To save an email, choose File 🡪 Export. In the combo box “File type” choose either .TXT (plain text) or .RTF (rich text format). Navigate to the client’s folder on your common drive, then give the file a name e.g. “Email to opposing solicitor 10.3.09.txt” and click Export. **Note: Unlike many other software packages, Lotus Notes does not automatically add the file type extension to the file. Therefore, in order for Windows Explorer to recognise the file as a text document, you must give the file a name ending in .txt .** Likewise if you are saving the email in Rich Text Format, you must add the extension .rtf yourself. You can then delete the original email from Lotus Notes.

### Out of Office Auto Reply

The system can be set to automatically reply to emails sent to you when you are out of the office. You must enable this setting when leaving the office for any period of one working day or more.

**Procedure 2.9 – Setting up Out of Office Auto Reply**

1. Ensure you have the Lotus Notes email database open.
2. Choose Actions 🡪 More 🡪 Out of Office…
3. Click the widget beside “Returning: Tomorrow” and choose the date you will be back in the office.
4. In the “Additional Body Text” text box, type the message you wish to send to people that email you while you are out of the office (see below template).
5. Click “Enable and Close”.

**Note**: As of Lotus Notes R8.5 there is no longer any need to deactivate your Out of Office AutoReply when returning to the office.

Your Out of Office Message should read along the following lines, but may be customised as appropriate:

*I am out of the office [for reason] from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*

*Please refer your enquiries to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who may be contacted at [phone number] or emailed at* [*\_\_\_\_\_\_\_\_\_\_\_\_@legalaidboard.ie*](mailto:____________@legalaidboard.ie) *.*

*Alternatively Legal Aid Board staff may contact the entire law centre at the email address Law Centre - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*

*Thanks.*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

## Using the IT system - basics

All staff members are provided with desktop computers for their use in official business.

### Provision of computer account

On the date of a new staff member joining the Board, HR will send an instruction to IT to set up a network, a Lotus Notes/email account, and (where applicable) an EOS account for the user.

On arrival in the law centre a new staff member should contact IT in order to obtain their network and/or Lotus Notes password. Your network password must be changed as soon as possible in order to protect the security of your account. It is also good practice to change your network password on a regular basis. Windows will prompt you to do this from time to time. You should not use your name or anything else which can be easily guessed as your network password.

**Your network password must be changed on your first login and afterwards should not be disclosed to anyone else!**

**You are accountable for all usage of your computer account.**

To change your Windows password, hold down the “Ctrl” (control) key and press “F1”. Click the button “Change a password…” and follow the instructions onscreen.

### Logging on to the network

To access the computer network, turn on the computer. Enter your username and password when the login box appears. When Windows has started you should be automatically logged into the Citrix environment. In the event Citrix does not automatically start click “Citrix Login” (if it is not already open, it should be), then click on Desktops and then IE10-Desktop.

Once logged in, the LAB Portal appears. **You should only log on using your own network ID. Never log on to the system using another users network ID.**

Access to EOS is controlled by your network log-in. You do not need a separate log in for EOS. If you cannot access EOS, contact the IT Helpdesk.

### Locking the PC

When you are away from your desk for a short period, you must lock the PC to prevent other users accessing it. To lock the PC, hold down the “Ctrl” key and press “F1”. Then press “Return” or “Enter”. To unlock the computer, enter password.

(Note that the normal Ctrl-Alt-Del sequence you may be familiar with from other Windows environments will not work on our system.).

Locking the PC should only be done when you are going to be away from your desk for a short period. In the event that you are going to be away from your desk for a longer absence (of thirty minutes or more), you should log off the system and shut down the PC where appropriate.

### Shutting down the system

For both data integrity and environmental reasons, it is necessary to shut down all PCs daily. Each user should shut down their PC when leaving the premises at the end of the day.

To exit the Citrix client, click Start 🡪 Log Off. Once returned to the local Windows installation, click Start 🡪 Power, then “Shutdown” to shut down Windows. Most modern PCs will automatically turn off once Windows is shut down. The monitor will not automatically turn off and should be done so manually once Windows finishes shutting down.

**You must log out of Windows by using Start 🡪 Log off, and the Citrix client will close automatically when you have logged off the Windows server.**

If you attempt to exit by closing the Citrix client using the Close button or by choosing Control Menu 🡪 Close, a dialog box will ask if you are sure you want to disconnect. Click “Cancel”, and then log out via Start 🡪 Log Off.

You should not use the Close button on the Citrix client in normal circumstances, as this only closes the Citrix client on your local PC, but does not log you off the Windows server.

Closing the Citrix client without logging off the server first, can lead to loss of data, as IT Unit reboot the servers on a nightly basis. The Citrix client now runs full screen so it is no longer possible in most circumstances to accidently close the Citrix client.

If you have a local printer, you should turn it off manually at the end of the day. The last staff member to leave an open-plan office at the end of the day should turn off the shared printers.

### LAB Portal

The Portal is a way of accessing common applications in use in the Board.

The portal runs in Microsoft Internet Explorer. It includes:-

* your last five emails from your Inbox;.
* links to access the e-library, telephone directory, and commonly used applications; access to shared directories; and,
* access to EOS.

As an alternative, Windows Explorer remains available. Click the “Close” button (the “X”) on the Internet Explorer title bar, and the Windows desktop will appear.

### Vision and change initiative area on iLAB



You can access the vision and change initiative’s intranet site through iLAB

Keep your eye on iLAB ifor news on the vision and change initiative. It also contains:

* A regular message from the Chief Executive
* Minutes of the guiding coalition and workgroups
* General news and social updates for staff

### Lotus Notes

The Board uses Lotus Notes both as its email program and also as a host for many of the databases which the Board maintains.

To log into Lotus Notes, click on the “Notes” icon in the LAB Portal or the Windows desktop. The Notes Workspace will appear where you can access your email or other databases.

### Shared diary

A shared diary application is provided in Lotus Notes. All appointments, leave, risk register dates, and other significant events taking place in the law centre should be recorded on the shared diary. EOS (the Board’s Case Management System) pushes certain appointments to your Shared Diary automatically, and in certain other cases, you can choose to have an entry in EOS recorded on your Shared Diary.

### Shared directories (folders)

Each law centre has two shared network directories (also called folders, or “network drives”) – “client” and “common”. The common directory for your law centre is usually mapped to the drive letter S: IT Unit will give you access rights to the shared directories for your law centre when your account is set up.

You are also given a personal home directory on the network, usually mapped to the drive letter U: However, all files that you are working on, which are law centre official business, must be stored on the Common drive and not in your personal directory.

**All law centre files must be either saved in the Common drive, or where applicable, in the appropriate database.**

**Users must not save law centre business in  
 their personal directory (U: drive)**

The reason for this is that if you are absent from the office for unforeseen reasons, or if you move law centres or leave the Board, other users will be able to continue your work. Only you and IT Unit personnel have access to your home directory.

### Organising the shared directory

The shared directory should be organised as follows:-

* In the root directory, there should be a folder entitled “Clients Archive”. (This folder was formerly named “Clients”.).
  + Within the “Clients Archive” folder, there will be a number of folders to categorise files alphabetically, for example “A-D”, “E-H”, “I-L”, “M-P”, “Q-T”, “U-Z.”
  + Within each of these folders, files should be named “Lastname.Firstname.FileNo.Year”, so for example, a file opened for John Smith in 2009 with number AA1101 would be called “Smith.John.1101.09”.
  + Each of these files should contain separate “Documents” and “Letters” folders.
* The root directory should also contain a “Law Centre Admin” folder.
* The Law Centre Admin folder should contain subfolders for the “Risk Register”, “File Management”, “Reports”, “Team Meetings”, and “Other/Misc”.
* The Returns folder should contain subfolders for “HR”, “Finance”, “Professional Indemnity”, and “Applications record.”
* The “File Management” folder should contain “File Location” and “Closed Files folders”.

All client related documentation should be created in EOS. There should be no further saving of documents within the “Clients Archive” folder and its subfolders. These folders should be used solely to read and edit documents that have already been created prior to the roll-out of EOS.

**All client related documentation should be created in EOS. The “Clients Archive” folder (and its subdirectories) is for archive purposes only.**

### Internet access

Most law centre staff have limited access to the internet, via Microsoft Internet Explorer. A list of approved sites has been drawn up by IT Unit and all other websites are blocked.

To view the list of approved websites, click Favourites 🡪 LAB Standard Internet List in Internet Explorer. To have a site whitelisted contact **IT Cahirciveen** with the URL and the business reason access is needed**.** The approval of your line manager will normally be needed.

### Other applications

Other applications available in law centres include Microsoft Office. Rules of Court can be found on [www.courts.ie](http://www.courts.ie)

### Sample layout for shared directories

Currently the Board uses Microsoft Office 2010 for word processing, spreadsheet, database, and presentation software.

All precedent documentation in EOS is created in the appropriate Microsoft Office format, usually Microsoft Word.

### Corporate identity policy

The Board’s Equality and Disability Strategy stipulates the use of a 12 point sans-serif font as the standard font to be used in documents. Sans-serif fonts include Arial and Helvetica. All precedent documentation in EOS is in Arial 12 point or larger and users should not change the default font.

### Style guide

A Style Guide is a set of standards for writing documents. The aim is to ensure all written communications follow a consistent accessible style.

Our style guide was introduced during 2016 and is available at 🡺 **Appendix B**. It applies to all written communications in the English language, whether internal or external, except for Court documents and correspondence between lawyers.

### Computer usage policy

New staff joining the Board are required to sign the Computer Usage Policy during their induction.

The Computer Usage Policy states that the computer system should be used primarily for official business only and expressly prohibits:-

* importation and onward transmission of certain identifiable types of files which can physically damage the network (.exe; non virus checked);
* transmission of text, audio or video material, which can be, construed as sexist, racist, bullying, harassing or discriminatory;
* allowing others to use your identification;
* time wasting; and
* inappropriate use of the Internet.

A small amount of limited personal use of e-mail and Internet facilities is permitted if such use does not otherwise infringe the policy.

The full computer usage policy is available on iLAB. However it can be summarised as follows:  
  
**Network Security**

|  |  |
| --- | --- |
| **Do** | **Do Not** |
| * Change your passwords when requested. * Use a unique password(s), a good password is one that cannot be guessed. * Lock your workstation when you leave your desk * Log out if you are leaving the office. * Change your password if you think it is known to some one else | * Log on to the network as anyone other than yourself. * Share your password * Write your password down and leave it where it can been found. * Use any disks/media without virus checking them first. * Save unauthorised data to the Board’s network * Load any unauthorised programs or .exe files etc. |

**Email**

|  |  |
| --- | --- |
| **Do** | **Do Not** |
| * Double check the name of the intended recipient before sending * Show vigilance by not replying to spam e-mails e.g. providing bank details etc. * Keep your e-mail password confidential. | * Send images, videos or junk mail to other people. * Send e-mails for political canvassing or selling goods. * Use anyone else’s e-mail account or allow anyone else to use yours. * Participate in chain mailing * Send any material that may be considered offensive or e-mail that could be perceived as derogatory. |

**World Wide Web**

|  |  |
| --- | --- |
| **Do** | **Do Not** |
| * Request sites to be added to the standard list of sites, through your line manager if required for business purposes. * Report any sites that may cause offence or could be perceived as derogatory. | * Visit sites that contain obscene, pornographic or offensive material. * Allow other people to log onto the Internet under your username * Upload data unless business related * Download videos, images, audio files etc. unless business related * Express personal opinion as being representative of the Legal Aid Board * Visit social networking sites such as Bebo, Facebook, YouTube etc. * Access the Internet under some one else’s username |

### Support for IT systems

Each law centre must appoint an “IT Superuser” who is responsible for coaching individual staff on basic computer procedures and helping with minor problems with using IT applications. The IT Superuser is the first point of contact where there is a minor (non-technical) issue with a computer programme or application.

IT Unit provides help manuals on the general usage of the computer system. These are available on an “IT Help Manuals” tile on your Lotus Notes workspace.

For more specific and/or technical help, the IT Helpdesk may be contacted. There are three ways to contact the Helpdesk. The preferred method should be to use the Lotus Notes database, if Lotus Notes is unavailable, the web application may be used.

The telephone line option **(066 9471076)** should only be used where the IT system is itself inaccessible (ie. you cannot log onto the network at all).

**Lotus Notes**

You can log a Helpdesk support call directly from your Lotus Notes inbox. Just above the list of mails in your inbox you will notice a button called Log Servicedesk Call



By clicking on this button you will be given access to a self explanatory form which when completed and submitted, logs the call on the IT Service Desk database. It is very important that as much information as possible is entered in the description field as this will help IT Unit resolve the call as quickly as they can. Once the form is complete you should click submit.

Once the call has been "picked up" by an IT staff member you will receive an email with a call reference (ticket number) number and a link to the IT Service Desk where you can view your call.

**Directly on the IT Service desk application**

Open Internet Explorer and go to favourites and click on the link for IT Service Desk. You may be prompted to logon - username = first name surname (eg jane jones) and the password is password. If this doesn't work please contact the IT Helpdesk on 066-9471076.

To log a call, click on “New Call”. Again, the form is self explanatory. It is very important that as much information as possible is entered in the description field as this will help IT Unit resolve the call as quickly as they can. Once you have entered all the info required then click on **LOG CALL.**  You can save the call as a draft if you don’t have all the info you need at hand to create the call. Once the call has been created you will receive an email with a call reference (ticket number) number and a link to the call on the IT Service Desk where you can view the progress of the call and who the call has been assigned to etc.

Once the call has been resolved by an IT staff member you will receive an email informing you that the call has been resolved. You can then review the call and if satisfied close the call. You will continue to receive emails regarding a resolved call until you close it yourself. If you are unsatisfied with the outcome of a resolved call you can reactivate the call.

**Telephone**

The third way to log a call is by phone. The IT Helpdesk has a dedicated number **066-9471076**. You should ring this number for all IT related queries and problems. Please do not ring individual IT Unit staff members unless it is following up on an existing assigned call. If you happen to get an answering machine please leave a number and someone will revert to you as soon as possible.

## EOS and Typing

******EOS is the Board’s Case Management System. It provides a single computer system for the entire lifecycle of a case, from when an application is first received until a case is closed. EOS allows you to:

* Record all relevant personal information relating to an applicant/client;
* Record all details of each case an applicant/client takes;
* Conduct the financial assessment, including the capital assessment;
* Record details of consultations, court dates, and other meetings with the applicant/client;
* Generate letters and other documentation relating to the applicant/client; and
* Generate the file closing form and close the case.

While you will find instructions on how to use EOS for particular relevant tasks in this Handbook, a full description of all operating procedures on EOS is beyond the scope of the Handbook. You should make reference to the EOS Training Manual and EOS Operations Manual, for detailed instructions on the use of EOS.

### Accessing EOS

A link to EOS is provided on the LAB Portal. Click the EOS link, and EOS will appear.

EOS is hosted in Microsoft Internet Explorer. As such, most normal Internet Explorer commands and conventions apply to EOS. To close EOS, close Internet Explorer.

### Accessing a case on EOS – case number

EOS allows you to directly access a case by using its case number. To do so, enter the case number in the box provided in the top left hand corner of the screen.



### Accessing a case on EOS – search for persons

EOS provides a powerful search facility to allow you to access files. By clicking the “Search” icon, the search screen appears.

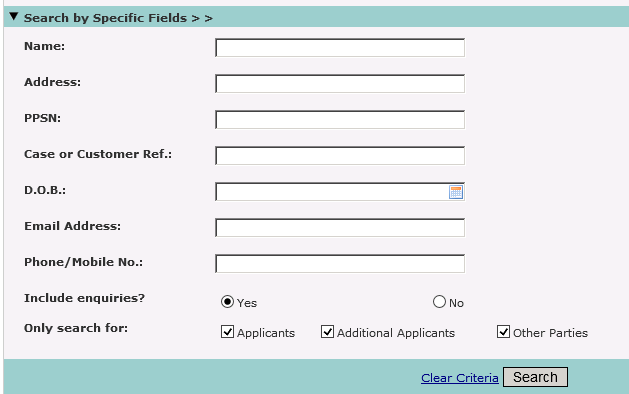
The initial search screen displayed is a “lookahead” search facility. This automatically searches for information as you type. You can enter any of the following information:

* The applicant’s name or part of it
* Their maiden name
* Their PPSN / Person ID
* Their address
* Their telephone number
* Their email address
* Their INIS Person ID (international protection cases only)

As you type, results will be displayed as illustrated below. You can use the cursor and return keys, or else the mouse, to select a result. The person record for that person will be displayed from where you can access any case for that person.

******

You should be careful when using the lookahead search. For example, O’Brien, O’ Brien, and Obrien will all list different results. In this case, you could use the advanced search. Click the twisty beside “Search by specific fields” and the advanced search will be displayed.



To use the advanced search, enter the information you wish to search for in the correct field, then click “Search”. The advanced search is less sensitive than the lookahead search and will return any results which contain the text you search for. For example you could enter “Brien” in the name field, and you should be returned results of persons whose first name is “Brien” as well as persons whose surname is “O’Brien”, “O Brien” or similar.

There are further search options available under the “Search for Cases” or “Search for Documents” options. Details of how these work can be found in the 🡺 **EOS Training Manual.**

***Using the precedent bank in EOS***

EOS incorporates a precedent bank of documentation which law centres must utilise to the greatest extent possible. Staff **must** use EOS to generate all correspondence and pleadings.

Managing solicitors must have regard to the best use of the law centre’s resources and, in this regard, should be aware that the proper / maximum utilisation of EOS will assist in reducing time spent on routine typing and free up staff to complete other tasks. Managing solicitors are required to monitor and examine the utilisation of EOS in order to maximise its benefit and gain the efficiencies which are expected from its introduction. EOS is designed to capture and utilise information taken at enquiry, application, and every other stage of the case process. Information gathering forms are discussed in 🡺 **Chapter 5.**

In some circumstances the use of dictation may be unavoidable. In such circumstances, it is important that a system for ensuring documentation is typed and sent on time is in operation in each law centre. There are four main stages that this involves:-

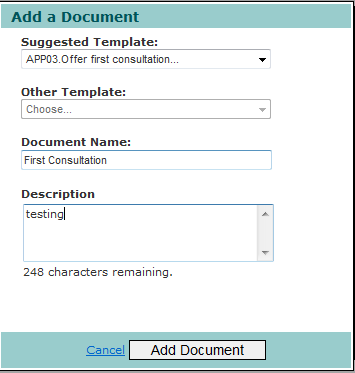
1. An appropriate template is identified in EOS.
2. The solicitor dictates the information to be inserted/changed in the template and completes the milestone or marks done the checklist item as appropriate.
3. There is a system for allocating typing work to clerical staff.
4. The clerical staff create the template in EOS and insert the information/make the changes as dictated by the solicitor.

It is critical that all staff are familiar with the EOS system and the content of the templates.

***Stage 1 – Identify a template and naming a document***

In EOS, all workflows have a number of templates, appropriate to the particular case stage, attached to them. Therefore, the selection of an appropriate template is made much simpler when one operates the workflow system (the use of which is **compulsory**) and keeps the workflows in their cases up to date.

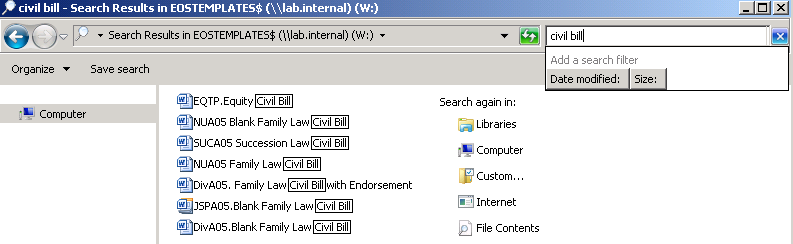
In EOS, click the “Documents” tab and then click “Add New Document”.



In the “Suggested Templates” combo box, you will be given a list of templates appropiate to the workflow stage you are at. It will normally be from this list that you will choose an appropiate template. Alternatively, the “Other Template” combo box will give you a list of all templates in EOS. There are hundreds of templates in EOS so this list will be very long. That is why it is important to always keep the workflow up to date.

A number of blank templates are available in EOS. These should only be used as a last resort where no appropiate template document is available.

As an aid to locating the correct precedent, all the EOS precedents have been made available in a shared directory named [\\EOSTEMPLATES$](file:///\\EOSTEMPLATES$). These precedents are to help you locate a correct precedent only and should **not** be used to start documents. Instead, use the versions in the Documents tab on EOS. To search for a precedent on this directory, double click the “Computer” icon on the Windows desktop, then “EOSTEMPLATES$” (this will be mapped to a different logical drive letter depending on your setup). Then enter the template you wish to search for in the Search box in the upper right hand corner of the Windows Explorer window.



***Naming documents***

It is important that documents be named approrpiately. It may be tempting to give documents short names such as “letter 1/1/16” or “letter to client”, but bear in mind that while such names may be meaningful to you, other users in the law centre may also need to work on the file. In addition, if you use the collation feature on EOS, the name you give here will be the name that appears in the index.

For those reasons, all documents **must** be named in the following format:

* If a letter: Letter from [Sender] to [Recipient] on[Date].

*Example:* Lettter from John Smith to Jenny Murphy on 1st January 2019

* If a court document: [Title of Court Document] [issued/served/sworn] on [Date]  
  *Example:* Family Law Civil Bill issued on 6th April 2019
* If any other document – as appropirate to the document, but generally along the lines [Titlle of Document] dated [Date]

*Example:* Case to Counsel dated 4th April 2019

It is not permissable to use any abbreviations when naming documents and all dates must be in the format e.g 1st January 2019, not 1/1/19 or any variation of that.

Any documents that are at draft stage should have the text “(draft)” at the end of their name. However, the word “final” should not be included in the name of any document – the “(draft)” text should be removed instead. Documents can be renamed at any time by checking the box beside their name and then clicking the “Rename” link at the bottom of the page. Enter the new name, then click the “Rename Document” button.

### Stage 2 - Dictating

Prior to dictating, solicitors must consider whether what they are going to dictate is appropriate for a clerical officer to type. More complicated legal documents on occasion could be prepared by a paralegal under the solicitor’s direction. For short documents such as memos and shorter letters, it may be more appropriate for the solicitor to type the document themselves and e-mail them rather than to dictate.

Only dictate documents or letters. **DO NOT** dictate, for example, instructions to mark checklist items as done or enter items into the shared diary. Be aware of the law centre resources available in this regard. Do not dictate emails to be sent by other members of staff. If an email is to go out under your own name, you shouldtype and send it yourself. Do not dictate a letter if a complimentary slip would suffice.

A staff member is liable for all usage of the system by another person which might occur under their user name, if they are allowed to log in, in breach of the Computer Usage Policy. Should any breaches of the Computer Usage Policy occur while a staff member is using another staff member’s user account, both members of staff may be subject to disciplinary proceedings.

If dictating, solicitors must:-

* ensure that the case is in the correct workflow, e.g. DIVA05.Serve proceedings
* identify the template from EOS which is to be used to generate the document/letter – e.g. DIVA05.Blank Family Law Civil Bill;
* examine the precedent and only dictate what needs to be inserted;
* always speak slowly and clearly;
* indicate clearly where sentences and paragraphs end and where commas and other punctuation should be inserted;
* any unusual words, legal, or technical terms should be spelt;
* once finished dictating , finalise by stating “End of letter / document”; and
* if something needs to be changed after this point, the document can be edited by the solicitor in EOS prior to publishing. Do not re-dictate documents that have already been created in EOS.

**Procedure 2.10 – Dictating typing**

1. Identify the file that you need to dictate a letter or document for.
2. Identify the EOS template, which should be used for the document you are dictating. If the changes that need to be made to customise the document are minimal, consider making the changes yourself rather than dictating changes for a clerical officer to make.
3. Check the volume level and test if necessary.
4. Press “Record”.
5. State clearly the client name.
6. State clearly the type of document you are going to dictate and the precedent the clerical officer should use.
7. Indicate clearly the information to be inserted and the points in the precedent where it should be inserted.
8. If you are interrupted, if there is significant background noise, or if you make a mistake, press “Stop”. Rewind to the point before the mistake was made a**nd** re-dictate the appropriate portion of the document.
9. When finished, state “End of Document” clearly and press “Stop”. **Be satisfied that the document is finished and there are no further changes to be made.** If changes are still necessary go back to **🡪 Step 8**
10. If the document is a letter, and there are documents to be enclosed with same, state clearly all documents which are to be attached to the letter, and whether the original or a copy document is to be sent. **Do not assume that the clerical officer will automatically know which documents must be attached from the content of the letter.**
11. If there are further documents to be dictated from the same file, repeat the process from **🡪 Step 2.**
12. Place an elastic band around the file.
13. If there are further files for which you need to dictate documents, repeat from **🡪 Step 1** again (to a maximum of five files and normally ten minutes overall per tape).  
    **Steps 14 and 15 apply in law centres with more than one clerical officer:**
14. Print a Dictaphone Typing Form and complete as far as the “Length of Tape” entry.
15. Attach the Dictaphone typing form to the top of the file of piles, together with the tape.

**Priority procedure**

Where the document is to be sent today, the following changes apply to the above procedure:

1. Only **ONE** document may be included on the tape.
2. Follow **Steps 1-11** of the above Procedure.
3. Give the tape and file straight to a clerical officer marked **“PRIORITY”**

Priority documents should be given to clerical officers in sufficient time to allow same day sending.

### Stage 3 - Assigning typing to Clerical Officers

Solicitors will leave files and tapes for typing on a table / shelving system. Client files must accompany the tape and be held together in a bundle by a band. The tape will be secured inside the band. Each tape will normally have a maximum of ten minutes recorded on it. This is to ensure turn-over of work and avoid delays and backlog.

In law centres where there are two or more clerical officers, solicitors will leave a form with the bundle and fill in the first four entries (Date & time left for typing, Solicitor, Urgency, Length of tape). The clerical officer shall fill in the remainder. Following completion of the typing, the clerical officer should return the form to the solicitor. The solicitor should return the form to the Managing Solicitor once they are finished with it.

Staff should be mindful of the Board’s clean desk policy and return files to shelving systems and the end of each day. More information can be found at 🡺 **Chapter 7** under **Clean desk policy and confidentiality.**

### Priority system

All law centres should operate a priority system, where documents of high importance and/or a short deadline can be typed quickly.

Where a document must be sent within 24 hours, it should not be placed in the typing queue. but **should be given directly to a clerical officer marked “Priority”.** Such documents must be completed as soon as possible.

***Dictaphone typing form – centres with two or more clerical officers***

**Dictaphone typing form**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Client name** | **Reference** | **Description (include the name of the EOS template)** |
| **1.** |  |  |  |
| **2.** |  |  |  |
| **3.** |  |  |  |
| **4.** |  |  |  |
| **5.** |  |  |  |

|  |  |
| --- | --- |
| **Date & time left for typing:** |  |
| **Solicitor:** |  |
| **Urgency:** |  |
| **Length of tape** |  |
| **Date & time returned to solicitor:** |  |
| **Clerical officer:** |  |

**This form should be retuned to the Managing Solicitor’s post tray by the solicitor.**

### Stage 4 – Typing documents

**Procedure 2.11 – Typing letters and other documents dictated by a solicitor**

1. Take the next bundle of files and tape from the front of the typing queue. Any bundle in the medium priority queue must be done prior to the normal queue.
2. Search for the client in EOS and when found, open their case.

Insert the tape and play following instructions. For example; you are to type a Civil Bill, click on the Documents tab, and, assuming you are in the Serve Proceedings workflow, choose the appropriate document in Suggested Templates: .e. “DIVA05.Family Law Civil Bill”.

1. Insert the information as directed.
2. On the “EOS” tab on the Word Ribbon, click “Save EOS Precedent” to save a draft.
3. Print draft precedent documents on white paper and show to the solicitor for proofing.
4. Once the drafts are finalised, click “Publish EOS Precedent” to make the document read-only in EOS.
5. Print out a copy letter on green paper and file through treasury tag. Print the letter for sending on headed paper on the front of the file for signing.
6. Use green coloured paper for letters, pink paper for memos and attendances.
7. When the file is complete return the bundle to the solicitor. The solicitor should place the typing list in the managing solicitor’s post tray.

**Priority procedure**

If a solicitor places on your desk a file and taped marked “Priority”, it must be dealt with immediately. **Steps 2-6** ofthe above procedure should be followed and the letter given straight back to the solicitor for signature (or, where authorised to do so, signed by yourself on behalf of the solicitor). Once signed it should be placed directly in the post/DX as appropriate. All Priority files must be completed no later than 4:15pm where possible; to allow sending in today’s post/DX. Where a document is completed later than this, and with the solicitor’s permission, a copy should be sent by fax to the recipient to ensure on-time receipt.

### Once typing is done analogue audiotapes should be retained for 24 hours or until the letter has been sent (whichever comes first) and then wiped. The Board is currently considering the introduction of a digital dictation system. Where such a system is in place, the use of audiotapes will cease and the dictated message will be sent from the dictaphone to the clerical officer as an audio file. .Where this is in place all audio files should be deleted no later than one week after typing is completed.

### Stage 5 - Collation

EOS provides a feature whereby groups of documents may be collated into one document for easy printing. This is helpful for the creation of, for example, briefs to Counsel or books of pleadings.

**Procedure 2.12 – Collating documents in EOS**

1. In a case, click on the Documents tab.
2. Click the “Collate Documents” link.
3. A dialog box appears with the names of all the documents in the case on the left hand side and an empty box on the right hand side, which will show the documents you wish to include in the collation. From here you can:
   1. Include a document in the collation, by clicking on a document once in the left side box and then clicking the single right arrow **>**
   2. Include multiple documents in the collation, by CTRL+clicking on multiple documents in the left side box and then clicking the single right arrow **>**
   3. Include *all* the documents in the collation, by clicking the double right arrows **>>**
   4. Remove a document from the collation, by clicking on a document in the right side box once and then clicking the single left arrow <
   5. Remove multiple documents from the collation, by CTRL+clicking on multiple documents in the right side box and then clicking the single left arrow <
   6. Remove *all* the documents in the collation, by clicking the double left arrows **<<**
   7. Re-order the documents in the collation, by clicking on a document in the right side box and clicking “Up” or “Down” as many times as is necessary.
4. When finished, click “Collate Documents” and the collation will be created as a PDF. Click “Open” to download the PDF.
5. In Acrobat Reader, click the Print button to print out the collation.
6. If you want to keep a copy of the collation, you can click File 🡪 Save a Copy in Acrobat Reader.

**Cover page:**

The index of the documents is printed half way down the cover page. If you want to add the title of the proceedings, or any other cover information to this page, you should do so using a separate Word document, then re-insert the cover page into the printer the correct way so that the information to be added will appear at the top of the page.

## Office meetings

Managing solicitors must hold office meetings not less than once a month. They should be held at a time when the majority of staff are available to attend the meeting. If the meeting is held during law centre opening hours, at least one staff member (normally the Reception person) must remain in the office to deal with public queries.

Minutes must be taken and posted on the common drive in the law centre no later than one week after the meeting, so that those not able to be present at the meeting will be able to keep track of what is going on.

It is good practice to rotate the position of secretary and chair of the meeting so that employees get experience of chairing meetings and taking minutes.

|  |
| --- |
| **Procedure 2.13 – Organising an office meeting**   1. The chair and secretary of the meeting should meet with the managing solicitor and organise a time and date for the team meeting 2. No later than one week before the meeting, the secretary should send an email to the law centre giving notice of the time and date of the team meeting and asking for agenda items. 3. The agenda should contain some or all of the following items:    1. Minutes of the previous meeting and matters arising    2. The law centre’s objectives for the year, as set out in the business plan, and progress in relation to those objectives including progress on new cases taken on and cases completed    3. Maximising the use of EOS    4. New applications    5. Leave and flexi time    6. Typing and post backlogs    7. Difficulties with clients    8. Monitoring law centre email inbox    9. Scanning    10. Appointments for new clients    11. Risk register    12. Time frames and statutory deadlines    13. Progress of existing files    14. Staff development including cross skilling and internal mobility    15. Legal issues that present    16. File reviews    17. Administrative Procedures Handbook including recent changes    18. Circular on Legal Services including recent changes    19. Health and safety including fire drills, safety drills and first aid training    20. Any customer service issues    21. Reports from work groups / regional meetings etc    22. Any other business    23. Chair and secretary for next meeting   If the law centre has a representative on a committee or Work Group, they should also be invited to give a short update on the work of that committee/Work Group and take questions.   1. No later than 24 hours before the meeting, the secretary should send a reminder to all staff that the meeting will take place and circulate the agenda. 2. After the meeting, the minutes should be drafted within 48 hours and sent to the managing solicitor for approval. They should be then posted to the common drive in a directory “Team Meetings” which should be contained in the root directory of the common drive. 3. An email should be sent to advise staff of the completed minutes. |

## Health, safety, and security procedures

Health and safety is a priority of the Board. Managing solicitors should satisfy themselves that health and safety procedures are being followed at all times in the law centre.

### Health and safety officers

It is a requirement that all law centres have a trained:-

* Fire Warden
* First Aider
* Safety Representative

Larger law centres should have more than one fire warden and first aider. A sign should be erected in each law centre detailing who the nominated health and safety officers are and revised as appropriate.

If the First Aider or Fire Warden leaves the law centre, either on a permanent or medium-term (career break, maternity leave, or leave of absence) basis, the managing solicitor should without delay appoint a new fire warden or first aider.

Research, Learning and Development will organise training for safety representatives, fire wardens, and first aiders at regular intervals. However, in the event of a new fire warden or first aider appointed and no other trained fire warden or first aider, as appropriate, being currently trained, the managing solicitor should contact the Training Officer and seek their views on whether the appropriate training can be organised for the individual at an early date.

### Fire precaution

Each law centre has a fire alarm and fire equipment supplied by the Board. In the event of a fire, and if it is safe for staff to extinguish it themselves, extinguishers are provided.

In case of a fire that is not manageable by staff, there is also an escape route plan and designated meeting points. All staff must read same and familiarise themselves with fire exits, escape routes etc. Every law centre that has more than one level or is not on ground level should conduct a fire escape drill at least once a year.

Should you have any queries in the matters of fire precaution, please contact the Fire Warden.

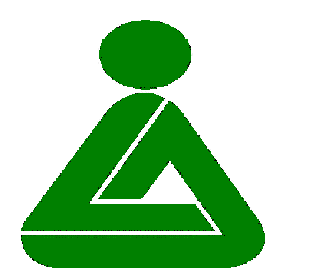
### Health and Safety

A safe office environment is considered to be a tidy and uncluttered environment. Among the factors which help create a safe place of work, are where there are no files or loose cables on the floor. Potential risk areas in offices include blocked passageways / corridors and stairways. See 🡺**Chapter 8** under **Working with files** for further information regarding storing files.

Accidents do happen and all reasonable precautions should be taken to avoid them. However, items in the first aid kit should be reviewed in order to ensure supplies are in date and do not run low. Any accidents or injuries should be reported to the managing solicitor and Safety Representative. If necessary, an accident report form may need to be completed and sent to both HR and Organisation. A copy of which can be found at the end of this section. Potential risk areas in offices include blocked passageways / corridors and stairways. See 🡺 **Chapter 8** under **Working with files** for further information regarding storing files.

Should you have any queries in the matters of Health and Safety, please contact the above.

A copy of the Board’s Safety Statementcan be found on 🡺 i**LAB**



**Accident / Incident Report Form**

Name of Injured Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Job title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State whether an: Employee  Other  Details: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date and time of accident/incident: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Description of Accident/Incident and Injuries, if any sustained:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witnesses, if any: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Was incident reported at time it occurred? Yes  No 

If Yes, to whom? Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Job Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Was medical attention given? Yes  No 

If Yes, by whom? First aider  Doctor  Hospital 

Details (including name of first aider):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Was accident / incident investigated? Yes  No 

If Yes, by whom? Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Job Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Immediate and root cause of accident:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Details of any corrective action taken:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Do the Safety Statement or Risk Assessments need to be amended? Yes  No 

Does the accident / incident need to be reported to the Health & Safety Authority? Yes  No 

If Yes Date sent:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By whom: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Estimate of time lost? Less than 1 day  1-5 days  6-30 days  More 

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_

Job title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### Law centre security procedures

If you are the last person to leave the office **at lunchtime or the evening**, please lock all windows and doors, set the alarm and carry out a check to ensure that the cash receipts box is in the safe and the safe is securely locked. This should be done whenever the office is unattended.

In some cases where the law centre forms part of a larger facility and the building is locked up by security staff it will not be necessary to lock up the building. However, in single occupancy offices the individual staff member should ensure windows are locked. The last law centre staff member to leave should still ensure the cash receipts box is in the safe and the safe is securely locked.

**As codes change from time to time please ask a member of staff what the current code is.**

**Do not write down the alarm code!**

If the alarm is set off in error, the alarm company must be contacted immediately. Details of the alarm monitoring company are shown on the alarm control panel or are available from Organisation.

Panic alarms are located in all law centre offices. The alarms work internally. If the alarm is pressed, a sound can be heard in all offices apart from the office where the alarm is being used.

There are other alarms in the law centre that are connected directly to the Garda Síochána. When these are pressed, the Gardaí will call to the law centre. Please familiarise yourself with the location of these alarms.

Security cameras are linked to the screens and recording equipment in the reception area. Each morning the video must be replaced by the assigned member of staff.

### Keyholding services

The Board engages keyholding companies in a number of law centres to attend the premises in the event of an alarm being activated after office hours. Not all law centres have a designated keyholding company and in these cases the names and contact numbers of the law centre staff are given to the monitoring station. Invoices for keyholding services should be forwarded to Organisation for payment.

## Other office procedures

In certain special cases some of this information may not apply or may differ slightly. Ask your Managing Solicitor or Organisation for details.

TaxisTaxis or cars should be hired only when there is no suitable public transport available.

Where taxis are used to travel to/from Court, an arrangement should be made with a local taxi or hackney service, if such an arrangement is not already in place, and payments made from the law centre’s local bank account. A separate heading, e.g. Court Travel, should be used for this expenditure and included in the law centre’s monthly bank returns to Finance Unit. This is essential in order to facilitate the effective monitoring and review by Head Office of this arrangement.

### Mobile phones

The Board provides a number of mobile phones for the use of solicitors.

All mobile phone bills for law centres are paid by direct debit by the Board. It is the responsibility of the managing solicitor in each law centre to monitor use of mobile phones. Payments are monitored by Organisation to ensure that no unauthorised levels of usage occur.

Staff who use the Board’s mobile phones are required to contribute towards personal calls under the Board’s mobile phone usage policy.

### IT consumables

The Board has a contract for all IT consumables with Datapac. All orders for IT consumables must be made via IT Unit by emailing the address **IT Cahirciveen.** Orders for IT consumables may not be made over the phone.

Datapac will deliver on a next day basis so there is no need for Law Centres to hold stock of IT consumables. On receipt of goods, the Delivery Docket should be checked against goods ordered, date stamped, and approved for payment by a member of staff on-site, before being sent to IT Cahirciveen by DX. Invoices will only be processed by IT Cahirciveen on receipt of a delivery docket, date stamped and approved for payment.

IT Cahirciveen should be notified immediately re any issues surrounding receipt of incorrect goods so that corrective action can be taken immediately. Once goods are returned within an agreed time frame, the Board will not be liable for any associated costs.

### Stationery

The Government Supplies Agency from time to time awards contracts for the supply of stationery and office supplies to Government Departments and Offices, including the Legal Aid Board**. The current contract is with Codex Limited**. Organisation will notify law centres if there are changes to the procedure which may be made from time to time.

Orders should be placed by law centres directly with the contractor. Law centres must keep proper records of all transactions entered into with the contractor and information as to the cost, quantity and type of goods purchased from the contractor. Managing solicitors must nominate a member of staff to organise office supplies.

Law centres must keep office stationary e.g. biros, sellotape, document wallets, headed paper, judicature paper, paper clips, message books etc., in a designated stationary press or storeroom. The nominated staff member should be informed where stocks of particular items are running low. Law centres order their everyday supplies directly from the company to whom the contract has been awarded

Requests for items other than those mentioned on the list should be requested from Organisation in writing. Sanction may then be given, depending on the request, for the law centre to purchase from the recommended supplier

**Toner for photocopiers and fax machines are ordered from Organisation.**

**All invoices are to be forwarded to Organisation who will process them for payment.**

### Information leaflets

These are generally ordered in bulk by Head Office and distributed to law centres. Amendments to the Information Leaflets and decisions in relation to amount of stock required by Head Office are the responsibility of Organisation. The law centre should ensure that the full complement of leaflets are available in the Reception area.

### Legislation

Electronic versions of most Acts of the Oireachtas, Statutory Instruments, and pre-1948 Statutory Rules and Orders are available for free on www.irishstatutebook.ie which is available to all staff as part of the LAB Standard Internet Access List.

### Caselaw

We have a subscription to JustisOne which has the full text of the *Irish Reports* from 1838 to date, and Westlaw which has cases from the *Irish Law Reports Monthly.* More recent judgements are available on [www.courts.ie](http://www.courts.ie) and [www.bailii.org](http://www.bailii.org).

### Stamping of court documents

In non-family law cases, the Courts charge fees to allow court documents to be filed. This process is known as “stamping” because the fee concerned is called “stamp duty” and proof of payment is shown in the form of a stamp affixed to the document.

We have been provided with a machine by Courts Service to allow it to stamp its own documents. The page of the document that needs to be stamped should be emailed to **Court Stamping,** along with the amount of stamp duty to be paid**.** Finance will send back the stamped document by return email. The documents can also be sent by post/DX to Finance.

Specific procedures apply in relation to deeds of transfer, which also need to be stamped. For more details see 🡺 **Circular on Legal Services.**

### Premises maintenance

Some law centres are units that are part of a larger building/complex. In these instances the building is normally managed by a Management Company to whom the Board will pay a service charge under the term of its lease.

The service charge usually pays for the upkeep of the building and for the upkeep of the common areas under headings such as lighting, cleaning, heating etc. Any issues that arise must be reported to Organisation.

***1***

Some law centres, depending on their location, are subject to payment of water charges and refuse charges to the local council and/or refuse company. **All invoices are to be forwarded to Organisation who will process them for payment.**

A number of law centres have had water cooler/filter systems purchased. **All invoices are to be forwarded to Organisation who will process them for payment.**

### Cleaning and linen supply contracts

Cleaning services and linen supply contracts are tendered through Head Office. If there is a problem with the cleaning or linen supply contracts company, the law centre should try sort it out themselves. If the problem persists/cannot be resolved locally, the law centre should contact Organisation. **All invoices are to be forwarded to Organisation who will process them for payment.**

Cleaning products which are not supplied by a contract cleaning services can be purchased locally and reimbursed from petty cash.

### Window cleaning

Window cleaning is included in the cleaning services contract tendered through Head Office. The current supplier is Grosvenor. External window cleaning must be requested through Organisation and **all invoices are to be forwarded to Organisation who will process them for payment.**

### Office furniture

Should a law centre need to repair or replace an item of furniture they must contact Organisation where the request will be dealt with appropriately. Every year an inventory of all office furniture and equipment must be completed.

# Applying for legal services

This chapter deals with:

1. Applying for legal services
2. The pilot online application system
3. Validating the application
4. Anti-money laundering checks
5. Risk assessment
6. Identifying for possible prioritisation

## Applying for legal services

### Overview of applications procedure

For easy reference, flowchart overviews of the applications procedures are to be found in this Chapter. These are for guidance only and should be read in conjunction with the detailed procedures found in this Chapter.

### References to the word “letter” in this Chapter

In this chapter, the word “letter” includes a letter sent as an attachment to an email, where an applicant has indicated that they would prefer to be contacted by email and provided an email address.

### Applications processed centrally and exempt from means testing

Some applications to the Board are processed by Head Office and allocated to a law centre. These include:

* Applicants in child abduction and foreign maintenance matters (applications are made through the Central Authority for Child Abduction/Maintenance Recovery)
* Complaints in certain rape and sexual assault cases (applications are made through the Office of the Director of Public Prosecutions).

Applications in the above categories will be processed by Legal Services, who will perform the tasks of setting the applicant up on EOS and then transfer the case to a law centre who will make the application for legal aid. The legal aid certificate is normally automatically granted in these cases.

In the case of applicants who are exempt from contributions it should be noted that **no means assessment is carried out and no contribution is payable.** Therefore law centres should not create a means test or attempt to passport these applications on EOS.

These cases, in general, receive a priority service from the Board.

### Applications from other member states of the EU/EEA

Applications from other member states of the EU/EEA (other than Denmark) are also processed directly through Head Office. Applications must be made directly to Head Office (or via the legal aid authority in the applicant’s home state) on the mandated form under Council Directive 2003/8/EC. This form is available on the Board’s website.

Legal Services will set up the applicant on EOS, conduct the means assessment, and then transfer the case to a law centre.

### Queries from Irish citizens regarding legal aid in other member states of the EU/EEA

Where the query relates to legal aid in England and Wales, Scotland, or Northern Ireland, you should give the contact details for the legal aid authority in the jurisdiction concerned:

* **Legal Aid Agency** (England and Wales) 00 44 345 345 4 345
* **Scottish Legal Aid Board** 00 44 131 226 7061
* **Legal Services Agency Northern Ireland** (048) 9040 8888

The United Kingdom has indicated its intention to withdraw from the European Union on 29th March 2019. Any change with regard the participation of the UK in Council Directive 2003/8/EC will be notified to staff. It is not expected that the withdrawal of the United Kingdom from the European Union should have any impact on the above arrangements.

Any law centre who receives a query from an Irish citizen regarding applying for legal aid in any other member state of the EU/EEA (other than Denmark) should be provided with a copy of the mandated form under Council Directive 2003/8/EC and advised to post the form to Head Office who will forward it to the legal aid authority in the member state concerned for processing. A copy of the form is available on the Board’s website. Note that applicants wishing to avail of the EU Council Directive must apply on the prescribed form and for this reason cannot use the online application system.

More information on how the cross border legal aid directive works can be found in the 🡺 Circular on Legal Services

### Applications for legal aid in Ireland from outside the EU/EEA

### Applications from persons resident in Denmark or outside of the EU/EEA who are seeking legal aid in Ireland can be accepted on the standard application form. There is no requirement for the person to reside in the State when making the application.

### Requests for legal aid at inquests

Legal aid or advice cannot be provided in respect of an inquest where no request has been made by a coroner. In certain inquests, a family member of the deceased may apply to the coroner for a request to be made for legal aid or advice to be provided for the inquest. We are not involved in this process. A request can only be made in certain categories of death and may only be made on behalf of one family member. It is for the coroner to identify if the request may be made in any particular case.

Outside of this limited range of cases applications for legal services in respect of inquests remain outside of the scope of the Civil Legal Aid Act 1995.

The procedure for processing such requests is as follows:

|  |
| --- |
| **Procedure 3.1 – Processing requests from a coroner to provide legal aid for a nominated family member.**   1. If a coroner decides that a request for Legal Aid for a nominated family member should be made he/she forwards the request in the form agreed between the Board and the Department of Justice and Equality to Legal Services Unit 4. 2. Legal Services Unit 4 will treat the request as an application for legal services. The family member will be considered an applicant for legal services. 3. The applicant will be referred to a law centre for the purposes of means testing only. 4. Legal Services Unit 4 will record the request as an application on EOS. 5. Legal Services Unit 4 will send a letter to the nominated family member which Informs them of their nearest law centre and includes:    1. an Application for Legal Aid form,    2. copies of the Board’s information leaflets on financial contributions and on completing the application form.   A copy will be sent to the named law centre and to the coroner who made the request for legal aid.   1. If the family member does not return the completed application form to the law Centre within one month of the letter, the law centre will notify Legal Services Unit 4, who will in turn notify the coroner who made the request on their behalf. 2. If the law centre subsequently receives the completed application form for legal aid it will conduct a financial assessment in the normal manner and make a submission for legal aid to Legal Services Unit 4. The applicant is not placed on an applications record by the law centre, 3. If an applicant is financially ineligible Legal Services Unit 4 will notify the applicant in writing and a copy of the letter will be sent to the law centre and coroner. 4. If an applicant is financially eligible a legal aid certificate should be sent from Legal Services directly to the applicant requesting him/her to pay the contribution at the law centre. 5. The letter enclosing the legal aid certificate to the family member should also contain the list of Inquest Panel solicitors. The letter should be copied to the relevant law centre and coroner. 6. The Law Centre will collect the legal aid contribution, issue a receipt and confirm payment to Legal Services Unit 4 on EOS. 7. If an applicant fails to pay the contribution within the time specified on the legal aid certificate (1 month) the law centre will notify Legal Services. 8. In such cases Legal Services Unit 4 should notify in writing the coroner that the family member has not taken up the Legal Aid Certificate. |

The Coroner Service Implementation Team (CSIT) will continue to handle the processing and recording of fee claims by the solicitor. Any invoices received by Legal Services Unit 4 will be sent to CSIT for processing.

### Pre-application procedure

Members of the public making enquiries in relation to legal services can be provided with relevant information without completing an application form. This would include, for example, information about the services available from the Board (including family mediation) or about financial eligibility.

If a person is being advised by law centre staff that s/he appears not to be financially eligible or that the subject matter may be outside the scope of the Act, the person should be advised that s/he may submit a formal application and that a formal decision will be taken on that application. This information can be provided by any member of staff and would usually be provided by a clerical officer.

Persons making enquiries should not be told to make their application at another law centre or that the law centre to which they have applied cannot provide a service. If a law centre has a concern about being able to provide a service in a particular case the matter should be raised by the managing solicitor with the Director of Civil Legal Aid.

Regard should be had to the fact that there is no law centre that specialises in “difficult cases” or “difficult clients”. Every law centre has a responsibility to deal with the applications it receives and not to seek to avoid the more difficult matters.

**Do not tell a person that the matter is outside the scope of the Act, or that they are financially ineligible, without being certain!**

**While you may inform a person that the application for legal services is *likely* to be refused, on either basis, you may NOT refuse to accept an application for legal services, if a person wishes to make an application.**

### Applications for legal aid or on behalf of children

Applications for legal aid must generally be made by an adult on behalf of the child who wishes to make an application.

It is generally the case that a child is not legally capable of maintaining or defending legal proceedings in their own right. Children must generally sue by a *next friend* who is generally a parent or guardian and defend by a *guardian ad litem* (“guardian at law”) whom is an adult. The adult who makes the application on behalf of the child must generally be the person who is intending to act as next friend or guardian ad litem.

If legal aid is granted, the adult will be required to sign an undertaking to pay to the Board any money which the Board may be owed (i.e. any contribution payable or any costs recoverable from the legally aided person).

There may be circumstances where it is appropriate to accept an application from a child in their own right. For example there may be circumstances where a child is a party in their own right to private family law proceedings in the District Court - for example where they are themselves a parent and there is an application for maintenance - and there is no next friend or GAL in the proceedings. If in doubt bring the application to the attention of your managing solicitor.

Where it is intended to take instructions from a minor the solicitor should not see the minor alone and regard should be had to the Children First Guidelines which are published on iLAB.

### Applications from children in relation to child care proceedings

Where an application is received from a child in relation to child care proceedings the application should be accepted but brought to the attention of your managing solicitor at an early opportunity.

In these scenarios there is sometimes little or limited information available. It is important that each application or enquiry is dealt with on a case by case basis. The general rules apply i.e. we cannot refuse to accept an application. Where appropriate you can seek a direction from your managing solicitor, or where necessary the Director of Civil Legal Aid/Regional Manager. Legal Services are obliged to consider any application received on its merits and a formal decision will be made.

Section 25 of the Child Care Act 1991 allows a child to be entered as a party to the proceedings. Where a guardian has been appointed a child cannot also be party to the proceedings. Once an order under section 25 is made the court may appoint a solicitor to act as a representative and the costs of the child's legal representative are to be paid by Tusla (but it is open to Tusla to apply for a direction that any other party to the case should foot the bill).

As the child can get / or received representation from Tusla by way of Tusla appointing a solicitor / by way of a court appointed solicitor - then it is open to us not to grant a legal aid certificate under section 28(4)(a) of the Civil Legal Aid Act 1994. However that is a decision that must be made at Legal Services level.

### Legal aid for appeals

Any person seeking legal aid for an appeal of a court order must make a fresh application for legal services, even if they were previously legally aided at the trial.

The application for legal services for the appeal is treated as a new application and a new case must be opened on EOS for the person and the person financially assessed. If the person was previously legally aided, and remains financially eligible for legal services, the application will be prioritised (having regard to the time limit to make the appeal) and the case will (in general) be assigned to the same solicitor who previously represented the person. A fresh legal advice (and, if legal aid is granted, a legal aid) contribution is payable in respect of the application.

Where the appeal is:

* from the District Court to the Circuit Court
* the person was legally aided by a member of the District Court private family law solicitors panel,
* and the applicant for legal services **is the person taking the appeal (the appellant)**

the law centre must:

* Request the applicant to provide to the law centre a letter from their private solicitor outlining the grounds upon which the applicant is appealing. This letter will form the basis of the submission for a legal aid certificate (see the 🡺 **Circular on Legal Services** for more information on this procedure).
* Inform the applicant of the time limit of fourteen days (from the day the decision of the court was given) to serve on each respondent and lodge with the District Court Clerk the Notice of Appeal

### Referring to family mediation

At any time up until the point legal proceedings are commenced a person whose problem is a family law matter may express interest in dealing with the matter through the process of family mediation. Family mediation is a service to help couples who have decided to separate or divorce, who have already separated, or who have never lived together but have a child together to negotiate their own terms of agreement, taking into account the needs and interests of all involved. In certain circumstances, mediation can also assist in disputes within families. Mediation involves the parties sitting down with a trained mediator to work out an agreement. It is not marriage guidance or counselling and the aim is to achieve an agreement on the issues in dispute between the parties, not reconciliation.

The benefits of meditation include:

* It is a confidential service.
* Mediators are highly skilled professionals facilitating the couple in their negotiations; they do not take sides and are neutral as to the outcome of the process.
* A balanced settlement is reached that is acceptable to both parties. People are in control of the decisions that are made about their futures.
* Decisions taken together are more likely to be honoured.
* It promotes communication and co-operation, reducing bitterness and distress.
* Keep out of court and the adversarial system which can further polarise individuals.
* Parents are helped to remain as partners in childrearing by developing parenting plans that suit their particular circumstances.

Where an applicant expresses an interest the law centre may refer the person to their paired mediation office (🡺 **Chapter 6)** or alternatively to another of the Board’s mediation offices which is more convenient for the applicant.

Mediation offices provide pre-mediation during which applicants are assessed for suitability, screened for domestic violence and capacity to negotiate. Any applicant presenting with a family law matter should be referred to a mediation office. There is no need for the law centre to make any determination as to suitability for mediation.

This pre mediation step does not delay the legal process. The application for legal services should continue to be processed as if the referral had not been made until and unless the applicant specifically requests it to be withdrawn. Where the application is in connection with a priority matter, including a domestic violence matter, it must be accorded the same priority service as it would normally be received and if the matter would normally be referred to the solicitors panel that referral should proceed. Where a domestic violence order is in place the mediation service may be able to screen suitability to mediate. Similarly, if the matter is one where there is High Risk (e.g. a statutory deadline due to expire or a risk that family assets might be dissipated) legal services should be provided immediately to ensure that any risk does not materialise.

A referral form which the person should be asked to complete is available. The completed form may then be scanned and emailed to the relevant mediation office. The mediation office will contact the person directly and arrange an initial information session on family mediation.

Where the person has not yet made an application for legal services they should be asked whether they wish to do so. If the person wishes to make an application for legal services, they may do so and the application process can continue whilst the applicant has been referred to mediation.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Q:\Z - Miscellaneous files\LAB logo proper.jpg | | | | | | | | | | | | | | | |
| **I am interested in attending an  information session on family mediation** | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | |
| **Name:** | |  | | | | | | | | | | | | | |
|  | |  | | | | | | | | | | | | | |
| **Address:** | |  | | | | | | | | | | | | | |
|  | |  | | | | | | | | | | | | | |
| **Telephone no:** | |  | | | | | | | | | | | | | |
|  | |  | | | | | | | | | | | | | |
| Have you attended family mediation before? | | | Yes | |  | No |  | | If yes, which office | | |  | | | |
| The law centre will pass your details to the family mediation office, and by filling out this form you agree that they may do so.  Civil legal aid and family mediation are services provided by the same body, the Legal Aid Board. Your details will not be passed on to third parties without your agreement. However if after the information session you decide to proceed with mediation, the mediation office will then need to contact your spouse/former partner to see if they are happy to proceed on that basis also. The mediation office will tell you more about this at the information session. | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | |
|  | | | | | | | | | | |  | |  |  |  |
| **Signed** |  | | | | | | | **Date** | |  | | | | | |
|  |  | | | | | | |  | |  | | | | | |
| **Reasons for declining**  **offer of information**  **session** | | | |  | | | | | | | | | | | |

### Application for legal services form

Each applicant for legal services must complete the Board’s Application for Legal Services form. It is essential that the form is fully completed. This form requires that an applicant provides information on both the subject matter and their financial situation. Family law and non-family law matters cannot be dealt with on a single application form. In the case of applications relating to family law matters, the general heading on the form should be ticked and details provided in the appropriate space. Details could include, for example:-

* marriage has broken down;
* custody / access / maintenance issues;
* problem with violence; or
* child care issues.

In the case of non-family law issues, separate application forms must be used for each matter. The general heading on the form should be ticked and details should be provided in the appropriate place. If there is any doubt about this, clarification should be sought from the managing solicitor.

A separate application form is available for applicants who wish to apply for services in respect of international protection matters. These forms are available on the Board’s website. The international protection application form is designed on the basis that most applicants for legal services in connection with an international protection matter will be in “direct provision” and eligible for passporting. Where this is not the case the standard application form should be used.

Alleged victims of human trafficking who wish to apply for legal advice must complete a separate application form. These applicants are referred directly by the Garda Síochána to Law Centre (Smithfield).

The Board has published a guide for applicants, “How to Complete your Application for Legal Services Form” which may be handed to applicants and should be sent with each form posted to applicants.

**PRE-APPLICATION PROCEDURE**

YES

**Applicant referred to other appropriate service (eg CIB).**

NO

Staff member establishes that matter is within scope of Civil Legal Aid. Unless matter is clearly outside scope of Act, person should be invited to make application.

**Applicant makes contact with law centre**

Is applicant suitable for referral to family mediation and willing to participate in mediation?

Applicant is sent application form with appropriate letter

**Applicant referred to local mediation office**

NO

YES

**APPLICATION PROCESSING**

YES

NO

Conduct financial assessment. Is applicant financially eligible?

Applicant remains on applications record and appointment offered in due course.

Offer priority appointment or refer to solicitors panel (see 🡺 Chapter 8)

NO

YES

Does application need to be prioritised (see guidelines)

Write to applicant seeking appropriate backing documentation.

Appropriate backing documentation received.

Insufficient backing documentation received.

**Follow 🡺 Procedure 3.4**

NO

YES

Screen for risk and priority &

conflict check is carried out. Is there a conflict of interest?

**Application form is received in centre and date stamped.**

Has applicant completed passporting section of form?

**Financially ineligible**

Inform applicant in writing.

NO

YES

Staff member checks if backing documentation (where necessary) is provided.

**Financially Eligible.**

Place on applications record.

If an application form is defaced, contains profanities, insulting or abusive language, threats or is unclear with regard to the subject matter, the application should be brought to the attention of the managing solicitor. A managing solicitor may form the view that the law centre should not accept such an application and return it to the applicant to allow them to make a proper application. Law centres must accept applications for legal services, regardless of the place of residence of the applicant. Where the applicant is located a distance from the law centre, cost implications may arise and the application should be brought to the attention of the managing solicitor.

Where legal services are to be provided at a law centre other than the law centre at which the application was made, the nominated law centre should be contacted and told that the completed application will be forwarded to them. The person should be provided with services by reference to the date when the completed form was received. In the event that the person cannot be given an immediate appointment with a solicitor and if the matter is not to be given priority, the person should be placed on the applications record by reference to the date of receipt of their fully completed application for legal services.

Applications for services in respect of international protection matters should be submitted to one of the Smithfield, Pope’s Quay (Cork) or Seville House (Galway) Law Centres as appropriate.

Except as outlined in the “conflict check” section below, applications should not be forwarded to another centre without the approval of that centre’s managing solicitor or the Director of Civil Legal Aid. On occasions the Director of Civil Legal Aid may determine that it is in the best interests of the Board that an application (or a file) is transferred from one law centre to another.

Except in the case of applications for emergency legal aid certificates, international protection and human trafficking, all applicants for legal advice and/or legal aid must make an application in writing on the Application for Legal Services form. Copies of application forms are available in your Law Centre and may be ordered from Organisation. The form is usually completed by the applicant, but support staff can assist if necessary. The form must be signed and dated by the applicant.

An applicant should be advised that an application can only be considered on receipt of a fully completed form, which is signed and dated, and includes all information in relation to an applicant’s financial eligibility. In any case where an incomplete application form is received refer to 🡺 **Procedure 3.5** for instructions.When an applicant’s financial eligibility has been determined, staff should place the matter on the applications record, and establish whether the applicant should be offered a priority appointment and / or details of the application placed on the risk register. See guidelines at 🡺 **4. Risk assessment**.

International Protection clients are not put on a waiting list. The APP001, APP003, and APP006 workflows should be completed in line with the international protection staff guidance note to ensure that applicants do not show on the waiting list.

Applications records in law centres must be reviewed on a regular basis to:-

* ensure that only appropriate cases are on the applications record i.e applicants that are financially eligible and satisfy other criteria of the Act,
* identify relevant cases to be recorded on the risk register; and
* ensure priority cases are dealt with appropriately.

Managing solicitors are required to:-

* personally examine application forms received on a weekly basis;
* identify applications potentially suitable for referral to family mediation and send out information on family mediation to those applicants;
* determine what applications should categorised as High Risk on EOS;
* in cases with statutory or other deadlines determine the date of accrual of the action and the limitation period and ensure that this information is recorded on EOS. Where necessary, the managing solicitor should seek further information from an applicant in order to determine the applicable limitation period, when the time started or will start to run, and when the period expires;
* determine what applications should be prioritised where ;
* put a system in place to ensure that all staff are aware of:-
* the implications of limitation periods;
* when cases should be referred to the Personal Injuries Assessment Board (PIAB); and
* the provisions of the Handbook and Circular in relation to priority being given to new applicants seeking legal services where, there is a danger that the time limits for issuing proceedings may expire, unless immediate action is taken, or where the case falls within the categories of priority; and
* monitor the applications record on EOS through the use of the reports (🡺 **Chapter 10)** and other tools available and ensure that it is kept up to date.

The application for legal services form is provided centrally by Head Office and has been approved by the Board. It is not permitted for law centres to alter the standard application form to ask for further information nor is it permitted for law centres to devise supplemental forms nor to require an applicant to complete such supplemental forms at application stage. There are centrally provided information gathering sheets which may be posted to an applicant at the first consultation stage and they are illustrated in 🡺 **Chapter 5**.

APP01. Letter to accompany application form*APP01.Application Received workflow*

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **PRIVATE AND CONFIDENTIAL**  Mr John Smith  1 Main Street  Ballymore  Co. Dublin 1st September 2016  **RE: APPLICATION FOR LEGAL SERVICES**  Dear Mr Smith,  When we spoke by telephone you indicated that you would like to make an application for civil legal advice and/or aid. I enclose our Application for Legal Services form*.* If you wish to apply for legal services, please complete this form fully and return it to me at the address below.  **Documents we need to process your application**  You will need to send me proof of your income:   |  |  | | --- | --- | | **If your income is** | **You need to supply us with a copy of:** | | Social welfare | A social welfare payment slip or letter from Intreo telling us what your payments are | | Salary/wages from a job | Most recent payslip | | A business (sole trader or partnership) | Most recent notice of assessment from Revenue, or audited accounts. |   You should also send me a copy of your photo ID (passport or driving licence) and a household bill or other letter from a utility or public body with your address on it.  If you do not have access to a photocopier, you can bring the originals to the law centre and we will copy them for you. You should not send your original passport or driving licence in the post.  Sometimes we might ask you to provide full details of your income or assets. We will let you know if you need to do this.  **Next steps**  Once your application is completed, and we have received your proof of income, we will check if you can get civil legal aid and advice. If we decide that you can get civil legal aid or advice, we will then look at the type of legal problem you have. For some types of problem we will give you an immediate appointment. For others, you might have to wait some time before we can give you an appointment. **For this reason it is important that you explain fully the type of problem you have when completing the application form.**  We also need to check if the other person is not a client of the law centre. If they are, we might need to send your application to a different law centre. We might, depending on what your legal problem is, be able to refer you to a private solicitor instead.  **Contributions towards legal services**  When you see a solicitor you will usually have to pay a contribution. This is usually at least €30, but depending on your income might be more. If you need to go to Court, and if we grant you legal aid, you will have to pay another contribution. This will usually be at least €130, but depending on your income and assets might be more. If your case is against Tusla (the Child and Family Agency), and they are applying for an order to take your children into care or supervise them in your own home, you won’t need to pay a contribution.  [You indicated in our conversation that your problem relates to your family.] [If your problem relates to your family, it might be suitable for family mediation] [We run a family mediation service that helps couples to resolve disputes about family matters. I am enclosing a leaflet which explains more about family mediation. Your nearest family mediation office is INSERT ADDRESS and can be contacted at INSERT PHONE NO.]  If you have any questions, or need assistance completing the online application, please contact me at the address below.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_  **Jane Jones** **Law Centre ( )** |

|  |
| --- |
| **Procedure 3.2 - Steps for dealing with a caller who wishes to apply for legal services**  These procedures apply, in general, whether or not the applicant has called in to, written to, or phonedthe law centre.   1. Try to identify the matter (as is possible within the scope of a short conversation) with a view to:    1. if the matter is out of scope, referring the person to the appropriate service for assistance;    2. if it is to do with a family law matter, particularly custody (primary care and control of children), access (contact with children), guardianship (parental responsibility) and maintenance (financial payments for the upkeep of children):       1. ascertain the willingness of the person to participate in mediation and,       2. if appropriate, refer the person to the local family mediation office (see later in this Chapter).    3. if the matter involves domestic violence, facilitate the person in making an application for legal services as quickly as possible. 2. Ascertain if there is any reason that would require that the applicant attend the law centre to be means tested – otherwise operate on the basis that the means test will be done by post. 3. If the applicant has called into the centre, give them the application form and “How to Complete your Application for Legal Services Form” and invite them to complete it at their leisure. 4. If the applicant is a telephone caller and is to be assessed **by post**- (i) Obtain the applicant’s name, address, and telephone number. (ii) Advise the applicant that you are sending them a copy in the post of the Application for Legal Services form. Advise the applicant that they should complete the form fully, sign and date it, and return it, together with a payslip/Notice of Assessment (if applicable), a copy of a utility bill, and photo ID, to the law centre. However, note that information required for the purposes of identification regarding anti money laundering requirements can be provided at any time up to and including the first consultation. **EOS** (iii) On EOS, create an Enquiry case for the applicant using the details you have obtained. Put the case into the APP01.Application Received workflow. On the Documents tab, generate a copy of the standard cover letter and print on law centre headed notepaper. Sign the printed letter and send, with a copy of the application form and the Board’s *Applying for Legal Services* leaflet to the applicant.  **OR**   If there is a specific reason that requires that an applicant be financially assessed **in person**:-  (i) Open the law centre shared diary (or application located on your Lotus Notes workspace). (ii) Identify the next opportunity available for assessing financial eligibility (having regard to the **Priority Service** section below) and offer it to the applicant. (iii) If the applicant is unavailable on that date, identify a date which is mutually agreeable. (iv) Create an Enquiry case on EOS for the applicant using the details you have been given. On the Attendances tab, create an Attendance with the details of the date you have agreed and tick the Push to Calendar checkbox.  (v) Advise the applicant verbally of the correct documentation which they will need to bring with them to the law centre for the application.  **Dublin law centres only**  Try to identify if possible, if the caller is seeking legal services in relation to a District Court domestic violence matter. If so, give the caller the details of the Dolphin House Service.  The law centre should process all other applications for District Court matters, subject to the normal procedures.  **🡺 See Chapter 8 for further details** |

***When to enter applications on EOS***

**Applications made in person**

A computer may be provided in your Law Centre’s consultation room. If so, and in the event that a meeting with the applicant is required for the purpose of the means test, the information provided by the applicant should be directly entered onto EOS.

If no computer is provided in your consultation room, the information from the application form and Income Assessment Form should be entered on to EOS as soon as practical after the means test. The paper copies must still be kept on an applications lever arch folder.

**Postal applications**

If you receive a postal application, the information from the paper application form should be entered onto EOS when processing the application, but after the conflict check is carried out. The paper application form must be kept on the applications lever arch folder. If you require supporting documentation in relation to financial eligibility, 🡺 **Procedure 3.5** should be followed.

### All EOS cases must be set up as enquiries

When entering an application on EOS, it is important to set up the case type as an Enquiry (either Family Law Enquiry or Non-Family Law Enquiry), until it has passed the financial assessment/passporting stage of the application process. The reason for this is to ensure that EOS does not place financially ineligible applications, or applications that are not pursued as far as this point, on the applications record. Online applications are set up as enquiries but should be reclassified as Family Law Enquiries or Non-Family law Enquiries at an early stage of processing.

This does not apply to applications for matters completely exempt from the financial assessment process, such as child abduction, foreign maintenance, and rape cases, where no contribution is payable and the grant of legal aid is automatic. Most cases of these types will be set up by Legal Services in any case. It is important to note that the milestone “Application changed from an enquiry to a case type” in the APP001 workflow must be completed for any case which is going to be placed on the applications record.

This also does not apply to conveyancing cases which are connected with a previous case and being set up on EOS as a separate matter solely for the purposes of case management.

### All EOS cases must be placed in the APP001 workflow

All cases, once set up on EOS initially, must immediately be placed in the APP001.Application Received workflow and remain in this workflow until the initial financial assessment/passporting is carried out. This applies equally to cases being set up by Legal Services (such as child abduction and enforcement of foreign maintenance) as it does to those being set up by a law centre.

The only exception to this rule is for conveyancing cases which are connected with a previous matter and being set up on EOS as a separate case only for the purposes of case management. See **🡺 Part 2 of the Circular on Legal Services.**

### All applications must be processed or acknowledged within seven days

All applications received by the law centre – whether in person, by post, or through the online application facility - must be processed or acknowledged within **seven days** of the law centre receiving the application (or within **48 hours** if the matter upon first examination appears that it may be a priority matter).

The acknowledgement may be in any of the following forms:

* A letter deeming the applicant to be financially eligible and placing them on the applications record
* A letter deeming the applicant to be financially eligible and offering them a priority appointment
* A letter refusing legal aid on the basis of financial eligibility
* A letter seeking further information required to determine the applicant’s financial eligibility

In principle there should be no reason why a law centre cannot process applications received in the time frame allowed.

If for any reason, the law centre is not in a position to send *any* of the above communications within seven days/48 hours, as appropriate, the applicant must be contacted and informed in writing within that period that their application has been received and is being processed. We consider that the circumstances when this should happen should be exceptional and rare.

In the case of applications that appear to be priority the law centre should call the applicant as well as issuing written communications.

### Applicant’s name not to be changed once application accepted

Once a completed application form is accepted and the case created on EOS, you cannot change the name of the applicant on the system except where the applicant:

* changes their own name on marriage
* reverts to their pre-marriage name
* changes their name by deed polI or other legal process

In particular it is not permitted, **under any circumstances**, to change the name of the applicant so that the application appears to refer to a completely different person to the person who originally made the application. Only changes of name that do not alter the identity of the person who has made the application for legal services may be made.

Where it becomes clear, during the financial assessment process:

1. that the applicant’s spouse has a common interest in the proceedings
2. that because of this, the means of the spouse will be taken into account in the financial assessment process
3. the spouse will be a party to the legal proceedings, if in being or contemplated.

then the spouse’s name may be added to the case. The name of the original applicant should not be removed under any circumstances.

## The pilot online application system

Since early 2017, we have made the facility to apply online available to applicants at a small number of selected law centres. As of 2nd January 2018 this is being extended to all law centres. The online application will be available on the Board’s website at [**www.legalaidboard.ie**](http://www.legalaidboard.ie)

The online application is suitable for most people who have access to a personal computer. While a scanner is not required, it is recommended that applicants using the online application submit documentation electronically to the Board. The online application was not designed for use on a mobile device and users may encounter difficulties, particularly on devices with smaller screens.

The pilot will be monitored by Head Office with a view to making any refinements which might be needed in these procedures.

In this Handbook, we will point out the differences between the online and paper applications processes at each stage

### What the online application can and cannot do

The online application will automatically create on EOS:

* A person record for the applicant in the law centre chosen by the applicant when submitting the online application
* A case
* A person record for the other party, if one is needed.
* A PDF containing all the details needed for the financial assessment

This will substantially shorten the amount of time needed to process an application for civil legal aid and advice.

### Who cannot use the online application

**The following cannot use the online application:**

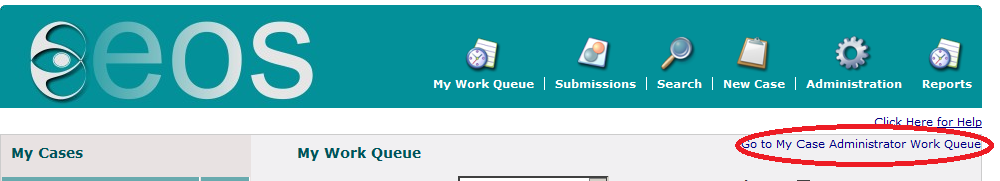
* Applicants for legal services resident outside the jurisdiction
* Any other applicants whose application is processed centrally by Head Office

### Email referring to the online application

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Dear Mr Smith,  When we spoke by telephone you indicated that you would like to make an application for civil legal advice and/or aid.  You can find our online application here:  **<insert URL of online application>**  You need to fully complete all parts of the online application that apply to you. If you do not, we might have to come back to you and ask you for more information.  **Documents we need to process your application**  Once you complete the online application process, you will need to send me, by return email, proof of your income:   |  |  | | --- | --- | | **If your income is** | **You need to supply us with a scan of:** | | Social welfare | A social welfare payment slip or letter from Intreo telling us what your payments are | | Salary/wages from a job | Most recent payslip | | A business (sole trader or partnership) | Most recent notice of assessment from Revenue, or audited accounts. |   You should also send me a scan of your photo ID (passport or driving licence) and a household bill or other letter from a utility or public body with your address on it. Please include in the subject line the application number that you receive when you submit your application. Documents should be sent in Adobe PDF format, if your software can generate PDFs.  If you do not have access to a scanner, you can make photocopies and send them to me by post. If this is not possible you should bring the documents to the law centre and we will copy them and return them to you. You may be in a position to use your mobile phone to scan and email these documents to us. Many mobile phones have scanning software either as an installed or downloaded app. If you are doing this you should scan to PDF and email to the law centre’s email address. Do not send original documents in the post.  Sometimes we might ask you to provide full details of your income or assets. I will let you know if you need to do this.  **Next steps**  Once your application is completed, and we have received your proof of income, we will check if you can get civil legal aid and advice. If we decide that you can get civil legal aid or advice, we will then look at the type of legal problem you have. For some types of problem we will give you an immediate appointment. For others, you might have to wait some time before we can give you an appointment. **For this reason it is important that you explain fully the type of problem you have when completing the application form.**  We also need to check if the other person is not a client of the law centre. If they are, we might need to send your application to a different law centre. We might, depending on what your legal problem is, be able to refer you to a private solicitor instead.  **Contributions towards legal services**  When you see a solicitor you will usually have to pay a contribution. This is usually at least €30, but depending on your income might be more. If you need to go to Court, and if we grant you legal aid, you will have to pay another contribution. This will usually be at least €130, but depending on your income and assets might be more. If your case is against the Child and Family Agency, and they are applying for an order to take your children into care or supervise them in your own home, you won’t need to pay a contribution.  [You indicated in our conversation that your problem relates to your family.] [If your problem relates to your family, it might be suitable for family mediation] [We run a family mediation service that helps couples to resolve disputes about family matters. I am enclosing a leaflet which explains more about family mediation. Your nearest family mediation office is INSERT ADDRESS and can be contacted at INSERT PHONE NO.]  If you have any questions, or need assistance completing the online application, please contact me at the address below. |

Finding online applications  
**Every day at open of business and again at 2:30pm,** a staff member should check for new online applications in EOS.

You can find online applications in the **Case Administrator Work Queue.** On your EOS home screen, click the “Go to My Case Administrator Work Queue” link:

****

You will see on the sidebar on the left hand side of the screen a list of case types with “Allocations” and “Reallocation” figures beside them. One of these case types will be “Online Applications”. This “Allocations” figure for online applications tells you how many online applications have been received.

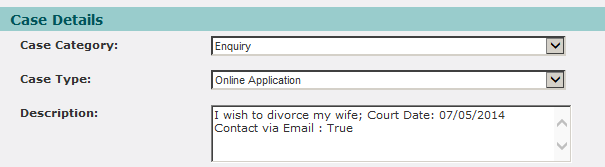
Click it to display only online applications.

Then click the case number to view the online application.

Setting up the caseYou will notice that a Person and Case have already been set up for the applicant. The case will be in the APP001.Application Received workflow. If the applicant chose to enter details of an Other Party, a Person will be set up for them also.

The case will be given the case type “Online Application”. **Note that an Online Application is a type of Enquiry case** and won’t appear in reports until assigned a case type.

Before you work on the case, you should assign yourself as a Resource. Then change the case type to “Non-Family Law Enquiry” or “Family Law Enquiry” as appropriate. Click the twisty beside the person’s name to view the Case Details:



You will notice in the above case that the person has clearly indicated that they want a divorce – you can change the case type to “Family Law Enquiry”. **At this point the case remains an enquiry and you should not change the case to the Divorce case type, until the person has been financially assessed and placed on the applications record.**

The reason we do this is to remove the case from the list of pending online applications.

Contact via emailYou will notice that the case description also includes details of any pending court date and whether the person wishes to be contacted by email or not. We think that most users of the online application form will wish to be contacted by email, but if a person answers “no” to this question, you should contact the person by phone or letter.

### Applications from previous clients

The online application will always create a new person record in EOS for an applicant.

In order to ensure that all cases belonging to the same applicant are retained under the same person record, the case created by the online application should be closed. A new case with the same details from the online application form can then be created under the original person record. A copy of the online application PDF should be saved locally and uploaded to the case.

Unfortunately, there is no way to delete the duplicate person records created by this process.

## Validating the application

When a paper application form is received, it must be date stamped. The first check to be done when an application is received is to check that the application contains enough details to process it. An applicant must have, at a minimum, provided their name, address, and telephone number and a brief description of the matter for which they require legal services. Law centres are entitled to reject as incomplete without any further action, applications for which no name or contact details have been provided. Otherwise the application may proceed to the conflict check.

**Don’t forget, the applicant MUST complete fully, sign, and date**

**an application before it can be accepted.**

An online application is deemed to have been signed and dated when the person submits the application using the online system. There is no need to ask any person who has submitted an online application to also sign and date a paper application form.

### Applications received from persons whose citizenship is about to be revoked

Any application for legal services by a person upon whom a Notice of Intention to Revoke a Certificate of Naturalisation has been served should be notified immediately to the Director of Civil Legal Aid.

### Identifying if applicant exists on EOS already

EOS is capable of reusing the personal details of an applicant (name, address, PPSN etc) for multiple applications by the same person. This saves time on data entry when creating an application on the system.

Therefore the first step when creating an application on EOS is to check whether the person exists already. This should be done by using the Search function (🡺 **Chapter 2** under **EOS and Typing)** to check that a person with the same name and either address or (where provided) PPSN does not exist on EOS already.

If the person exists on EOS already, the application should usually be created as a new case on EOS using the existing applicant (Person) record, instead of creating the applicant record from scratch. In that case the existing details should be checked against the application form and updated accordingly where necessary. Once done, click the “Create New Case” link under the list of existing cases to create the new case.

Note that an online application will automatically create a new Applicant Record for a person; there is presently no way to combine this record with an existing Applicant Record.

### Conflict check

A conflict of interest may arise where a law centre is acting, or has acted in the past, for the opposing party in a particular case. It is important, therefore to identify at an early stage, the opposing party in the case and whether the law centre is representing the opposing party (or has acted for them in the past). It is also important to establish the married or maiden names of applicants in family law matters.

A search on EOS / manual file system should identify if there is a conflict of interest. Law centres should maintain an IT-based list of all files maintained and their location. Legacy filing systems such as case books and index card files may also be checked. The Lotus Notes-based Applications Database that was used prior to the introduction of EOS remains available (to staff who had access to it before EOS went live) for archive purposes and may also be searched.

**Referring an applicant to another law centre or the conflict clinic**

If a conflict arises a decision should be made to refer the applicant to a different law centre unless the matter can be referred to the District Court family law solicitors panel. Where this is the case and

* the law centre takes the view that the case is suitable for referral; and
* any other guidelines for referral (see 🡺 **Chapter 6**) are met by the case

the law centre may proceed to process the application and refer the case to the panel according to the instructions in 🡺 **Chapter 6.** Such referrals must take place without the applicant having a first consultation appointment in the law centre.

Otherwise the application must be referred to another law centre or the conflict clinic. Except for online applications, such applications should not be recorded on EOS. The following procedure should apply where it is proposed to refer the applicant to another law centre:

|  |
| --- |
| **Procedure 3.4 – Referring an application where conflict has been identified to another law centre.**   1. Date stamp the application as of the date it was received by your law centre. 2. The application should not be recorded on EOS. 3. Contact the person by telephone and tell them there is a conflict of interest and the law centre cannot act for them. Do not disclose the reason for the conflict of interest. Ask the person which law centre they would like the application to be forwarded to, offering the person a list of law centres which may be convenient. If the person does not express a preference, or cannot be contacted by telephone, the law centre should forward the application to the law centre which is next geographically closest to the applicant. 4. Forward the application to the chosen law centre with an appropriate cover note which should state if possible that the applicant has expressly instructed that they wish their application to be sent to that law centre. 5. Send the applicant the letter on the next page. |

Law centres may operate an arrangement whereby a solicitor from a neighbouring law centre visits the law centre for the purposes of seeing clients for whom a conflict of interest arises in that centre. Where that is the case, the above procedure applies subject to the amendment that the law centre should inform the applicant of the existence of the conflict clinic as an option in step 2.

Where the applicant elects to be seen at the conflict clinic the “chosen law centre” for the purposes of the above procedure is the law centre from which the solicitor who operates the conflict clinic normally works.

### APP01. Referral letter after conflict check

*APP01.Application Received workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1st June 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_.

Because of a conflict of interest that has arisen, we cannot provide you with legal services in this law centre. We cannot tell you the reason for the conflict in any further detail, because of data protection legislation.

I note that we have discussed with you the next nearest law centres and you have instructed us to forward your your application to \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Law Centre whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and whose telephone number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_. They will contact you shortly with regard to your application.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

**Placing a conflict application from another centre on the applications record**

Where an application is forwarded to your law centre from another law centre because of a conflict of interest, it should be means tested (where appropriate) and then if financially eligible (or passported) placed on the applications record by reference to the date that it was date stamped by the original law centre or the date on the application form, whichever is the later (which should almost always be the date on the date stamp).

Law centres are **not allowed to operate arrangements** **whereby they will only accept conflict applications from one particular law centre** nor are they allowed to operate arrangements whereby all of their own conflict applications will be automatically referred to one particular law centre on the basis that it is the “conflict centre”. In this regard law centres are reminded of the provisions of section 30(2) of the Civil Legal Aid Act 1995 which provides that “a person shall be entitled to apply for legal aid or advice through any law centre irrespective of his or her place of residence.”

If a law centre is forwarded an application for conflict of interest reasons, it must be accepted and processed, unless there are reasons particular to that application as to why it should not be.

### Recording the application on EOS

As long as there is no conflict, the application should at this stage be recorded on EOS. The applicant’s details should be searched for on EOS to see if they already exist on the system.

If they already exist, the application is created as a new case for that applicant. If they do not already exist, the applicant is created on EOS and then a new case created

Law centres must also check that the applicant has either declared their eligibility for passporting, or has completed the statement of means on the reverse of the form. Where the applicant has assets in excess of €4,000 they must complete a statement of means and must also complete a statement of capital.

Online applications are automatically recorded on EOS.

### Evidence to be submitted with application

Evidence of income must be provided with most applications. Photocopies are acceptable and indeed preferred where the application is submitted by post. Where the application is made in person, the staff member accepting the application should make photocopies and return the original documentation to the applicant.

Applicants must submit evidence of their income as follows:

|  |  |
| --- | --- |
| Social Welfare payments/Direct Provision payment | Evidence of payment: i.e social welfare receipt, social welfare book, IPO card, or letter from Department of Employment Affairs and Social Protection confirming eligibility for payment |
| Employment (including CES) | Payslip (but in January and February, a Form P60 may be requested instead of a payslip if the law centre considers it necessary). |
| Business (sole trader/partnership) | Notice of Assessment from Revenue – Irish Tax and Customs, or in the absence of this, audited accounts. |

Where a person’s financial circumstances do not fall cleanly into the categories above, or is more complicated, the guidelines in 🡺 **Chapter 4** should be followed.

Upon receipt of a completed application and vouching documentation, the financial assessment should be undertaken immediately (within 48 hours) and the person placed on the applications record if financially eligible.

### Submission of documents –online application pilot

The online application is unable to accept scanned documentation and attach it to the application.

The standard email advises the applicant to send you scanned documentation by email. It is possible that problems will arise with the Board’s email filtering software. Documents scanned as PDFs are less likely to cause difficulties. Most mobile phones have scanning software as an installed or downloaded app and these allow documents scanned to PDF to be emailed from the phone. We will keep this under review over the course of the pilot.

The applicant can also post copies or deliver the required documentation to the law centre. You will not be able to proceed to financially assess or passport the applicant without the required proof of income. If the only missing documentation is the person’s photo ID and/or proof of address, you can proceed to process the application and invite the person to bring photo ID/proof of address to their first consultation

You should allow one week for the scanned documentation to be received.

### Applications where the applicant is seeking to take a claim in medical negligence or personal injuries

In any case where the applicant is seeking to **take a claim** in medical negligence or personal injuries they should be advised the following at the first point of contact where they indicate that their claim will be on this basis:

* to complete the Information Gathering – Personal Injuries form (🡺 **Chapter 5** - which they should be furnished with immediately) and to return it to the law centre as soon as possible;
* to visit at least two private solicitors and ask them to take on the case on a conditional fee arrangement basis, such condition being that the solicitor will not seek any fee from the client if they were to fail to obtain either a favourable settlement or judgement for the Plaintiff in the proceedings (ie. *no foal no fee*);
* if the solicitor agrees to take on the case on this basis, they should notify the law centre at the earliest opportunity that they are withdrawing their application for legal services;
* if the solicitor concerned refuses to take on the case on this basis they should obtain a letter from the solicitor stating that this is the case; and
* having visited two such solicitors and obtained two such letters/other evidence, they should retain these letters/other evidence and bring them to the law centre at the time of first consultation.

The law centre should continue to process the application and if the applicant is financially eligible they should be placed on the applications record, regardless of whether such letters have been obtained. **The law centre may not stop processing the application merely on the basis that such letters have not been obtained.**

This only applies to prospective Plaintiffs. Prospective Defendants are not subject to this requirement.

These cases are treated as High Risk. Once the Information Gathering – Personal Injuries form has been returned, it should be reviewed by the managing solicitor and the Statute of Limitations expiry date calculated. If the Statute of Limitations expiry date is within three months the managing solicitor must contact the Director of Civil Legal Aid who will form a view as to whether service can realistically be provided, bearing in mind the Board’s resources and the impending expiry of the Statute of Limitations. This does not affect the right of such persons to insist that an application for legal aid be made on their behalf.

### Dealing with an incomplete application

An application is incomplete if the required documentation outlined above is not included with it.

The financial assessment procedure can only be carried out once a completed application, with appropriate documentation, has been received. In addition, in an application for legal services in connection with medical negligence or negligence/assault resulting in personal injuries, the date of knowledge of the injuries sustained must be included on the application form and where it is not included it must be obtained prior to the application being deemed complete.

Where an incomplete application is received, the following procedure applies:-

**Procedure 3.5 – Dealing with an incomplete application**

These procedures apply, in general, whether or not the applicant has called in person to the law centre, written, or phoned.

1. Write to, email, or telephone the applicant advising them of the missing documentation/information which they should furnish. (A sample letter is provided on the next page).
2. Insert a diary reminder on the shared diary to close the application fourteen days from today’s date, if a financial assessment is not possible by that date.
3. Place the incomplete application in a file by reference to the date the incomplete application was received.
4. If the missing documentation/information is not received within fourteen days, close the application file.

An application is **not** incomplete if only documentation required for the anti-money laundering check is missing. In the absence only of such documentation:

* the application is deemed **complete;**
* the financial assessment **may** proceed; and
* the person if eligible, should be placed on the applications record.

The anti-money laundering check must be carried out at the first consultation in that instance, if it is required.

APP001.Incomplete application letter  
*APP001.Application Received workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016

**RE: Application for Legal Services**

Dear Sir/Madam,

On you applied for civil legal aid and advice to our law centre.

I cannot check whether you can get civil legal advice unless you send me the following:

|  |  |
| --- | --- |
| **If your income is** | **You need to supply us with a copy/scan via email of:** |
| Social welfare | A social welfare payment slip or letter from Intreo telling us what your payments are |
| Salary/wages from a job | Most recent payslip |
| A business (sole trader or partnership) | Most recent notice of assessment from Revenue, or audited accounts. |

<<Delete any that do not apply>>

If I do not hear from you within 14 days of the date on this letter I will have to close your application. You can reapply again if you wish to do so.

Yours sincerely,

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Law Centre ( )**

### Check if subject matter is within scope of Civil Legal Aid Act 1995

Law centres should check if the subject matter of the application received appears to be within the scope of the Civil Legal Aid Act 1995. This is a brief check and unless the matter is very clearly outside the scope of the Act the application should be accepted.

Applications under the Police Property Act 1897 are within the scope of civil legal aid. These are applications by a Garda or a person claiming ownership of property within the custody of the Garda Siochana to the District Court for the release of this property to the person whom it appears to the district judge to be the owner or to make an order in relation to the property, if the owner cannot be identified.

In this case where the matter is clearly outside the scope of the Act (including being outside the scope of the limitations that apply to the excluded matters) – and there is absolutely no doubt as to this - the following procedure applies:

**Procedure 3.6 – Dealing with an application where the matter is clearly outside the scope of the Civil Legal Aid Act 1995.**

**NB This procedure only applies where the application appears to be clearly outside the scope of the Civil Legal Aid Act 1995. Should there be any doubt whatsoever in this regard, the normal procedure should apply.**

1. Do not process the application.
2. Write to the applicant using the standard letter below.
3. After seven days, if the applicant has not contacted the law centre, continue processing the application as far as determining the applicant’s financial eligibility for legal services (or passporting as the case may be).
4. If the applicant is financially eligible for legal services, or the applicant is passported, a solicitor should forward the application to Legal Services with a recommendation that legal advice be refused under section 26(2) of the Act.

****

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services. Unfortunately, it appears that the matter you have applied for legal services for is not covered by the civil legal aid scheme. There are certain civil matters that are not covered and <<subject matter>> is one of these.

If you wish to withdraw your application you should contact the law centre in the next seven days.

Otherwise we will proceed to process your application and determine whether you are financially eligible for legal services. However, you should note that even if you are financially eligible, legal services are likely to be refused as the Board cannot assist with matters that are outside the civil legal aid scheme. Therefore, if you are found financially eligible for legal services, we will then forward your application to our Head Office with a recommendation that it is refused. You will be advised if this occurs and the options open to you in such circumstances.

Yours sincerely,

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Law Centre ( )**

EOSComplete the “Validate application” milestone in EOS

### Where an application may be out of scope

In any case where it is not clear whether or not the subject matter is one which falls within the Board’s remit (section 26(2)-(4) and 28(9) of the Act), additional / relevant information should be sought and the application should be referred to the managing solicitor, or to Legal Services, as necessary, before a decision is taken on granting legal advice.

This may involve an applicant meeting with a paralegal or solicitor who will obtain information/clarification/elaboration from the applicant on the subject matter of the application before a decision is taken on the application.

## Anti-money laundering checks

All employees involved in the day-to-day business of the law centre should be aware of the policies and procedures in place in their law centre to prevent money laundering and all staff should be aware of their obligations in relation to the law governing money laundering. Failure to comply with the anti-money laundering obligations may be a criminal offence.

* Solicitors / the Board are required to take measures to identify new clients and maintain records of their identity and also to apply other Client Due Diligence (CDD) procedures including the ongoing monitoring of the business relationship;
* The Board is required to have internal procedures for staff training and awareness;
* Solicitors are required to report suspicious transactions to the Garda Síochana and Revenue – Irish Tax and Customs.

There are a number of significant exemptions for solicitors. (see 🡺 Circular on Legal Services).

### Identity of applicant

It is important to identify each person by reference to their name and place of residence.

The following forms of identification are acceptable:-

* current Passport (Irish or International), including a passport card;
* current photo card driving licence;
* current National Identity Card;
* current Identification form with photo signed by a member of the Gardaí (ML10);
* Public Services Card issued by the Department of Employment Affairs and Social Protection
* social welfare card with photo ID;
* GNIB card accompanied by letter from Office for the Promotion of Migrant Integration (signed and stamped); and
* National Age Card (free of charge for social welfare recipients).

The current permanent address of the applicant should be verified by seeking a current original of any of the following:-

* current documentation/cards issued by Revenue showing the name of the person and their PPSN;
* current documentation/cards issued by the Department of Employment Affairs and Social Protection showing the

name of the person and their PPSN;

* instrument of a court appointment (such as liquidator, or grant of probate);
* current local authority document e.g. refuse collection bill, water charge bill (including

those printed from the internet);

* current bank statements, or credit/debit card statements, issued by a regulated financial

sector designated person in Ireland, the EU or comparable jurisdiction (including those

printed from the internet);

* current utility bills (including those printed from the internet);
* current household/motor insurance certificate and renewal notice; and
* medical card for over 18s with intellectual disability.

A copy of any documents used by applicants to verify their identity and place of residence must be copied and placed on the client’s file, along with the completed Identify Verification Form contained in this Chapter.

It should be remembered that the underlying purpose of the identification requirements is to prevent the commission of a money laundering offence. **There should be no possible exposure in relation to cases that do not have a financial aspect to them.** The Board has therefore determined that it is not necessary to seek to establish the identity of persons seeking legal services for the following matters:-

* child care;
* child abduction;
* custody and access matters;
* applications for international protection;
* “rape” cases, where legal aid is being granted in relation to the prior sexual history of the complainant or legal advice is being given on foot of Section 26(3)(b) of the Civil Legal Aid Act 1995;
* cases involving applications for a sex offenders order; or
* any other case which does not have a financial or property element to it.

If an applicant does not have a form of ID listed above, when it is required at application stage, a note should be made of this and passed on to the solicitor assigned to the case in order for the solicitor to satisfy themselves at the first consultation that anti-money laundering obligations in the particular case has been met. Failure to satisfy the anti-money laundering requirements does not of itself prevent the application for legal services being regarded as fully complete and being placed on the applications record but may render the solicitor unable to proceed with the first consultation if it is not completed by that stage.

**Procedure 3.7 – How to verify an applicant’s identity**

**Postal application**

1. The cover letter in **Procedure 3.2** will have made reference to the forms of photo ID and proof of address necessary for the client to submit.
2. In EOS, generate an Identity Verification Form and check the forms of ID submitted against those allowed.
3. If the forms of identification match, save the Identity Verification Form. A note should be attached to the application, in a prominent position, advising the solicitor or paralegal to verify the client’s identity at the first consultation, should they prove eligible for legal services.   
    **OR**
4. If the forms of identification are not acceptable, the application can be returned to the applicant with the list of acceptable forms of identification and the applicant asked to re-submit the application. In the event the applicant is unable to provide ID, or the ID is not within those allowed, explain to the applicant that you will proceed with the application for legal services, but he/she will need to provide Photo ID and proof of address at the first consultation stage and attach a note to that effect to the application.

**Application in person**

1. Prior to the applicant’s attendance, print a copy of the Identity Verification Form. Inform the client about the process of applying for legal services and the need to obtain identification.
2. Ask the applicant for Photo ID and proof of address.
3. If the applicant provides same, check the forms of ID provided against those allowed.
4. In the event the applicant is unable to provide ID, or the ID is not within those allowed, explain to the applicant that you will proceed with the application for legal services, but he/she will need to provide Photo ID and proof of address at the first consultation stage and attach a note to that effect to the application.   
    **OR**Take copies of the ID and return the originals to the applicant. Complete the Identity Verfication Form and scan it into EOS.

**OR**In the event that the applicant provides Photo ID which clearly does not relate to themselves, politely advise the applicant of the requirement to provide correct photo ID to the Board. If necessary terminate the appointment. Place a note on the file detailing what transpired and advise your managing solicitor.

* EOS**Complete the “Complete anti-money laundering check” milestone in EOS**

### Compliance

It is the responsibility of the Money Laundering Reporting Officer (at present, this role is held by Thomas O’Mahony, Regional Manager) to ensure that the legislative requirements in relation to identifying clients, retaining files, training staff, and having a reporting system in place, are met. For this reason spot checks are carried out to ensure that clients are being appropriately identified. An Information Leaflet is available to all staff and applicants.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| image001  **Identity Verification Form** | | | | |
| **Name of applicant** |  | | | |
| **Identified by** |  | **Date:** |  | |
|  | | | | |
| **A: Evidence not obtained – reasons:- Tick box** | | | | |
| Client was an existing client at 15 September 2003 or is personally known to  Solicitor | | | |  |
| Client is a designated body or a corresponding body in the EU or country listed in  Regulations | | | |  |
| Transaction is one-off or value is less than €13,000 | | | |  |
|  | | | | |
| **B: Photo ID** | | | | |
| Current Passport (Irish or International); | | | |  |
| Current photo card driving licence; | | | |  |
| Current National Identity Card; | | | |  |
| Current Identification form with photo signed by a member of the Gardaí (ML10); | | | |  |
| Public Services Card issued by the Department of Employment Affairs and Social Protection | | | |  |
| Social Welfare card with photo ID; | | | |  |
| GNIB card accompanied by letter from Office for the Promotion of Migrant Integration (signed and stamped); | | | |  |
| National Age Card | | | |  |
|  | | | | |
| **C: Proof of Address** | | | | |
| Current documentation/cards issued by Revenue showing the name of the person and their PPSN; | | | |  |
| Current documentation/cards issued by the Department of Employment Affairs and Social Protection showing the name of the person and their PPSN; | | | |  |
| Instrument of a court appointment (such as liquidator, or grant of probate); | | | |  |
| Current local authority document e.g. refuse collection bill, water charge bill (including those printed from the internet); | | | |  |
| Current bank statements, or credit/debit card statements, issued by a regulated financial sector designated person in Ireland, the EU or comparable jurisdiction (including those printed from the internet); | | | |  |
| Current utility bills (including those printed from the internet); | | | |  |
| Current Household/motor insurance certificate and renewal notice; and | | | |  |
| Medical card for over 18s with intellectual disability. | | | |  |

The above form is available on EOS and can either be printed, or completed on the system and saved.

### Training

It is the responsibility of the managing solicitor to inform new staff of the requirements of the legislation insofar as they apply to the law centre’s business. The requirements will also form part of the induction training for new staff. Periodic updates will be included in Board publications. If any law centre requires further training or is uncertain in relation to the obligations that the anti money laundering legislation impose they should contact the MLRO.

This section of the Handbook should form the basis for any training delivered within the Law Centre and all new staff should be made aware of its requirements.

**🡺 Part 4 of the Circular on Legal Services contains further information on the requirements of the anti money laundering legislation.**

## Risk assessment

The Board considers that standardised processes and procedures, quality standards and risk management are closely inter linked. The implementation and application of the processes and procedures, the adherence to best practice guidelines, and an effective case management system can greatly assist in reducing the level of risk and avoiding legal actions against the Board.

A key element of risk management in law centres is having in place an effective risk register and a policy in relation to its completion and monitoring.

All cases assigned the High risk category on EOS will appear on a law centre’s risk register and be subject to review by the Director of Civil Legal Aid or a nominee to review such file on EOS for risk management purposes. The exception to this will be cases involving legal actions against the Board which have been restricted by the Director of Decision Making and Support.

### About risk in EOS

In EOS, each case type is assigned a default risk level. There are three risk levels in the system, low, medium, and high, however the Board has decided that the Medium risk level will not be assigned to any case. Therefore all cases have been assigned a default risk level of either low or high.

All enquiries are assigned the Low risk level. Every time the case type is updated, the default risk level for that case type is assigned to the case.

The default risk level assigned by EOS is only a guide. It is the responsibility of the law centre at all times to ensure that the risk level is appropriate to the case type, through the risk assessment process detailed below. In any High risk case that has a statutory deadline, the relevant information should be entered on EOS to enable to limitation period to be calculated.

When an application is received, staff should identify whether the matter should be placed on the applications record, offered a priority appointment and / or assigned the High risk category on EOS. Time limits for the commencement of proceedings in respect of cases generally handled by the Board are set out below. The time limits listed are not exhaustive and the relevant statutes should be consulted to obtain all of the pertinent information.

It is the responsibility of the managing solicitor to review all applications for legal services for the purpose of assessing risk however all law centre staff need to be able to identify cases involving statutory deadlines and be confident to liaise with the managing solicitor appropriately.

### Matters to be assigned the high risk category

It is considered that the following types of cases should be assigned the high risk category on EOS (and are as default):-

* plaintiff personal injury cases;
* all other plaintiff cases involving negligence, nuisance or breach of duty;
* other plaintiff tort actions involving economic loss;
* cohabitant relief cases
* plaintiff cases involving a breach of contract;
* a child seeking provision from the estate of a deceased parent;
* a spouse seeking their legal right share of their deceased spouse’s estate;
* unfair dismissal;
* a plaintiff judicial review application;
* a case involving product liability where the value of the product exceeds the jurisdiction of the Small Claims Court;
* a claim on foot of the Equal Status Acts 2000 – 2004;
* cases where a pension adjustment order has been made (until such time as the Order has been perfected and furnished to the Trustees);
* cases where a judicial separation or divorce order has been made and any issues in relation to a pension or pensions have been adjourned; and
* any other matter which it is considered appropriate to put on the register.

**Civil Liability and Courts Act 2004**

Section 7 of the Civil Liability and Courts Act 2004, provides that the limitation period for personal injury claims, including medical negligence claims, is two years.

**Personal Injuries Assessment Board Act 2003**

Section 50 of the Personal Injuries Assessment Board Act 2003 states that the time periods under the Statute of Limitations stop running as soon as an application is acknowledged by the Personal Injuries Assessment Board and starts running again 6 months after an authorisation is provided from PIAB for proceedings to be issued.

**Delay and Section 5 of the Statute of Limitations 1957**

The fact that an action is commenced within the limitation period is no guarantee that it will be allowed to proceed. Section 5 of the Statute of Limitations 1957 provides that the equitable jurisdiction of the courts to refuse leave is not affected by the Act.

**Be aware of the time limits!**

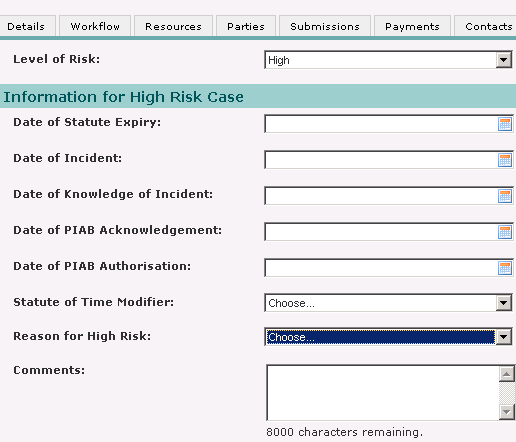
**If one is approaching, consult your managing solicitor. The priority procedure must be applied where necessary and it is essential that ‘risk cases’ are recorded on the risk register appropriately.**

See 🡺 **Chapter 5** for further information regarding assessing risk.

### Risk assessment and EOS

On EOS, each case type is assigned a default risk level when it is created. All Enquiry cases start as Low Risk. While EOS sets a default risk level, you should not rely on EOS but use your own judgement as to what the risk level should be.

To update the risk level on EOS, click the Risk tab.



EOS has three risk levels – Low, Medium, and High. Any case with a Statute of Limitations deadline must be categorised as a High Risk case. The Medium risk level should not be used.

When categorising a case as High Risk, you must enter the date of incident, the date of knowledge of the incident, and select a statute of limitation period (from a list provided) and a reason for High Risk. For personal injuries cases, the date of acknowledgement of an application by PIAB and of the issuing of an authorisation by PIAB to commence proceedings can also be entered. Provided with this information, EOS automatically calculates the date of statute expiry.

Where a case defaults to High Risk, staff should be aware of the following:

* Only the “Level of Risk” field is automatically entered. All of the other fields are by default blank.
* The Risk tab should be completed at the earliest opportunity – in particular, a statute of limitation expiry date must be entered at the earliest opportunity. Even if the solicitor has not yet identified precisely when the deadline for issuing proceedings will expire, the earliest date it might possibly expire should be entered. The precise date can be entered when it is identified.
* Every time the case type is changed, the contents of the Risk tab will be removed. **It is therefore essential that the risk tab be reviewed, and completed where appropriate, each and every time the case type is changed in EOS.** This includes when the case type is updated from an Enquiry to a specific case type following financial assessment.

All cases should remain classified as high risk until the case is completed and the file closed. While the responsibility for managing the file is with the assigned solicitor, the managing solicitor has a duty to ensure that the file is being managed appropriately, that the risk level is updated as required, and that steps are taken to ensure that statutory deadlines are not missed.

**Procedure 3.8 – Entering an application on the Risk Register**

1. The statutory deadline should be identified and entered onto the file cover.
2. Access the case on EOS
3. Click the “Risk” tab,
4. Change the Risk level to “High”.
5. Enter the details of the risk as far as practicable, including

(for plaintiff torts cases):

* 1. Date the incident took place
  2. Date the client acquired knowledge of the incident
  3. Date of PIAB acknowledgement
  4. Date of PIAB authorisation
  5. The appropriate period the statute of limitations will run for this case
  6. The reason for giving the case the High risk level.

1. EOS will calculate the date the statute expires for you. Check that it is correct.
2. Enter any comments if appropriate
3. Click the “Update Details” button
4. Enter a reminder on the LC Shared Diary for three months of the statutory deadline. EOS will automatically enter a reminder for the date of the statutory deadline itself.

**NB** Each time the case type is changed – including when a case is updated from an enquiry to a specific case type – EOS will overwrite the Risk tab with the new default risk level. Therefore **it is essential that the Risk details are reviewed every time the case type is changed.**

**Always check and if necessary update the risk level after updating the case type on EOS**

* **Complete the “Identify risk level” milestone in EOS.**

### Statute of Limitation periods and some other relevant time limits

|  |  |  |
| --- | --- | --- |
| **Nature of Claim / Action** | **Time Limit** | **Relevant Statute** |
| Personal injuries arising from  negligence, nuisance or breach of duty (whether under contract or statute) (where the applicant has suffered an injury and someone else is allegedly responsible) | **t**2 years from the date the cause of action accrued or the date of knowledge (whichever is the later) of the person injured | Section 3(1) of Statute of Limitations (Amendment) Act  1991 and Section 7 of the Civil Liability and Courts Act 2004 |
| Other tort actions (eg. damage  to property, pure economic loss) (where the applicant has suffered a financial loss and alleges that someone else is responsible) | 6 years | Section 11(2)(a) of the Statute of Limitations 1957 |
| Simple Contract (where the applicant alleges he / she has suffered loss as a result of a breach of an agreement) | 6 years | Section 11(1)(a) of the Statute of Limitations,1957 |
| Child seeking provision from the estate of a deceased parent (not limited to minor child or dependant) | 6 months from the date of Grant of Probate | Section 117 (6) of the  Succession Act 1965, as amended by Section 46 of the  Family Law (Divorce) Act1996 |
| Appeal from a decision of an adjudication officer of the Workplace Relations Commission to the Labour Court | 42 days from the date of the decision concerned | Section 44(3) of the Workplace Relations Act 2015 |
| Admiralty - damage caused by a sailing vessel to another vessel or to persons or property on board | 2 years (court has discretion to extend time limit)  **T** | Section 46(2) of the Civil  Liability Act, 1961 |
| Actions against the estate of a deceased (where proceedings are in being against a deceased person or the applicant wishes to take such proceedings) | Action can only be maintained where proceedings were commenced within the ordinary limitation period and were pending at the time of death, or within the lesser of the following:-  (a) the ordinary limitation period after  death, or  (b) two years after death. | Section 9(2) of the Civil Liability Act, 1961 |
| Products Liability (where the applicant is unhappy with something that they have purchased or alleges that a product is defective) | 3 years from accrual of the cause of action, or the date when the plaintiff became (or could reasonably have become) aware of the damage, defect and the producer’s identity - subject to an upper limit of 10 years from the date when the producer first put the product into circulation, unless proceedings have already been instituted. | Section 7 of the Liability for  Defective Products Act, 1991 |
| Cases alleging discrimination, harassment, or victimisation on foot of the Equal Status Acts | Notification of the complaint must be furnished within two months of the incident complained about (this period can be extended to four months in limited circumstances at the discretion of the Director of the Workplace Relations Commission). Applicants who have been served with a Notification have one month from the date of receipt to respond. | Section 21(2) of the Equal Status Act 2000 |
| Cases alleging discrimination, harassment, or victimisation on foot of section 19(2) of the Intoxicating Liquor Act 2003 | Notification of the complaint must be furnished within two months of the incident complained about (this period can be extended to four months in limited circumstances at the discretion of the Court). Applicants who have been served with a Notification have one month from the date of receipt to respond. Proceedings should be issued and served within six months of the incident complained about (this period can be extended to twelve months in limited circumstances at the discretion of the Court) | No statutory basis but practice based on the procedure in section 21 of the Equal Status Act 2000. |
| Orders for provision for spouse  out of estate of other spouse (where the applicant has been separated or divorced and wishes to make an application against the estate of his or her deceased spouse or ex spouse) | Not more than 6 months after representation is first granted under the Succession Act, 1965 in respect of the estate of the deceased spouse | Section 15A of the Family  Law Act, 1995 and Section 18 of the Family Law (Divorce) Act, 1996 |
| Application for leave to apply for judicial review, other than in  international protection cases (where the applicant alleges that there has been a defect in relation to a decision reached by an administrative body) | Within three months from the date when the grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made | Order 84, rule 21(1) of the  Rules of the Superior  Courts |
| Application for leave to apply for judicial review, in immigration  cases | Must be made within 14 days commencing from the date on which the person was notified of the decision or order in question unless the High Court considers that there is good and sufficient reason for extending the time | Section 5 of the Illegal  Immigrants (Trafficking)  Act, 2000 |
| Family law proceedings issued by cohabitants pursuant to Part 15 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 | Must be made within two years from the date the relationship ends. | Part 15 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 |
| Pension Adjustment Orders in relation to contingent benefits (e.g. death in service pensions). | 12 months from the date of the separation or divorce order. | Section 12(3) of the Family Law Act, 1995 and Section 17(3) of the Family Law (Divorce) Act 1996 |
| Legal proceedings against any person in possession of property delivered by virtue of an order under section 1(1) of the Police Property Act 1897 for the recovery of the property | 6 months from the date the order was made by the District Court | Section 1(2) of the Police Property Act 1897 |
| De novo appeal of an order of the District Court to the Circuit Court | 14 days from the date the order was made by the District Court, unless extension of time to appeal is sought and granted by the Court | Order 101 Rule 1 of the District Court Rules 1997 (as amended) |
| De novo appeal of an order of the Circuit Court to the High Court | 14 days from the date the order was perfected, unless extension of time to appeal is sought and granted by the Court | Order 62 Rule 2 of the Rules of the Superior Courts 1986 (as amended) |
| Applications for leave to appeal or appeal of an order of the High Court to the Court of Appeal | 28 days from the date the order was perfected, unless extension of time to appeal is sought and granted by the Court | Order 86A Rule 6(3) (where leave required) or otherwise Rule 13(1) of the Rules of the Superior Courts 1986 (as amended) |
| Expedited appeal of an order of the High Court to the Court of Appeal | 10 days from the date the order was perfected, unless extension of time to appeal is sought and granted by the Court | Order 86A Rule 9(1) of the Rules of the Superior Courts 1986 (as amended) |
| Application for leave to appeal to the Supreme Court | 28 days from the date the order was perfected, unless extension of time to appeal is sought and granted by the Court | Order 58 Rule 16(1) of the Rules of the Superior Courts 1986 (as amended) |
| Institute proceedings for a court review of a rejected personal insolvency arrangement | 14 days from the day of the creditors’ meeting or (if there is one creditor) the notice under section 111A(6) | Section 115A(2) of the Personal Insolvency Act 2012 (as amended) |
| Review of a decision of the Minister of Justice and Equality or Minister for Employment Affairs and Social Protection in relation to a labour market permission, material reception conditions, or a direct provision allowance | 10 days from the date of notice of the decision of the Minister | Regulation 20 of the European Communities (Reception Conditions) Regulations 2018 |
| Appeal to the International Protection Appeals Tribunal of a decision of the Minister of Justice and Equality or Minister for Employment Affairs and Social Protection in relation to a labour market permission, material reception conditions, or a direct provision allowance | 10 days from the date of notice of the decision of the review officer | Regulation 21 of the European Communities (Reception Conditions) Regulations 2018 |
| Time period for an EU citizen to make representations as to why an removal order should not be made | 15 days from the date of notice of the decision of the Minister | Regulations 21(2)(b) of the European Communities (Free Movement of Persons) Regulations 2015 |

### Managing risk after a high risk case has been Opened

Ensuring that cases are taken within a statutory deadline is of critical importance for the Board. Also as important is that once such cases are commenced they are progressed as quickly as possible. Failure to do so can result in cases being struck out for want of prosecution which can have similar consequences, in terms of professional negligence, for the Board as missing a statutory deadline. While the responsibility for ensuring that this does not happen falls on the individual solicitor the Board’s case management reporting software can assist in tracking these cases. Solicitors are urged to regularly

* Review their EOS work queues
* Run and view the EOS risk register
* Run the EOS Solicitor Inactive Files High Risk Two Months report. This reports on high risk cases which have not had activity on them in the last two months and displays the approaching deadline

## Identifying for possible prioritisation

### Priority cases

The Board aspires to ensuring that no applicant waits for more than a month for a first consultation with a solicitor, though it acknowledges that due to the level of demand for services an applicant may have to wait a significant period for a second consultation. The Board recognises that because of their nature, certain types of cases must be given a full service urgently. The Board has therefore decided to prioritise certain matters.

All applicants must be placed on the applications record, however priority applications will be removed from the applications record and offered an appointment as soon as is possible, having regard to the resources available to the law centre. Prioritisation may require that steps are taken to ensure that a prioritised matter is dealt with immediately. Appointments with other clients or other work may need to be re-arranged. For example it may require that work is reorganised to enable representation to be provided to a respondent in proceedings on foot of Part IV of the Child Care Act 1991.

|  |
| --- |
| Priority is given to applicants seeking legal services in the following categories of cases:-   * Persons in receipt of mediation services from the Board, seeking legal advice in relation to issues that have arisen in the course of mediation, or in relation to the contents of a proposed mediated agreement * Persons who were previously legally aided and are now seeking legal aid in respect of an appeal of the same matter for which they were legally aided * child abduction proceedings * where there is a real danger of children being taken out of the jurisdiction without the consent of the applicant * proceedings on foot of Part IV of the Child Care Act 1991 or applicants presenting with cases that involve a risk of such proceedings * domestic violence * enforcement of foreign maintenance pursuant to EU Maintenance Regulation 4/2009 where a request has been made by the Central Authority established under that Regulation for the maintenance order/determination be enforced in the jurisdiction, and for Respondents in such proceedings * where a maintenance debtor has been served with a summons / warrant on foot of section 9A of the Family Law (Maintenance of Spouses and Children) Act 1976, has appeared in Court and has applied for civil legal aid having been advised of his/her entitlement to do so by the Judge * where, under the Statute of Limitations, there is a danger that the time limits for issuing proceedings may expire unless immediate action is taken * where there is a danger of time limits expiring * where there is a danger that assets may be reduced / disposed of so that they would be unavailable to meet the claims of the applicant * legal services for complainants in rape and certain sexual assault cases * legal aid for persons in respect of whom a sex offenders order is being sought; * where the other party’s nationality, domicile or habitual residence enables them to seek a similar remedy in another jurisdiction and the applicant is likely to be prejudiced if he/she does not initiate proceedings first * applications for committal for contempt of court, where the applicant is the Defendant in such proceedings * international protection * Proceedings on foot of section 115A of the Personal Insolvency Act 2012 * Legal services for complainants/witnesses who are the subject of an application to have their counselling records released * Reviews or appeals of decisions in relation to a labour market permission, the material reception conditions, or direct provision allowances, for applicants for international protection * Where the applicant is at risk of being imminently removed or deported from the jurisdiction * managing solicitors retain a residual discretion to provide a priority service in other cases where, having regard to the particular case concerned, as compared with other applications on the applications record, and to their own knowledge and experience, they consider that it is appropriate that a particular applicant be given specific priority over other applicants for legal services. |

### Priority and EOS

**EOS has two settings for priority – either a case is priority or not**. Each case type is assigned as either priority or not when it is created. All Enquiry cases start as not priority. While EOS sets a default priority setting, you should not rely on EOS but use your own judgement as to whether the case should be prioritised.

To update the priority setting in EOS, click the twisty beside the Case Reference (at the top of any screen while in a case) and tick the checkbox beside “Case Priority”. You will be asked to enter a priority reason. Enter the reason for priority and click “Continue”. Then click “Save Updated Case Details”.

### Communications with applicants whose case is assessed as priority

Depending on the situation and the nature of the priority case, it may be advisable for a law centre to keep applicants whose case is assessed as priority updated by telephone in relation to the status of their application. This particularly applies where the applicant has an impending court date.

* EOS**Complete the “Identify priority level” milestone in EOS.**

### Domestic violence cases

All applications for legal services in connection with domestic violence remedies in Dublin must be immediately referred to the Board’s Dolphin House Service unless the law centre is in a position to provide immediate representation.

Outside Dublin, the application should be financially assessed. If the person is financially eligible, the case may be dealt with by the law centre subject to capacity. The person should be immediately offered the first available appointment with a solicitor.

If the law centre does not have capacity to deal with the application, or the managing solicitor considers it a better use of resources (e.g. the application will be made in a District Court venue which is not within a reasonable distance of the law centre), the case should be immediately referred to a private practitioner using the procedures in 🡺 **Chapter 6.**

# Passporting and Financial Assessments

This chapter deals with:

1. Passporting
2. The financial assessment – general principles
3. Rules for determining the applicant’s gross income
4. Income of spouses and partners of applicants for legal services
5. Allowances for the purpose of assessing disposable income
6. Determining financial eligibility and calculating the income contribution
7. Calculating a capital contribution
8. Applicants who are financially ineligible
9. Change in financial circumstances at a later date
10. Frequently asked questions
11. Legislation regarding financial eligibility and contributions

A person is financially eligible for legal services when their **disposable income** and the value of their **disposable capital (excluding the family home)** are less than prescribed limits. These limits are determined by the Minister for Justice and Equality (by way of a set of Regulations, currently the Civil Legal Aid Regulations 1996-2017) and may change from time to time.

* **Disposable income** means income after income tax, PRSI, USC, PRD, allowances for children and spouses, and accommodation costs.
* **Disposable capital** means that outstanding loans are deducted from the applicant’s capital.

The process by which we decide what a person’s disposable income and disposable capital are is known as **financial assessment** or less formally means testing and must be carried out for all applications unless they are being **passported** (see below) or are otherwise specifically excluded from financial assessment.

EOS must be used to determine financial eligibility. Nonetheless, all staff should be familiar with the manual arrangements for means assessment, in order to understand the underlying concepts behind and procedure involved in assessing a person’s means. Any questions or queries should be referred to Legal Services.

Financial assessments/passporting should generally be carried out within 48 hours of receipt of a completed application. If the application is incomplete, 🡺 Procedure 3.5 should be followed.

## Passporting

The Board has introduced a process to facilitate the “passporting” of applications from certain applicants. Studies have shown that applicants falling under some specific headings will have already been tested for financial eligibility by State bodies and that they are highly unlikely to exceed the financial criteria required to qualify for legal aid and advice.

Passporting means that these applicants are subject to a streamlined application procedure and they are, subject to certain checks, considered to be financially eligible and subject to the minimum aid and advice contributions (or, if the matter is defence of an application by the Child and Family Agency for a care order or supervision order, or an application for a domestic violence remedy in the District Court, no contribution). Specific checks are carried out on passported applications to protect the integrity of the system and any applicant who would normally be subject to passporting or who may have already been passported, may, at the discretion of the Board, be required to undergo a full financial assessment at any time.

The core criteria for an applicant to be passported are as follows:

* their **sole** source of income must be SocialWelfare payments; and
* the value of their assets is below €4,000.

Any applicant for whom a capital assessment would normally be carried out (for example, a person who owns a car valued over €4,000 or a second property), cannot be considered for passporting and should undergo a full financial eligibility test.

To passport an applicant on EOS, click the **Forms** tab and click **Passport this case (bypass means test).** The applicant’s contributions will be determined at €30 for advice and €130 for aid without the need for a means test to be completed.

International protection applicants who are in receipt of Direct Provision payments and claim the value of their assets is below €4,000 cannot be passported on EOS and a means test must be created. Once the international protection option is chosen on the EOS Means Test Form it will generate an advice contribution of €10 as appropriate.

* **Complete the “Pssporting” milestone in EOS, and mark the “Financial Assessment” milestone as Not Needed**

For the purposes of auditing and protecting the integrity of the system, every **tenth** applicant who would otherwise appear to be eligible for passporting should be asked to complete the Statement of Means and, if applicable, the Statement of Capital.

Passporting does not prevent the Board from carrying out a full assessment at a later date, should information arise which leads a staff member to believe that an applicant should not have been subjected to the passporting procedure. In such a case the “change in circumstances” guidelines below should be followed.

### Passporting – online application pilot

The online application will not automatically passport an applicant. You will need to check the PDF application form to see if the applicant is eligible for passporting

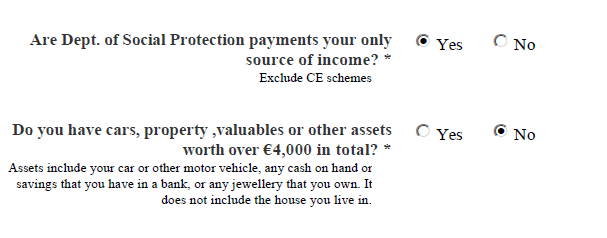
On the case details screen in EOS, you will see a link to “Original Online Application”. Click it to open the PDF application form.



Then use the toolbar to navigate to page 3 of the application form.



You will see the following two questions:



**If the questions are answered like the above – Yes to the first question, No to the second, the application can be passported.** The application form will end at this point.

**Passporting only applies to financial eligibility. Passported applications are subject to the same merits criteria as other applications.**

## The financial assessment – general principles

The law centre is responsible for means testing. Only persons who are financially eligible or whose applications have been passported should have their names placed on an applications record.

Each managing solicitor is responsible for ensuring that arrangements are in place in their law centre to achieve this objective.

The relevant date for the purpose of determining financial eligibility is the date of receipt of a fully completed application for legal services form.

A formal assessment of financial eligibility, or a decision that the applicant is eligible for passporting, must be made before legal services are provided. The exceptions to this rule include:-

* an application for an emergency legal aid certificate; and
* cases under Section 28 of the Act, e.g. certain child abduction and “*rape*” cases.
* potential victims of human trafficking who are being provided with legal advice on foot of a referral from GNIB.

A person, including one whose application was initially passported, may be reassessed at any time while in receipt of legal services. That reassessment should be calculated on the basis of their income at the time of their anticipated income for the succeeding twelve months. Further information is outlined in the “change in circumstances” paragraph.

The financial assessment consists of two parts:-

* an income assessment; and
* a capital assessment.

All applicants who are not otherwise excepted (either by being passported, or by virtue of falling into one of three categories above) must be assessed to determine their disposable income. However, only applicants with capital assets in excess of €4,000 are subject to a capital assessment. The capital assessment is dealt with towards the end of this chapter.

### Time period for financial assessment

The Regulations provide that the time period for the purposes of a financial assessment is the twelve month period **following** the date the person signed the application form. For example if the person has dated the application form 1st June 2018, the relevant period is from 1st June 2018 to 30th May 2019.

The Regulations also provide that if there is no way (in the opinion of the Board) to satisfactorily determine the income of the applicant, then the Board may assess the applicant by reference to the **previous** twelve months. This should be done, for example, in cases where a person is self-employed, where the previous Notice of Assessment or audited accounts may be used to make a determination.

Any queries regarding the appropriate period for the purposes of a financial assessment should be directed to Legal Services.

### Statement of means and assets

The application form must:-

* be completed fully and properly in all cases before an assessment is undertaken;
* include details of all relevant income and capital and relevant expenditure and debts;
* be returned to the applicant if it is not complete; the deficiencies should be highlighted and explained in a covering/standard letter (**🡺 Chapter 3**)

The Regulations provide for two aspects to determining financial eligibility, namely a determination of income and capital and of the allowances/debts that may be offset against income/capital for the purpose of arriving at disposable income/disposable capital.

### Backing documentation

Proof of income must be supplied as per the table below:

|  |  |
| --- | --- |
| Social Welfare/Direct Provision payments | Evidence of payment: i.e. social welfare receipt, social welfare book, IPO Card or letter from Department of Employment Affairs and Social Protection confirming eligibility for payment. |
| Employment (including CES) | Payslip (but in January and February, a Form P60 may be requested instead of a payslip if the law centre considers it necessary. A Form P60 may also be requested at any time of year for hourly paid employees working varied hours whose payslip does not give cumulative details of their pay or taxes to date.) |
| Business (sole trader/partnership) | Notice of Assessment from Revenue – Irish Tax and Customs, or in the absence of this, audited accounts. |

However it should be noted that the Board maintains the right to ask any applicant (including a passported applicant) to vouch their means in cases where it considers this to be necessary and law centres and/or Legal Services may from time to time, at random or otherwise, select particular applicants to provide full backing documentation according to criteria which may be determined by management from time to time.

A law centre, should, unless it has reason to believe otherwise, **assess an applicant in good faith based on the details provided to the law centre on the application form**. If the law centre has reason to believe that the details provided on the application form are inaccurate, the law centre must request that an applicant provide full backing documentation as detailed above.

### Financial assessment – online application pilot

The online application will not do the financial assessment for you.

You will need to print the PDF application form and use it to complete the Means Test Form on EOS.

## Rules for determining the applicant’s gross income

### Employment/pension

Documentary evidence must be provided to support the amount of income obtained from employment/pension to include any one of the following documents. Where a payslip covers a cumulative (Year To Date) period of more than twelve weeks, it is the preferred option:

Payslip: The income details are taken from the payslip, which must be up to date and within the assessment period, and not from the details supplied on the application form. A pay slip should provide the following information:-

* gross income year to date;
* number of weeks worked year to date;
* tax paid year to date;
* PRSI paid year to date;
* USC paid year to date; and
* PRD paid year to date.

While a payslip shows the basic wage, when the gross pay to date is divided by the number of weeks worked the figure may be greater/lesser than the basic wage, due, for example, to an increase in wages since start of tax year; the person not working in this employment for all of current tax year; overtime; or shift allowance.

Statement of earnings: This is required where an applicant does not provide a formal pay slip, or where the pay slip does not provide the information specified above. The statement should give details of the person’s earnings for the previous six months if possible.

P60: This may be required where a pay slip or a statement of earnings is not adequate for the purpose of calculating income. It may also be used as a basis for calculating an applicant’s income for the previous twelve months. In January and February, it may be preferable to seek a Form P60 rather than a payslip in order to fully establish the person’s annual income. If necessary the views of Legal Services may be sought.

**Persons who are employed for less than 52 weeks a year or due to cease employment during the assessment period**

If a person is due to cease employment during the assessment period, their income from employment should only be included up to the date that they are due to cease employment. For example, if a person is employed as of the date on the application form, eg, 1st June 2013, but they are due to cease employment on 1st July 2013, only the income they would receive during June should be taken into account, as opposed to a full 52 weeks.

The same situation applies to a person who works for less than 52 weeks a year for other reasons – e.g. a person employed in the civil or public service who avails of the Shorter Working Year scheme. However, it only appliesif the applicant is not paid during the period they do not work – for example in the case of a civil servant availing of the Shorter Working Year scheme, they **do not** avail of the option not to have their reduced pay spread over the entire year.

If using a payslip to calculate a person’s annual income, the reduction should be affected by multiplying by the reduced number of weeks instead of 52. 🡺 See the section “Obtaining information from a PAYE payslip” later in this Chapter.

### Social welfare income

An applicant must indicate the type and amount of the payment.

The law centre can ascertain the rate of any Department of Employment Affairs and Social Protection payment by visiting [www.welfare.ie](http://www.welfare.ie) and browsing to the page for the relevant payment. The rates typically change annually and are set by the Minister for Finance when the annual Budget is presented to Dáil Éireann.

The following payments/allowances/benefits are included as *“income*” in the determination of an applicant’s financial eligibility for legal services:-

* Family Income Supplement;
* Fuel Allowance (This allowance is payable only for part of the year – at present 26 weeks in each year);
* Supplementary Welfare Allowance (regular payments);
* Rent Supplement;
* Housing Assistance Payment;
* Mortgage Interest Supplement; and
* Rent Allowance

Note: Rent allowance and rent supplement are not the same payment.

* Rent *Supplement* was paid to people living in private rented accommodation who cannot provide for the cost of their accommodation from their own resources. It is part of the supplementary welfare allowances scheme and (with some exceptions) is largely being replaced by Housing Assistance Payment.
* Rent *Allowance* is payable to tenants of certain dwellings affected by the de-control of rents on 26 July 1982.

### Foreign social security payments

Where an applicant for legal services is in receipt of social security benefits, which are payable in another jurisdiction and are of a similar nature to those payments/allowances/ benefits referred to above, the payments received must be treated in the same way as similar payments made in this jurisdiction.

### Social welfare payments that are not treated as income for financial assessments

The following payments/allowances/benefits are excluded from *“income”* in the determination of an applicant’s financial eligibility for legal services:-

* Domiciliary Care Allowance
* Child Benefit
* Money received from charitable organisations
* Guardian’s Payment (Contributory)
* Foster Care Allowance  
  While the amount of a foster care allowance received by an applicant is not treated as income for the purpose of determining financial eligibility for legal services, an applicant is not given the dependent child allowance in respect of a foster child.
* Supplementary Welfare Allowance/ Exceptional Needs Payments (SWA)  
  Single payments of SWA on an exceptional needs basis are not treated as income in determining the financial eligibility of an applicant for legal services.
* Carer’s Allowance
* Carer’s Benefit

### Maintenance received

The applicant must state on the Application for Legal Services Form the amount of maintenance received. All maintenance received, whether it is on foot of a court order, separation agreement, maintenance agreement, or on a voluntary basis is treated as income irrespective of whether it is for the benefit of the applicant or for a child.

A distinction should be made between voluntary maintenance and what is commonly referred to as housekeeping. Housekeeping is regarded as monies paid to the applicant as a contribution towards living expenses where the parties are living under the same roof. Voluntary maintenance is regarded as a regular payment to the applicant by their spouse or parent of their child where the parties are living separate and apart. It is recognised that payments may be made by a spouse / parent to an applicant on a less than regular basis.

If that is the case regard should be had to the total payments made to the applicant in the three months immediately preceding the date of application and an average worked out. If it is the case however that no payment has been made in the six weeks immediately preceding the date of application it should be assumed that the applicant is not receiving voluntary maintenance unless there is evidence that a payment or payments are likely to be made.

Where there is a maintenance order established, but there is a clear and sustained pattern of non-compliance (as opposed to an occasional missed payment) by the maintenance debtor, a sympathetic approach should be taken to the assessment of the applicant’s income from maintenance i.e only income actually received in the previous twelve months should be taken into account.

### Business

In general, persons who fall into this category will be assessed on a preceding year basis by reference to their taxable income for the last accounting period. An applicant must produce the following documentary evidence of income, in order of preference, having regard to the period covered by the documentation:-

* the most recent Notice of Assessment from Revenue. The notice should be for the period ending 31 December in the year immediately prior to the application for legal services. Some leeway is, of course, necessary where the application is made in January/March of a particular year; and/or
* the most recent set of accounts, preferably audited accounts.

Any person who is self-employed or employed in a position where they pay income tax by means other than the pay-as-you-earn system – e.g. self-assessment – is regarded as a being in this category. This includes, but is not limited to:-

* Person who owns a company
* Sole Trader/Person in partnership
* Contractors/Sub-contractors
* Self-employed persons
* Farmers

Self-employed persons who have a relatively low income generally do not produce accounts e.g. persons doing housework on a regular basis/child minding etc. A statement of earnings is acceptable, unless staff consider that formal documentary evidence should be sought.

### Other income sources

This heading refers to any source of income not covered above. It could include:-

**Interests/dividends**

The applicant may receive interest from investments, savings certificates, deposit accounts

etc.

**Rents received**

Where the source of income is rent from a second (or further) property, the income should be taken into account in the same manner as if it was income from a business. Payments of interest on a mortgage may be offset against the income received. It should be noted that there is no provision in the Regulations that permits the Board to offset mortgage payments on the principal sum made by an applicant on a rental property against the income received. The applicant should be asked to provide a copy of their most recent tax return which should identify the income and the amount paid in mortgage interest payments.

The amount of rent received annually should be calculated and the amount of mortgage interest payments made in the previous 12 months should be deducted.

Example:

Person receives rent of €1,000 per month. = €12,000 per annum

Mortgage payment is €800 per month.

This comprises payment of €200 per month off the principal and €600 per month off interest.

The payment off the principal is not relevant for the assessment purposes.

The payment off the interest is €7,200 per annum which is deducted from the rent received.

€12,000 - €7,200 = **€4,800**. This figure is entered as Other Income on the Income Assessment Form.

On EOS, divide this figure by 52 and enter it under “Business/Other Occupation” Under the “Type of Income” enter “Rents Received”.

The above applies only to persons who receive income from rented property in their personal/private capacity. Where the property is owned by a business, the income from that business (including the income received from renting property) should be treated in the same way as business income above.

**C 6**

**Benefits in kind**

This includes any benefits, other than salary or wages, which are made available to, and availed of by, an applicant in connection with his/her employment and is taken to be the amount which the applicant would need to earn in order to secure the particular benefit. Typical benefits-in-kind include a car and accommodation.

**Car**

Details of the make and specific model of the car (i.e. exact specifications) are required. In addition, the applicant should also specify if the employer provides/meets the cost of:-

* fuel for private transport;
* car repairs; and
* car insurance.

The amount to be taken into account as benefit-in-kind is calculated as follows:-

* 25% of the current retail price of a new car of the same type
* this figure is increased by 20% in the case of fuel, 20% in the case of repairs, and by 10% in the case of insurance.

Example:

Retail Price: (€16,000 x 25%) 4,000

Fuel (€4,000 x 20%) 800

Repairs (€4,000 x 20%) 800

Insurance (€4,000 x 10% ) 400

Amount to be taken into account as income 6,000

**Accommodation**

The income value is taken to be the market value of similar accommodation in the same area.

Where an applicant contributes towards the cost of the benefit-in-kind, the amount of the contribution should be deducted from the income value of the benefit.

**Other**

Grants for further and higher education, pay from SOLAS schemes, Community Employment Schemes etc also constitute income in the hands of the applicant and must be taken into account for the purposes of financial assessment.

Any other source includes also, for example, contributions by any child towards household expenses. The first €20 per week is disregarded as an “ex gratia” payment.

## Income of spouses and partners of applicants for legal services

### Spouses

An applicant should not be asked to provide information on the means of a spouse, unless the legal aid or advice being sought relates to a matter where the parties have a joint interest.

**Partners**

An applicant for legal services should not be requested to provide information regarding the income and capital resources of a cohabiting partner, unless the application relates to some matter in which the applicant and the partner have a joint interest, arising out of which it would be reasonable to expect a cohabiting partner to co-finance the cost of legal services.

### General principle applicable to both spouses and partners of applicant

It is considered that the circumstances in which the income of an applicant’s spouse/partner will be requested will be rare, unless they are joint parties to the proceedings.

## Allowances for the purpose of assessing disposable income

The allowances that may be given against a person’s income so as to determine

disposable income are set out in the Regulations and are (as of September 2013) as follows:-

**Nature of Allowance Maximum Amount per Annum**

Spouse/partner €3,500

Each dependant €1,600

Child care per child €6,000

Accommodation cost €8,000

Income tax Full amount

Social insurance Full amount

USC Full amount

PRD Full amount

Each ex-gratia payment €1,040

### Accommodation cost

1. This allowance relates only to the cost of accommodation incurred by an applicant in respect of the property in which he/she normally resides.
2. An applicant is allowed the full amount paid for the full year in respect of accommodation costs, subject to a maximum allowance of €8,000.
3. Where spouses are living in separate households and an applicant pays the cost of accommodation for a spouse/partner, the allowance for the applicant may be increased to include this cost, subject to the maximum of the accommodation allowance.
4. A mortgage is considered to include any top-up loans that are secured on the property.

**Rent Supplement, Mortgage Interest Supplement, and Rent Allowance are treated as part of the applicant’s gross income.** Therefore, where the applicant is receiving Rent Supplement/Mortgage Interest Supplement/Rent Allowance, the full amount of rent / mortgage payments should be allowed subject to the maximum accommodation allowance of €8,000.

For example:   
Applicant’s rent is €600 per month

Applicant receives €400 per month Rent Supplement.

Accommodation allowance is €600x12 = €7200

The rent supplement of €400x12= €4800 is treated as part of the applicant’s gross income.

### Spousal allowance

An allowance of €3,500 is granted where an applicant is married and is living with their spouse, or is in a civil partnership and living with their civil partner, or is a “qualified co-habitant” within the meaning of Section 172(5) of the Civil Partnership and Certain Rights of Co-habitants Act 2010 (ie living together as a couple for more than two years if they have children together, or more than five years if they have no children. The other qualified co-habitant is referred to in this Handbook as the applicant’s “partner”).

Where the applicant is living apart from his/her spouse/civil partner/former partner, payment of maintenance in respect of a spouse/civil partner/former partner entitles an applicant to an allowance in respect of the amount paid, up to a maximum of the spouse allowance.

Where the applicant has a common interest in the proceedings with his/her spouse/civil partner, and his/her spouse’s (civil partner’s) income is being taken into account (i.e. joint assessment), a spousal allowance should be granted.

### Dependant allowance

A dependant allowance is granted in the following circumstances.

**Child dependants living with the applicant**

An applicant must insert the ages of all dependent children/stepchildren on the application form. In the case of any child (ren) above the age of 18 whom the applicant claims is dependent, details should be obtained as to whether they are in full time education or are dependent for some other reason e.g. a person with special needs. A dependant allowance of €1,600 is granted in respect of each such child.

“Dependants” for the purposes of the income assessment include the applicant’s children or step children who are under 18 years of age; children above that age who are pursuing full time courses of education.

Dependants need to be permanently resident with the applicant. However, in this regard, a child who is temporarily away at boarding school or who is a college student and temporarily living in university halls of residence or other accommodation, and who returns during the summer, is regarded as permanently resident with the applicant.

**Child dependants not living with the applicant, but for whom the applicant is paying maintenance:**

Payment of maintenance in respect of a dependant entitles an applicant to an allowance in respect of the amount of maintenance paid, up to a maximum of the dependant allowance, i.e. €1,600 per child.

Such dependants include:-

* the applicant’s children or step-children who are under eighteen years of age; and
* children above that age who are pursuing a full-time course of education.

**Other dependants resident with the applicant**

This applies to other persons permanently residing with the applicant and who do not have available to them independent means of support. For example, where an applicant is in receipt of carer’s allowance, the person whom the applicant is caring for may be such a person. It is up to the law centre to decide whether this is the case, having regard as to whether the person concerned has their own income available to them.

The dependant allowance of €1,600 should be granted in respect of each dependant.

### Income tax

An applicant is allowed the full amount of tax payable for the full year. Details can be obtained from the wage slip or Revenue Commissioners notice of assessment.

### PRSI

An applicant is allowed the full amount of PRSI payable for the full year. Details can be obtained from the wage slip or Revenue Commissioners notice of assessment.

### Universal social charge

An applicant is allowed the full amount USC payable for the full year. Details can be obtained from the wage slip or Revenue Commissioners notice of assessment.

### Pension related deduction / PRD / “Public service pension levy”

An applicant is allowed the full amount PRD payable for the full year. Details can be obtained from the wage slip or Revenue Commissioners notice of assessment.

It should be noted that PRD is paid by members of a public service pension scheme who **are presently employed** in the civil or public service. Pensioners do not pay PRD on their pensions.

The fact that the body in question is a state-owned body is not necessary reflective of whether or not employees of the body in question are subject to PRD. Schedule 1 of the Financial Emergency Measures in the Public Interest Act 2009 excludes the majority of commercial state-owned companies from the application of PRD. These include bodies such as An Post, CIÉ, port companies, the VHI, DAA, Ervia, RTÉ, and TG4. Conversely employees of bodies nominally in the private sector (such as voluntary organisations in the healthcare sector) may be subject to PRD if their employees are members of a public service pension scheme.

### Child care

An allowance of €6,000 per child may be claimed by an applicant who is employed in respect of payments for childcare, where such payments are necessary to allow the applicant to pursue employment.

This allowance is only claimable by an applicant who has declared income from employment or a business, and whom also has claimed a dependant (including maintenance payments) allowance in respect of the children concerned. Furthermore it is only claimable in respect of childcare while the applicant is actually working or travelling to and from work. It is not claimable in respect of payments for childcare while the parent is engaging in recreational or other activities which do not relate to his/her employment/business.

Where the cost of child care is borne by both parents, an applicant will receive an allowance only in respect of the amount paid directly by the applicant, subject to a limit as set out in the examples.

Examples:

Applicant and other parent share the cost equally and applicant pays €4,000. The amount allowed is €3,000, i.e., the half of the maximum figure, namely the proportion of the amount actually paid as a proportion of the maximum allowance.

Similarly, if an applicant pays 25% of the cost, the maximum allowance is €1,500, i.e 25% of the maximum allowance.

### Disposable income

The disposable income and contribution form should be used to calculate the disposable income/capital and to determine the amount of the contribution payable.

Disposable income must be €18,000 or less for a person to qualify for legal services. Disposable income is arrived at by deducting the allowances from the gross income, as set out on the form. If the disposable income is:-

* €18,000 or less , the applicant is – subject to a capital assessment where applicable - financially eligible for legal services; and
* if it exceeds €18,000, the applicant is ineligible.

## Determining financial eligibility and calculating the income contribution

If the disposable income is:-

* less than or equal to €11,500, the applicant is liable to pay the minimum contribution of €30 for legal advice and €130 for legal aid; and
* if it is greater than €11,500 but less than or equal to €18,000, deduct €11,500 from the disposable income figure. The advice contribution is 10% of the difference (subject to a maximum of €150) and the aid contribution is 25% of the difference plus €130.

The actual contribution is the cost to the Board of providing legal services in the particular case, subject to the maximum contribution. Maximum contributions apply to cases which it is possible to refer to the solicitors panel. At the time of writing, the maximum contributions are:

* District Court family law case (other than defence of Care Order or   
  domestic violence proceedings) € 417
* Circuit Court Judicial separation or divorce case €5,000

These maximum contributions apply to these categories of cases irrespective of whether the particular case is actually referred to a private practitioner or dealt with by a law centre.

### Granting of legal services to persons solely dependent on social welfare

An applicant, whose sole income is social welfare, and who is otherwise financially eligible for legal services, is liable to pay only the minimum income contribution of €130 for legal aid and €30 for legal advice.

Most applicants who fall in this category will now be passported and will not need to be formally assessed. Such persons may have been passported and if it comes to attention that their disposable income is greater than €18,000 the matter should be brought to the attention of Legal Services.

“*Social welfare benefit or allowances”* means any payment of a welfare nature, paid by either the Department of Employment Affairs and Social Protection or the Health Service Executive, or a combination of such payments, which is the only source of income of an applicant. The contribution payable by applicants who are dependent solely on social welfare payments from other countries will also be determined on the same basis.

### Childcare cases

Applicants for legal services in relation to defending childcare proceedings brought by the Child and Family Agency (Tusla) do not pay either an advice contribution or an aid contribution. It should be noted that this applies only to the defence of applications for care orders and supervision brought by the Agency and appeals to the Circuit Court. It does not apply to cases where the applicant is the applicant/plaintiff in proceedings against the Agency pursuant to parts of the Child Care Act other than parts III and IV (except where such applications are ancillary to the defence of the main child care proceedings) e.g. for access to children in care.

### Domestic violence proceedings Applicants for legal services in relation to proceedings in the District Court for a remedy under the Domestic Violence Act 1996 do not pay either an advice contribution or an aid contribution.

### In order for an applicant to qualify for this exemption to the requirement to pay a contribution, the following criteria apply:

* The proceedings must be in the District Court or on appeal to the Circuit Court. The exemption does not apply to proceedings instituted in the Circuit Court.
* The sole remedy sought must be an order or a combination of orders pursuant to the 1996 Act – ie. a safety order, protection order, interim barring order, or barring order. The exemption is not applicable where, for example, remedies under the Guardianship of Infants Act are being sought in the same proceedings.

### The exemption may be availed of by both Applicants and Respondents to proceedings.

Where an applicant for a domestic violence order is later served with proceedings for a different matter in the District Court, and the Court Office schedules the proceedings to be heard at the same time as the application for the domestic violence remedy, the applicant should not subsequently be asked to pay a contribution if they were not the party to issue the additional proceedings.

### Recording a zero contribution on EOS

For both childcare and domestic violence proceedings, a zero contribution can be recorded by answering “Yes” to the question "Is this case defence of proceedings brought by the Health Service Executive for a Care Order or Supervision Order". Note that this will have no effect on the classification of the case as a domestic violence matter for reporting purposes as this is taken from the Case Type in EOS and not this field.



If the application would be suitable for passporting the "Passport this case" feature should not be used. Instead a blank means test should be created and the above question answered "Yes" in order to generate the zero contributions.

### International protection cases

Asylum seekers who apply for legal services in connection with an international protection related matter must pay a total contribution of €10, covering both legal advice and, if required, legal aid. There are guidelines (in 🡺 **Chapter 5)** about waiving this contribution in the case of an asylum seeker in receipt of direct provision.

This applies only to matters connected with an application for international protection in the State (including leave to remain) and does not apply to asylum seekers seeking legal services from the Board in relation to any other matter.

### Obtaining information from a PAYE payslip

**How to calculate Sally Bloggs’ gross income from her payslip details**

The gross pay to date is divided by the number of insurable weeks and multiplied by 52 (where the applicant expects to work a full 52 week year – see note 1 below for those who work less than 52 weeks) to get annual salary. Income tax, PRSI, PRD (for those to whom this applies, mainly civil and public servants) and USC are calculated, in the same manner.

Gross pay to date is €3,600 and the number of insurance weeks is 6:-

3,600 divide by 6 = 600 x 52 = €31,200

Gross annual salary = €31,200

Income tax to date = €120

120 divide by 6 =20 x 52 = €1,040

Gross income tax €1,040

PRSI to date = €270

270 divide by 6 = 45 x 52 = €2,340

Gross PRSI= €2,340

USC to date = €270

270 divide by 6 = 45 x 52 = €2,340

Gross USC= €2,340

PRD to date= €360

360 divide by 6 = 60 x 52 = €3120

Gross PRD= €3120

\*Details which are supplied on the application form may not correspond with the details on wage slip. The details from the payslip must be taken to determine the income eligibility.

The formula to determine annual salary, for salaried or hourly paid employees who expect to work for the full year is:

**Annual salary = (Pay YTD ÷ insurable weeks) x 52**

**Gross pay not** **net pay** should be used to calculate annual salary.

Gross pay is pay before any deductions are made. The means test gives allowances for income tax (**PAYE),** social insurance (**PRSI),** the Universal Social Charge **(USC)** and the Pension Related Deduction **(PRD / public service pension levy).**  There are no allowances for other deductions from gross pay such as union dues, sports and social club membership, or health insurance subscriptions.

The same formula should be adapted for PAYE, PRSI, USC and PRD, i.e:

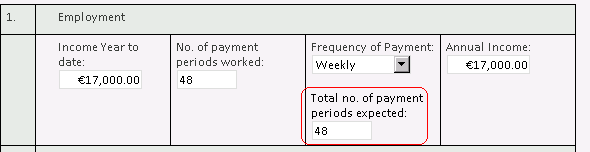
Annual PAYE = (PAYE YTD ÷ Insurable weeks) x 52  
Annual PRSI = (PRSI YTD ÷ Insurable weeks) x 52

Annual USC = (USC YTD ÷ Insurable weeks) x 52

Annual PRD = (PRD YTD ÷ Insurable weeks) x 52

The allowances for PAYE, PRSI, USC and PRD are not capped.

**Note 1:** Where an applicant **expects to work less than a 52 week year** then the “52” should be reduced appropriately. See the section 🡺 “Employment” earlier in this chapter for circumstances where this applies. On EOS, you reduce the number of payment periods by overwriting the “52” in the “Total no. of payment periods expected” question in the Means Test Form as shown below:



**Note 2:**  Some payslips may not show the USC or PRD Year To Date in the cumulative details section. Where a payslip does not display the USC or PRD paid year to date, the allowance should be given by multiplying the deduction for this period by the appropriate amount (x52 for a weekly payslip, x26 for a fortnightly payslip, x12 for a monthly payslip). The law centre should seek two recent payslips in these cases to confirm that the amount of USC and PRD paid is similar from week to week.

In cases where an hourly-paid employee works varying hours from week to week, and thus makes differing USC payments, it may not be possible to establish the correct amount to allow using this method. Such applicants should be asked to provide a Form P60 instead. Form P60s issued after 1st January 2012 show the amount of USC deducted in the previous year, which should be given as the allowance. Form PRD60 does the same for PRD deducted in the previous year.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Department of the Commissioner Payslip** | | | | | | | | | | | | | |
| **Employee**  **Name** | Sally  Bloggs | | | |  | **Frequency** | | W | **PPS Number** | | | 1234567w | |
| **Employee Number** | | | | | 12 | **Pay Period** | | 6 | **Payment Date** | | | 13-Feb-11 | |
| **Payment Element**  **Details** | | | | | |  | |  | **Deduction Details Summary** | | | | |
| **Description** | | **Hours** | | **Value** | | | | | **Description** | | **This Period** | | **Gross Pay** |
| Salary | | 40 | | €600 | | | | | PAYE  PRSI  USC  PRD | €20  €45  €45  €60 | | | \*600  PRSI  Total  Deds.  €170  non—tax |
| **Cumulative Details** | | | | **Tax/PRSI DETAILS** | | |  | **Comments** | |  | | |
| *Gross pay*  *Non Tax*  *Deds*  *Taxable Pay*  *Tax credit t.d*  *cut-off to date*  *tax paid to*  *date* | | | €3,600 | *Tax Code*  *Empr.start*  *Tax credit*  *pay rel code*  *total ins*  *worked* | | |  |  | | | | |  |
|  | N | *Total prsi*  *employee*  *prsi to date* | | €620 | | | **Rounding** |
|  | 5,200 | €270 | | |
| €600 | A1 |  | | | **NET**  **PAYMENT**  €430 |
| €4,000 | 6 |
| €120 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **INCOME ASSESSMENT FORM** | | |  |
|  |  |  |  |  |
| **NAME:** | Sally Bloggs |  | **REF. NO.:** |  |
| **Allowances** |  |  | **Income** |  |
|  |  |  |  |  |
| **Nature of allowance** | **Max allowance** | **Amount allowed** | **Source** | **Amount** |
|  |  |  |  |  |
| Spouse/partner | € 3, 500 |  | Employment/Pension | €37,200 |
| Each dependant | € 1, 600 | €1,600 |  |  |
| Child care per child | € 6, 000 | €5,500 | Maintenance |  |
| Income tax | Full | €1,040 |  |  |
| Social insurance | Full | €2,340 | Social Welfare |  |
| USC | Full | €2,340 |  |  |
| PRD | Full | €3,120 |  |  |
| Accommodation costs | € 8, 000 | €6,000 | Business |  |
| Ex-gratia payment | € 1, 040 |  |  |  |
|  |  |  | Benefit in Kind |  |
|  |  |  |  |  |
|  |  |  | Other |  |
| **Total:** |  | €21,940 | **Total:** | €37,200 |
|  |  |  |  |  |
|  |  |  |  |  |
| **Gross Income** | €37,200 |  |  |  |
|  |  |  |  |  |
| Less allowances | €21,940 |  |  |  |
|  |  |  |  |  |
| Disposable income | €15,260 | Less €11, 500 = | €3760 | **= A** |
|  |  |  |  |  |
| **Legal advice contribution** | **€** | **(A) x 10% =** | *(€376)  capped at* €150 |  |
| (minimum €30, maximum €150) | |  |  |  |
|  |  |  |  |  |
| **Legal aid contribution** | **€ (A)** | **x 25% plus €130 =** | €1070 |  |
| (minimum €130) |  |  |  |  |
| **capital contribution** | |  | €Nil |  |
|  |  |  |  |  |
| **Total contribution** |  |  | €990 |  |
| **Prepared by:** |  | **Date:** |  |  |
| **Checked by:** |  | **Date:** |  |  |
|  |  |  |  |  |

**Procedure 4.1 - How to manually calculate the applicant’s income contribution**

**EOS can do this for you. In a case, click Forms 🡪 Means Test Form and enter the information onto the form provided.**

Having received the application form and backing documentation (if applicable), compare the backing documentation with the completed form.Employed applicants must enclose a payslip, self-employed applicants a Notice of Assessment from the Revenue Commissioners.The Board may return forms to a client, where the forms and backing documentation are inconsistent with each other.

1. Take copies of all backing documentation and return the originals to the client.
2. On the Income Assessment Form enter the applicant’s name. The Ref No can be filled in later from the number EOS will give the applicant.
3. Complete the income side first, entering in declared forms of income as per the guidelines in this chapter.
4. Complete the allowances side next, in line with the guidelines given in this chapter. Where an allowance has a **maximum** you can only give the maximum allowance specified.
5. Total the income column and the allowances column.
6. Deduct the allowances from the income and insert in the disposable income column.   
   - If this figure exceeds €18,000, the client is **financially ineligible. Proceed to Step 10**- If the applicant is financially eligible, but their only income is social welfare, **proceed to Step 8.**
7. Deduct €11,500 from the applicant’s disposable income. The resulting amount is figure “A”.
8. If “A” is ZERO or a negative figure, or the applicant’s only income is social welfare,   
   The applicant’s contribution is €130 for legal aid and €30 for legal advice. If the applicant’s only income is social welfare, put a short note on the form that you are making this determination in accordance with Regulation 21(10).  
   OR  
   If “A” is a positive amount (greater than ZERO):  
   ”A” divided by ten is the applicant’s contribution for legal advice (subject to a **minimum contribution of €30 and a maximum of €150**).  
   (”A” divided by four) + €130 is the applicant’s contribution for legal aid, in the event that legal aid is required, subject to any maximum that might apply for certain cases (eg. District Court family law cases), and in no event greater than the cost of providing the legal aid.
9. If the applicant has declared any capital assets, fill out the Disposable Capital and Capital Determination Form manually at this stage and calculate the applicant’s capital contribution using 🡺 **Procedure 4.2**
10. If the applicant is **financially eligible**,   
    (i) write to them informing them of this and that they are being placed on the applications record in the law centre.   
    (ii) Place the applicant on the applications record.  
    **OR**  
    If the applicant is **financially ineligible (financially outside the Act – FOA)**, the letter on 🡺 **Page 4-24** should be sent.

## Calculating a capital contribution

The Regulations provide that capital resources comprise of every resource of a capital

nature, excluding the value of the applicant’s home and any tools of trade of an applicant.

An applicant whose disposable capital exceeds €100,000 is not eligible to obtain legal aid or advice, except in cases falling within section 28(5) and 5(a) of the Act.

**The value of the applicant’s home is NOT INCLUDED in assessing the applicant’s disposable capital.**

A capital assessment does not need to be carried out where the value of a person’s capital assets is below €4,000. If the value of a person’s capital assets is above €4,000, the capital assessment must be carried out. Furthermore, such a person may not have their application passported, even if they would otherwise be eligible for passporting. They must therefore complete a statement of income and capital.

### Capital resources

The applicant must provide details of all capital resources including, for example:-

1. Monies lodged, deposited or invested in a financial institution;

2. Land, including details of:-

* the acreage; buildings; plant/machinery; and stock; and
* of any lease agreement.

3. Property including, for example, other house, commercial property, sites, and provide details of any outstanding mortgage/charge, any monthly repayment figure and name of the lending institution.

4. Stocks/shares including details of

* the type of share/stock; and
* the name of the issuing company or institution.

5. Interest in a company, business or property owning body. This includes the exact nature of the interest; any financial benefit from the interest in the company or business; and, if so, a full set of audited accounts and balance sheet.

6. Other capital resources, including details of all other items of a capital nature such as a car, boat, mobile home, etc. In the case of a car details of the make/model/year are required.

### Stocks and shares

Stocks and shares are considered to include (but are in no way limited to):

* Shares in a limited company (public or private)
* Government bonds (this includes all NTMA State Savings/National Savings and Investments products other than a Post Office Savings Bank account).
* Prize Bonds/Premium Bonds

However, money held in a Post Office Savings Bank account is a cash asset and treated the same as other savings on deposit in a financial institution.

### Value of resources

An applicant who is the sole owner of a resource will be assessed on the full market value of the resource, while a joint owner is assessed on 50% of the value.

The current market value of each capital resource must be provided by the applicant. The applicant’s estimate of the value should be accepted unless the asset has been blatantly undervalued. A formal valuation should not be required.

The value of an applicant’s home on any land that the applicant owns is to be excluded from the value of the land. A standard deduction of 10% of the market value of the capital resource (other than money) is allowed in respect of its realisation cost.

### Disposable capital

Disposable capital is arrived at after making allowances for certain items that are deducted from an applicant’s capital.

**Loans used to finance capital resources**

For each asset other than money, a deduction is allowed in respect of any mortgages or other loans which were used to purchase the asset in question. In addition the amount of any charge registered against an asset may be deducted in the same fashion. Any other debts outstanding against an asset may also be included.

An applicant must provide the name of the lender and the amount of the loan/debt; the reason for the loan/debt; and the balance outstanding.

**Legally enforceable debts which fall due within twelve months**

This includes any debts which are due to be paid within the next twelve months, including any debts which are already outstanding and are due to be paid immediately. This might include Revenue arrears, arrears on bills that have gone to a credit control department, an overdraft in arrears, maintenance arrears, among others. The applicant must provide details of the debt. The Board has the right to ask for proof of the debt in the form of a demand for payment and/or threat of legal action.

**How to treat other loans**

For loans other than those used to finance the purchase of a capital resource, the Board may allow the cost of twelve months repayments of the loan. The applicant must provide details of the current repayment amount and the staff member should multiply this by twelve to ascertain the value of the allowance to be granted in respect of each loan.

For example, a person takes out a loan of €5,000 to pay back to school expenses. The loan is to be repaid at €100 per month. A person is allowed €100x12, i.e. €1,200, as a deduction from their gross capital.

**Procedure 4.2 - How to manually calculate the applicant’s capital contribution**

**EOS can do this for you.**

A capital contribution is payable only where the service provided includes legal aid.

The contribution is calculated as follows:-

1. **Calculate gross capital**
   1. Enter the name of each capital asset (other than the family home, tools of the trade, and money) in the top half of the “Capital” side of the form.
   2. Total all the non-cash capital assets and insert opposite “Total Value”.
   3. Divide the Total Value figure by ten and insert this figure opposite “Less realisation 10%”.
   4. Deduct the Realisation 10% figure from the Total Value figure and insert this figure opposite “Non-cash subtotal”.
   5. In the bottom half of the Capital side of the form, enter the name of each bank account and the figure on deposit in each bank account.
   6. If the applicant as substantial cash on hand then enter this as if it were a bank account as “Cash on Hand”.
   7. Total all the cash assets and insert this figure opposite “Cash Subtotal”.
   8. Add the Non-cash subtotal and Cash subtotal together. This is the applicants **Gross Capital.**
2. **Calculate the allowances**
   1. List each loan outstanding against a capital asset and the amount outstanding.
   2. List each legally enforceable debt falling due to be paid within twelve months.
   3. For each loan the applicant has (which was not already listed under steps 2a or 2b above), multiply the monthly repayment by twelve and list these amounts under “Loan repayments over next twelve months”.
   4. Total all the figures entered in the Allowances column and insert this figure opposite “Total allowances”.
3. Deduct the Total Allowances from Gross Capital. This is the applicant’s disposable capital.
4. If the applicant’s disposable capital is €4,000 or less, **the applicant’s capital contribution is ZERO.**
5. If the applicant’s disposable capital is between €4,001 and €54,000:
   1. deduct €4,000 from the client’s disposable capital.
   2. take 2.5% of the remainder
6. If the applicant’s disposable capital is €54,001 or greater:
   1. deduct €54,000 from the applicant’s disposable capital:
   2. take 5% of the remainder
   3. Add €1,250 to this amount. (this is 2.5% of €50,000).

The statement of capital on the application form enables an applicant to provide details of any capital resources (other than the person’s home), of mortgages/loans, and of any legally enforceable debts.

Example:

Disposable capital €100,000

Deduct €4,000

€96,000

Deduct next €50,000 @2.5% = €1,250

€46,000 @5% = €2,300

Total contribution €3,550

**Example 1:**

Michael is a farmer. His wife has applied for a divorce. He applies to the Law Centre seeking legal services in connection with this.

His farm is jointly owned by him and his wife. This has been valued at €180,000, however, the auctioneer advises that €120,000 of this is due to the family home - in which Michael resides - and the agricultural land is valued at €60,000. There is a mortgage of €40,000 outstanding which he and his wife are jointly paying.

He owes a private solicitor €1,000 in professional fees in connection with a previous legal action. The solicitor has sent a fee note demanding payment.

He has a credit union loan of €4,800 to cover miscellaneous expenses, repayable at €200 per month for 24 months. He has €1,000 shares (savings).

*How to assess:*

1. Calculate Michael’s gross capital.
2. The farm is valued at €180,000 however €120,000 is due to Michael’s home. Only assess the remaining €60,000 can be included in the assessment. In addition, Michael’s wife has a contrary interest in the proceedings, only Michael’s portion of the farm is included, i.e. 50% share, €30,000. As this is a non-cash asset 10% realisation costs, a further €3,000 is deducted leaving €27,000.
3. The shares in the credit union are a cash asset valued at €1,000. No realisation deduction is made for cash assets.
4. Michael’s gross capital is his non-cash subtotal of €27,000 + his cash subtotal of €1,000 = €28,000
5. Calculate Michael’s allowances.
6. The mortgage on the farm constitutes a loan outstanding on a capital asset. Michael is responsible for 50% of the mortgage, €20,000 is allowed.
7. The professional fees owing constitute a legally enforceable debt falling due to be paid with the next twelve months, he is allowed the full amount - €1,000.
8. The credit union loan is not against a capital asset, so the total amount outstanding is not given as an allowance. Instead we give an allowance for the value of twelve months repayments. €200x12 = €2,400.
9. Michael’s total allowances are €20,000+€1,000+€2,400 = €23,400
10. To calculate Michael’s disposable capital, deduct allowances from gross capital. €28,000 - €23,400 = €4,600.
11. The contribution is calculated as follows:
    1. The applicant’s disposable capital is greater than €4,000, but less than €54,000.
    2. There is no contribution on the first €4,000, so deduct €4,000 from the disposable capital to get the remainder (€600).
    3. We calculate the capital contribution at 2.5% of the remainder i.e. €15

This is added to the legal aid contribution.

**Example 2:**

Jane is taking a personal injuries action. She lives alone and is not married. She owns her own apartment valued at €120,000 and also has a second property valued at €150,000 which is rented out. She owns a 3 year old Toyota Corolla 1.6l valued at €8,000.

She has mortgages outstanding of €80,000 on her own apartment and €170,000 on her rental property, which is in negative equity. She also has an outstanding car loan of €2,000.

*How to assess:*

1. Calculate Jane’s gross capital
2. The apartment, in which Jane lives, is excluded from the calculation.
3. She owns a second property valued at €150,000. She also owns a car valued at €8,000. Her total non-cash assets are €158,000.
4. We deduct 10% realisation costs from non cash assets (€15,800) leaving gross capital of €142,200
5. Calculate Jane’s allowances
   1. The mortgage on Jane’s own apartment is excluded from the calculation.
   2. The mortgage on her second property has €170,000 outstanding on it. She has an outstanding car loan of €2,000. Her total allowances are therefore €172,000.
6. As Jane’s allowances (€172,000) exceed her gross capital (€158,000) she has no disposable capital, and therefore is not liable for a capital contribution.

**Example 3:**

John is married and taking a nuisance and personal injuries claim. He and his wife, Mary, jointly own the family home valued at €150,000. He owns a 5 year old Toyota Corolla 1.6l valued at €5,000. Mary owns a 3 year old Toyota Yaris valued at €5,000. They have savings in a joint account of €20,000. There is a mortgage outstanding on the family home of €20,000. John has a car loan of €2,000 outstanding and Mary has a car loan of €3,000 outstanding.

*How to assess:*

1. For the purposes of this example, Legal Services, following consultation have given a direction that John and Mary’s means be jointly assessed, as it is a matter in which they have a joint interest in the proceedings.
2. Calculate John and Mary’s gross capital
3. The family home is excluded from the calculation
4. The non-cash assets comprise two cars valued at €5,000 each, giving total non-cash assets of €10,000
5. We deduct 10% realisation costs from non cash assets (€1,000) leaving a non-cash subtotal of €9,000.
6. Next add the cash asset, i.e. savings of €20,000. We do not make a 10% deduction from cash assets.
7. John and Mary’s gross capital is non-cash subtotal (€9,000) + cash subtotal (€20,000)=€29,000.
8. Calculate John and Mary’s allowances.
   1. The mortgage on the family home is excluded from the calculation.
   2. There are two car loans of €2,000 & €3,000 outstanding. The total allowances are therefore €5,000.
9. Gross capital (€29,000) – allowances (€5,000) = Disposable capital of €24,000.
10. The contribution is calculated as follows:
    1. We observe that the applicant’s disposable capital is greater than €4,000, but less than €54,000.
    2. There is no contribution on the first €4,000, so we deduct €4,000 from the disposable capital to get the remainder (€20,000).
    3. We calculate the capital contribution at 2.5% of the remainder i.e. €500.

€500 is added to the legal aid contribution.

**Example 4**

Sarah is taking judicial separation proceedings. She and her husband jointly own the family home, worth €200,000, and have a joint share in a second property worth €200,000. Sarah lives in the family home, the second property is rented. Her husband lives elsewhere in rental accommodation. In addition, Sarah has savings of €30,000 and a car, a 2l Nissan Quasqai valued at €15,000. The mortgage on the family home is paid off; however, the mortgage on the second property is valued at €140,000, Sarah pays half of this mortgage. There is a car loan outstanding of €7,500.

*How to assess:*

1. Calculate Sarah’s gross capital.
   1. The family home is excluded from the calculation.
   2. Sarah has only a 50% interest in the rental property, therefore we only assess capital on this at 50% of the value, i.e. €100,000. Sarah’s car is valued at €15,000. Her non-cash assets are €115,000.
   3. Deduct 10% realisation costs from non cash assets (€11,500) leaving a non-cash subtotal of €103,500
   4. Sarah’s cash assets are her savings of €30,000.
   5. Her gross capital is the non-cash subtotal of €103,500+her cash subtotal of €30,000= €133,500
2. Calculate Sarah’s allowances.
   1. The mortgage on the family home is excluded from the calculation.
   2. Sarah is paying only 50% of the mortgage on the second property, therefore we allow her half the amount outstanding on that mortgage, i.e. €70,000. We also allow her the full amount outstanding on the car loan i.e. €7,500. This gives her total allowances of €77,500
3. Sarah’s gross capital (€133,500) – her allowances (€77,500) = disposable capital of €56,000.
4. We calculate her capital contribution as follows.
   1. Her disposable capital is above €54,000.
   2. There is no contribution on the first €4,000.
   3. The contribution on the next €50,000 is 2.5% of that amount, i.e. €1,250.
   4. We deduct €54,000 from her disposable capital (€56,000) to get the remainder, in this case, €2,000. We get 5% of this, €100.
   5. Her total capital contribution is her contribution on the first €4000 (zero) + her contribution on the next €50,000 (€1,250) + her contribution on the remaining €2,000 (€100) = €1,350.

€1,350 is added to the legal aid contribution.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **INCOME ASSESSMENT FORM** | | | | |
|  |  |  |  |  |  |
|  | **NAME:** |  |  | **REF. NO.:** |  |
|  | **Allowances** |  |  | **Income** |  |
|  | **Nature of allowance** | **Max allowance** |  | **Source** |  |
|  | Spouse/partner | € 3, 500 |  | Employment/Pension |  |
|  | Each dependant | € 1, 600 |  |  |  |
|  | Child care | € 6, 000 |  | Maintenance |  |
|  | Income tax | Full |  |  |  |
|  | Social insurance | Full |  | Social Welfare |  |
|  | USC | Full |  |  |  |
|  | PRD | Full |  |  |  |
|  | Accommodation costs | € 8, 000 |  | Business |  |
|  | Ex-gratia payment | € 1, 040 |  |  |  |
|  |  |  |  | Benefit in Kind |  |
|  |  |  |  |  |  |
|  |  |  |  | Other |  |
|  | **Total:** |  |  | **Total:** |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | **Gross Income** |  |  |  |  |
|  |  |  |  |  |  |
|  | Less allowances |  |  |  |  |
|  |  |  |  |  |  |
|  | Disposable income |  | Less €11, 500 = |  | **= A** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | **Legal advice contribution** | **€** | **(A) x 10% =** |  |  |
|  | (minimum €30, maximum €150) | |  |  |  |
|  |  |  |  |  |  |
|  | **Legal aid contribution** | **€** | **(A)x 25%+€130 =** |  |  |
|  | (minimum €130) |  |  |  |  |
|  |  |  |  |  |  |
|  | **capital contribution** |  |  | € |  |
|  |  |  |  |  |  |
|  | **Total contribution** |  |  | € |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | **Prepared by:** |  | **Date:** |  |  |
|  | **Checked by:** |  | **Date:** |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**Disposable capital and capital determination form**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **CAPITAL ASSESSMENT FORM** | | | | | | | | | | | | | | | | | | |
|  | |  | |  |  | | | |  | | |  | | |  | | | |
| **NAME:** | |  | |  |  | | | |  | | | **REF. NO.:** | | |  | | | |
| **Capital** | | | | | | | | | | | **Allowances** | | | | | | | |
| Capital assets other than money, the applicant's home, or the tools of his/her trade | | | | | | | | | | | Loans and charges outstanding against capital assets | | | | | | | |
| Asset | | | | | | Market value € | | | | | Loan | | | | | | Amount € | |
|  | | | | | |  | | | | |  | | | | | |  | |
|  | | | | | |  | | | | |  | | | | | |  | |
|  | | | | | |  | | | | |  | | | | | |  | |
|  | | | | | |  | | | | |  | | | | | |  | |
| Total value | | | | | |  | | | | | Legally enforceable debts falling due to be paid within twelve months | | | | | | | |
| Less realisation 10% | | | | | |  | | | | |
| Non-cash subtotal | | | | | |  | | | | | Nature of debt | | | | | Amount € | | |
| Cash in hand or in bank accounts | | | | | | | | | | |  | | | | |  | | |
| Asset | | | | | | Value € | | | | |  | | | | |  | | |
|  | | | | | |  | | | | | Loan repayments over next twelve months | | | | | | | |
|  | | | | | |  | | | | | Loan | | | | | | | Repayments (total) € |
|  | | | | | |  | | | | |  | | | | | | |  |
|  | | | | | |  | | | | |  | | | | | | |  |
| Cash subtotal | | | | | |  | | | | |  | | | | | | |  |
| **GROSS CAPITAL (Non cash+cash)** | | | | | |  | | | | | **TOTAL ALLOWANCES:** | | | | | | |  |
| **DISPOSABLE CAPITAL: (Gross capital - total allowances)** | | | | | |  | | | | |  | | | | | | |  |
|  | |  | |  |  | | |  | | |  | | | | | | |  |
|  | |  | |  |  | | |  | | |  | | | | | | |  |
| **Calculation of contribution** | | | | | | |  | | | |  | | | | | | |  |
|  | **Amount** | | **Rate** | | | | **Contribution** | | |  | | | **NO CAPITAL CONTRIBUTION disposable capital less than €4,000** | | | | |  |
| First €4,000 | €4,000.00 | | 0% | | | | €0.00 | | |  | | |
| Next €50,000 |  | | 2.5% | | | |  | | |  | | | **FINANCIALLY INELIGIBLE:  disposable capital greater than €100,000** | | | | |  |
| Remainder |  | | 5% | | | |  | | |  | | |
| **CAPITAL CONTRIBUTION** | | | | | | |  | | |  | | |  | | | | |  |
|  | |  | |  | | |  | | |  | | |  | | | | |  |
| - If the asset is not wholly owned by the applicant, only enter the value of the applicant's share | | | | | | | | | | | | | | | | | |  |
|  | |  | |  |  | | | |  | | | | |  | | | |  |

## Applicants who are financially ineligible

An applicant who is assessed and found to be financially ineligible for legal services cannot be provided with legal services. An applicant should be informed of this refusal decision in writing by the law centre. The applicant should also be provided with a copy of the Means Test Form on which their eligibility was calculated.

The letter on the following page should be sent by the law centre to an applicant who is assessed as being financially ineligible for legal services. It should be noted that this letter, and the other letters in the remainder of this Chapter, may require separate changes depending on the specific circumstances of the case and all letters issuing to applicants should be signed by the Managing Solicitor and a contact name, if required, inserted on the letter.

APP01.FOA refusal letter*APP001.Application Received workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Unfortunately you have been found ineligible for legal services on financial grounds and we must refuse your application for legal services. The law[[2]](#footnote-3) states that the Board cannot legally assist any person whose disposable income is more than €18,000. We have calculated your disposable income as €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. To arrive at this figure we take your annual gross income into account and give you what are known as “allowances” (which are deductions from your annual income).

We can only give the allowances listed below and unfortunately they cannot be given for any other expenses, such as telephone, electricity, and gas bills, doctor’s fees or hospital bills, travel costs, etc.

**The allowances which we can grant are decided by the Government from time to time and the Board cannot take anything else into account.**

We grant allowances as follows:

• €3,500 for your spouse/partner;

• €1,600 for each of your dependent children;

• All of your Income Tax, PRSI, and USC payments for the next twelve months;

• Up to €8,000 of your annual payments towards your mortgage or rent;

• Up to €6,000 per child for childcare expenses, if you are working;

• All of your Pension Related Deduction payments for the next twelve months, if you are employed in the Civil or Public Service;

• Up to €3,500 of maintenance payments made towards your (former) spouse, if you are separated or divorced; and

• Up to €1,600 per child, for maintenance payments made towards your children, when they don’t live with you.

Your financial assessment form which is enclosed will show which allowances were given to you.

**Your options**

You have the option to ask the Board to review this decision. A review means that you can submit further information in writing to the Board and ask us to re-consider the decision. For example, you may inform us of information which we did not consider, or may consider that the calculation of your income was not properly done. If you think we have made a mistake in our calculations, you should tell us where you think we have gone wrong and what the correct figure should be. Remember though, that the only allowances we can grant you are the ones stated above. I am enclosing a form which will assist you in providing the Board with information in support of a review.

You must submit any information in support of a review within one month of the date at the top of this letter. If you would like a review of the decision, you should write to the law centre at the address above submitting this information as soon as possible.

You may appeal the decision to an appeal committee which consists of members of the Board of the Legal Aid Board. If you can identify a reason for example, based on the allowances given and the calculations made why you think the appeal committee should consider to overturn the original decision you should do so as it will assist them with their task. They will either confirm the decision to refuse legal services on financial grounds or they may overturn this decision. An appeal does not involve you submitting any further information to the Board. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal.

If in the future your financial circumstances change you can re-apply for legal services. The Board has information available in leaflet form and on its website that may be of assistance to you.

If your problem is a family matter the Board provides family mediation free of charge which is not means tested and you may wish to contact one of our family mediation offices, details of which can be found at www.legalaidboard.ie

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

**1** Regulation 13(3) of the Civil Legal Aid Regulations 1996-2017 specifies that “an applicant whose disposable income exceeds €18,000 per annum shall not be eligible to obtain legal aid or advice”

Where an applicant is refused legal services on the basis of their income the law centre should complete the middle column of the following form (leaving the right hand side column blank) and enclose it with the letter refusing legal services.

***APP001.FOA Review Application form***

*APP001.Application Received workflow*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Q:\X - Information and Communications\Corporate identity\LAB Logo.jpg** | | **Application for Review of Financial Assessment (Income)** | | | | |
| **About this form:**   * This form allows you to seek a review of our decision to refuse you legal advice and/or aid on the basis of your disposable income * You only need to complete the parts of this form that apply to you. * You can submit any further information you wish in support of a review. For example if you think we calculated an allowance wrong, and you have documentation you think will help us calculate your allowance correctly, you can attach it. * **We can only grant you the allowances stated in law.** For example you cannot claim an allowance for healthcare or educational expense. * You do not have to submit further information. But if you do not submit any further information, the extent of the review will be that we will recheck our figures to ensure we have not made a mistake. * You should return the form to the law centre where you replied * You must return this form within one month of the day you were notified that we were refusing you legal services * The law centre will advise you of the outcome of the review in due course | | | | | | |
| **Name** | {{ApplicantName}} | | | **Case Number** | | {{CaseRef}} |
| **Part A: How we calculated your gross income** | | | | | | |
| **The type of income you have** | | | **How we calculated your income** | | **What do you think we should have calculated your income as?** | |
| **Pension** | | |  | |  | |
| **Maintenance** | | |  | |  | |
| **Social Welfare** | | |  | |  | |
| **Business** | | |  | |  | |
| **Benefit in Kind** | | |  | |  | |
| **Other** | | |  | |  | |
| **Gross Income** | | | **Total of the above=€** | |  | |
| **Part B: How we calculated your allowances** | | | | | | |
| **The type of allowance and the maximum that we can allow** | | | **How we calculated the allowance** | | **How much of an allowance should we have granted you? Note that where an allowance is capped, we cannot give you any more than the cap.** | |
| **Spouse/partner (fixed €3,500) or maintenance payments for spouse/partner**  **(Maximum €3,500)** | | |  | |  | |
| **Each dependant (fixed €1,600 per person) or maintenance payments for children (maximum €1,600 per child)** | | |  | |  | |
| **Child care (maximum €6,000 per child)** | | |  | |  | |
| **Income tax** | | |  | |  | |
| **Social insurance** | | |  | |  | |
| **USC** | | |  | |  | |
| **PRD** | | |  | |  | |
| **Accommodation costs**  **(Maximum €8,000)** | | |  | |  | |
| **Disregard of first €20 per week from ex-gratia income (Maximum €1,040)** | | |  | |  | |
| **Total allowances** | | | **Total of the above=€** | |  | |
| **How we calculated your disposable income:**  To calculate your disposable income, we took your gross income of €\_\_\_\_\_\_\_\_\_\_\_ and deducted your total allowances of €\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  Your disposable income was calculated at €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | |
| **DECLARATION**  I request the Legal Aid Board to review their decision to refuse me legal aid and/or advice pursuant to Section 29 of the Civil Legal Aid Act 1995 and Regulation 13(3) of the Civil Legal Aid Regulations 1996 to 2017, on the basis that they calculated my disposable income as exceeding €18,000.  I understand that, in calculating my disposable income, the Legal Aid Board cannot grant me any allowance save for those provided for in Regulation 16(1) of the 1996 Regulations.  **Signed** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | |

### APP001.FOA Refusal letter (capital)

*APP001.Application Received workflow*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Unfortunately the Board must refuse your application for legal services as the value of your disposable assets (which we refer to as “disposable capital”) exceeds the maximum laid down by Regulations1. We calculated your disposable capital as €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, but the law states that the Board cannot legally assist any person whose disposable capital is in excess of €100,000. A copy of the means test form is enclosed.

Disposable capital means that the Board does not just take the total value of your assets (which we refer to as “gross capital”) into account. We reduce by one-tenth the value of each asset, except for cash on hand or in a bank account. This is to take into account the cost to you if you were to sell the asset concerned. In addition, we grant what are known as “allowances”, which are deductions from your gross capital. We grant allowances as follows:

* The full amount of any loan which you took out to finance, or any charge registered against, a capital asset which was included in the calculation of your gross capital
* Up to twelve months worth of repayments on any other loan you have taken out (or, if you have less than twelve months left to repay, the full amount outstanding).
* Any legally enforceable debts which fall due to be repaid within the next twelve months.

The value of your family home is not taken into account when calculating your gross capital. However we also do not take into account the value of the corresponding mortgage as an allowance.

The allowances which we can grant are decided by the Government from time to time and the Board has no power to take anything else into account when calculating your disposable income.

**Your options**

You have the option to ask the Board to **review** this decision. A review means that you can submit further information in writing to the Board and ask us to re-consider the decision. For example, you may inform us of information which we failed to consider, or may consider that the calculation of your income was not properly done. If you think we have made a mistake in our calculations, you should tell us where you think we have gone wrong and what the correct figure should be. Remember though, that the only allowances we can grant you are the ones stated above.

The review will be done by staff in the Board’s Head Office in Cahirciveen. You must submit any information in support of a review within one month of the date at the top of this letter. If you would like a review of the decision, you should write to the law centre at the address above submitting this information as soon as possible.

You may also **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will either be to confirm the decision of the person who decided to refuse legal services, or they may overturn this decision and grant you legal services. Usually, an appeal does not involve you submitting any further information to the Board. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal.

The Board has information available in leaflet form and on its website that may be of assistance to you. If your problem is a family matter the Board provides family mediation free of charge and you may wish to contact one of our mediation offices, details of which can be found at www.legalaidboard.ie

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

**1** Regulation 13(4) of the Civil Legal Aid Regulations 1996-2017 specifies that “An applicant whose disposable capital exceeds €100,000 shall not be eligible to obtain legal aid or advice”.

### Review of decision to refuse legal services on financial eligibility grounds

An applicant may, within one month of the date on the letter informing them that legal services have been refused on financial eligibility grounds, request a **review** of the decision. A review involves the applicant submitting further information which will allow us to reconsider the decision to refuse legal services.

The further information which an applicant can submit in seeking a review can include, but is not limited to:

* Additional information regarding allowances they did not claim
* Additional backing documentation
* Corrections to calculations made by our staff

It is important that the applicant is made aware that in seeking a review or requesting an appeal that only those allowances set out on the Means Test Form (or Income Assessment Form where the means test was carried out manually) may be claimed against the calculation of their disposable income.

The FOA Review Application Form should be sent with each refusal of legal services on income grounds. It is important to note that an applicant may submit whatever information they like in support of a review. The purpose of the form is to assist the applicant in submitting relevant information in support of a review.

**Procedure 4.3 - How to process a request for a review**

1. Take copies of all backing documentation and return the originals to the applicant
2. Scan and upload the letter from the applicant requesting the appeal, together with any backing documentation enclosed, e.g. bank statements, wage slips etc. to the case on EOS.
3. The law centre should conduct a new means test and if the person is financially eligible then they follow the steps under “Where the outcome of a review is to grant legal services” below. The remainder of this procedure, which involves a recheck of the person’s financial eligibility by Legal Services, should only be conducted once this step is taken and if a person remains financially ineligible.
4. Click on the "Documents" tab and click "Make Available to Legal Services" beside the uploaded documents and any other relevant documents on this case
5. Click on the “Details” tab and in the box “Alerts”, click “create”
6. Click “User Roles” and select “Legal Services: Submissions Inbox” from the dropdown.
7. In the Description box, type “FOA review, all relevant documents made available”. If the applicant has enclosed any further information in the letter (rather than backing documentation), e.g. that the child or spousal allowances have been not granted but are being claimed, this may also be highlighted at this point.
8. The “action due” and “delivery date” fields will default to today’s date. These can be left as they are.
9. Click “include email” and “acknowledgement required”.
10. Click “Save Alert”.
11. Complete the current workflow - "APP001 - Application Received" and proceed to the next workflow "APP002 - Review/Appeal FOA Decision (Law Centre)". **Note that the milestone “Application changed from an enquiry to a specific case type” must be Marked Done, but should not actually be carried out i.e. the case should be left in the enquiry case type.**

**Where the outcome of a review is to uphold the original decision to refuse legal services:**

1. Where appropriate Legal Services will update the Means Test Form on EOS to reflect the revised assessment.
2. Send the applicant the letter “APP002.Letter informing applicant FOA decision upheld”. Where the Means Test Form/Income Assessment Form has been updated a copy of the revised Means Test Form/Income Assessment Form must be enclosed.
3. After 35 days, where no request for an appeal is received,
   1. Mark the “Appeal requested” milestone as Not Needed.
   2. Close the file, ensuring that the outcome “Financially outside the act is chosen.
   3. The physical file should be stored in similar manner to a withdrawn application (see 🡺 Chapter 8 for further details).

**Where the outcome of a review is to grant legal services:**

1. Legal Services will update the Means Test Form on EOS to reflect the revised assessment.
2. Send the letter “APP02.Positive outcome of review-appeal FOA refusal”, customised appropriately, to the applicant.
3. On EOS, mark the “Appeal requested milestone” as Not Needed.
4. Update the case from an enquiry to the correct case type.
5. Place the case in the “APP003.First Consultation” workflow and click the “Place on applications record” checklist item.

### APP02.Letter informing applicant FOA decision upheld after review.

*APP002.Review/Appeal FOA Decision workflow*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_, our letter refusing legal services dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, and your letter requesting a review /appeal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Staff in our Head Office have considered your application for a review and the further information you’ve submitted in relation to your application. Following the review, it has been decided that the initial decision to refuse legal services still stands. Your disposable income was calculated as €\_\_\_\_\_\_\_\_, but the law1  states that the Board cannot legally assist any person whose [disposable income is in excess of €18,000] [disposable capital is in excess of €100,00].

When we initially refused your application for legal services we sent you a letter which details how we calculate disposable [income] [capital] for the purposes of the Regulations which govern the grant of civil legal aid and advice. We have enclosed an [Income] [Capital] Assessment Form which details how we calculated your disposable [income] [capital] for the purposes of the review in your particular case.

You may appeal this decision to an appeal committee, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will either be to confirm the decision of the person who decided to refuse legal services, or they may overturn this decision and grant you legal services. Usually, an appeal does not involve you submitting any further information to the Board. You have a month from the date at the top of this letter to submit an appeal, which must be made in writing through this law centre.

Please note if your financial circumstances change in any way you can re-apply for legal services.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

1 [Regulation 13(3) of the Civil Legal Aid Regulations 1996-2017 specifies that “an applicant whose disposable income exceeds €18,000 per annum shall not be eligible to obtain legal aid or advice”.]

[Regulation 13(4) of the Civil Legal Aid Regulations 1996-2017 specifies that “An applicant whose disposable capital exceeds €100,000 shall not be eligible to obtain legal aid or advice”.]

### APP02.Positive outcome of review-appeal FOA refusal

*APP002.Review/Appeal FOA Decision workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2015

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_, our letter refusing legal services dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, and your letter requesting a review dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Staff in our Head Office have considered your application for a review and the further information you’ve submitted in relation to your application. Following the review, we are pleased to inform you that you have been deemed to be financially eligible for legal services

We will write to you when we are in a position to offer you an initial appointment with a solicitor and will advise you of your contribution in advance of the appointment.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

### Appeal of decision to refuse legal services on financial eligibility grounds

An applicant may, within one month of the date on the letter informing them that legal services have been refused on financial eligibility grounds (or if they requested a review, within one month of the date they were informed the decision to refuse legal services stands), **appeal** the decision. An appeal is heard by an Appeal Committee, consisting of non-executive members of the Board. Legal Services prepare the papers for members of the Committee.

In general, an appeal does not involve the submission of further information to the Board. If an applicant wishes to submit further information a review should be conducted prior to the appeal being made.

It is important that the applicant is made aware that in appealing that only those allowances set out on the Means Test Form (or Income Assessment Form where the means test was carried out manually) may be claimed against the calculation of their disposable income.

**Procedure 4.4 - How to process an appeal**

1. The submission of an appeal does not normally involve the submission of further information to the Board. However, if it is necessary to do so, take copies (and scan and upload to the case) any backing documentation and return the originals to the applicant
2. Scan and upload the letter from the applicant requesting the appeal.
3. Click on the "Documents" tab and click "Make Available to Legal Services" beside the uploaded documents and any other relevant documents on this case
4. Click on the “Details” tab and in the box “Alerts”, click “create”
5. Click “User Roles” and select “Legal Services: Submissions Inbox” from the dropdown.
6. In the Description box, type “FOA appeal, all relevant documents made available”.
7. The “action due” and “delivery date” fields will default to today’s date. These can be left as they are.
8. Click “include email” and “acknowledgement required”.
9. Click “Save Alert”.
10. If the applicant did not request a review, complete the current workflow - "APP001 - Application Received" and proceed to the next workflow "APP002 - Review/Appeal FOA Decision (Law Centre)", marking the “Review requested” milestone as not needed. **Note that the milestone in APP001 “Application changed from an enquiry to a specific case type” must be Marked Done, but should not actually be carried out i.e. the case should be left in the enquiry case type.**
11. Legal Services will arrange for the appeal to be put before a meeting of an Appeal Committee of the Board and will convey the decision of the Committee to the law centre.

**Where the outcome of an appeal is to uphold the original decision to refuse legal services:**

1. Send the applicant the letter “APP002.Letter informing applicant FOA decision upheld on appeal” along with a copy of the Committee’s decision..
2. Mark the “Notify applicant of outcome” checklist item as Confirm Done.
3. Close the file, ensuring that the outcome “Financially outside the act” is chosen as the Case Outcome.
4. The physical file should be stored in similar manner to a withdrawn application (see 🡺 Chapter 6 for further details).

**Where the outcome of an appeal is to overturn the decision of the Executive and grant legal services:**

1. Legal Services will update the Means Test Form on EOS to reflect the revised assessment.
2. Send the letter “APP02.Positive outcome of appeal of FOA refusal”, to the applicant.
3. Mark the “Notify applicant of outcome” checklist item as Confirm Done.
4. Update the case from an enquiry to the correct case type.
5. Place the case in the “APP003.First Consultation” workflow and click the “Place on applications record” checklist item.

### APP02.Letter informing applicant FOA decision upheld on appeal

*APP002.Review/Appeal FOA Decision workflow*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_, our letter refusing legal services dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, and your letter requesting a review /appeal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

We have forwarded your application for an appeal to the Appeal Committee of the Board. The appeal committee has considered your appeal and it has been decided that the initial decision to refuse legal services stands. Your disposable [income] [capital] was calculated as €\_\_\_\_\_\_\_\_, but the law1  states that the Board cannot legally assist any person whose disposable [income] is in excess of €18,000] [capital is in excess of €100,000]. A copy of your [income] [capital] assessment form is enclosed along with a copy of the decision of the Appeal Committee.

Please note if your financial circumstances change in any way you can re-apply for legal services.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

1 [Regulation 13(3) of the Civil Legal Aid Regulations 1996-2017 specifies that “an applicant whose disposable income exceeds €18,000 per annum shall not be eligible to obtain legal aid or advice”.]

[Regulation 13(4) of the Civil Legal Aid Regulations 1996-2017 specifies that “An applicant whose disposable capital exceeds €100,000 shall not be eligible to obtain legal aid or advice”.]

### APP02.Positive outcome of appeal of FOA refusal

*APP002.Review/Appeal FOA Decision workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_ 20\_\_, our letter refusing legal services dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, and your letter requesting a [review] [appeal] dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

We have forwarded your application for an appeal to an Appeal Committee of the Board. The appeal committee has considered your appeal and the initial decision to refuse legal services was overturned. A copy of the decision of the Appeal Committee is enclosed.

We will write to you when we are in a position to offer you an initial appointment with a solicitor and will advise you of your contribution in advance of the appointment.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

### Placing of applicants who have had a successful review or appeal on the applications record

The Board cannot disadvantage an applicant who was found financially ineligible due to an error in its calculations. Accordingly, any applicant who was initially deemed financially ineligible, but who is successful in a review or appeal of this initial decision, should be retrospectively placed on the applications record by reference to the date of their original financial assessment.

On EOS, no special steps need be taken and this will automatically be done provided the instructions in 🡺 **Procedure 4.3** are followed.

For the avoidance of doubt, the above only applies to a person who seeks a review or appeal within the limits provided by the Act and Regulations. It does not apply to a person who is refused legal services and makes a fresh application for legal services at a later date following a change in financial circumstances.

### Dealing with requests for information about services provided by private solicitors

A person who is deemed financially ineligible or who has been told the matter which they wish to pursue is outside the Board’s remit may seek information regarding services offered by private solicitors.

Under no circumstances may a staff member of the Board recommend any particular private solicitor. They may not give out the details of any private solicitor except to a client of the Board who has been referred to a private practitioner, and then (save where either this Handbook or the terms and conditions of the particular panel provides otherwise) only as part of the panel of private practitioners (🡺 **Chapter 6**). If a private solicitor or law firm requests that the law centre provide any form of advertising (posters, business cards, etc) for the practice/firm the request should be forwarded to the Managing Solicitor. In accordance with Board policy, managing solicitors must politely **refuse** all such requests.

However the private solicitor/managing partner of the firm should be informed of the application procedure for the Board’s Private Practitioner Schemes and/or the telephone number/address for Head Office, if they request same.

Staff should bear in mind that the Board’s family mediation services are currently free and should give details of the nearest mediation office if the application relates to a family law matter.

## Change in financial circumstances at a later date

Law centres are required to take note of any change in a person’s circumstances that impact on their financial eligibility. A person should, as a matter of course, be asked to advise if there has been any change and should be advised of the consequences of providing incorrect information. If the change is significant, the law centre may take action as detailed below:

The Regulations provide that the Board may:-

* reassess the income and capital resources of an applicant; and
* withdraw legal advice, or terminate legal aid where it considers that the legally aided person is no longer eligible for legal services on financial grounds.

Where a re-assessment is considered necessary, the person should be asked to complete the application form again and the law centre should re-assess them using EOS. The time period for the re-assessment of income is the twelve months following the date the re-assessment was directed.

The completed re-assessment should be forwarded to Legal Services who will take a decision whether or not:

* the applicant should pay a higher income and/or capital contribution;
* the applicant should pay the costs of the case as incurred; or
* to terminate the certificate under Regulation 9 (3) (d) (no longer eligible on financial grounds). In this case, the applicant is allowed a month to “show just cause” in writing as to why the certificate should not be terminated and during which period legal services should not be provided.

It has been the Board’s practice in certain circumstances, where a legal aid certificate has been terminated on financial eligibility grounds alone, to continue to provide legal services on condition of the client providing a written undertaking to repay the full cost of legal services (irrespective of whether the Board could ordinarily recoup this by means of the recovery of costs process). Law centres should seek a direction from Legal Services if they propose to do this. Such a client will be required to pay an immediate charge of €1,755 (this being the maximum income contribution) in order to continue to receive service from the Board. This is to ensure they do not receive any advantage over an applicant who is reassessed and immediately asked to pay a higher contribution.

The “change in circumstances” procedure may be run at any time whilst the client is in receipt of legal services, should it become apparent to the law centre that the client’s financial circumstances (whether in relation to his/her income, or his/her capital resources, or both) have changed.

Where the person’s application was originally made prior to 13th September 2013 the re-assessment should be conducted manually and done under the Civil Legal Aid Regulations 1996-2006. Where a financially ineligible person is being continued to be provided legal services as detailed above, the immediate charge for these persons will be €1,675, which was the maximum income contribution provided for under the former Regulations.

🡺 The **Circular on Legal Services** contains more information on revocation and termination of legal aid certificates.

### AAA.Change in circumstances letter

|  |
| --- |
| **PRIVATE AND CONFIDENTIAL**  Mr John Smith  1 Main Street  Ballymore,  Co. Dublin  22 October 2015  Our Ref: 1234567  **RE: LEGAL SERVICES**  Dear Mr Smith,  [You have recently notified us of a change in your financial circumstances]/[A change in your financial circumstances has been brought to our attention. Explain reasons why change in financial circumstances has been brought to the law centre’s attention]. As your financial circumstances have changed, the Board has decided to re-assess your eligibility for legal services.  Please find enclosed our Application for Legal Services form along with note on how to complete. Please ensure that you complete Parts B & C under “Statement of Income and Assets” of this form fully. **Do not answer Part A, even if it applies to you.**  You should enclose, as appropriate an up-to-date payslip, social welfare receipt, or Notice of Assessment from Revenue.  Once we have received the application form along with backing documentation, we will re-assess your financial eligibility. We may then, dependent on the outcome, decide to:  • take no action and proceed with your case as before;  • [reduce your contribution and refund you the difference] *(only within twelve months of date of application)*  • decide that you must pay a higher contribution; or  • stop your legal aid, if it is found that you are no longer financially eligible.  We will contact you with the results of the re-assessment and our decision on how to proceed in due course.  Yours sincerely,  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Jane Jones**  **Managing Solicitor** |

### Change in financial circumstances resulting in a reduced contribution

There will be occasions where the applicant’s financial circumstances may worsen. Where this occurs in the first twelve months following the date of the person’s application for legal services, the following procedure should be followed:

* The change in circumstances procedure should be run in the same way as it is run where the law centre becomes aware of an improvement in a person’s circumstances.
* The complete reassessment should be forwarded to Legal Services, who may arrange for a refund of the difference between the contribution initially paid and the lower contribution.

No refund of contribution will be made on the basis of deterioration in circumstances after 12 months have passed since the date of application for legal services.

### Circumstances where it is discovered that a client’s financial position is different from their statement of means

Circumstances may arise where it is considered that a client failed to disclose a source of income and/or a capital asset on their statement of means or capital. This may come to attention, for example, during the drafting and/or swearing of an affidavit of means. When an affidavit of means is sworn it should be compared with the applicant’s Application for Legal Services form at the earliest opportunity. If it deviates materially from the application form,

the change in circumstances procedure **must** be followed.

The completed re-assessment should be forwarded to Legal Services who may take a decision as follows:

* the applicant should pay a higher income and/or capital contribution;
* the applicant should pay the costs of the case as incurred; or
* the certificate should be revoked under Regulation 9 (4) (legally aided person has made an untrue statement as to his or her resources). In this case, the applicant is allowed a month to “show just cause” in writing as to why the certificate should not be terminated and during which period legal services should not be provided. Legal Services may decide to terminate rather than revoke the certificate if the applicant can show that he or she used due care and diligence to avoid the mis-statement – i.e., that the failure to include a source of income/capital asset was not deliberate.

## Frequently Asked Questions

**1. If an applicant’s only income is social welfare, is the minimum contribution payable only?**

Yes. An applicant whose disposable income does not exceed €18,000 per annum and who is in receipt of social welfare payments as the only source of income is liable to pay only the minimum income contribution of €130 for legal aid and €30 for legal advice. If the applicant has disposable capital in excess of €4,000 a capital contribution may also apply.

**2. An applicant’s income is social welfare, but the applicant also receives maintenance per Court Order. Does Regulation 21(10) apply?**

No. The contribution may be greater than the minimum, if the applicant is not dependant solely on social welfare payments.

**3. If an applicant is in receipt of maintenance is the amount taken as income?**

Yes.

**4. If an applicant pays maintenance whether by Court Order, agreement or voluntarily is the applicant entitled to claim the full child and spouse allowance?**

Where the applicant is paying maintenance, whether by order, agreement or voluntarily, the full amount paid should be inserted. Payment of this entitles the applicant to claim the amount paid as an allowance up to the maximum of the full spouse and dependant allowances, as appropriate.

**5. What is an ‘ex gratia’ payment?**

An ‘ex gratia’ payment is a payment made without any legal obligation, for example, payments made by a child of an applicant, if living at home, to the applicant. An allowance is given in respect of the first €20 per week.

**6. What are considered benefits or privileges?**

Benefits or privileges are considered as income where the Board is of the opinion that it may increase an applicant’s income e.g. free accommodation, company car.

**7. If an applicant is supported by his/her parents, are these monies taken into account for income assessment purposes?**

No. An applicant must have an entitlement to an income for it to be treated as income.

**8. If an applicant has been assessed with a high contribution for District Court proceedings, what is the actual contribution payable?**

The contribution payable for District Court proceedings is the maximum contribution, calculated in accordance with the Regulations, subject to an upper limit of the amount that the Board pays a private practitioner for such a case, including VAT. (as of January 2012, €417).

The Board has determined that the maximum contribution is set at the lowest rate payable to a PP for the type of case in question. For example, in a maintenance, access, and guardianship case, a PP might be entitled to claim an additional fee, however for the purposes of assessing the contribution, the maximum is still €417.

**9. If an applicant pays maintenance in respect of children only, does this entitle the applicant to claim the adult dependant allowance?**

No. An applicant must be supporting an adult dependant or be living with a spouse / partner before a spouse or adult dependant allowance is given.

**10. What is the disposable capital threshold?**

An applicant whose disposable capital exceeds €100,000 is not eligible to obtain legal aid or advice except in cases which fall in to Section 28(5) of the Act, i.e. where the applicant is instituting Child Abduction proceedings, cases under the Maintenance Act, 1994 and cases under the Sex Offenders Act, 2001 and other cases which come under section 28(5) of the Act.

**11. What is the disposable income threshold?**

An applicant whose disposable income exceeds €18,000 per annum is not eligible to obtain legal aid or advice except in cases which come under section 28(5) of the Act.

**12. Is an allowance given for the Universal Social Charge?**

Yes. An allowance for the full amount of the charge should be granted.

**13. Is an allowance given for the Public Service Pension Levy?**

Yes. In relation to the “pension levy” or the Pension Related Deduction applicable to public servants, an allowance for the full amount of the charge should be granted.

**14. What is a legally enforceable debt?**

Any debts which are due to be paid within the next twelve months, including any debts which are already outstanding and are due to be paid immediately. This might include Revenue arrears, arrears on bills that have gone to a credit control department, maintenance arrears, among others.

**FAQs regarding Passporting**

**1. What are the criteria for passporting?**

An applicant whose application is being passported must only be in receipt of social welfare payments, and the value of their capital assets must be less than €4,000.

**2. If a person is in receipt of social welfare payments, but receives spousal maintenance, are they eligible for passporting?**

No. For a person to qualify for passporting social welfare payment must be their only form of income.

**3. If a person is in employment, but also receives a social welfare payment (e.g. Half-Rate Jobseeker’s Allowance), are they eligible for passporting?**

No.

**4. We passported an applicant. But when they filled out their affidavit of means, it became clear they would not have been eligible for legal services based on the normal criteria (for example, because their capital assets clearly exceeded €4,000).**

The “change in circumstances” procedure may apply. Contact Legal Services for a direction where circumstances like this arise.

.

**FAQs regarding the 2013, 2016, and 2017 Regulations**

**1. What are the minimum contributions for legal services?**

The minimum contributions towards legal services are €30 for advice and €130 for aid.

**2. Does the aid contribution include the advice contribution?**

Yes, so if a person is assessed at the minimum, and they pay €30 for advice, they only have to pay another €100 upon acceptance of the legal aid certificate.

**3. What else changed in 2013 regarding contributions?**

All aid contributions above the minimum were increased by €80 over what they would have been under the 2006 Regulations. The formula for calculating the aid contribution is

* 1. Take the applicant’s disposable income and deduct €11,500
  2. Divide this figure by four
  3. Add €130.

**4. Is there a contribution payable in childcare cases?**

No. Persons applying for legal services to defend proceedings brought by the Child and Family Agency (Tusla) for a care order or supervision order don’t have to pay either an advice contribution or an aid contribution any more.

**5. What about international protection cases?**

Applicants in connection with an international protection application, or advice relating to a deportation order, pay a total contribution of €10 for legal services. There is no longer a separate advice and aid contribution in these cases.

This only applies to international protection and asylum seekers who apply to the Board for other matters are subject to the normal contributions although they may apply for a waiver.

**6.Did the eligibility thresholds change?**

The income eligibility threshold stayed the same (€18,000) but the capital eligibility threshold was reduced to €100,000 (from €320,000). The applicant’s family home remains excluded from the capital assessment.

**7. When did these regulations take effect?**

The new rules took effect for cases where the application was made or fully completed on or after Monday 16th September 2013.

**9. What rules do we apply if we have to use the change in circumstances procedure?**

When running the “change in circumstances” procedure, it is important to check the date the applicant originally applied. Where the application was made on or after 16th September 2013, the new Regulations should be applied and the re-assessment done using EOS.

Where the application was made on or before 13th September 2013, the re-assessment should be carried out manually according to the 2006 Regulations and Legal Services informed.

If an application was made between 1st February 2002 and 1st September 2006 the 2002 Regulations apply. There are not many live cases from before 2006 left. Seek the advice of Legal Services in the unlikely event you need to do a re-assessment under the 2002 or the 1996 Regulations.

**10. Were there any other changes in the 2013 Regulations?**

The 2013 Regulations also provided for the granting of allowances for USC and pension levy, and for the exclusion of certain social welfare payments from income. The Board had already introduced these changes on an administrative basis and so there were no operational changes in this regard.

**11. What changes were made in the 2016 Regulations?**

The 2016 Regulations provided that applicants seeking legal services in connection with the Government’s Free Mortgage Arrears Support service, Abhaile, do not need to be financially assessed nor do they need to pay a contribution.

**12**. **What changes were made in the 2017 Regulations?**The 2017 Regulations provided that applicants seeking legal services in connection with proceedings in the District Court under the Domestic Violence Act 1996 do not need to pay either an advice or an aid contribution.

**13. Do applicants for legal aid in connection with domestic violence proceedings in the Circuit Court need to pay a contribution?**Applicants for legal aid in connection with domestic violence proceedings in the District Court, which are then appealed to the Circuit Court, do not need to pay a contribution in connection with the Circuit Court Appeal.

However, if proceedings are **started** in the Circuit Court, then a contribution is payable.

11. Legislation regarding financial eligibility and contributions

Applicants ask from time to time why items such as hospital bills, utility bills, and other household expenses cannot be included in the financial assessment and/or determination of contributions.

The reason for this (which we point out in our standard refusal letter) is that the financial assessment is governed in general terms by the Civil Legal Aid Act 1995 as passed by the Oireachtas and in more specific terms by the Civil Legal Aid Regulations 1996-2017, made by the Minister under the Act. It is not within the Board’s power to go beyond these regulations or vary them in any specific case.

***Civil Legal Aid Act 1995***

The following sections of the Act are relevant to financial assessments and contributions:-

Section 29 sets out the statutory basis for financial eligibility and contributions and provides that:-

* a person must satisfy the financial eligibility requirements;
* pay a contribution by reference to disposable income and, where appropriate, disposable capital;
* if the costs of providing legal aid or advice are likely to be increased unnecessarily by the behaviour of the applicant, the contribution may be increased; and
* an applicant who reduces income or capital resources for the purposes of qualifying for legal aid or advice, will have those resources taken into account.

Section 26(3) (b)provides that persons “*shall qualify for legal advice free of any contribution*” for certain “*rape*” and sexual assault cases. Legal advice is also granted free of any contribution to potential victims of human trafficking who have been referred to the Board by the Garda National Immigration Bureau.

Section 28(5), (5A), (5B), and (5C)require that the Board grants legal aid certificates to a person without a means test in certain cases: child abduction, cases under the Maintenance Act 1994, to a complainant in certain sexual offence cases, to an otherwise unrepresented accused in certain criminal cases who is prevented from personally cross-examining a complainant (notwithstanding that such a person was entitled to apply for criminal legal aid), and to a complainant or witness in circumstances where there is an application for the release of counselling records.

***Civil Legal Aid Regulations 1996-2017***

The following Regulations are relevant to financial assessments and contributions:-

* Regulation 13 Financial eligibility and contributions towards the cost of services
* Regulation 14 Assessment of income and capital
* Regulation 15 Income
* Regulation 16 Disposable income
* Regulation 17 Maximum income contribution
* Regulation 18 Capital
* Regulation 19 Disposable capital.
* Regulation 20 Capital contribution
* Regulation 21 Contributions by persons in receipt of legal services

The **Civil Legal Aid Regulations 2013** came into force on 16th September 2013 and contained a number of significant amendments to the Civil Legal Aid Regulations 1996-2006 in relation to means testing. The principal changes in the 2013 Regulations were:

* applicants in childcare cases **pay no contribution**, provided that they are financially eligible for legal services
* the disposable capital threshold was **reduced to €100,000**
* asylum seekers applying in connection with an application for international protection **pay a total contribution of €10**
* The minimum advice contribution was **increased to €30** and the minimum aid contribution was **increased to €130** (this includes the advice contribution of €30).
* All aid contributions in excess of the minimum (that is to say, where an applicant’s disposable income is between €11,500 and €18,000) were **increased by €80** over what they would have been calculated at under the 2006 Regulations.

The 2013 Regulations also provided for a number of other changes to the means assessment which had been already implemented by the Board on an administrative basis, such as the exclusion of certain social welfare payments from the definition of income and the granting of allowances for USC and the public service pension levy.

The **Civil Legal Aid Regulations 2016** came into force on 23rd May 2016 and provided for applicants to the Abhaile scheme to be provided with legal services without having to undergo a financial assessment or pay a contribution. See 🡺 **Chapter 13.**

The **Civil Legal Aid Regulations 2017** came into force on 1st January 2018 and provide for applicants in connection with domestic violence proceedings in the District Court or on appeal to the Circuit Court to be provided with legal services without having to pay a contribution.

# Managing the applications record and offering appointments

This chapter deals with:

1. The applications record
2. Risk and the applications record
3. Offering information on family mediation
4. Identifying for referral to the solicitors panels
5. Identifying for referral to Law Centre (Montague Court)
6. Offering appointments to applicants
7. Paying and recording the financial contribution
8. Monitoring for payment of outstanding contributions
9. Requests from the courts for information about applicants

## The applications record

EOS can generate an applications record report for each law centre. This is a list of all applicants awaiting the provision of legal services from the law centre. It includes those awaiting a first consultation as well as those who have already had a first consultation and are awaiting the provision of further legal services after the first consultation.

The Board aims to give all financially eligible applicants an appointment with a solicitor within a period of one month from the acceptance of a fully completed application form.

Responsibility for the management of the applications record lies with managing solicitors.

For EOS purposes there are effectively two parts to the applications record:

* The first part consists of all applications where the applicant has been found financially eligible for legal services, but have **yet to receive a first consultation** (this corresponds to the APP003.First Consultation workflow). This includes all priority applications that have not yet received an appointment,
* The second part consists of those cases which have received a first consultation and are now **awaiting a second consultation** (this corresponds to the APP006.Awaiting Second Consultation workflow).

The majority of law centres now operate an applications record only of applicants who are waiting for a first consultation. The remainder of this chapter is written on the basis that this is the system in operation. Centres who continue to operate a two-part applications record should refer to the version of this Chapter in the Administrative Procedures Handbook, 11th edition (2017) where appropriate.

### Who is on the applications record?

The applications record on EOS is maintained in the order that an applicant was found financially eligible for legal services. For EOS purposes, the date the applicant is placed on the Applications Record is the date the milestone “Applications changed from an enquiry to a specific case type” is completed.

An application form that does not contain all the relevant information is not a completed form and an applicant cannot be placed on the applications record until all relevant information is provided. Processing of applications should generally be carried out within 48 hours of receipt of the application and the application placed on the applications record or written to refusing legal services (under s29 or s26(2) of the Act), as appropriate.

**Procedure 5.1 – Placing an applicant on the applications record**

1. Update the case type:
   1. Click the twisty beside the case number at the top of the page,
   2. Choose the new Case Category (Family or non-Family Law),
   3. Choose the new Case Type (eg Divorce, Contract etc),
   4. Click “Save Updated Case Details”.
2. Ensure that the milestone “Application changed from an enquiry to a specific case type” is completed. Complete, or mark as not needed as appropriate, any remaining milestones in the APP001 workflow.
3. In EOS, put the case into the **APP003.First Consultation** workflow.
4. Send the applicant the letter placing the applicant on the applications record below.
5. Place the application form and associated documents on a lever arch file marked “Applications Record”. The application should be placed on a lever arch file in order of the date it was received.
6. If the application is to receive priority, arrangements should be made for an appointment with a solicitor and the person’s name taken off the applications record.

It is **important that the case be updated to a Family Law or Non-Family Law case type at this point,** as it will not be placed on the applications record in EOS if you do not do so. If the application form is unclear as to what the correct case type then the nearest approximate case type should be used and, if necessary, the case type updated again to the correct case type following the first consultation.

* **Complete the “Application changed from an enquiry to a specific case type” milestone in EOS. This completes the “APP001.Application Received” workflow.**
* **It is important that the case be updated to a Family Law or Non-Family Law case type at this point, as it will not be placed on the applications record in EOS if you do not do so**
* **When you update the case type, the risk and priority settings are reset back to the default settings for that particular case type. Users must review the Risk and Priority settings after updating the case type and change if necessary**

### APP003.Placed on applications record

*APP003.First Consultation workflow*

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

I refer to your application for legal services received on [date stamped]

[Due to a conflict of interest your application has been forwarded by (location) Law Centre to this law centre]

Based on the information you have provided, you have been deemed financially eligible for legal services. This does not necessarily mean that a solicitor will act for you in court proceedings as this will also depend on the merits of the case.

Owing to the demand for legal services at the law centre, we are not in a position to offer you an appointment with a solicitor at the moment. The waiting period for a first appointment is approximately [number] weeks. When we are in a position to offer you an appointment with a solicitor we will contact you. Your legal advice contribution will be [€30] which is payable at the time of your first consultation.

Should it be necessary to bring legal proceedings, and if you are granted a legal aid certificate, your legal aid contribution will be [€130], which is payable on acceptance of the certificate. Your solicitor will discuss this further with you at your consultation.

It is very important that you notify the law centre immediately of any changes in relation to your address or your means.

[(To be included for family law related applications only) I note that you are applying for legal services in relation to a family law matter. A solicitor will give you advice when we are able to offer you an appointment. In the meantime you may wish to consider attending relationship counselling (if you have not already done so and if you believe that it may be of assistance to you). If you are of the view that the relationship is over, you and your spouse/partner may wish to consider attending mediation. Mediation is a process that encourages parties to try and reach their own agreement on issues that generally arise following a relationship breakdown e.g, child welfare, maintenance, property matters. The mediator’s role is to try and facilitate both parties in reaching an agreement. Mediators do not impose a solution. There is a relatively limited State funded mediation service which is free. Private mediators also provide mediation services though there is a fee to attend. There are waiting lists in relation to the State funded scheme. If you are interested in seeking mediation, you might contact this office for details of some of the mediation services available. You may also wish to make an appointment to get further information from a non solicitor member of staff. Your solicitor will talk to you about these matters in due course.]

[I note proceedings are pending. You may wish to send a copy of the attached letter to the relevant court office and to the solicitor for the other party to these proceedings. You would attend at Court on the ………….. 2016, taking with you a copy of the attached letter, and make an application for an adjournment on the basis that you are awaiting legal representation. You might then advise me of the adjourned date.]

[(To be included in relation to personal injuries and medical negligence only). I note that you are applying for legal aid in relation to a claim in medical negligence / a claim in negligence/assault in personal injuries. Private solicitors will often agree to take on such cases on the basis that they will not charge you unless a settlement to your benefit or judgement in your favour is obtained (in which case they will generally take their costs out of the settlement or judgement and will agree this in advance). You should arrange, at the earliest opportunity, to visit a private solicitor and ask them to take on your case on that basis. If (s)he refuses to do so you should obtain a letter or other evidence to that effect and visit a second private solicitor and repeat the process. If after this a private solicitor will not take on your case on this basis you should retain any letters or evidence you have obtained and bring them with you to your first consultation.

We will continue to process your application even if you fail to provide these letters. If you do not provide us with them, however, this may be a reason for refusing you legal aid, should an application for a legal aid certificate ultimately be made on your behalf]

\*Please note that your application for legal aid will be assessed following your first appointment with a solicitor. A decision as to whether to grant you legal aid will be made subsequent to that assessment.

If you have any questions in relation to any of the above please do not hesitate to contact me.

Yours sincerely,

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Law Centre ( )**

* **EOS It is important to ensure the “Application changed from an enquiry to a specific case type” is Completed. If this milestone is marked not needed, the case will not appear on the Applications Record reports.**
* **Complete the “Place on applications record” milestone.**

Except for a priority application, and subject to the provisions in section 8 of this Chapter in relation to referrals to private practitioners, applicants are given appointments to attend for a triage appointment with a solicitor by reference to their position on the applications record. An incomplete form should be re-dated to the date on which all relevant information was provided. Separate applications records may be maintained where a centre is operating a part-time or a conflict clinic.

Having been found financially eligible or passported, an applicant is considered to be on the applications record until one of the followings things happen:-

|  |  |
| --- | --- |
| **Circumstance** | **Action to be taken on EOS** |
| They request to be removed from the applications record (effectively, they withdraw their application for legal services); | Mark all steps on current workflow as Not Needed then close application with the outcome “Application not pursued” or “Closed after first consultation (triage) appointment”, as appropriate. |
| They are given an appointment; | Complete APP003.First Consultation workflow and APP006.Awaiting Second Consultation workflow and place in case-specific Second Consultation workflow. |
| They are referred to a private practitioner; | Complete APP005.Refer to Private Practitioner workflow and close file. |
| They fail to attend anappointment. | Complete APP003.First Consultation workflow (making sure to mark “First Consultation Attended” as “Not Needed”) and close file with the status “Application not pursued”. |

For reporting purposes only, all applicants in the APP005.Refer to Private Practitioner workflow are excluded from the applications record reports while they remain in that workflow. See also 🡺 **Chapter 6.**

### Placing a priority application on the applications record

Priority applications are placed on the applications record in exactly the same way as regular applications. Until they receive their first consultation, they should be placed and remain in the APP003.First Consultation workflow in EOS.

### Viewing the applications record

Users can view the applications record by running the report Applications Record – Awaiting First Consultation. This report is correct as of close of business the previous day. For information on how to run reports, see 🡺 **Chapter 10.**

## Risk and the applications record

***Risk reports in law centres***

A Risk Register report has been developed and is available to all staff in the law centre. The report lists all cases in the law centre which have been assigned the High risk category, by solicitor and then by case type. Details given include the Applicant, Case No, Statute Expiry Date, Date of Application, and Case Status. As with all EOS reports, the report is correct as of the close of business the previous day. See 🡺 **Chapter 10** for further details.

With regard to risk management and limitation periods, there are two main areas of concern for the Board:-

(a) persons on the applications record; and

(b) existing clients.

### Persons waiting for an appointment

The efficient and effective management of applications records is an essential part of risk management in the Board. Applications records must be actively managed on EOS and must be reviewed on a regular basis to:-

* ensure that only appropriate cases are on applications records i.e applicants that are financially eligible and satisfy other criteria of the Act,
* identify relevant cases to be assigned a high risk; and
* ensure priority cases are dealt with appropriately.

Managing solicitors are required to:-

* personally examine application forms received on a weekly basis;
* determine what applications should be assigned a high risk;
* determine the date of accrual of the action and the limitation period. Where necessary, the managing solicitor should seek further information from an applicant in order to determine the applicable limitation period, when the time started or will start to run, and when the period expires. It is recognised that in many cases it may not be easy to establish the limitation period. In those circumstances the earliest possible date of expiry should be entered. It is acknowledged that there may be an element of guesswork involved;
* ensure that applicants who are potential plaintiffs in actions for medical negligence/personal injuries are aware of the estimated expiry of the statute of limitations date, and the likelihood that an application for a legal aid certificate for the institution of such proceedings may be refused in the absence of two letters from private solicitors indicating that they are unwilling to accept the case on a “no foal no fee” basis.
* personally, or with the assistance of support staff ensure that the risk tab in EOS is utilised fully;
* determine what applications should be prioritised where there are potential statutory deadline issues; and
* put a system in place to ensure that all staff are aware of:-
* the implications of limitation periods;
* when cases should be referred to PIAB, having regard to 🡺 **Chapter 3** of this Handbook; and
* the provisions of the Handbook and Circular in relation to priority being given to new applicants seeking legal services where, there is a danger that the time limits for issuing proceedings may expire, unless immediate action is taken.

### General

In addition to the above managing solicitors are required to:-

* insert in the shared diary all limitation dates;
* monitor the risk register on a weekly basis;
* ensure that all risk cases remain categorised as high risk until the file is closed; and
* identify completed cases / closed files that should be closed on EOS.

It is the Managing Solicitor’s responsibility to monitor the risk report to ensure cases, for which statutory deadlines are approaching, are dealt with appropriately. For this reason the managing solicitor should run and review the report on a weekly basis.

## Offering information on family mediation

The Board often receives applications for legal services in relation to disputes over custody of (primary care and control of), access to (contact with), and guardianship of (parental responsibility for) children, and maintenance. It is considered that these matters are the most suitable for resolution through the use of family mediation.

Where an application for legal services is received in relation to one or more of these matters, and the applicant is not an existing client of the law centre (with an open file) for any other family law matter, and it is established that there are no domestic violence issues, the application should be processed and if found financially eligible, placed on the applications record as normal.

The options available to a law centre in such cases are:

* offer the applicant information on family mediation, with the option of referral to family mediation if the applicant so wishes;
* give the applicant a regular appointment, when there is a solicitor available to do so; or
* refer the applicant to the District Court private family law solicitors panel, if the law centre is located outside Dublin and is able to do so having regard to the restrictions in place for use of the panel.

Offering applicants information on family mediation is optional. At the same time, the Board encourages law centres to do so in all cases where the application is suitable for referral.

*Offering an applicant information on family mediation*

The applicant may be written to using the standard letter below and invited to attend a short information meeting with a paralegal at the earliest opportunity.

### APP003.Initial information meeting letter

*APP003.First Consultation workflow*

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_. Based on the information you have provided, you have been deemed financially eligible for legal services.

[The Board would like to offer you an appointment with a non solicitor member of staff [on \_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_. Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to confirm your attendance.]

OR

[Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to organise the exact time and date of

your appointment].

We note that you have applied for legal services in relation to a family matter. The purpose of

this appointment is to discuss options as to how you might go about resolving the problem.

We will not be giving you legal advice at this meeting, simply information about the options available

to you. You are not required to make any payment for this appointment.

We will at a later stage offer you an appointment with a solicitor. In this case your legal advice contribution will be € \_\_\_ which is payable when you see a solicitor. Should it be necessary to bring legal proceedings, and if you are granted a legal aid certificate, your legal aid contribution will be € , which is payable on acceptance of the certificate. Your solicitor will discuss this further with you at your consultation.

If I do not hear from you within 30 days of the date of this letter I will presume you no longer wish to proceed with your application for legal services and/or mediation and your file will be closed. This does not prevent you from reapplying again at a later stage.

Yours sincerely,

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Law Centre ( )**

At the meeting, the paralegal should use the script below to discuss the applicant’s options including the possibility of family mediation.

### APP003.Initial information meeting script

*APP003.First Consultation*

|  |
| --- |
| I see from your application form that your application is in relation to family law. I will process your application and let you know whether or not you are eligible for legal aid. There is a waiting list for legal services, so it will take some time before you can see a solicitor.  In the meantime, there is a family mediation office [here] [nearby at INSERT LOCATION] and we recommend that you meet with a mediator to see if mediation could help you. It is a free service and you can attend mediation while you are waiting to see a solicitor.  You start by meeting with the mediator, so they can explain how it works. Mediation is all about helping you and the other party make good decisions together. When decisions are made together it is easier to abide by what you agreed.  I can bring you down to the office and introduce you to the staff there.   * Mediation helps people make their own decisions. * Mediation is particularly helpful for parents and children. * The mediator doesn’t tell you what to do but helps you discuss and agree what is best for you and fair for all involved. * Mediation focuses on the future rather than the past. * It is voluntary. If you find it is not working for you then you are free to stop. * It is a confidential service. The mediator will not discuss your business with anyone else or testify in court. * You are free to take legal advice during the process. |

If the applicant indicates a willingness to attend mediation, they should be referred to the law centre’s paired mediation office using the letter below. 🡺 Consult Chapter 6 for details of where your law centre’s paired mediation office is if you do not know. If there is another mediation office which it is more convenient for the applicant to attend you may refer them there instead.

### APP003.Referral letter to family mediation

*APP003.First Consultation*

****

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016  
  
**RE: APPLICATION FOR LEGAL SERVICES**

Dear

We note that you have applied for legal services in relation to a family law matter and that you recently attended with us for an information meeting where we discussed options for the resolution of your problem. At this meeting you indicated to us that you wished to try to resolve your problem by means of family mediation.

You should now make contact with a mediation office directly to arrange an appointment. The contact details for the nearest mediation office are:

**Mediation Office (Dublin)**

**1 Main Street**

**Dublin D01 AB12**

**Tel: 01: 111 2222**

Your name will remain on our applications record for legal services. If you resolve your problem by means of family mediation, you should contact us at the earliest opportunity to ask us to remove your name from our applications record.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Law Centre (\_\_\_\_\_\_\_\_\_\_)**

A person referred to family mediation should remain on the applications record unless they contact the law centre to withdraw their application and should be offered their first consultation as usual when the law centre is ready to do so.

## Identifying for referral to the solicitor’s panels

An applicant can be referred to a solicitor in a private firm who has agreed to act in certain family law cases.. Legal Services maintain lists of private solicitors who have agreed to act in certain District Court family law cases and Circuit Court family law cases, and who have been placed on the Board’s solicitors panels for such cases.These panels are available on iLAB under “Private Practitioner Panel”.

The principal District Court matters that are eligible for referral to the solicitors panel are:

* domestic violence cases (which are prioritised);
* custody, access, guardianship, and other applications under the Guardianship of Infants Act 1964; and
* maintenance

In Dublin, only the Dolphin House Service is usually authorised to make referrals to the solicitors panels. Outside Dublin, law centres may make referrals to the solicitors panels subject to the guidelines and restrictions which may be placed on the service from time to time (see 🡺 **Chapter 6**).

In international protection matters, clients may be referred to a private solicitor from the advice stage of the case in line with certain limits set down by the Director of Civil Legal Aid from time to time.

### General guidelines for referral to the solicitors panels

Detailed procedures for referring cases to the solicitors panels can be found in 🡺 **Chapter 6**

Managing solicitors (or where authorised, a designated staff member acting under delegated authority from the managing solicitor) are not precluded from referring out a case to the District Court Solicitors Panel merely because it is not the next application on the applications record. If the case is likely to be referred to the panel on account of the demand at the Centre, a conflict of interest or for geographical reasons, an early decision should be made in relation to the referral. No case should be referred out ahead of an earlier case on the applications record where the reason for referral is the same e.g, if a case is being referred out because of the level of demand at the centre, it should not be referred out ahead of another similarly referable case.

There is no issue with referring an applicant to a private solicitor where the other parties’ application has been processed by the law centre and referred to a private solicitor or indeed seen by a law centre solicitor. However, where the latter is the case, the second party to apply must be referred to a private practitioner without seeing a solicitor in the law centre i.e while on the applications record for a first consultation.

In principle, a person who applies for legal aid for an appeal who had been referred to the solicitors panel should be referred again for the appeal.

**There is NO difference in the applications procedure between a case which is referred to the solicitors panel and one which is not. It is simply a different method of providing a service.**

**A decision to refer any client to a panel may only be taken by a managing solicitor or designated staff member who must act in accordance with management guidelines in relation to referrals set out in 🡺 Chapter 6.**

### Circuit Court solicitors panel

A solicitors panel also exists for divorce and judicial separation cases in the Circuit Court. The authorisation of the Director of Civil Legal Aid/Regional Manager must be sought where it is proposed to refer any Circuit Court judicial separation or divorce case to a private solicitor.

## Identifying for referral to Law Centre (Montague Court)

The Board operates its Law Centre (Montague Court) in Dublin, specialising in medical negligence and personal injuries cases.

Any application for legal services which appears to relate to a medical negligence matter should be brought immediately to the attention of the managing solicitor who should direct that the application be referred to Law Centre (Montague Court), if the managing solicitor is satisfied that the case appears to relate to a medical negligence matter (i.e. a case involving alleged negligence in relation to the provision of medical services).

Managing solicitors should make a direction to refer a medical negligence case to Montague Court unless there is a specific reason for retaining the case in the law centre; if necessary, the views of the Director of Civil Legal Aid may be sought. Full procedures for referring medical negligence cases to Law Centre (Montague Court) can be found in **🡺 Chapter 6.** From time to time directions may be given by the Director of Civil Legal Aid that Medical Negligence applications be directed elsewhere.

Montague Court also deals with personal injuries cases. At present all plaintiff personal injuries cases should be referred to Montague Court.

Where a case has been selected for referral the instructions for making the actual referral can be found in 🡺 **Chapter 6.**

## Offering appointments to applicants

We aspire to ensure that all financially eligible applicants for legal services receive a first consultation with a solicitor within a month of their application. Certain matters are prioritised and will be given the earliest possible appointment with a solicitor (🡺 **Chapter 3**). The remainder of applicants remain on the applications record until an appointment with a solicitor can be given, by reference to their date of complete application (the date the milestone “Application updated from an enquiry to a specific case type” in APP001 is marked Complete).

It is not necessary for an applicant to have a first consultation in the law centre prior to being referred to a private practitioner. That being the case, the applicant having received a first consultation is not a bar on the law centre subsequently referring the case to a private practitioner.

### Offering first consultations

* Applicants for priority matters should be offered first consultations ahead of all other applicants on the applications record; and
* Applicants within the same priority class should be offered first consultations based on their date that their application was completed (i.e. the “Date Financially Eligible” on the Applications Record – First Consultation report).

Not every applicant may be able to travel to the law centre for the purpose of a triage appointment, e.g. they may be in a nursing home or in prison. Efforts should be made to see such persons in accordance with the procedure herein, however, there may need to be some relaxation on the time limit of one month. It is acknowledged that depending on the ease of access to the person, e.g. if they are in prison, it may not be practical to provide a triage or advice appointment in person and it may be more appropriate to offer the service by telephone.

All law centres are required to use the standard letter on the next page for the purpose of offering an applicant a first consultation. This sets out clearly the arrangements for the provision of this service and the nature and extent of the service being offered. This letter must not be amended without prior reference to the Director of Civil Legal Aid.

### Offering a first consultation by telephone

In certain circumstances, a solicitor can conduct the first consultation by telephone.

You can offer a telephone first consultation, with the approval of the solicitor with conduct of the file (or if a solicitor has yet to be assigned, with the approval of your managing solicitor) in the following circumstances

* where a limitation period is about to expire and instructions need to be taken as soon as possible in relation to instituting proceedings
* where the applicant is defending already instituted proceedings with an imminent pending court date.
* where the applicant indicates that they are unable to attend the law centre on the first consultation date offered
* applicants who cancel appointments (but only in the circumstances outlined later on in this Chapter)
* applicants to Law Centre (Montague Court) who are not based in Dublin or the surrounding counties.
* where the applicant is in a nursing home
* where the applicant is in prison

Where it is intended to offer the applicant a first consultation by telephone the administrative procedures attaching to face to face consultations should be adhered to as much as possible, in particular the legal aid contribution should be paid using the electronic payment procedure (see page above) if the contribution has not already been paid.

APP003.Offer first consultation appointment  
*APP003.First Consultation workflow*

|  |
| --- |
| **PRIVATE AND CONFIDENTIAL**  Mr John Smith  1 Main Street, Ballymore  Co. Dublin 1st June 2016  **RE: LEGAL SERVICES – PLEASE READ CAREFULLY**  Dear Mr Smith,  I refer to your application for legal services dated \_\_\_\_\_\_\_\_\_\_\_. Based on the information you have provided, you have been deemed financially eligible for legal services. This does not necessarily mean that a solicitor will act for you in court proceedings as this will also depend on the merits of the case.  We are in a position to offer you an appointment with a solicitor [on \_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_. Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to confirm your attendance.]  OR  [Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to organise the exact time and date of your appointment].  If we do not hear from you within ten days of the date of this letter then we will assume you are no longer in need of legal services. This does not prevent you re-applying at a later date.  [Your legal advice contribution will be € \_\_\_ which is payable at the time of this consultation. You may pay your contribution by cash, bank draft, or credit/debit card. Should it be necessary to bring legal proceedings, and if you are granted a legal aid certificate, your legal aid contribution will be € , which is payable on acceptance of the certificate. Your solicitor will discuss this further with you at your consultation.]  It is very important that you notify the law centre *immediately* ofany changes in relation to your  address or your means. For your information I also enclose a letter outlining our standard  terms and conditions of engagement. I also enclose a fact-gathering sheet which you should  complete and return to us prior to your appointment. The information collected will assist the  solicitor in preparing for your appointment.  [(For persons applying for legal services in relation to personal injuries or medical negligence) I note that you have applied for legal services in relation to [medical negligence] [negligence/assault resulting in personal injuries]. When we placed you on our applications record we advised you to consult with two private solicitors to ask them to take on your case on a “no win no fee” basis. You should bring evidence that you have done so and they have declined to take on your case on that basis. If you do not do so the solicitor will still see you and give you advice however any future application for authority to represent you in Court may be accompanied by a recommendation that it be refused under section 28(4)(a) of the Civil Legal Aid Act 1995 on the grounds that you could obtain the cost of the proceedings the subject matter of the application from another source.]  We will continue to process your application even if you fail to provide these letters. If you do not provide us with them, however, this may be a reason for refusing you legal aid.  Please note law centre staff are not in a position to supervise children who accompany applicants / clients to the law centre. It is therefore advisable to make alternative arrangements for children who require supervision. If you have any questions in relation to any of the above please do not hesitate to contact me.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **Law Centre (Insert)** |

The precedent letter of engagement below must be sent with the above letter. **The letter of engagement may not be altered without the prior consent of the Director of Civil Legal Aid.**

APP003.Letter of Engagement *APP003.First Consultation workflow*

**LETTER OF ENGAGEMENT**

**Terms and conditions**

[*Date*]

Dear [*applicant’s name*],

We look forward to seeing you at this Law Centre for an appointment shortly. This letter explains our terms and conditions while we are working for you. It is important that you know what to expect and understand what our service involves. We will be happy to answer any questions you may have when we meet.

**1. Your application and what we will provide**

The services we provide are restricted to what is contained in your application form. You may have to make a new application if you require legal services for another matter.

In your application form you have confirmed certain matters, including your financial circumstances, and you must tell the Board of any change in those circumstances. It is important to tell us of any change in your financial circumstances as soon as you become aware of this as such a change may impact on either (1) the ability of the Legal Aid Board to continue to provide legal services to you or (2) the amount of the contribution that you have to pay to the Legal Aid Board for the service being provided to you.

**2. Early appointment**

We aim to provide you with an appointment with a solicitor within a period of 6 weeks of your completed application. There are occasions when you might have to wait a bit longer for that appointment, due to demands on our service, but we will let you know if this is the case. At this appointment the solicitor will give you legal advice about your problem. We will write to you after this appointment and let you have a note of the advice given to you on that occasion. However, because of the level of demand for services at the Law Centre, it may be some time before we can offer you a further appointment or provide legal representation to you in relation to any court proceedings.

**3. Discussing your expectations**

We will discuss your expectations and tell you whether we think they are realistic. After you have met a solicitor and it is decided that you need a further appointment, it is important to us that you understand what is happening in your case and we will keep you informed as your case progresses. We will also explain to you the reason for any delays that may occur. Delays may occur for reasons that are beyond our control.

**4. Giving instructions**

It is important that you give us clear and accurate instructions from the very beginning. Once we are able to give you a continuing service (if one is required) we will do our best to carry out the agreed instructions and to give you a professional service and help you resolve your problems.

When we receive your instructions, we will explain your legal options to you. If there is anything you do not understand, please tell us right away so that we can answer your questions. We will then agree with you how best to proceed.

We may need to update your instructions from time to time, for example if:

- new issues or information arise;

- events take an unexpected turn; or

- we need more information from you.

**5. Contacts between you and the Law Centre**

The staff at this Law Centre comprise solicitors, paralegals and Clerical Officers, all of whom are experienced in handling legal files. We operate as a team in order to provide the best service possible to our clients. Not all interaction needs to be between you and a solicitor. Other members are qualified to deal with certain aspects of your file and they will do so. While you are a client of ours certain matters may be handled by experienced non solicitor staff acting under the supervision of the Law Centre solicitors. Although a particular solicitor may be allocated to deal with your file, there may be occasions when your case may be transferred to a different Law Centre solicitor.

The Law Centre will try and help you through what may be a very difficult time. We will be courteous to you and treat you with respect. We likewise expect you to treat our staff with courtesy and respect.

**6. Keeping in contact**

After your second consultation with a solicitor you may need ongoing services from us. The following are suggestions and information which we hope will allow us to work together in your best interests:

**Respond to our requests for instructions**

If we need further information from you it is important that you respond quickly as otherwise we may not be able to progress the matter on your behalf. Failure to provide the necessary information can sometimes damage a person’s case and in some instances we may have no choice but to seek to terminate legal services and stop acting for you.

**Letters and emails**

Our practice is to keep you informed in writing of any major events that happen in relation to your case. If you write or email us we will respond to you as soon as we are in a position to do so. However, it is not envisaged that you will need to contact us any more than once a week. Please understand that excessive communication puts a strain on our resources and excessive emailing or telephoning may amount to unreasonable behaviour which could lead to legal services being terminated. Examples of excessive communication are the following:

- Emailing and telephoning us after you have been requested not to contact us but to await further contact from us;

- Unsolicited emailing more than once a week;

- Emails in excess of four A4 pages (using Ariel font size 12), including any attachments, unless such emails are in response to specific requests for information/documentation from us;

- Calling unnecessarily and/or excessively to the law centre.

We will send any emails using a ‘secure’ system to make sure that they remain private. We will explain to you how this system works and what you need to do if we are emailing you.

**Personal callers and appointments**

Solicitors only see clients by appointment. This is so that appropriate time can be allocated to each case and other work is not disrupted. Please do not bring children with you to the law centre as they cannot be left unsupervised on the premises.

**Telephoning us**

If you contact us by telephone and your solicitor or paralegal is not available, you may leave a message and he or she will return your call as soon as possible (usually within five working days).

**Unauthorised recording of Legal Aid Board staff**

The Board operate a strict policy that is unacceptable to record a conversation that you have with a member of our staff, and that includes solicitor/client consultations, without the express permission of that member of staff. Unauthorised recording of any conversation with any staff member of the Legal Aid Board, whether at the Law Centre or otherwise will be considered unreasonable behaviour such that may lead to the termination of all legal services to you.

Each case we deal with is unique to the person. For most cases a client would rarely need to contact us more than once a week. Given our resources we cannot give a commitment that more frequent contacts will be returned.

**7. Timescale for your case**

We will estimate how long your case is likely to continue. As your case proceeds we will let you know what stage we have reached and what and when the next steps will be. This will save you having to inquire about your case. If any event occurs that will delay your case, we will let you know and give you our best estimate of a new timescale.

**8. Making a complaint**

Good communication between us will guarantee the best possible outcome. However, if you wish to make a complaint about any aspect of our service, we have in place a Complaints Procedure, a copy of which is available at any Law Centre or on the Board’s website, www.legalaidboard.ie.

**9. Confidentiality**

Our staff have strict obligations under the law to keep client information confidential. The relationship between you and the Law Centre is the same as if you had a private solicitor acting for you. Authorised staff of the Board may seek information and review the work done by solicitors to make sure that you are getting a professional service.

The Legal Aid Board is committed to protecting your data rights and the privacy of your data, in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

In common with any modern service provider, the Board keeps files in electronic format. In applying for legal services you consent to the storage of your information in electronic format. The Board maintains high levels of information security and maintains strict arrangements to prevent unauthorised use of data. We promise not to use your information other than to provide you with a professional service and for periodic anonymous statistics to assist us in delivering a better service.

It will be necessary, from time to time, to share your data with others, in particular, when employing experts and/or barristers on your behalf and also in accordance with the Board’s Complaints Procedure or in the event of a request by you for a change of solicitor. Furthermore, your file will be subject to review and audit pursuant to the Board’s normal file review or audit processes.

**10. Prevention of Crime**

Under anti-money laundering regulations, we may need to be sure of your identity and source of assets before we can take on your case.

Identity – you may have already given us evidence of your identity, such as your driving licence or passport, and also given us a document showing your permanent address.

Source of assets – any funds or property that you ask us to deal with must have been legally obtained. If we become aware or suspect that these assets come from an illegal source, we must notify the Gardaí and the Revenue Commissioners without telling you, except in limited circumstances. We will immediately stop acting for you if we have to report illegal assets.

Even when we are not obliged to report to the authorities, we cannot transfer any assets or property funded by the proceeds of crime. This includes funds that have not been declared for tax purposes or that have been obtained by false means. In this situation, you would have to legalise your position before we could act on your behalf.

**11. Employing barristers and experts**

We will only employ barristers and other experts if we believe they will assist your case and if you give us permission to do so. It is important to remember that, ultimately, you may have to reimburse the Legal Aid Board for the costs and outlay incurred in your case (See Paragraph 12 below) so you need to carefully consider whether the services of a barrister or other experts are required. We will ask you if you have any preference for any particular barrister or expert. However, any barrister chosen must be on the panel of Barristers who agree to provide services to the Legal Aid Board pursuant to the “Terms and Conditions for the Retention of Counsel” and any expert retained must accept payment for his/her services in accordance with the schedule of fees that may be paid pursuant to the Legal Aid Board’s “Fees and expenses for professional and expert witnesses”. We will select professionals who we believe are competent, but we are not responsible for the negligence of anyone we employ on your behalf.

**12. Cost of services**

The law requires solicitors to set out the basis on which fees are charged to a client. All legally aided clients make a payment before they see a solicitor (an advice contribution) and a further payment before their solicitor represents them in court (an aid contribution). The amount of the payment is based on your income and all your resources may also be considered. You have already been advised of the amount of the advice contribution. Your contribution may be revised if your circumstances change. You are required to notify us of any change in your financial circumstances.

The contribution may not be the only payment that you have to make depending on what happens in your case. In certain circumstances, you may have to reimburse to the Legal Aid Board the full costs and outlay incurred in providing legal services to you. This generally arises where any money is recovered for you or where property (other than your home) is either recovered or preserved for you. The circumstances when such costs and outlay may have to be paid back to the Legal Aid Board will be explained to you by your solicitor. You should also be aware that there may be some incidental expenses not covered by legal aid. We will inform you of these as they arise.

You need to bear in mind that incurring expenditure on your behalf is no different to when you engage a solicitor in private practice. We will only seek to incur expenditure that is necessary for your case. As this expenditure will add to the costs that you may ultimately have to pay back to the Legal Aid Board then we will discuss this with you in advance of incurring such expenditure.

If you do recover any money when we are acting for you then this money must, by law, be paid to the Board. This is to enable the Board to recover the costs of providing the service to you, if appropriate, and then issuing a cheque to you for the balance.

It is the Legal Aid Board’s policy to pass on any interest paid on the amount lodged to you, while it resides in the bank where the Legal Aid Fund is held. However if the bank is, while the settlement monies are lodged to the account, charging a negative deposit interest rate (in other words, that it is charging for the funds to be held on deposit), then an amount equivalent to the interest charged will be deducted from the amount refunded to you.

Interest rates rise and fall from time to time and it is not possible for the Board to predict at this stage what the interest rate will be when and during the period any settlement is lodged to the Fund, or whether it will at that point be a positive or negative rate.

Costs will be calculated on the basis of:

- The appropriate solicitor’s professional fee;

- payments made to barristers;

- expenditure on professional, witness, and report fees; and

- other miscellaneous expenses.

The solicitor’s professional fee is assessed taking a number of factors in account such as:

- How complicated, urgent, and important the matter is;

- How difficult or new the questions about your matter or case are;

- The skill, specialised knowledge and responsibility of your solicitor and staff involved;

- The number of hours your solicitor and staff spend on your matter or case;

- The number and importance of documents your solicitor and staff prepare or examine;

- The value of any transaction that might be involved;

- Whether your solicitor has to travel to deal with the matter; and

- The circumstances in which your solicitor deals with the matter or case.

However, in the event that you are not successful in obtaining an Order that your costs are to be paid by the other side or you have failed to reach agreement that your costs will be paid by the other side then the solicitor’s professional fee shall be calculated solely on the number of hours spent on your case by our solicitors and will be charged at not less than the current standard Board rate of €150 per hour for each hour spent on your case by a solicitor. The time spent on your case will be determined by a number of factors including the ease with which information is made available, the level of engagement we have with you and how easy it is to achieve a resolution to the issues.

In most family law cases involving persons who are in receipt of legal aid, each party ends up paying their own legal costs. On rare occasions, the court may order that the legally aided person can get their costs from the other party. If this happens you have an obligation to assist the Board in taking all necessary steps to recover those costs.

In a family law case, it is most unusual for a court to order a legally aided person to pay the other party’s costs. If this does happen the Board will not be responsible for those costs and you will be personally liable.

In other types of cases (e.g. personal injury cases) if you lose your case, it is normal for you to be ordered to pay the winning parties’ costs. Again, the Board is not responsible and you will be personally liable for the costs.

If you have any questions or concerns about costs, please feel free to discuss them with your solicitor at any stage.

**13. Authority to endorse cheques**

Any settlement monies received on your behalf must be lodged to the Board’s account. When we receive cheques made out in your name, we need your authority to sign the back of the cheques so that the bank will then accept these cheques for lodgement to the Board’s account.

**14. Information from third parties**

When you instruct us to handle your case, you are giving us permission to get information from third parties to help us with your case or transaction, without asking for your permission again.

**15. Obtaining your file**

You can request a copy of your file and you may take your original file when your case is completed or we are no longer acting for you and satisfactory arrangements have been made in relation to any costs that might be due. We are entitled to copy this file to comply with solicitors’ regulations. Usually, we keep a client’s file for at least six years after it is closed and then destroy it.

If you need your file or information from your file, we can send this to you.

**16. General**

The terms and conditions described here are effective when we meet with you. Once again, if you have any questions about them, please ask us when we meet with you.

We look forward to working with you.

Yours sincerely,

**\_\_\_\_\_\_\_\_\_\_\_\_**

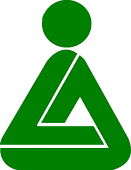
**Jane Jones**

**Law Centre (\_\_\_\_\_\_\_\_\_\_)**

### Information gathering

An information gathering sheet should be included with the letter to the applicant. The applicant should be asked to complete this sheet and return it to the law centre prior to the appointment. The information gathering sheets are specific to each case type. Where it is not possible to identify the matter from the applicant’s application form, the generic information gathering sheet should be used.

If the applicant has provided an email address, it is permissible to email (securely) the information gathering form to the applicant, who may then complete it electronically in Microsoft Word and then return it to the law centre via secure email. Instructions to the client on how to respond securely via email should be provided along the lines of those in 🡺 **Chapter 2.**

**Information Gathering – Family Law**

Office Use Only

App No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Case Ref: \_\_\_\_\_\_\_\_\_\_\_\_



**How to complete this form:**

* Please print letters and numbers clearly.
* Please use BLOCK LETTERS and place an X in the relevant boxes.
* Please answer all questions that apply to you. If a question does not apply to you, please insert “not applicable”.
* Should you require assistance a member of the Board’s staff will be pleased to help you in completing this form.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1. Nature of Matter**   |  |  |  |  | | --- | --- | --- | --- | | Divorce |  | Maintenance against unmarried father |  | | Separation |  | Claim against or division of marital property |  | | Nullity |  | Maintenance enforcement |  | | Custody |  | Childcare application |  | | Access |  | Child abduction |  | | Guardianship |  | Property ownership dispute  (unmarried cohabitees) |  | | Paternity Issues |  | Enforcing foreign orders |  | | Domestic Violence |  | Pension |  | | Family Home |  | Other family law issue |  | | Maintenance |  |  |  |   **2. Applicant Core Details** | | | | | | | | | | | | | | | |
| Title |  | Mr |  | Mrs |  | Miss |  | Ms |  | | Dr | Gender | | |  |
| Name |  | | | | | | | | | | | Previous surname (if any) | | |  |
| Mothers’ Birth Surname |  | | | | | | | | | | | Tel No |  | | |
| Mobile No |  | | | | | | | | | | | Email |  | | |
| Occupation |  | | | | | | | | | Source of income | | | |  | |
| Date of Birth |  | | | | | | | | | | | | | | |
| Marital status |  | | | | | | | | | Date of marriage | | | |  | |
| Nationality |  | | | | | | | | | PPSN | | | |  | |
| Do you have any special needs, illnesses or conditions | | | | | | | | | |  | | | | | |
|  | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | |

**3. Other Party Core Details**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Title |  | Mr |  | Mrs |  | Miss |  | Ms |  | | Dr | Gender | | |  |
| Name |  | | | | | | | | | | | Previous surname (if any) | | |  |
| Address |  | | | | | | | | | | |  |  | | |
|  | | | | | | | | | | |  |  | | |
|  | | | | | | | | | | |  |  | | |
| Mothers’ Birth Surname |  | | | | | | | | | | | Tel No |  | | |
| Mobile No |  | | | | | | | | | | | Email |  | | |
| Occupation |  | | | | | | | | | Source of income | | | |  | |
| Date of Birth |  | | | | | | | | | | | | | | |
| Marital status |  | | | | | | | | | Date of marriage | | | |  | |
| Nationality |  | | | | | | | | | PPSN | | | |  | |

**4. Marriage Details**

|  |  |  |  |
| --- | --- | --- | --- |
| Place of Marriage |  | Civil/Religious Ceremony |  |
| Living Apart Date |  | | |

Have you given us your marriage certificate? Yes No

**5. Previous Marriage & Divorce**

Were you previously married? Yes No

|  |  |  |  |
| --- | --- | --- | --- |
| Date of Previous Marriage |  | Date of Previous Divorce |  |
| Divorce Court |  | | |

**6. Previous Legal/Judicial Separation**

|  |  |  |  |
| --- | --- | --- | --- |
| Method | Deed of Decree of  Separation Judicial Separation | Date |  |

Issues covered:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Custody/Access |  | Maintenance |  | Domestic Violence |  | Other property |
| Family Home |  | Pension |  | Other |  |  |

**7. Children**

**Child 1:**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Please tick one of the following:** | | | | | | |
| Child of Marriage | | Adopted | Other Relationship | | | Not my natural child, but I act as parent (eg Stepchild, Grandchild, Fostered) |
| Name |  | | | Date of Birth |  | |
| School |  | | | Academic Year |  | |
| Address (if different to yours) |  | | | | | |
|  | | | | | |
|  | | | | | |

**Child 2:**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Please tick one of the following:** | | | | | | |
| Child of Marriage | | Adopted | Other Relationship | | | Not my natural child, but I act as parent (eg Stepchild, Grandchild, Fostered) |
| Name |  | | | Date of Birth |  | |
| School |  | | | Academic Year |  | |
| Address (if different to yours) |  | | | | | |
|  | | | | | |
|  | | | | | |

**Child 3:**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Please tick one of the following:** | | | | | | |
| Child of Marriage | | Adopted | Other Relationship | | | Not my natural child, but I act as parent (eg Stepchild, Grandchild, Fostered) |
| Name |  | | | Date of Birth |  | |
| School |  | | | Academic Year |  | |
| Address (if different to yours) |  | | | | | |
|  | | | | | |
|  | | | | | |

**If you’ve more than three children, include details on a separate sheet**

**8. Education Details**

Any special education needs? Yes No

Do you have to pay school fees? Yes No

Will there be a change in the above? Yes No

|  |  |
| --- | --- |
| Details |  |
|  |
|  |

**9. Childcare Details**

Which parent cares for the children day to day ? Mother Father Both

Do both parents work? Mother Father Both

|  |  |
| --- | --- |
| What days and hours do you work? |  |
|  |
|  |
| What days and hours does the other party work? |  |
|  |
|  |
| Child-minding arrangements  (term-time) |  |
|  |
|  |
| Child-minding arrangements  (school holidays) |  |
|  |
|  |

**10. Access arrangements**

|  |  |
| --- | --- |
| What days/weeks do the children normally spend at each parent’s address? |  |
|  |
|  |
| How does this change during the school holidays? |  |
|  |
|  |
| Do you plan any changes to the above? (Describe) |  |
|  |
|  |

**11. Maintenance arrangements**

Does the other party pay maintenance towards Yes No

the upkeep of the children?

|  |  |  |  |
| --- | --- | --- | --- |
| How much? |  | How often? |  |
| How do they pay? |  | By Court order? | Yes No |
| Any other contributions made towards supporting the children? |  | | |
|  | | |
|  | | |

Has maintenance for the children been agreed? Yes No

Will you require maintenance arrangements to be put in place? Yes No

|  |  |
| --- | --- |
| **12. Family Home** | |
| **Address** |  |
|  |
|  |

**Rented:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of Landlord:** |  | | | |
| **Landlord’s Address** |  | | | |
|  | | | |
|  | | | |
| **Monthly/Weekly Payments** | |  | **Tenancy Agreement?** |  |

**Mortgaged:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of Bank/ BuildingSociety** |  | | | |
| **Address** |  | | | |
|  | | | |
|  | | | |
| **Monthly payments** | |  | **Sole/Joint owners?** |  |
| **Purchase price** | |  | **Current market value** |  |

|  |  |
| --- | --- |
| **13. Other Property details** | |
| **Address** |  |
|  |
|  |
| **Description** |  |
| **Folio No** |  |

**If you’ve more than one other property, include details on a separate sheet**

**14. Pending Redundancy and Claims**

Are you or the other party likely to be made redundant Yes No

and to receive a substantial redundancy figure?

|  |  |  |  |
| --- | --- | --- | --- |
| **Likely redundancy date** |  | **Employer** |  |
| **Years employed** |  | | |

Have you or the other Party has issued any other type of Proceedings Yes No

(e.g Personal Injuries Proceedings) for which you/they are likely to receive a lump sum?

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Court** |  | District |  | Circuit |  | High | **Claim** | € |

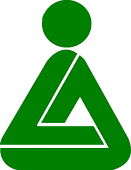
**15. Pension:**

|  |  |  |  |
| --- | --- | --- | --- |
| Name on pension |  | Type of Scheme |  |
| Number of years service (Defined Benefit) |  | Value of pension contribution (defined contribution) |  |
| Trustees’ Names |  | | |
| Trustees’ Address |  | | |
|  | | |

**15. Domestic Violence**

Have you been the victim of domestic violence? Yes No

|  |
| --- |
| **16. Other relevant details** |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |

**Information Gathering – Non-family law**

Office Use Only

App No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Case Ref: \_\_\_\_\_\_\_\_\_\_\_\_



**How to complete this form:**

* Please print letters and numbers clearly.
* Please use BLOCK LETTERS and place an X in the relevant boxes.
* Please answer all questions that apply to you. If a question does not apply to you, please insert “not applicable”.
* Should you require assistance a member of the Board’s staff will be pleased to help you in completing this form.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **1. Applicant Core Details** | | | | | |
| Name |  | Previous surname (if any) | | |  |
| Tel No |  | Mobile No |  | | |
| Email |  | | | | |
| Occupation |  | Source of income | |  | |
| Date of Birth |  | | | | |
| Age |  | Gender | |  | |
| Nationality |  | PPSN | |  | |
| Employer’s Name |  | | | | |
| Employer’s Address |  | | | | |
|  | | | | |
|  | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **2. Other Party Core Details** | | | | | |
| Name |  | Previous surname (if any) | | |  |
| Address |  | | | | |
|  | | | | |
|  | | | | |
| Tel No |  | Mobile No |  | | |
| Email |  | | | | |
| Occupation |  | Source of income | |  | |
| Date of Birth |  | | | | |
| Age |  | Gender | |  | |
| Nationality |  | PPSN | |  | |
| Employer’s Name |  | | | | |
| Employer’s Address |  | | | | |
|  | | | | |
|  | | | | |
| **3. Family Home** | | | | | |
| Address |  | | | | |
|  | | | | |
|  | | | | |

**Rented:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of Landlord |  | | | |
| Landlord’s Address |  | | | |
|  | | | |
|  | | | |
| Monthly/Weekly Payments | |  | Tenancy Agreement? |  |

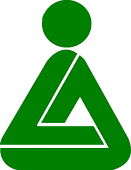
**Mortgaged:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of Bank/ Buildings Society |  | | | |
| Address |  | | | |
|  | | | |
|  | | | |
| Monthly payments | |  | Sole/Joint owners? |  |
| Purchase price | |  | Current market value |  |

|  |  |
| --- | --- |
| **4. Previous proceedings** | |
| Details |  |
|  |
|  |

|  |  |
| --- | --- |
| **5. Witnesses** | |
| Names and addresses |  |
|  |
|  |
|  |
|  |
|  |  |

|  |
| --- |
| **6. Other relevant details** |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |

**Information Gathering – Personal Injuries**

Office Use Only

App No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Case Ref: \_\_\_\_\_\_\_\_\_\_\_\_



**How to complete this form:**

* Please print letters and numbers clearly.
* Please use BLOCK LETTERS and place an X in the relevant boxes.
* Please answer all questions that apply to you. If a question does not apply to you, please insert “not applicable”.
* Should you require assistance a member of the Board’s staff will be pleased to help you in completing this form.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **1. Applicant Core Details** | | | | | |
| Name |  | Previous surname (if any) | | |  |
| Tel No |  | Mobile No |  | | |
| Email |  | | | | |
| Occupation |  | Source of income | |  | |
| Date of Birth |  | | | | |
| Age |  | Gender: | |  | |
| Nationality |  | PPSN | |  | |

|  |  |
| --- | --- |
| **2. Date of Injury or Condition** | |
| Date of the Accident or the date you first became aware of your condition or illness |  |

Are you sure this is the correct date: Yes No

**3. PIAB**

Has this matter been referred to PIAB? Yes No

|  |  |
| --- | --- |
| **4. Injuries or Condition** | |
| Describe the injuries or condition for which you are seeking compensation | |
|  | |
|  | |
|  | |
| Where were you when you received the injuries or the condition was caused? |  |
| Was this a public place? | Yes No |
| What caused you to be there? |  |
| Are you aware whether the owner/occupier of the house land or building where the accident occurred or where the condition or injuries were caused had a policy of insurance in place at the time of the accident? | Yes No |
| If you are aware, do you have any details of the Insurance Company/Policy Number? |  |
| What was your status on the property? | Guest Invitee  Licencee Trespasser |

**5. Other Party Core Details**

Are you aware of the identity of the person or persons who

inflicted the injuries upon you or caused you to have the condition Yes No

or illness??

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Name | |  | Previous surname (if any) |  | |
| Tel No | |  | Mobile No |  | |
| Email | |  | | | |
| Occupation | |  | Source of income |  | |
| Date of Birth | |  | | | |
| Age | |  | Gender: |  | |
| Nationality | |  | PPSN |  | |
| Address | |  | | | |
|  | | | |
|  | | | |
|  | | | | | |
| Is this their current address ? Yes No  Date started living at this address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date ceased \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Other Residents \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   |  | | --- | |  |     **6. Motor Claim**  Is this a motor claim? Yes No | | | | | |
|  | | | | | |
|  | | | | | |
|  | | | | | |
| If the identity of the Defendant is unknown consider how this can be established. | | | | |
|  | | | | |
|  | | | | |
|  | | | | |

**7. Garda Investigation**

Was a Garda investigation carried out in relation to the accident? Yes No

|  |  |  |  |
| --- | --- | --- | --- |
| Garda Station |  | Garda Name |  |
| Has Applicant made enquiries at the site of the accident and/or elsewhere? |  | | |
| Did Applicant get Car Registration details? |  | | |
| Other |  | | |

Was/Were this/these defendant(s) acting in the course of

their employment when injuries were inflicted or they caused Yes No

you to have the condition or illness?

**8. Medical Treatment**

Have you attended a medical practitioner who has diagnosed

the injuries, condition or illness above? Yes No

Have you attended hospital in relation to your injuries, condition or illness? Yes No

Have you suffered any other injury or from any relevant medical

condition or been involved in any other accident in the past 5 years,

whether or not resulting in a claim for compensation, which is relevant Yes No

to your current claim?

**9. Employer’s Liability**

Were you at your place of work when you received your injuries or the

condition or illness was caused? Yes No

Employer’s details:

|  |  |
| --- | --- |
| Name |  |
| Address |  |
|  |
|  |

Is this a limited company? Yes No

Do you have a written contract of employment? Yes No

What is the date of commencement of your employment? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Are you still employed by this employer? Yes No

Was any action taken/claims instituted under

any of the Employment Legislation? Yes No

**10. Special Damages and Loss of Earnings**

Have you been out of work due to this injury, condition or illness? Yes No

Employer’s details:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name |  | | | |
| Address |  | | | |
|  | | | |
|  | | | |
| What was/is your weekly/monthly/annual salary or other earnings (based on net earnings) | | | |  |
| Frequency of payment: | |  | Annual Salary: |  |
| Estimated loss of gross earnings to date: | |  | Date when you stopped paid employment |  |

Are you in receipt of any Social Welfare payments? Yes No

Are you still medically certified as unfit? Yes No

Are you not likely not to return to work due to your injury,

illness or condition? Yes No

**11. Medical Expenses**

Are you claiming for medical expenses? Yes No

Are further medical expenses expected? Yes No

**12. Other Expenses**

Are you claiming for any other loss or expense? Yes No

Are further other expenses expected? Yes No

**13. Expert Witnesses**

Apart from medical experts above are there

further other experts to support the case? Yes No

Are expert witnesses required? Yes No

* EOS**Complete the “Offer first consultation appointment” milestone.**

### Entering the information gathering forms on EOS

EOSWhen the information gathering form is received in the law centre, it must be entered on EOS in the relevant form in the Forms tab. The entering of the contents of the completed information gathering forms should be done upon their receipt in the law centre. The reason for this is that the information inputted may be relied on when generating other letters and pleadings in EOS. In addition the information collected will be used by the solicitor in preparing for the first consultation. If the applicant has completed the form electronically, the entering of the information will be a matter of copying and pasting the information from the form into EOS.

### Allocating a solicitor to the case

Once the information gathering form is entered a solicitor should be allocated to the case according to directions given by the managing solicitor. In principle, where a person applies for legal aid for an appeal of a matter for which the applicant was already legally aided, the same solicitor should continue to act.

To raise an allocation request for a solicitor, click on the Resources tab on EOS. Under “Request a Resource by Role”, choose “Solicitor”, and click “Add Resource Request”. Then under “Resource Roles Requested for this Case”, click “Allocate”, Find the name of the solicitor you want to allocate and then click “Assign”.

Once a solicitor is allocated to the case, the clerical officer/paralegal who created the case may be removed.

### Conducting the first consultation appointment

Applicants are required to attend (via telephone, where the option is offered) the first consultation appointment in order to receive further services. Any applicant who fails to attend a first consultation appointment without good reason should be removed from the applications record. Managing solicitors should exercise discretion having regard to any extenuating circumstances.

**Procedure 5.3 – Conducting the first consultation**

**Solicitors only**

1. Prior to the first consultation the solicitor should make themselves aware of the matter in respect of which legal services are being sought and should, within reason, familiarise themselves with the law on the issue. In determining appointments managing solicitors should have regard to the particular expertise of each solicitor in the law centre.
2. The solicitor should see the client and provide oral advice at a consultation. This consultation shall focus on:
3. giving legal advice;
4. enabling the client to address the legal problem themselves if this is possible;
5. where relevant, ‘signposting’ other services that may be of benefit to the client e.g, mediation, MABS etc. It is anticipated that signposting will have taken place when an applicant makes contact with the law centre.
6. Regard should be had to the Board’s information leaflets, website, self-help guides, information packs also to other information leaflets and guides that may be available. A record of the advice given should be entered on the standard attendance form.
7. While in the vast majority of cases prioritisation should already have been determined, the solicitor should consider whether the particular circumstances warrant the provision of a priority service in accordance with the Board’s guidelines on priorities.
8. At the end of the consultation it should be determined if it is appropriate that the client receive further legal services from the Board in relation to the matter the subject of the first consultation. Their response to this should be recorded on the attendance note. After the consultation with the solicitor the client should be sent a copy of the attendance note or an instruction letter which contains the facts as instructed by the client and the advices given. A template letter is available for this purpose below.

* **It is important that the “First Consultation Attended” milestone in the APP003 workflow is Completed as soon as the client attends for the first consultation.**
* **Complete, or mark as Not Needed as required, the remaining milestones in the “APP03.First Consultation” workflow. Unless the case is to be closed, advance to and complete all milestones in the “APP006.Awaiting Second Consultation workflow.**
* **Staff should NOT wait for follow up work to be done before doing the above as it affects the waiting list report. It must be done immediately upon the client attending for the first consultation.**

### Conducting a telephone appointment

|  |
| --- |
| **Procedure 5.3a – Conducting the first consultation by telephone**  **Solicitors only**   1. The applicant will have arranged a particular time to contact the law centre for the purposes of the consultation. The member of staff who takes the call should offer to call back the applicant. 2. The advice contribution may be taken by debit/credit card payment (having regard to the rules surrounding such payment contained elsewhere in this Handbook). Once the payment is completed the staff member will transfer the call to the appropriate solicitor. 3. The solicitor must note that the first consultation is being taken by telephone 4. The first consultation proceeds as normal. In such circumstances the applicant may be directed to online resources rather than physical leaflets, where appropriate. 5. The telephone consultation should be recorded with the usual attendance note and a follow up letter of instructions should be sent to the client. 6. Where the file is going to be kept open for further legal services to be provided the solicitor should ensure that he or she arranges a face to face appointment with the client as soon as possible after the initial telephone advice consultation. |

### Managing solicitors and the first consultation

In identifying a law centre’s training needs the managing solicitor should have regard to the spheres of competence that are likely to be necessary in order to provide legal advice to those presenting for first consultation appointments.

After a first consultation appointment, the client should be written to in the following terms:

APP003.Post first consultation letter – separation*APP003.First consultation workflow*

|  |
| --- |
| **PRIVATE AND CONFIDENTIAL**  Mr. John Smith  1 Main Street  Ballymore  Co. Dublin  Our Ref: 1234567  1st March 2016  **RE: LEGAL SERVICES**  Dear Mr. Smith,  I refer to your appointment on . I have enclosed a copy of an attendance note which contains information / details of the consultation and a record of my advice to you. I note that your instructions related to the unhappy differences that have arisen in your marriage and I wish to set out certain relevant matters.  You have told me that there is no prospect of reconciliation but I am obliged to make sure that you are aware of all the alternatives in this situation. The first option is marriage guidance counselling with a view to seeing if it is possible to reconcile. You may already have tried this. It is dependent on both you and your spouse being willing to attend. In any event I am enclosing a note giving details of marriage guidance counselling services in the area / I note that I gave you a note with details of marriage guidance counselling services in the area.  The second option is to seek mediation. Mediation is only relevant if both you and your spouse acknowledge that the marriage is at an end. Mediation is a process where you and your spouse engage with a third party (mediator) whose role is to try and help both of you reach agreement in relation to the issues that need to be dealt with as a result of the separation. There are a number of advantages to mediation. It is very private, it allows you come to your own agreement without going through an adversarial court process, you and your spouse can set the timetable for the process and if you don’t come to an agreement no agreement is going to be imposed upon you. No less than marriage guidance counselling, mediation is dependent on both you and your spouse being willing to attend.  The third option is to seek to reach an agreement by way of a separation agreement. What this normally involves is your solicitor, negotiating with your spouse’s solicitor, the terms upon which you will live apart. Your solicitor would of course be negotiating on your behalf and would only seek to negotiate what you are willing to agree to. This form of negotiation does not normally involve face to face or round table meetings with your spouse. This option can be reviewed when you get a further appointment.  In addition, in suitable cases the Legal Aid Board offers persons the possibility of concluding matters by way of what is called the collaborative law process. This is a non-adversarial method of reaching agreement whereby the parties agree matters face to face with their solicitors present. I am enclosing an information leaflet on collaborative law / I noted that I gave you an information leaflet on collaborative law.  The advantage of these “out of court” settlements is that they can often be obtained faster than a ***contested court ordered separation*** and usually with a lot less stress. In each of the processes you are in control and there is no danger of solutions being imposed upon you. |
| A contested Judicial Separation should be the last option. It is a legal separation which is made by a court after a hearing in which arguments are made to the court by both sides and usually evidence is given on oath under cross-examination. You can also expect that the hearing will be preceded by a number of preliminary hearings which will deal with discovery, court papers and other pre-trial procedures. You will have relatively little control over how long the process is likely to take and unless an agreement is reached with your spouse before the hearing takes place, you will have no control over the outcome.  You should note that while the Court can in certain circumstances grant a decree of Judicial Separation on grounds of bad behaviour, in almost all cases separations are granted on the grounds that the marriage has irretrievably broken down for at least a year. You should also note that the court will only be concerned with what should happen in relation to the issues in dispute e.g, property, pensions, maintenance etc. It will not be concerned with attributing blame.  There are two other important related issues to note. The first is that while the court proceedings will take place in private save that reporters may be in court. They will not be allowed to report any information that would identify you. The second point is that because the proceedings are private, you are not allowed to share court documents with other people without the court’s consent. If you have any questions about this aspect you should ask me.  You should consider the contents of the above letter and contact me as soon as possible to confirm your instructions.  Yours sincerely,  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Jane Jones**  **Solicitor**  **Law Centre (\_\_\_\_\_\_\_\_\_\_\_)** |

APP006.Post first consultation letter – divorce*APP006.Awaiting Second Consultation workflow*

|  |
| --- |
| **PRIVATE AND CONFIDENTIAL**  Mr. John Smith  1 Main Street  Ballymore  Co. Dublin  Our Ref: 1234567  1st March 2016  **RE: LEGAL SERVICES**  Dear {{ApplicantTitle}}{{ApplicantSecondName}},  I refer to your appointment on . I have enclosed a copy of an attendance note which contains information / details of the consultation and a record of my advice to you. I note from your instructions that you and your spouse have been living apart for a considerable period of time and you want to give legal recognition to the situation by applying for a divorce.  As discussed only a court can grant a divorce and a mandatory requirement under Irish law is that the parties have been living apart for at least 4 years prior to the institution of the divorce application.  You have told me that there is no prospect of reconciliation but I am obliged to make sure that you are aware of all the alternatives in this situation. The first option is marriage guidance counselling with a view to seeing if it is possible to reconcile. You may already have tried this. It is dependent on both you and your spouse being willing to attend. In any event I am enclosing a note giving details of marriage guidance counselling services in the area / I note that I gave you a note with details of marriage guidance counselling services in the area.  The second option is to seek mediation. Mediation is only relevant if both you and your spouse acknowledge that the marriage is at an end. Mediation is a process where you and your spouse engage with a third party (mediator) whose role is to try and help both of you reach agreement in relation to the issues that need to be dealt with as a result of the divorce. There are a number of advantages to mediation. It is very private, it allows you come to your own agreement without going through an adversarial court process, you and your spouse can set the timetable for the process and if you don’t come to an agreement no agreement is going to be imposed upon you. Mediators intervene if discussions become heated or one party is dominating the process. No less than marriage guidance counselling, mediation is dependent on both you and your spouse being willing to attend.  In addition, in suitable cases the Legal Aid Board offers persons the possibility of concluding matters by way of what is called the collaborative law process. This is a non-adversarial method of reaching agreement whereby the parties agree matters face to face with their solicitors present. I am enclosing an information leaflet on collaborative law / I noted that I gave you an information leaflet on collaborative law.  The advantage of these “out of court” settlements is that they can often be obtained faster than a contested court ordered divorce and usually with a lot less stress. In each of the processes you are in control and there is no danger of solutions being imposed upon you. |
| A contested Divorce should be the last option. This is a divorce which is made by a court after a hearing in which arguments are made to the court by both sides and usually evidence is given on oath under cross-examination. You can also expect that the hearing will be preceded by a number of preliminary hearings which will deal with discovery, court papers and other pre-trial procedures. You may have relatively little control over how long the process is likely to take and unless an agreement is reached with your spouse before the hearing takes place, the outcome will be in the hands of the judge.  Finally, we are obliged to mention the option not to seek a divorce but to seek a legal separation instead. You do not have to be legally separated in order to obtain a divorce. The main eligibility requirement for divorce is that you have been living apart for at least four out of the last five years prior to the institution of proceedings. If you decide to opt for a legal separation instead of a divorce you need to be aware that a legal separation results in you being legally separated but you will remain legally married. We are obliged under the law to advise you of the legal separation alternative but we do not necessarily recommend it as an option if the divorce remedy is available or likely to become so in the short term.  A legal separation can be obtained without going to Court. What this normally involves is your solicitor negotiating with your spouse’s solicitor, the terms upon which you will live apart (and you also have the out of court options described above). A legal separation can also be obtained with a court order called a judicial separation through a court process very like a divorce application. Again, we are merely mentioning these aspects of legal separations because we are legally obliged to do so.  There are two other important related issues to note. The first is that while the court proceedings will take place in private save that reporters may be in court. They will not be allowed to report any information that would identify you. The second point is that because the proceedings are private, you are not allowed to share court documents with other people without the court’s consent. If you have any questions about this aspect you should ask me.  You should consider the contents of the above letter and contact me as soon as possible to confirm your instructions.  Yours sincerely,  **\_\_\_\_\_\_\_\_\_\_\_\_\_ Jane Jones**  **Solicitor**  **Law Centre (\_\_\_\_\_\_\_\_\_\_\_)** |

### Applicants/clients who fail to respond to the letter or do not show up for appointments

Where the law centre has elected to have the applicant/client contact the law centre for an appointment, and they fail to do so within ten days, the law centre should telephone the applicant/client and ascertain whether or not they continue to require legal services. If the law centre cannot contact the applicant/client or if the applicant/client states that they no longer require legal services, the file can be closed.

* Complete APP003 First Consultation workflow making sure to mark “First Consultation Attended” as “Not Needed” and close file.

If a valid reason is given for failing to attend a first consultation, a new appointment (including, if appropriate and after consulting with a solicitor, a telephone appointment) may be given. However, for the purposes of managing the applications record it is considered that the person has been waiting from the time they failed to attend or re-arranged their appointment. Law centres should contact Civil Operations for the purposes of having such applications manually discounted from the law centres waiting time.

Examples of valid reasons for not showing up to appointments include:

* the death of a close family member;
* a medical emergency; or a medical appointment which was pre-arranged and cannot be rescheduled;
* being on holidays at the time the letter was sent and having not received the letter;
* an event outside the control of the applicant (e.g. car breakdown).

Other reasons may be accepted at the managing solicitor’s discretion noting that it is generally expected that clients /applicants who cannot attend for an appointment will let the law centre know before or very shortly after the scheduled appointment that they cannot attend. A request for a rescheduled appointment received a significant length of time after the scheduled appointment should only be given a favourable response in exceptional circumstances.

It is important to note that the waiting time reported on EOS for a law centre is the length the longest case at the law centre has been waiting for an appointment. This includes applicants who have been offered but not attended for appointments. Law centres must bear this in mind. A decision to retain on the waiting list for a lengthy period an applicant who is repeatedly not showing for appointments will have repercussions for the waiting time at the law centre.

Where an applicant has indicated that it will be a substantial length of time before they will be in a position to take up an appointment, the law centre may form a view that they should be removed from the applications record and advised to make a fresh application when they are in a position to do so. Regard should be had to the personal circumstances of the applicant.

## Paying and recording the financial contribution

### Paying the contribution

In virtually all of the Board’s cases, other than the defence of an application by the Child and Family Agency (Tusla) for a care order/supervision order or in applications for a domestic violence remedy in the District Court, a person shall not qualify for legal aid or advice unless he or she pays a contribution. There are occasional exemptions, such as for complainants in rape cases, applicants in child abduction cases, human trafficking cases and persons seeking to have foreign court orders enforced in Ireland. Practically all other cases require the applicant to pay a contribution unless it is fully or partially waived on hardship grounds as per below.

The minimum contribution is €30 for legal advice and €130 for legal aid (which includes the advice contribution of €30). For all passported applicants, this is the contribution.

The maximum contribution is the cost to the Board of providing legal services for that matter. At time of writing the maximum contribution for a District Court case is set at €417 while the maximum contribution for a Circuit Court judicial separation or divorce case is €5,000.

The legal aid contribution consists of the income contribution and the capital contribution. EOS will calculate the contribution for you. Alternatively, it can be calculated manually using the Income Assessment Form (🡺 **Chapter 4**).

The Board accepts payment of contributions by cash, bank draft, credit/debit card or with a near field communication (NFC)-enabled mobile device using Apple/Android Pay. All payments received must be recorded on EOS.

The Board may waive a contribution or accept a lower contribution. The paragraph below headed “waiver of contributions” is explained in the 🡺 **Circular on Legal Services**. There is no provision in the Regulations (except in cases where an *“emergency”* certificate is granted) for the acceptance of undertakings in lieu of payment.

Under no circumstances should legal services be provided without:-

* the contribution being paid;
* the contribution being waived;
* arrangements having been approved for payment by instalments; or
* approval having been received from Legal Services where an emergency certificate is issued.

The general rule in relation to the payment of contributions is that the full contribution must be paid not later than the time that the applicant accepts a legal aid certificate. This usually means that the advice contribution will be paid at or before the triage appointment and the aid contribution will be paid when the client signs their legal aid certificate.

The “*time of acceptance”* is the time the applicant actually signs the acceptance form at the foot of the certificate. Unless this signature is secured and the contribution is paid (in the absence of an instalment arrangement) within one month of the offer of the certificate, the certificate automatically ceases to have effect.

**The advice contribution must be collected at or immediately prior to the triage appointment with the solicitor.**

**The aid contribution must be collected by the staff member on duty when the client signs their legal aid certificate, unless alternative arrangements have been made and approved by Legal Services.**

***Credit/debit card/Apple/Android Pay transactions***

In certain law centres where equipment has been installed, the contribution may be accepted by way of credit/debit card, or by Android/Apple Pay.

Where the payment is for €30 or less (i.e. an advice contribution at the minimum, or a contribution in an international protection matter) the contribution may be paid by contactless credit/debit card. All other payments must be processed by way of Chip and PIN, or by Android/Apple Pay. We cannot process payments by signature only. We accept Mastercard and Visa as well as Visa Debit and Debit Mastercard (previously Maestro).

The equipment consists of two devices – a machine for use by the staff member (the “terminal”) and one for use by the applicant (the “PIN pad”). Where the transaction is done by Chip and PIN the staff member must ensure that the applicant is given privacy in completing the payment. Before a contactless card transaction is processed the applicant must state that they wish to pay by tap and pay.

**Under no circumstances** should a staff member:

* handle the applicants credit/debit card/mobile device
* ask the applicant for their PIN

|  |
| --- |
| **Procedure 5.3a – Processing a credit/debit card/Android/Apple Pay transaction** |
| 1. Press the “F” key, then select Sale and press Enter. 2. Key in the amount of the contribution and press Green. 3. Ask the applicant to either: 4. Where payment is to be made by Chip and PIN, insert their card into the PIN pad and enter their PIN 5. Where payment is to be made by Tap and Pay, to tap their contactless enabled card or to pay via Android/Apple Pay 6. Remove the merchant copy receipt and place it on the applicant file |
| 1. Hand the applicant their payment receipt 2. The contribution should be recorded in the Contributions and Settlements Ledger. A record of all contributions received by credit/debit card/contactless must be kept and used to complete the Notification of Electronic Lodgement form. |

### Processing a credit/debit card payment by phone

|  |
| --- |
| **Telephone payments are not as secure as credit/debit card payments. Use the Chip and PIN / Tap and Pay functions where possible** |

The payment terminal also includes a facility to accept a transaction where the cardholder is not present.

Law centres should exercise due care and caution with the use of this facility. They should satisfy themselves that the person who wishes to make the payment by phone is the applicant (and to this end, should verify the name, address, and one other piece of personal data of the applicant e.g. their telephone number) and record on the file that this was verified when taking the payment. It is possible for a credit card holder to utilise a “charge back” facility e.g. to apply to their financial institution to reverse the payment on the grounds that the card details were improperly obtained and utilised by a third party.

For security reasons, a law centre should not process any transaction in excess of €130 without the card holder being present.

|  |
| --- |
| **Procedure 5.3b – Processing a credit/debit card transaction over the phone**   1. Press the “F” key, then scroll down and select New Trans and then scroll down further and select Moto Sale, ask the applicant for their card number and enter the card number into the terminal. 2. Enter the card expiry date and press ENTER. 3. Enter the CVV2 number and press ENTER. 4. Key in the amount of the contribution (not to exceed €130) and press ENTER. 5. Remove the merchant copy receipt and place it on the applicant file. 6. Post the applicant their payment receipt. 7. The contribution should be recorded in the Contributions and Settlements Ledger. A record of all contributions received by credit/debit card/contactless must be kept and used to complete the Notification of Electronic Lodgement form. |

### Payment by way of instalments

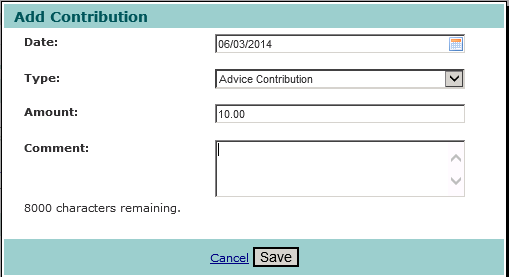
To ensure that the Board receives the full legal aid contribution from every legally aided person that has been granted authority to pay a contribution by instalments, at least half of the aid contribution should be discharged prior to the issuing of proceedings, or the lodging of a defence, as appropriate and if the case relates to a High Court or Circuit Court matter. The remainder of the contribution must be discharged prior to the conclusion of proceedings. If the case relates to a District Court matter it may not be appropriate or feasible to require payment of half of the contribution in advance however any instalment arrangement should where possible be formulated on the basis that the contribution will be paid before the conclusion of the proceedings.

Arrangements for the payment of contributions by instalments must be approved in advance by Legal Services. It is only in exceptional circumstances that an instalment method of payment can be offered as an option to an applicant / client and this is at the discretion of the Board. This method of payment shall apply only if the Board is satisfied that the applicant cannot obtain credit elsewhere, or that it would cause hardship, or would be unreasonable in all the circumstances to require payment in advance. Failure of a legally aided person to comply with instalment arrangements must be brought to the attention of Legal Services with a view to having the certificate terminated under regulation 9(3)(b).

### Recording the financial contribution

**Procedure 5.4 - How to record the financial contribution**

1. Open the case on EOS
2. Click the “Financial” tab
3. Click the twisty beside “Contributions”
4. Click the “Add Contribution” link
5. The date defaults to today’s date, but you can change it if necessary
6. Choose either “Advice Contribution”, “Legal Aid Contribution”, or “Aid and Advice Contribution” as necessary. The latter may be chosen if the case is being referred to a private practitioner and the aid and advice contributions will be taken together.
7. If necessary, enter a comment.
8. Click the Save button.



1. A receipt should be issued to the applicant using the “Generate Receipt” option in EOS.
2. Details of the contribution received should be recorded in the Contributions & Settlements Book.
3. The payment of the contribution should also be recorded on the IT system and on the inside cover of the file.

### Earlier contribution unpaid

If an applicant for legal services has defaulted on the payment of a contribution in respect of previous services, no further legal services should be provided without consulting Legal Services.

### Waiver of contributions

Under the provisions of Section 29 (2) (b) of the Civil Legal Aid Act 1995 (as amended by Section 80 of the Civil Law (Miscellaneous Provisions) Act 2008) it is open to the Board to waive legal aid contributions in certain circumstances.

The paragraph in question reads as follows:-

*“The Board may… waive any contribution payable pursuant to this section and to any other regulations under section 37, or accept a lower contribution, on the ground that a failure to do so would cause undue hardship to the applicant.”*

Legal Services have discretion to waive all or part of a contribution in respect of certificates granted in certain circumstances, namely:-

* where the applicant is depending entirely on supplementary welfare payments;
* where the applicant is on *“shared payments”;*
* where the applicant has a maintenance order which is not being complied with by the spouse and the proceedings are to compel payment; or
* where an asylum seeker is on *“direct provision”*

provided that in each case the managing solicitor requesting the waiver and Legal Services in considering the application are satisfied that it would cause undue hardship to the applicant to pay the contribution.

In considering whether undue hardship is caused, regard should be had to the circumstances of the majority of the Board's clients who pay the appropriate contribution. Legal Services should clearly note that discretion to waive a contribution has been exercised.

A “*shared payment”* means a payment by the Department of Employment Affairs and Social Protection that is split between the claimant (usually a man) and a dependant (usually a woman).

Where an applicant does not fit one of the above criteria for a waiver that the application should be made to Legal Services who will consider it on a case by case basis. When considering an application for a waiver where the reason for the high contribution is a capital contribution, Legal Services will have regard to whether the asset in question could be considered a “necessary” asset, for example, it is considered that an applicant living in a remote area would not be asked to sell a car that they rely on for transport. Legal Services may also take account of the extent to which an asset is realisable, for example where there are genuine reasons why an asset cannot be sold.

Legal Services should also consider the nature of the case to which the application relates and the applicant’s role within the proceedings. For example if the applicant is seeking a legal aid certificate for the purpose of taking a case on foot of the domestic violence legislation, a sympathetic approach should be taken to an application for a waiver or a reduction in the contribution particularly if the applicant’s sole income is social welfare. In those circumstances it may be appropriate simply to seek the legal advice contribution. Likewise if the applicant is repeatedly served with applications issued by the other party a sympathetic approach should be taken. On the other hand if the applicant is seeking a more long term remedy that does not generally have an immediate urgency e.g, judicial separation or divorce, it is likely to be less appropriate that a waiver or reduction in contribution would be sought or granted.

Where a prisoner is seeking a waiver of their contribution, Legal Services will have regard to:

* the length of the prison sentence. It is considered, for example, that a prisoner serving a minor sentence on foot of a summary conviction will be more easily able to pay the contribution, and indeed may have been released by the time the first consultation occurs;
* the capital resources of the prisoner and whether the prisoner might have recourse to these to make the payment; and
* the subject matter of the application, including whether or not the applicant is responding to court proceedings.

Where the prisoner is serving a substantial custodial sentence (of more than one year) andhas no capital resources, a waiver should be granted. Other cases should be considered on a case by case basis having regard to the above.

Submissions for a waiver must be made through EOS.

**Procedure 5.5 – Making a submission for a waiver**

1. In a case, click the Submissions tab.
2. Click “Create New Submission”.
3. Choose:
   1. Submission Type: “Submission for Waiver of Contribution”
   2. Type of Proceedings: “None”
   3. Court: “No Court Required”
   4. Litigation Options: “None Required”
4. The Statement of Facts should include:
   1. The grounds on, and reasons which the waiver is sought.
   2. If the applicant does not fit one of the four circumstances under which a waiver will generally be granted, a full explanation of the applicants circumstances will be required. The solicitor should have regard to the guidance above when detailing the applicant’s circumstances and why a waiver is justified, having regard to the fact that applicants to the Board who have met the financial eligibility criteria are already of insufficient means.
   3. whether the applicant is seeking a full or partial waiver,
   4. if partial, the amount of the waiver sought.
5. Choose:
   1. Recommendation: “Grant” or “Refuse” as appropriate
   2. Decision Maker: “Legal Services Submissions Inbox”
   3. Status: “To Be Submitted”
6. Click the “Make New Submission” button.

Waivers granted will appear in the Financial tab under “Waivers”

### Delegated authority for waivers of contributions in international protection cases

In international protection cases, the contribution payable by a financially eligible applicant is €10, covering both legal advice and legal aid.

Managing solicitors (or their nominees) have authority to waive this contribution in circumstances where the applicant is in direct provision and where the managing solicitor or their nominee forms the view that undue hardship would be caused if the applicant would have to pay the contribution.

The procedure below should be followed:

|  |
| --- |
| **Procedure 5.6 – Making and granting a submission for a waiver in international protection cases where the applicant is on direct provision**   1. In a case, click the Submissions tab. 2. Click “Create New Submission”. 3. Choose:    1. Submission Type: “Submission for Waiver of Contribution”    2. Type of Proceedings: “None”    3. Court: “No Court Required”    4. Litigation Options: “None Required” 4. The Statement of Facts should state that the applicant is on direct provision and a full waiver of the contribution of €10 is being sought. 5. Choose:    1. Recommendation: “Grant”    2. Decision Maker: “Delegated Certificates Grantor”    3. Status: “To Be Submitted” 6. Click the “Make New Submission” button. 7. Send an email to the managing solicitor or their nominee, confirming that a submission has been made   The managing solicitor or their nominee should then:   1. Access the case on EOS 2. Click the Submissions tab. 3. Click the submission link (this is likely to be SUB1 at this point) 4. Click the “Grant this submission” link on the right hand side of the page 5. Click the radio button beside “An Authority” (instead of “A Legal Aid Cert”) 6. Click Grant 7. Click the Financial tab 8. Click the twisty beside “Waivers” 9. Click “Add Waiver” 10. In the Amount field, type “10.00” 11. Click Save |

In the case of an unaccompanied minor who is placed in state care, Tusla will pay the contribution. In such circumstances there is no need to apply for a waiver.

Further directions may issue from the Director of Civil Legal Aid in relation to the waiver of contributions.

### Refusal of a waiver

Where a request for a waiver has been refused by Legal Services, the law centre will be informed of the grounds and reasons for doing so. The letter below should be sent by the law centre to the applicant conveying the decision.

The applicant has thirty days from the date the application for a waiver was refused to seek a review of the decision. A review, if requested, will be carried out by staff in Legal Services. They may also seek an appeal, either without going for a review or (more usually) after a negative decision in a review. If they sought a review, the time limit for an appeal (thirty days) runs from when the letter informing the applicant the review was unsuccessful was sent.

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore,

Co. Dublin

22 October 2015

**RE: APPLICATION FOR LEGAL SERVICES**

Dear

We refer to your application for legal services of (insert date) our letter of (insert date) offering you an appointment with a solicitor and your letter of (insert date) requesting a waiver of contribution.

Staff in our Head Office have considered your application for a waiver and we regret to inform you that it has been refused under Section 29 (2) of the Civil Legal Act 1995 as amended by Section 80 of the Civil Law (Miscellaneous Provisions) Act 2008.

The **grounds** for refusal is that [it is not considered that the payment of the legal [advice] [aid] contribution would cause undue hardship in this case]. The **reason** for refusal is that [as your financial circumstances are similar to a large number of legal aid applicants, the waiving of your contribution on the grounds of causing undue hardship is considered to be not merited in this case]. *[The grounds and reasons should be substituted if different grounds and reasons are given by Legal Services for their decision.]*

**If you accept this decision**

The Board remains in a position to offer you an appointment. with a solicitor [on \_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_. Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to confirm your attendance.]

OR

[Please telephone the law centre at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to organise the exact time and date of your appointment].

[Your legal advice contribution will be € \_\_\_ which is payable at the time of this consultation. Should it be necessary to bring legal proceedings, and if you are granted a legal aid certificate, your legal aid contribution will be € , which is payable on acceptance of the certificate. Your solicitor will discuss this further with you at your consultation.]

**If you do not accept this decision**

You have the option to ask the Board to **review** this decision. A review means that you can submit further information in writing to the Board and ask us to re-consider the decision. For example, you may inform us of information which we failed to consider.

The review will be done by staff in the Board’s Head Office in Cahirciveen. You must submit any information in support of a review within one month of the date at the top of this letter. If you would like a review of the decision, you should write to the law centre at the address above submitting this information as soon as possible.

You may also **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will either be to confirm the decision of the person who decided to refuse your application for a waiver, or they may overturn this decision and grant you a waiver. Usually, an appeal does not involve you submitting any further information to the Board. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal.

**If we do not hear from you**

If we do not hear from you within thirty days of the date of this letter then we will assume you are no longer in need of legal services. This does not prevent you re-applying at a later date

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Managing Solicitor**

### Collecting contributions in priority cases

An applicant may attend for a first consultation in a priority case and not be in a position, at the time of the first consultation, to pay the advice and (if applicable) the aid contribution.

In such a case the following steps should be followed:

1. The first consultation should take place.
2. At the first consultation, the applicant should be informed of their option to apply for a waiver of the contribution.
3. In the event that they exercise the option:
   * A submission for a waiver should be made on EOS as soon as possible, recommending a grant.
   * The managing solicitor should phone Legal Services and advise them that the submission has been made.
   * Legal Services should process the submission as a matter of urgency and contact the law centre when they have done so.
   * Pending a decision on the waiver, legal services will be provided notwithstanding the fact that the advice and/or aid contribution has not been paid.

The above procedure should not be read as imposing a requirement on Legal Services to grant a waiver, nor as an indication that a waiver will be granted in all such cases. In the event that a waiver is refused, the applicant should be advised that no further legal services will be provided until the contribution is received.

## Monitoring for payment of outstanding contributions

EOS allows you to view the portion of the contribution paid and the amount outstanding. This information is contained in the summary at the top of the Financial tab. Each time a contribution or part of a contribution is made both the receipt and the updated financial summary should be printed and placed on the left hand side of the physical file.

## Requests from the courts for information about applicants

These guidelines are designed to ensure the accuracy and consistency of information provided to the courts in relation to applicants for legal services, where a person advises the court that an application has been made for legal services and that the applicant is on the applications record.

This will help to avoid a situation where a person defending an action provides information that may reflect negatively on the law centre or on the Board. It will ensure that information is available to courts on whether a person has applied to a law centre for legal services and, if so, when the application was made.

Where a person has applied to a law centre for legal services, all solicitors should be aware and should so advise the court, where appropriate, that it is the policy of the Board for law centres to issue a letter, on request, to the applicant containing the following information:-

* the date on which the application was made;
* the general timeline for a triage appointment and whether the applicant received an appointment;
* the matter to which the application relates;
* whether further information is required from the applicant; and
* the estimated waiting time for a further appointment at the relevant law centre.

When a query is received by Legal Services on whether a particular applicant is on an applications record at a law centre, the person making the query will be advised that the Board is not authorised to disclose such information but that it is the Board’s policy to provide a letter to the applicant as set out above. The precedent letter which should be used is on the next page.

Confidentiality will be ensured by the fact that, where a person has applied to a law centre for legal services, the letter confirming this is given only to the applicant.

**If an applicant/client asks for a letter of this nature, it should be provided in accordance with the above guidelines.**

**But remember Data Protection! Do not provide this information to anyone other than the applicant/client.**

APP006. Letter to be sent to applicant / client requiring information*APP006.Awaiting Second Consultation workflow.*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

30th September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your enquiry of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

On \_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_, you submitted an application for legal services in relation to \_\_\_\_\_\_\_\_\_\_\_\_.

*Based on the information provided, you have been deemed financially eligible for legal services.*

*You were given an appointment with a solicitor on \_\_\_\_\_\_\_\_\_\_\_\_\_.*

*Owing to the demand at this time, you have been placed on an applications record(waiting list)*

*for a further appointment. The applications record is currently \_months long.*

*Please note that if you are applying for legal aid (representation in court) your application will be*

*subject to a merits test which will be carried out after you have seen a solicitor.*

OR

*Your application for legal services is currently incomplete. We require that you submit \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*

*Upon receipt, we will determine whether or not you are financially eligible for legal services. You will*

*be informed in writing of the outcome of your application. If you are deemed financially eligible for*

*legal services, we will be able to give you an estimated date of appointment at the law centre at that*

*stage.*

I trust this answers your query. If you require any further information, please do not hesitate to

contact me.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_  
**Jane Jones**

**Law Centre (insert)**

# Referring to Family Mediation, the Solicitors Panels, and Other Specialist Services

This chapter deals with:

1. Family mediation
2. The solicitors panels
3. The Dolphin House Service
4. The Childcare Unit at Chancery Street, Dublin
5. Referring to the solicitors panel
6. Referring medical negligence and personal injuries cases to Law Centre (Montague Court)

## Family mediation

Family mediation is a service to help couples who have decided to separate or divorce, or who have already separated, to negotiate their own terms of agreement, taking into account the needs and interests of all involved. In certain circumstances, mediation can also assist in

disputes within families.

A state-funded family mediation service was established on a pilot basis in 1986 and placed on a statutory footing by the Family Support Agency Act 2001. Since November 2011 the family mediation service previously provided by the former FSA has been provided by the Board. The role of family mediation is to encourage the separating couple to co-operate with each other in working out mutually acceptable arrangements on all or any of the following:

* Parenting the children
* Financial support
* Family home and property
* Pensions
* Other issues related to the separation

Unlike civil legal aid and advice, family mediation is free for the client.

### Paired law centres and mediation offices

The Board provides family mediation through 16 mediation offices. Some offices are “co-located” with law centres. In Kilkenny, there is an integrated law centre and mediation office.

It is a goal of the Board to encourage the use of mediation to resolve family related disputes. For the convenience of referrals and to encourage the building of relationships between law centres and mediation offices, each law centre has been paired with a nearby mediation office. As there are more law centres than mediation offices, certain mediation offices will be paired with more than one law centre. However, regard should also be had to the client’s preference and address. For example, where a client is attending a law centre outside of their own county for conflict reasons, they can be referred to the mediation office in their own county. Likewise clients living on the boundary between two counties that may be nearer to a different mediation office to the formally “paired” centre can be referred to the more convenient office.

|  |  |
| --- | --- |
| **Law Centre** | **Mediation Office** |
| Athlone | Athlone |
| Blanchardstown | Blanchardstown |
| Castlebar | Castlebar |
| Cavan | Dundalk |
| Chancery Street | Jervis Street |
| Clondalkin | Tallaght |
| Cork Popes Quay | Cork |
| Cork South Mall | Cork |
| Dolphin House | Dolphin House |
| Dundalk | Dundalk |
| Ennis | Limerick |
| Finglas | Raheny |
| Galway Francis St | Galway |
| Galway Seville House | Galway |
| Jervis Street | Jervis Street |
| Kilkenny | Kilkenny |
| Letterkenny | Letterkenny |
| Limerick | Limerick |
| Longford | Athlone |
| Monaghan | Dundalk |
| Montague Court | Dolphin House |
| Navan | Blanchardstown |
| Nenagh | Limerick |
| Newbridge | Tallaght |
| Portlaoise | Portlaoise |
| Sligo | Sligo |
| Smithfield | Jervis Street |
| Tallaght | Tallaght |
| Tralee | Tralee |
| Tullamore | Portlaoise |
| Waterford | Waterford |
| Wexford | Wexford |
| Wicklow/Bray | Dolphin House |

## The Solicitors Panels

### Background

In certain circumstances an applicant can be referred to a solicitor in a private firm (previously referred to as a private practitioner or PP) who has agreed to act on our behalf in certain cases.

We operate a number of private solicitors panels dealing with:

* District Court private family law cases
* International protection
* Circuit Court judicial separation and divorce cases
* Abhaile (the Government’s Free Mortgage Arrears Support service)
* A pilot panel for childcare cases.

Each of the panels (which are maintained by Legal Services) is available on iLAB.

The solicitors panels are designed to supplement the service provided by law centres. The law centre is our main method of delivering legal services. Guidelines for referrals to the solicitors panels are issued from time to time.

We may consider establishing other solicitors panels during the lifetime of this edition of the Handbook. We will issue separate instructions if that happens.

### Scope of the Circuit Court panel

The Circuit Court scheme applies to divorce and separation cases in that court jurisdiction. A phased reactivation of the Circuit Court panel is taking place however approval for cases to be referred must be sought and received from the Director of Civil Legal Aid/Regional Manager.

### The District Court private family law panel

The remainder of this section primarily deals with referrals to the District Court private family law solicitors’ panel.

The following cases may, subject to Management guidelines be referred to the District Court private family law solicitors’ panel:

* Maintenance;
* Variance, enforcement, and discharge of maintenance orders;
* Custody / welfare issues in relation to children;
* Access issues in relation to children;
* Guardianship of children; and
* Remedies under the Domestic Violence Acts such as barring orders / safety orders and protection orders.
* Appeals of all of the above matters to the Circuit Court

The Board is examining the possibility of piloting compulsory information sessions about non court based dispute resolution where dependent children are involved in the dispute. This pilot is operative in a small number of locations and separate instructions have been issued in those locations where the pilot is active. They can be found on the Administrative Procedures Handbook tile on Lotus Notes.

**Divorce and judicial separation cases may only be referred to the Circuit Court Solicitors’ Panel under the direction of the Director of Civil Legal Aid / Regional Manager**

The scope of either panel is subject to change and the ability of law centres to avail of the schemes is subject to such directives as the Director of Civil Legal Aid / Regional Manager may give from time to time regarding the use of the schemes.

***Matters under the Domestic Violence Act 1996***

Law centres may refer financially eligible applicants for legal aid in connection with proceedings under the Domestic Violence Act 1996 to private practitioners as and when required. These matters are to be treated as priority and there is no restriction on the amount of legal aid certificates that can be granted to a financially eligible applicant in connection with such proceedings.

### Referring to a private solicitor when applicant is instituting proceedings – law centres outside of Dublin

Any applicant to a law centre outside of Dublin who has been granted a legal aid certificate for a matter, other than a domestic violence matter, in the District Court within the previous 12 months should not be issued with a legal aid certificate to facilitate them retaining a private solicitor to **institute** proceedings for in the District Court for a matter, other than a domestic violence matter, until such time as 12 months has elapsed since the earlier certificate save in the following circumstances:

* if an application is made to enforce a Maintenance Order that has been made within the previous 12 months, such a certificate may be issued for the purpose of seeking to enforce the Order. Not more than one such certificate should be issued in any 12 month period
* the application is an urgent application to establish rights of custody to enable a person with no such rights to obtain remedies in relation to child abduction.
* the application is an appeal to the Circuit Court of a matter for which they were already legally aided and represented by a member of the solicitors’ panel and they wish to engage the same solicitor for the appeal

While applicants wishing to institute proceedings and do not come under this criteria may not be referred to a private solicitor, they should remain on the applications record and may be seen and, if a legal aid certificate is granted, represented by a law centre solicitor in due course.

**All clients must pay the contribution before being given a legal aid certificate.**

### Referring both sides of the same case

An applicant may be referred to a private solicitor notwithstanding that the other parties’ application has been processed by the law centre and referred to a private solicitor . The same applies even where the other party has been seen by a law centre solicitor. Where one party has already been seen by a solicitor, the second party to apply must be referred to a private solicitor without seeing a solicitor in the law centre i.e while on the applications record for a first consultation. Ideally both sides will be referred to a private practitioner without receiving a first consultation in the law centre.

### Enforcement of foreign maintenance cases

Applications for enforcement of foreign maintenance from applicants resident outside the jurisdiction are referred to the Board through the Central Authority for Maintenance Recovery (which is the Minister for Justice and Equality). Such applications are received in Legal Services and then referred to law centres. Law centres may refer applications to enforce maintenance orders which are automatically enforceable pursuant to the EU Maintenance Regulation (4/2009) to the solicitors panel where there is a court date pending. Similarly, requests on behalf of maintenance creditors in EU jurisdictions to establish maintenance orders in Ireland may be referred to the solicitors panel if the law centre is not in a position to provide a timely service. Because the applicant is outside the jurisdiction and will not have any direct contact with the law centre, the law centre should refer cases to solicitors on the panel who have availability on a strict rotation basis. Requests to enforce and establish maintenance orders pursuant to the Maintenance Act 1994 (the New York Convention) should not be referred out and should be handled with by law centre solicitors.

## The Dolphin House Service

The Board has established an office in Dolphin House where the Dublin Metropolitan District Court sits. The office is a dedicated service dealing with family law matters in the District Court by referring them to the solicitors panel..

### Guidelines for the granting of certificates by the Dolphin House Service

* All applicants who have taken or are defending proceedings instituted on foot of the domestic violence legislation should be granted a Private Practitioner certificate, or assigned a solicitor immediately;
* Applicants who have been served with an application to enforce on foot of section 9A of the Family Law (Maintenance of Spouses and Children) Act 1976 should be granted a Private Practitioner certificate or assigned a solicitor immediately;
* Any applicant who has been granted a Private Practitioner certificate for another matter within the previous 12 months, and who is seeking to **institute** proceedings under the Guardianship of Infants Act 1964 or for maintenance should be referred to a law centre of their choice save that if an application is made to enforce a Maintenance Order that has been made within the previous 12 months, a Private Practitioner certificate may be issued for the purpose of seeking to enforce the Order. Not more than one such certificate should be issued in any 12 month period. This restriction does not apply to Respondents to proceedings.
* Applicants referred to law centres should be placed on the applications record as of the date of their application to the Board; and
* Applicants for custody / access / guardianship should only be referred to a Private Practitioner if they have obtained information from a mediation office about the possibility of seeking a mediated solution to their issue.
* Applicants seeking legal aid for an appeal of a District Court family law matter for which they were legally aided at first instance and were represented by a private solicitor may be referred to the solicitors’ panel on the basis that they will engage the same private solicitor.

These instructions will be monitored and amended as necessary, depending on the Board’s capacity to fund the service.

### Referring clients to the Dolphin House Service

If a person presents at a law centre and comes within the criteria set out in the previous paragraph for the granting of a private practitioner certificate, the person should be referred to the Dolphin House Service unless the law centre is in a position to provide an immediate service. If the person does not meet the criteria the person should not be referred to the Dolphin House Service.

Applicants who are referred to the Dolphin House Service should not be entered on the centre’s applications record. All other applicants should be dealt with by the law centre and should be placed on the applications record. Depending on the nature of the matter for which they have applied for legal services, self help information may be made available to them.

**Procedure 6.1 – Referring a personal caller to the Dolphin House Service**

1. Establish that the matter is one which falls within the scope of the Dolphin House Service (see previous page), by enquiring with the applicant, and checking any summons issued. Establish whether or not the applicant is eligible for passporting (see 🡺 **Chapter 3**)
2. Give the applicant a copy of the appropriate application form.
3. Advise the applicant to post the form, together with proof of their income and any allowances being claimed, to **Dolphin House Service, Legal Aid Board, Dolphin House, East Essex Street, Dublin D02 RR76 and give them contact details of the Service.**
4. Advise the applicant that the Dolphin House Service will contact them directly.

**It is important that staff are aware of the current instructions regarding the referring of cases to the Dolphin House office.**

## The Childcare Unit at Chancery Street, Dublin.

We have established a Childcare Unit with a viewto providing a specialised service for parents in Dublin whose children are the subject of an application by the Child and Family Agency to be taken into care or be supervised in their own homes. This service was formerly provided as part of the Dolphin House Service, but as of 2016 has relocated to Chancery Street Courthouse where the District Court now sits to hear these applications.

Applications for legal aid may be made directly to the Childcare Unit for the purpose of child care proceedings. The Board has a solicitor presence in Chancery Street.

The following arrangements apply in relation to the provision of child care services where the application is made directly to the Childcare Unit:

1. Applications for legal aid for child care matters can be made at Chancery Street in addition to law centres. Law centres must accept applications in the normal manner and cannot refer a person to Chancery Street to make their application.
2. If a respondent applies for legal services at Chancery Street they are financially assessed and if financially eligible and contribution is paid, can be granted a legal aid certificate immediately.

.

Where a conflict of interest precludes the Childcare Unit solicitor from taking the case, clerical/paralegal staff in the Childcare Unit will carry out the financial assessment, collect the contribution, issue a legal aid certificate, and make the referral to law centres on a strict rota basis taking the views of the client into account. When making referrals, the Childcare Unit will forward the original application form accompanied by the associated material. Where a solicitors panel for child care cases is in operation (either as a pilot or otherwise) there may be the option of referring to that panel instead of a law centre, where appropriate.

**Law centres should not refer child care cases to the Childcare Unit**

## Referring to the solicitors panel

### Appeals of District Court matters to the Circuit Court

If a legally aided person wishes to appeal the court decision to the Circuit Court the person must make a fresh application for legal services at the law centre. In principle the person will, if legal aid is granted, again be referred to the solicitors panel.

Legal aid certificates may be granted at law centre level or by the Dolphin House Service for appeals from the District Court to the Circuit Court in relation to matters that come within the ambit of the District Court private family law solicitors’ panel.

Where an applicant:

* has been legally aided for the original hearing
* representation was provided by a member of the solicitors panel
* the applicant will be the appellant in the proposed appeal

they must be asked to bring a letter from their private solicitor to the law centre outlining the grounds upon which the applicant seeks to appeal the decision of the District Court.

Legal aid certificates should not be granted in relation to applications to extend time to file a Notice of Appeal. It is considered that applications of this nature can be made by the applicants themselves and without legal representation.

### Circuit Court matters

Private solicitors may be retained for separation and divorce cases, where a legal aid certificate has been granted.

**Procedure 6.2 – Referring a client to a Private Practitioner**

**The following procedure assumes that the client has already been identified (see 🡺Chapter 3). In the event that the client has never attended in person in the Law Centre at this stage, the client MUST be asked to attend in the law centre in person to sign their legal aid certificate, and have their identity verified at that stage in accordance with the procedure in Chapter 3.**

1. The Managing Solicitor will make a decision that a particular applicant on the applications record should be referred to a private practitioner.
2. Make a Submission for a Private Practitioner Legal Aid Certificate to the Managing Solicitor on EOS. The managing solicitor will grant the submission. The managing solicitor should make the legal aid certificate available to Legal Services.
3. The applicant should be written to (using the standard letter available on EOS) asking them to pay their legal aid contribution, if it has not already been paid (see sample letter below).
4. When the contribution is received, the applicant should be sent two copies of a legal aid certificate along with the relevant panel (District Court or Circuit Court panel for the county the proceedings are to take place in), a receipt for the contribution, along with the standard covering letter available on EOS.   
   An applicant who is being referred on foot of the Circuit Court PP scheme must also be furnished with a standard letter under Section 68 of the *Solicitors (Amendment) Act 1994* explaining the basis under which the Board intends to retain its costs in the event of a settlement. (This letter should be handed to applicants who attend to sign their legal aid certificate in person). The standard letter to be used is available on EOS. A third copy of the legal aid certificate should be placed on the application file.
5. The client must accept the certificate by signing and dating both copies within one month of the date on the certificate. They should also write the solicitors name in the space provided on both copies. They must then return one copy to the law centre and give the second copy to their chosen solicitor. Law Centres must follow up, where a legal aid certificate has been issued to a client but not accepted within thirty days. Law centres should also ensure that they are notified of the solicitor engaged.

### Selection of solicitor

The client must choose the private solicitor themselves from the panel. Except in the circumstances outlined below, a law centre may **not** recommend, or otherwise guide a client towards, any particular solicitor from the panel. Law centres should normally refrain from becoming involved in the engagement of solicitors by clients who have been issued PP certificates – the client should be told that they must contact a solicitor on the panel directly.

In certain limited circumstances where the client may have difficulties in doing this, it is permissible for the law centre to assist the client, however law centres should only do this where absolutely necessary and the choice of private practitioner must be made by the client. This can also be done where a client has contacted three solicitors from the panel all of whom were not in a position to represent the client.

A law centre may select a solicitor for the client, on a strict rotational basis among the solicitors proving services in the particular area, for the following matters:

* recovery of foreign maintenance, where the applicant is being assisted by the Central Authority for Maintenance Recovery
* international protection

Under no circumstances may a client engage a private solicitor who is not a member of the relevant Panel.

Managing solicitors (or where authorised, a designated staff member acting under delegated authority from the managing solicitor) are not precluded from referring out a case to the District Court solicitors panel merely because it is not the next application on the applications record. If the case is likely to be referred to the panel on account of the demand at the Centre, a conflict of interest or for geographical reasons, an early decision should be made in relation to the referral.

No case should be referred out ahead of an earlier case on the applications record where the reason for referral is the same e.g, if a case is being referred out because of the level of demand at the centre, it should not be referred out ahead of another similarly referable case.

APP005.Letter of Referral to PP – Anti-money laundering check required*APP005.Refer to Private Practitioner workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated . Due to demand for services at the centre and in order to ensure that you receive a timely service, we have decided to refer you to a private solicitor who has agreed to provide services on our behalf.

If you wish to go ahead with your application please bring your outstanding legal aid contribution of €\_\_\_\_ either in cash, or by cheque or postal order made payable to the Legal Aid Board, to the Law Centre. You must also bring with you two forms of ID (photo ID and proof of address). We will take copies of these and return them to you. Please note that you must attend in person, as the Board is obliged to identify all clients.

You will need to pay the contribution and accept your legal aid certificate by signing and dating it. We will give you a copy of your legal aid certificate together with details of the solicitors who are on our solicitors’ panel in your area. You will need to bring the certificate to one of the solicitors from the panel. They will then represent you in relation to the matter in respect of which you applied for legal aid and you will need to notify us which solicitor you have retained.

If I do not hear from you within 30 days of the date of this letter I will presume you no longer wish to proceed with your application and your file will be closed. This does not prevent you from reapplying again at a later stage.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Law Centre ( )**

APP005.Letter of Referral to PP – Anti-money laundering check not required*APP005.Refer to Private Practitioner workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore,

Co. Dublin

1 September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated . Due to demand for services at the centre and in order to ensure that you receive a timely service, we have decided to refer you to a private solicitor who has agreed to provide services on our behalf.

If you wish to go ahead with your application please send me your outstanding legal aid contribution of €\_\_\_\_ by cheque or postal order, made payable to the Legal Aid Board, to the above address **Please ensure your name, address, and reference number is enclosed with your contribution.** Your reference number can be found on the top right hand corner of this letter as “Our Ref”.

When I receive your contribution I will forward to you a legal aid certificate together with details of the solicitors who are on our solicitors’ panel in your area. You will need to sign the certificate and take it to one of the solicitors from the panel. They will then represent you in relation to the matter in respect of which you applied for legal aid.

If I do not hear from you within 30 days of the date of this letter I will presume you no longer wish to proceed with your application and your file will be closed. This does not prevent you from reapplying again at a later stage.

Yours sincerely

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Law Centre ( )**

### APP005.Letter to be sent enclosing PP legal aid certificate

*APP005.Refer to Private Practitioner workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1st September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I acknowledge receipt of your legal aid contribution of €\_\_\_ for which a receipt is enclosed.

Enclosed also, please find two copies of your legal aid certificate and also a list of private solicitors who are on the Legal Aid Board’s solicitors panel for County \_\_\_\_\_\_\_\_.

To accept this certificate, you must:

* Sign and date BOTH copies of the certificate
* Contact a solicitor from the panel
* When a solicitor from the panel agrees to represent you, enter that solicitors name on both copies
* Return one copy of the certificate to this Law Centre at the address above within 30 days.
* Give the other copy of the certificate to the solicitor.

You can ask any solicitor on the attached panel to represent you, and normally they will agree to do so. However, if after asking three solicitors on the attached panel to represent you, you cannot find a solicitor who is willing to do so, you should contact us at the telephone number at the top of this letter and we endeavour to assist in finding a solicitor who is willing to represent you.

*[Finally I am also enclosing a letter in relation to costs for which you* ***may*** *be liable depending on the outcome of your case. You should read this letter carefully.]*

Yours sincerely

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Managing Solicitor**

Enc

The portion of the letter in italics should only be used for Circuit Court clients.

Enclosed with this letter should be:-

* A receipt for the contribution paid;
* the legal aid certificate, and
* the standard letter relating to costs (illustrated on the next page (if the matter is a judicial separation or divorce).

### APP05.Section 68 letter – Circuit Court PP Clients

*APP005.Refer to Private Practitioner workflow*

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

17th November 2016

**RE: LEGAL SERVICES**

Dear Mr Smith,

We refer to the legal aid certificate granted to you to enable you obtain legal representation in relation to your judicial separation or divorce.

The law requires solicitors to set out the basis on which fees are charged to a client. All legally aided clients make a payment before they see a solicitor and a further payment before their solicitor represents them in court. You will already have been informed of your aid/advice contribution at the time you were financially assessed for legal services.

This may be the only payment that you have to make. However in the event that monies are recovered or preserved on your behalf, the Board will generally take its costs out of those monies. If this happens the costs will be calculated on the basis of:

• the number of hours spent on your case by a solicitor in the law centre - at present at a rate of €150 per hour;

• payments made to barristers;

• expenditure incurred on professional, witness, and report fees; and

• any other miscellaneous expenses incurred in your case.

If you do become liable for costs, those costs are likely to be considerably less if a satisfactory settlement can be negotiated without the necessity of a fully contested court hearing.

In most family law cases involving persons who are in receipt of legal aid, each party ends up being responsible for their own legal costs. In the case where the court orders that the legally aided person can get their costs from the other party, you have an obligation to assist the Board in taking all necessary steps to recover those costs.

On rare occasions, the court may order that the legally aid person is responsible for the other party’s costs. If this happens the Board will not, in the ordinary way, be responsible for those costs and you will be personally liable.

It is a condition of the grant of legal aid, that any monies recovered or preserved on your behalf be paid to the Board’s Legal Aid Fund. The Board then deducts its costs, if appropriate, and issues a cheque for the balance.

If you have any questions or concerns about costs, please feel free to discuss them with your solicitor at any stage.

Yours faithfully,

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Jane Jones**

**Managing Solicitor**

**Procedure 6.3 – Applying for a Delegated Legal Aid Certificate on EOS**

**The facility to apply for delegated certificates for both in house and private practitioners on EOS is available and must be used.**

**To apply for a delegated legal aid certificate for the District Court on EOS:**

1. Click the Submissions tab and click “Create New Submission”
2. Choose “Submission for a Delegated Legal Aid Certificate” or “Submission for a Private Practitioner Legal Aid Certificate”.
3. Choose the Type of Proceedings
4. Choose “District Court” as the Court (unless it is an appeal to the Circuit Court for which the client was not legally aided in the original proceedings, in which case choose “Circuit Court”. If the client was legally aided in the original proceedings the submission should be for an amended legal aid certificate and must in the case of a PP be made through Legal Services)
5. Choose “Institute”, “Defend”, or “Appeal” as appropriate
6. Enter a statement of facts.
7. Choose to recommend Grant.
8. Choose “Managing Solicitor” as the decision maker
9. Choose “To be Submitted” as the status.
10. Click “Make New Submission”.

**Note: Prior authorisation must be sought from the Director of Civil Legal Aid to issue a Circuit Court delegated legal aid certificate.**

### Closing referrals to the solicitors panel

The EOS case for any application referred to the solicitors panel is closed once the referral is taken place. This does not prevent Legal Services working on the file.

Provided that

1. the application form and all backing documentation is scanned to EOS and are retained electronically
2. all original documents received have been returned to the applicant
3. The case is being referred out from the start – ie. no law centre solicitor or paralegal has done any work on the case

then the paper documentation may be securely destroyed. Otherwise the file must be marked for destruction on the same basis as any other law centre file (see 🡺 Chapter 9).

Reports are available on EOS in relation to the number of referrals to each of the solicitors’ panels – see 🡺 **Chapter 9**

### Requirement for solicitors to inform Legal Services – District Court panel

Solicitors on the District Court private family law panel must inform Legal Services that they have accepted legally aided work.

The solicitor should email [ppunit@legalaidboard.ie](mailto:ppunit@legalaidboard.ie) and tell us the details of the legally aided client and certificate issued. This will be recorded on the case record on EOS.

## Referring medical negligence and personal injuries cases to Law Centre (Montague Court)

Law Centre (Montague Court) is a full-time law centre operating in Dublin which specialises in medical negligence and personal injuries cases. While, like all law centres, it may accept and process applications for legal services, the majority of cases are referred to it from other law centres.

### Referring medical negligence and personal injuries cases

The following procedures should be followed where referring cases to Law Centre (Montague Court):

**Procedure 6.4 - Referring a medical negligence case**

1. Applicants should complete an application form and be means tested at the law centre at which they apply and a determination should be made as to their financial eligibility. Applicants should be informed, in the usual way, if they are financially eligible and what their legal advice / potential legal aid contribution has been assessed at.
2. Applicants should not be placed on the applications record. The workflow APP04.Refer to Medical Negligence Unit should be started.
3. Law centres should complete the “applicant’s checklist” in this Chapter to form part of the referral to Montague Court. The complete file, to include all means test documentation, should be forwarded to Montague Court.
4. Applicants should be furnished with the standard letter, information note and FOI letter in relation to their medical records.
5. If it becomes immediately apparent to the law centre that the case is one where there is a possibility of it becoming statute barred, immediate steps should be taken to notify Montague Court via email to **Law Centre - Montague Court**. It is crucial in such circumstances that the applicant prepares a Statement of Facts with particular emphasis on the date of the incident or the date of knowledge. The Statement of Facts preferably, is to be attached to the application form before forwarding documentation to Montague Court.
6. The application and financial eligibility determination together with all supporting documentation should be forwarded to Montague Court as soon as possible.
7. The case on EOS should be transferred to Montague Court on EOS.

**Procedure 6.5 - Referring a personal injuries case**

1. Applicants should complete an application form and be means tested at the law centre at which they apply and a determination should be made as to their financial eligibility. Applicants should be informed, in the usual way, if they are financially eligible and what their legal advice / potential legal aid contribution has been assessed at.
2. Applicants should not be placed on the applications record. The workflow APP008.Refer to Personal Injuries Unit should be started.
3. The applicant should be sent the letter below with an Information Gathering – Personal Injuries form (see 🡺 **Chapter 3**) attached. Both of these are available as suggested templates in the APP008 workflow.
4. If it becomes immediately apparent to the law centre that the case is one where there is a possibility of it becoming statute barred, immediate steps should be taken to notify Montague Court via email to **Law Centre - Montague Court**
5. The physical application and financial eligibility determination together with all supporting documentation should be forwarded to Law Centre (Montague Court) as soon as possible.
6. The case on EOS should be transferred to Montague Court on EOS.

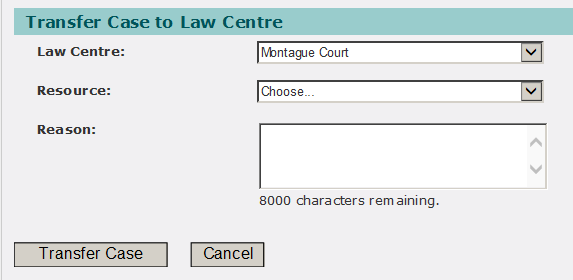
Law centres are asked to make their facilities available to staff in the event that the Law Centre (Montague Court) deem it appropriate to see an applicant in a location that is more convenient to them.

### Transferring the case on EOS to Law Centre (Montague Court)

Cases referred to should be transferred on EOS to Law Centre (Montague Court).

**Procedure 6.6 - Transferring a case to Montague Court**

1. Click the twisty beside the case number
2. Click the link “Transfer case to law centre”
3. Choose the following:
   1. **Law Centre**: Montague Court
   2. **Resource**: A member of staff (other than a solicitor)
   3. **Reason:** Enter an appropriate reason
4. Click the Transfer Case button



**The case should be transferred to a member of staff who is not a solicitor**. A staff member in Montague Court will allocate the solicitor to the case. The reason for this is that EOS will not allocate the Solicitor role to the receiving member of staff.

***Statute-barred cases***

In circumstances where it is evident that the Statute of Limitations has expired then the applicant should be informed at the point of entry i.e. the law centre, that any potential action is statute barred. The law centre is at liberty, at all times, to contact Montague Court prior to advising the applicant, in such circumstances.

***Referral letter to applicant***

The appropriate letter on the next page should be sent to applicants in medical negligence and personal injuries cases, informing them that their application has been referred to Law Centre (Montague Court). The “Note for the Information of the Applicant” on the following page should also be enclosed as well as the sample FOI letter.

### APP04.Referral letter to Law Centre (Montague Court) – medical negligence

*APP04.Refer to Medical Negligence Unit workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2016  
  
**RE: APPLICATION FOR LEGAL SERVICES**

Dear

We note that you have applied for legal services in relation to a potential medical negligence matter. We confirm that you have been financially assessed and found to satisfy the financial criteria for legal services. You will be required to pay an advice contribution of €XX on or before your first appointment with a solicitor.

Private solicitors will often agree to take on medical negligence cases on the basis that they will not charge you unless a settlement to your benefit or judgement in your favour is obtained (in which case they will generally take their costs out of the settlement or judgement and will agree this in advance). You should arrange, at the earliest opportunity, to visit a private solicitor and ask them to take on your case on that basis. If (s)he refuses to do so you should obtain a letter or other evidence to that effect and visit a second private solicitor and repeat the process. If after this a private solicitor will not take on your case on this basis you should retain any letters or evidence you have obtained and bring them with you to your first consultation.

As medical negligence is a specialist area and with a view to improving the quality of its services to clients, the Legal Aid Board (“the Board”) has set up a specialist service for cases of this nature. The service is based at 7-11 Montague Court, Montague Street, Dublin D02 FT96 and can be contacted by telephone at 01 4776208. We are referring your application forms to the specialist service and they will be in contact with you on receipt of your application.

In order for the Board to assess the merits of your case, you are required to provide the following documents.

1. A written Statement of Facts setting out what happened to you and why you believe it is the responsibility of the hospital / doctor / medical personnel. In your Statement please specify the dates of your treatment.

2. All of the relevant medical records.

3. Where applicable a death certificate or the inquest file and/or the post mortem results.

For your information we attach an information note which provides you with information in relation to the time limit for taking cases against hospitals or medical personnel and how you should obtain your medical records.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Law Centre (\_\_\_\_\_\_\_\_\_\_)**

### Note for the information of the applicant in medical negligence cases

You have applied to the Legal Aid Board (“the Board”) for services in relation a possible action against a hospital / medical personnel. There are a couple of issues that we wish to draw to your attention that are specific to cases of this nature.

The first is that proceedings for personal injury, and medical negligence cases come within that category, must be instituted within **two years** of the incident giving rise to the injury, or **two years** from the date the person became or ought to have become aware of their case.There is a considerable amount of preparatory work involved, which may include obtaining an expert medical opinion from abroad and/or an opinion from a barrister and also as the Legal Aid Board will need time to consider any application for a legal aid certificate to issue court proceedings on your behalf. Accordingly it is critical that you note and understand the time limits, referred to above and that you act promptly at all times. You should note in this regard that the Legal Aid Board may not be in a position to provide legal services where an application is made too close to the expiration of the two year period.

The second issue is the need to obtainfull and completecopies of your medical records from the hospital, GP or institution that treated you. If you have not already got those medicalrecords you should make a request in writing to the relevant hospital / Institution and you should make sure that you state in your letter that the request is being made on foot of the Freedom of Information Act 2014. The letter should be addressed to the hospital’s Freedom of Information Officer. You should make a simple written request to your GP for any records that he or she has. It will assist your solicitor considerably if you can make those records available to the Law Centre (Montague Court) before your first appointment with them. If you have the records you should contact Montague Court prior to your appointment with a view to arranging their delivery to them.

For your convenience we are furnishing you with a sample Freedom of Information letter that you should complete and send to the Freedom of Information Officer in the relevant hospital or institution.

If you have to obtain an inquest file and/or the post mortem results or a death certificate the following procedures apply:

You may apply in writing for a copy of an inquest file and/or the post mortem results from the local Coroner's Office. You should include the name of the deceased, the date of death, the hospital involved (if any) and the date of the inquest.

You may apply for a death certificate to the appropriate Registrar in any Registrar's District or you can apply to the General Register Office in Roscommon.

Small fees are payable in each case.

Coroner details are available at: <http://www.justice.ie/en/JELR/Pages/Coroner_details>

Registrar details are available at: <http://www.groireland.ie/>

The above note may be generated in the APP04.Refer to Medical Negligence Unit workflow.

### Sample FOI letter to be sent by applicant to hospital.

*APP04.Refer to Medical Negligence Unit workflow*

**Medical negligence cases only**

**NB The below letter should be sent by the applicant and not the law centre.** Therefore it should go in the client’s own name and address, and must not be sent on law centre headed notepaper.

|  |
| --- |
| Mr John Smith  1 Main Street  Ballymore  Co. Dublin  Dr Jane Jones  Freedom of Information Officer  Dublin Hospital  North Road  Dublin D01 XY12  1st September 2016  Re: John Smith of 1 Main Street, Ballymore, Co. Dublin  Formerly of 1 New Street, Ballybeg, Co. Kildare A12 BC34.  Date of Birth: 1 January 1970.  Dear Dr Jones,  I wish to make an application for all of my medical records in connection with my admission/treatment at Dublin Hospital between the dates of 1st January 2009 and 7th January 2009.  I am making this application under the Freedom of Information Act 2014.  In relation to my medical records I require a complete and full copy of the following where appropriate:   1. A&E Records/Triage Records 2. Doctors Clinical Notes 3. Nursing Notes/Kardex 4. Blood Pressure/ECG Tracings 5. Temperature, Pulse and Respiration Observation Charts 6. Fluid Intake and Output Charts 7. Drug Administration Records 8. Surgeons Operative Notes 9. Anaesthetist’s Records 10. Post Operative Recovery Room Records 11. Pathology and all Laboratory Test Reports 12. All Radiological Imaging to Include X-Ray’s, Ultrasounds, MRI Scans, Films and Reports 13. Discharge Summary 14. Consultant’s Reports, Correspondence, Letters to other Treating Doctors/Hospitals   Please acknowledge receipt of this letter.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_\_\_  **John Smith** |

### Checklist

**Medical negligence cases only**

The below checklist should be printed out (from the Documents tab in EOS) and placed on the inside cover of any medical negligence applications file.

Applicant Name**:**

DOB**:**

Details of alleged medical negligence**:**

Institutions/Medical Professionals etc**:**

Dates (of injury/treatment etc) i.e. statute of limitations info**:**

Previous LAB application re this matter**:** **Yes / No**

If yes details**:**

Has the applicant had previous solicitor involvement in this matter**:** **Yes / No**

If yes solicitor details incl fees outstanding/ lien on file**:**

Court Proceedings**: Yes / No**

If yes details of Proceedings**:**

Applicant provided with standard letter, information note and FOI letter re medical records. Reference the information note in relation to the statute of limitations and the limitation period and how to address obtaining medical records**:**

Other**:**

Date**:**

### APP008.Referral letter to Law Centre (Montague Court) – personal injuries

*APP008.Refer to Personal Injuries Unit workflow*

****

**PRIVATE AND CONFIDENTIAL**

Mr. John Smith

1 Main Street

Ballymore

Co. Dublin 1 September 2015  
  
**RE: APPLICATION FOR LEGAL SERVICES**

Dear

We note that you have applied for legal services in relation to a potential personal injuries matter. We confirm that you have been financially assessed and found to satisfy the financial criteria for legal services. You will be required to pay an advice contribution of €XX on or before your first appointment with a solicitor.

[For prospective plaintiffs only: Private solicitors will often agree to take on personal injuries cases on the basis that they will not charge you unless a settlement to your benefit or judgement in your favour is obtained (in which case they will generally take their costs out of the settlement or judgement and will agree this in advance). You should arrange, at the earliest opportunity, to visit a private solicitor and ask them to take on your case on that basis. If (s)he refuses to do so you should obtain a letter or other evidence to that effect and visit a second private solicitor and repeat the process. If after this a private solicitor will not take on your case on this basis you should retain any letters or evidence you have obtained and bring them with you to your first consultation.]

With a view to improving the quality of its services to clients, the Legal Aid Board has a specialised service that specialises in personal injury cases and your application has been referred to that service.

We are attaching an Information Gathering form which you should complete at your earliest opportunity and return to the service atMontague Court, 7-11 Montague Street, Dublin D02 FT96. They will be in contact with you on receipt of your application, but if you have any queries in the meantime they can be contacted by telephone at 01 4776208.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Law Centre (\_\_\_\_\_\_\_\_\_\_)**

### Queries in relation to medical negligence cases

Law Centre (Montague Court) will discuss with other law centres any queries the law centre may have with regard to medical negligence cases *retained* in the centre or in relation to new applications. It should be noted in this regard that it is not anticipated that medical negligence cases would be retained in other law centres.

Up-to-date contact details for the Law Centre (Montague Court) are available on the **Telephone Directory**

# Client Care and Complaints

This chapter deals with:

1. Dealing with the public
2. Clean desk policy and confidentiality
3. Visitors or callers causing difficulties
4. About complaints
5. Change of solicitor requests
6. Dealing with unreasonable complainant behaviour
7. Customer Charter
8. Freedom of information
9. Data protection

Client care is a core value of the Board and is central to the Board’s ethos. The client should be made feel welcome and treated with the utmost respect. The Board should strive to avoid giving cause for complaints from clients. Where a complaint is made, it is important it is dealt with fairly and equitably and in accordance with the Board’s complaints procedure.

## Dealing with the public

Personal contactAll dealings between law centre staff and members of the public must be conducted, at all times, with courtesy and respect. Staff must be polite at all times and must have regard to the possibility that applicants and clients may be extremely nervous when visiting or contacting the law centre and may have had no previous contact with the legal system or with solicitors. Staff must also keep in mind that most of the Board’s clients will be going through extremely difficult personal experiences in their lives and will be going through a period of unhappiness and vulnerability. Reception/front line staff should adopt a positive atmosphere when dealing with the public.

Law centre staff will, from time to time, have to deliver bad news to an applicant/client (that the matter they are applying for falls outside the remit of the Board, that they are financially ineligible, or that an application for a legal aid certificate has been refused). At such times the applicant/client should be treated in a sensitive manner and advised of their options (other methods of help available, review/appeal procedures, etc). Should the applicant/client become angry, the staff member must remain polite and calm at all times. More information on dealing with clients is contained later in this chapter.

TelephoneAll calls to the law centre should be answered promptly and courteously. Calls should be answered according the procedures in **🡺 Chapter 2.**

If you are unable to deal with the subject matter immediately, you must take the appropriate details from the caller and undertake to return their call. In certain circumstances it may be appropriate to transfer the caller to someone else in the law centre. If it is not immediately possible to transfer the caller to the staff member who can best deal with the issue, you should take the appropriate details from the caller and make arrangements for the appropriate staff member to return the call at the earliest possible time. On occasion law centres will have applicant / clients who make frequent calls about their case. In those circumstances law centres may refer to the parameters set out in the client’s letter of engagement, or a solicitor may set out parameters to the applicant / client for making calls.

### Written correspondence

All letters sent to the Board's offices must be replied to promptly and within the following deadlines:

* an interim response should be issued, where necessary, within seven (7) working days of receipt of correspondence, and;
* a substantive response must be issued to all correspondence within fifteen (15) working days, this is conditional on the timely receipt of information and instructions where appropriate.

There may also be situations where clients or indeed other solicitors may write letters without there being a need to do so or without their serving a particular purpose. In those circumstances law centres may set out parameters for responding to correspondence. By way of example, an opposing solicitor may attempt to engage in ongoing and frequent correspondence about the minutiae of access arrangements. The appropriate response may be to indicate that these are matters for the parties or the court to determine.

Consideration should also be given to the possibility of requiring an applicant not to attend at the centre and to communicate by correspondence only until such time as the law centre determines otherwise. The Board must be mindful that it must act within its power to facilitate applications for legal services being made and services being appropriately given, however the safety and welfare of staff is paramount and an applicant is not entitled to services at the expense of the safety and wellbeing of staff.

Occasionally, a law centre may find itself the recipient of constant email correspondence from a person who is not in receipt of legal services nor is the subject of an application for legal services. The person should be advised, via email from the managing solicitor, to desist from further correspondence with the law centre in the absence of an application for legal services being submitted.

Where correspondence continues to be received, the managing solicitor should advise the person that the next step will be to have their email address blocked by the Board’s IT system (and should correspondence continue further, the managing solicitor should make contact with the Director of Civil Legal Aid with a view to organising this).

### Terminating a call from an angry or abusive caller

You should, in the normal instance, wait for the caller to hang up before hanging up on external callers.

In the event that the caller becomes angry or abusive, the following procedure should apply:

**Procedure 7.1 – Dealing with an abusive or angry caller**

1. Remain calm at all times and do not return the abuse or anger or otherwise respond.
2. Advise the caller that if they do not cease the abusive behaviour, the call will be terminated.
3. In the event the behaviour continues, warn the caller that you are about to terminate the call. If it persists, hang up.
4. If the caller is a client, create an attendance record and detail the caller’s behaviour. Inform the solicitor dealing with the file.   
   **OR**  
   If the caller is an applicant or has not yet been assigned to a solicitor, place a memo on the application file and inform your managing solicitor.

Avoid terminating a call without warning.

**If the caller is a client, inform the solicitor dealing with the file**

## Clean desk policy and confidentiality

We have introduced a clean desk policy for a number of reasons including the following:

* it portrays the right image when clients call in;
* it reduces the risk of client confidentiality being breached as confidential information is less likely to be left visible on a desk or a floor; and
* scientific studies have shown that there is a reduction in stress when employees adopt a tidy desk policy.

It is generally accepted that a tidy desk is a sign of efficiency and effectiveness.

Operation of the clean desk policyIt is expected that all staff, including staff in law centres, Head Office, and other offices, will adhere to the following parameters:

* desks should be kept tidy. All loose leaf correspondence and other similar material should be kept in trays. It should be possible to conduct a meeting with a client / staff member at a person’s desk;
* books, periodicals etc should be kept on bookcases when they are not being worked upon. Periodic reviews of non client related material should be undertaken for the purpose of disposing of material that can be disposed of;
* the number of client and other files kept out of cabinets or off the shelves for immediate attention should be kept to a minimum and should not exceed four at any one time. If a solicitor / law centre / staff member / business unit adopts a practice of matching incoming correspondence with the file, such files should be kept during the day behind the solicitor / staff member’s desk rather than on the desk or elsewhere where they may be visible. It is recognised that the number of files accompanying dictation tapes may exceed four. In both these cases the files should be stored in cabinets overnight if this is possible;
* all staff should periodically review their offices / work stations for the purpose of ensuring that material that can be disposed of, is so disposed of. Great care should be taken that sensitive material is set aside for shredding. Regard should be had to the fact that many documents and other items may be available in soft copy and it may not be necessary to retain a hard copy;
* files and other material should be maintained in a manner that makes them easily accessible to other staff in the event that the staff member with responsibility for the file or the material is out of the office; and
* offices should be kept tidy. Files should not be left on the general floor area, save in the circumstances set out above. Steps should be taken to ensure that offices are cleaned, including vacuum cleaned, regularly.

### Confidentiality in general

The Guide to Professional Conduct of Solicitors in Ireland states that confidentiality is one of the core values of the solicitor/client relationship. The duty to protect the client’s confidentiality extends to all staff. Confidentiality must be observed in dealing with clients at all times.

When a staff member commences employment with the Legal Aid Board they are given a copy of Circular 15/79 – Official Secrecy and Integrity. The Board’s staff handbook provides further information in this regard. The consequences of using official information for the purpose of obtaining private gain for oneself or another person is an offence and is punishable by imprisonment, fine or both.

To ensure confidentiality, access to a file must normally be limited to law centre staff.

Where possible, at the end of each day, files should be stored in cabinets or locked drawers. Keys to cabinets / drawers should be kept in an agreed secure place for access to all staff. Individual offices should not normally be locked. However, if they are in an area accessible to the general public, they should be locked, but the key should be stored in an agreed secure location to be accessed by all law centre staff.

Files must not be kept in any area that is not secure, for example, outside an area that can be accessed without a door code. It is important to remember that people other than law centre staff e.g, cleaning staff, may have access to offices to carry out certain duties. It is expected that such cleaning would take place during office hours balanced against the need to cause the least amount of disruption to the work in offices. Client files should not be visible nor should any other material that is client related. Post trays should be kept in a discrete location and should be placed in a cabinet if the staff member is out of the office.

When working at PCs or their laptops staff should never leave these unattended without first locking the screens (Ctrl + F1, then click “Lock this computer”).

The reception area is normally in public view. This area should be kept as clear as possible at all times and information, message or receipt books for example, should not be kept on desks within reach or sight of callers. Computer screens near the reception area should be angled away from the view of the reception area.

Solicitor and paralegal staff should be mindful, when conducting consultations in their office, that other client files are not visible.

Material should not be left on printers or photocopiers.

In certain circumstances, specific client details or access to the file may need to be given to:

* staff of Legal Services, for the purposes of deciding on applications for legal aid;
* an Appeal Committee of the Board, for the purposes of deciding on an appeal; and
* the Managing Solicitor /Director of Civil Legal Aid/Regional Manager, for the purposes of undertaking a review of the file or dealing with a complaint
* Internal auditors to enable internal audits to be conducted.
* Civil Operations, for the purposes of recording details of client complaints

Conversations with clients regarding their case should therefore normally take place in the solicitor’s office or in the law centre’s consultation room. They should not take place in the Reception area. Care should also be taken not to discuss confidential information on mobile telephones, particularly in public places.

Staff in general offices should be mindful that conversations or telephone calls regarding clients or applicants may be heard in the waiting area. To assist maintaining confidentiality the Board has provided CD players to law centres for the purpose of playing classical music in waiting areas. It should be noted that the Board does not have a licence to permit the use of radios on law centre premises.

No material should be viewable by other clients attending meetings in the solicitor’s office.

Emails to clients may only be sent to **one client at a time.** That is to say, the same email should **not** be sent to multiple clients or copied to multiple clients. See 🡺 **Chapter 2** for further information on the operation of the e-mail system.

### Observing confidentiality outside the office

It may be necessary from time to time to take files home, for example, if you will be travelling to court from home the next day, or if you are returning directly home after a late court sitting.

No file should be left unattended outside the office or your home for any period of any more than five minutes in any circumstances.

If you are taking files out of the law centre:

* it should normally be only for the purpose of attending court or for a settlement meeting with the other party and you will return the files to the law centre immediately afterwards
* if for any other reason it is necessary to remove a file from the office, you must leave a note of the files you are taking in your diary and advise the managing solicitor by e-mail that you are taking the files
* you must store the files in a locked briefcase when you are not working on them
* the locked briefcase should be kept securely out of sight when you are not working on the files.

When travelling by car:

* Do not leave your files unattended in your car for a period of any more than five minutes
* If you must leave your files unattended in your car, for a period of up to five minutes (for example if you need to purchase fuel), they should be stored in a locked briefcase in the boot of your car, and your car must be locked. If you have a car alarm you must switch it on.

When travelling by train:

* Do not leave your files unattended on the train for any period whatsoever. This means that if you need to go to the toilet, to purchase food or drink, or to leave your seat for any other reason whatsoever, you must take all of your files and any Board laptop you have with you.
* Any work done on a file on train journeys must remain confidential
* Do not discuss confidential matters on mobile phones in public places or anywhere where you might be overheard

In the court building:

* Do not bring files that are not necessary for the hearing
* Client files must be stored in a locked briefcase when not in use and may only be left unattended in the Bar Room or in the practitioners’ area of the Court. If being left unattended in the Bar Room or in the practitioners’ area of the Court, periodic checking should occur and the files should not be left overnight.
* Particular vigilance should be exercised when involved in cases which may involve large amounts of documents / files e.g, some child abduction cases. If material is being taken to court in boxes, the client’s name should not be on the outside of the box.
* Where files are being stored in the boxes or any other sort of unsecure container, they should not be left unattended in any circumstances except in the Bar Room or the practitioners’ area of the Court.

## Visitors or callers causing difficulties

Should a person attend the law centre and behave in a difficult manner, efforts should be made in the first instance to calm the person, for example, by asking them to compose themselves.

However, it is in order to ask a visitor who refuses to calm down to leave the premises. Any visitor who is clearly under the influence of drink or drugs or who threatens or initiates violence against a member of staff in the law centre should be asked to leave the premises immediately and building security (where available) or the Garda Síochána should be contacted in the event the caller refuses to leave. The Managing Solicitor should be informed of any occasion where this occurs and in the case of a client or applicant, the guidelines below should be followed.

The following are various examples of categories of unreasonable behaviour that have been experienced by law centre staff and guidelines on the appropriate action to be taken:-

* Threat of, or actual, physical assault - a nominated solicitor should seek termination of legal services immediately.
* Threat of, or actual, self harm (whether active or passive) - a nominated solicitor should seek termination of legal services immediately.
* Surveillance/stalking - a nominated solicitor should seek termination of legal services immediately.
* Abuse, obscene language and/or gestures - depending on the gravity of abuse, language or gesture, a decision should be made at local level as to whether to give a warning or seek to transfer the client to another law centre/solicitor or to seek termination of legal services.
* Inappropriate behaviour of a personal nature - depending on the gravity of the situation, a decision should be made at local level as to whether to seek to transfer the client to another law centre/solicitor or to seek termination of legal services.
* Malicious or vexatious complaints made by clients - depending on the gravity of the situation, a decision should be made at local level as to whether to seek to transfer the client to another law centre/solicitor or to seek termination of legal services.
* Clients who fail to attend - a letter should be issued to the client advising of the consequences of not cooperating with the provision of legal services.
* Clients who cause difficulties regarding instructions - depending on the gravity of the situation, a decision should be made at local level as to whether to seek to transfer to another law centre/solicitor or to seek termination of legal services.
* Unauthorised taping of consultation - a warning letter should issue to the client with a request that the tapes be destroyed and confirmation of their destruction be given. Depending on the gravity of the situation and the response received, consideration should be given to applying to terminate legal services.
* Constant uninvited emails – a warning letter should issue to the client reminding them of the provisions in the terms and conditions letter regarding contact with the law centre. Should a client engage in persistent uninvited emails an application may be made to the Director of Civil Legal Aid for the client’s email address to be blocked by the IT system. Where this occurs the client should be written to by post advising them that all future correspondence will be by letter post and/or telephone only.

These guidelines pre-suppose that the person engaging in unreasonable behaviour is a client. However on occasion a person attending the law centre and behaving in a difficult manner may not be a client and in particular they may be a person seeking or awaiting legal services from the centre. In this situation the general approach should be that the person is written to by the managing solicitor with a warning about their future behaviour and advising that an application will be made to the Board to refuse them legal services if there is a repetition of the behaviour. The managing solicitor may consider it appropriate that an undertaking is given to this effect. There may be circumstances where an application to refuse the person legal services should be made immediately (to Legal Services).

## About complaints

Complaints are made from time to time against:-

* solicitors
* other staff of the Board
* private practitioners on the Board’s panels
* barristers.

In addition, complaints may be received about the customer’s experience in using the Board services, for example, in relation to accessibility, premises, and facilities.

The procedures to be operated by the Board for dealing with complaints, requests for change of solicitor and performance issues are set out below and have regard to the need for fair procedures, while ensuring the provision of a quality service to all legally-aided persons. The standard operating procedure in matters of this nature is that all communication should be in writing (letter or email), so as to ensure there is a clear record of the communication.

The procedures may need to be read in conjunction with those set out in section 5 relating to requests for a change of solicitor as the two issues will frequently be interlinked. A request for a change of solicitor will often include reasons for the request, including that the applicant is not happy with the service the solicitor is providing. The handling of the request for the change of solicitor in these circumstances may also involve handling a complaint. In many cases the situation may be resolved by all parties agreeing that there be a change of solicitor. Nevertheless, there may still be issues of concern for the Board relating to performance/service delivery and these may need to be properly investigated. In circumstances where a complainant insists that both the request for a change of solicitor and complaint are formally dealt with under the Board’s procedures then both procedures may be applied in parallel. It should be emphasised that the complainant will have the possibility of having the handling of the complaint reviewed under the complaints procedure **and** appealing a decision to refuse the request for the change of solicitor to the Appeals Committee of the Board.

**Complaints are sensitive! If you receive a verbal complaint listen carefully and be calm and polite to the person making the complaint.**

In considering complaints, regard must be had to:

* the Civil Legal Aid Act, 1995, and the Civil Legal Aid Regulations;
* the Terms and Conditions of the Solicitors Panels (Private Practitioner Schemes);
* the Terms and Conditions for the retention of barristers;
* the Customer Charter
* the Customer Service Action Plan and
* the Guide to Good Professional Conduct for Solicitors (Law Society 3rd Ed. 2014).

### Verbal complaints

If a verbal complaint is made to the Board or any of its law centres, every effort should be made to resolve the complaint informally and without recourse to the formal procedures set out below. If it is not possible to resolve a verbal complaint informally, the complainant should be asked to put the complaint in writing and advised that only complaints that have been made in writing will be considered formally by the Board. Where there are language difficulties, the person should be asked to write the complaint in his/her language, which can then be translated. Where there are literacy problems, appropriate assistance should be provided to enable the complaint to be put in writing.

**Procedure 7.2 – Dealing with a person who wishes to make a complaint by telephone or in person.**

1. Be polite and courteous to the person and do not make any comments on the complaint or the nature thereof.
2. If the managing solicitor is in the office and available to take the call or meet the person, transfer the call to him/her. Inform the managing solicitor of the complaint first, giving details of the complaint as given to you. **Do not put a caller through until you have spoken to the managing solicitor first.** Managing solicitors should make themselves available to try to address complaints informally.
3. If the managing solicitor is not in the office, take details of the person calling to complain and advise that the managing solicitor will contact them. Send an internal memo to the managing solicitor detailing the client’s concerns and place a copy on the client file.
4. The managing solicitor will, in the first instance, deal with the complaint in accordance with the procedures set out above.

### Written complaints

These can be received by law centres or Head Office. They can come in by email or hardcopy letters received by post or dropped off by hand. A written complaint of any nature should be referred immediately to a complaints officer (by email to **Complaints**). A complaints officer is one or more Board staff whose function is to receive process and track complaints. They will each be members of an email group entitled **Complaints**.

If the complaint is received locally in a law centre then it should also be copied to the managing solicitor. There may be circumstances in which a staff member may be uncomfortable in copying the complaint to the managing solicitor in which case it can just be forwarded to the complaints officer. The complaints officer shall acknowledge the complaint to the complainant. The complaints officer will decide on the appropriate person to deal with the matter.

The acknowledgement will issue within 5 days of receipt of the complaint by the complaints officer.

If a complaint is against a managing solicitor or member of a solicitors panel then the complaints officer will refer it to the Regional Manager, as appropriate. If the complaint relates to a member of staff (other than a managing solicitor) then it will be referred to the managing solicitor for investigation).

### Responding to complaints

The complainant should be made aware of a single point of contact, they should be given the name and contact details of the person dealing with the complaint as soon as possible by the complaints officer.

Complaints should be acknowledged promptly and within 5 working days from the date of receipt.

All issues raised in the complaint must be comprehensively investigated and responded to.

All points raised by the complainant and agreed at the start of the investigation should therefore be properly considered and fully addressed in the response.

Any areas of disagreement or varying accounts can be acknowledged without dismissing what the complainant says.

The decision must be formally communicated and confirmed in writing when an investigation identifies a service failure and the Board proposes to take action to resolve the issue, the response should include details of what will be done and when.

It is frequently the case that a complaint will relate to the interpersonal engagement between the solicitor and the client. In many of these instances it is very difficult, if not impossible, to make findings of fact on the complaint. The client may allege that certain behaviour or demeanour was unacceptable while the solicitor/staff member will take issue with the allegations and may maintain that the client’s behaviour was unacceptable and that the client’s unhappiness is attributable to legal advice given that the client did not like. In those circumstances, the Board may seek to resolve the issue without making any findings which may understandably displease the complainant and / or the solicitor. The staff member should also be objectively aware of whether there were grounds for a complaint. Perhaps calls were not returned, perhaps there were delays in progressing the case owing to leave, workload, etc. An acknowledgement of same and a conscious effort made to address these issues when the above has applied can remedy the complaint in the first instance and avoid a breakdown in the solicitor / client relationship.

On a limited number of occasions a client will make repeated complaints often addressed to different Board personnel. Any letter of complaint received outside of the law centre should be forwarded to the complaints officer for processing in accordance with the procedures set out above and a response should issue from the person responsible for dealing with the complaint within the time frames set out in this document.

Every effort should be made to resolve the issues as quickly as possible and not enter into prolonged correspondence.

In cases where a complaint is upheld, the appropriate manager should ensure that an action plan is drafted setting out how the recommendations will be implemented and who will be responsible for implementing them.

The investigator should establish clear guidelines to help identify the types of issues appropriate to their investigation including:

* Frontline resolution was attempted but the service user remains dissatisfied;
* The service user refuses to engage with the frontline resolution process;
* Issues raised are complex and will require detailed investigation;
* The complaint relates to issues that have been identified as high risk.

He/she should also establish the nature of the complaint, the preferred method of communication and the desired outcome.

A full response to the complaint should issue within 30 working days of receipt. If, in exceptional circumstances, the response will be delayed, the complainant should be told of this within 30 working days of receipt and should be given a revised timescale for bringing the investigation to a conclusion as well as an explanation for the delay. An update should be provided every 20 working days thereafter.

|  |
| --- |
| **Procedure 7.3 – Dealing with a written complaint against a law centre member of staff (other than the managing solicitor), or against a barrister.**   1. If the complaint is received locally in a law centre then it should be referred immediately to a complaints officer by email to complaints@legalaidboard.ie, or “complaints” and copied to the managing solicitor. The complaints officer will immediately log the complaint in the complaints database. If the complaint is received in Head Office it should immediately be sent to a complaints officer for logging. The complaints officer will immediately refer the matter to the managing solicitor for investigation. 2. The complaints officer will contact the complainant (within 5 days) to acknowledge the complaint and say the matter has been referred to the managing solicitor to investigate (the managing solicitor will be named). 3. The managing solicitor willfurnish a copy of the written complaint to the relevant member of staff /barrister within 2 days requesting their comments within a further 7 days (except in exceptional circumstances where it is not practicable to do so). The managing solicitor will, within 5 days of receipt of the complaint, inform the complainant that, in accordance with the Board’s procedures, he/she has sent a copy of the client’s complaint to the solicitor/staff member/ barrister for a response. The member of staff / barrister should be mindful that his/her response will be made available to the complainant. Upon receipt of the comments from the relevant member of staff or barrister, that response should be sent to the complainant for his/her observations. When a response is received from the complainant then it should be sent to the member of staff/barrister but with no further request for observations. 4. **The complaints officer must be CC’d in all correspondence so that the complaints database will be kept up to date and all documents relating to the complaint will be saved to the client file.** 5. If the complaint is against a solicitor in the law centre then that solicitor will continue to provide legal services to the complainant unless the managing solicitor, in exceptional circumstances, feels that it is not appropriate for that solicitor to continue to provide legal services to the complainant and, in those circumstances, the complainant shall be offered a change of solicitor within the law centre. 6. If the managing solicitor is of the view that the complaint is complex or requires further investigation then she/he should write to the complainant informing him/her of this and indicating when it is expected to complete the investigation. 7. The complaint should be processed within 30 days of the acknowledgement but if, as contemplated by paragraph 6, the matter is likely to take longer than that then the managing solicitor will write to the complainant advising the likely time frame for completing his/her investigation. The managing solicitor should keep the complainant updated in writing every 20 days. 8. The managing solicitor makes a decision and notifies the parties of the decision, in writing, and also the reasons for reaching that decision. The managing solicitor shall inform all parties of the right to seek a review of the complaint by a review officer. 9. If it is considered that there is merit to the complaint, a decision needs to be made as to what response should be made to the complainant. An acknowledgment of the fact that there was merit in the complaint and an apology might be appropriate. If any other remedy is contemplated then the Director of Civil Legal Aid should be contacted. If it is considered that there is no merit to the complaint then the complainant is notified of this and reasons given. The law centre will act upon the decision of the managing solicitor/Director of Civil Legal Aid. 10. In a complaint against a law centre member of staff the review officer shall be the Regional Manager for that law centre. 11. If no review is sought, that is the end of the matter. 12. If either party seeks a review, the other party should be furnished with a copy of the request for a review and all details should be forwarded to the Regional Manager by the managing solicitor. As previously mentioned, the complaints officer should be copied on all correspondence. 13. The review officer will decide whether the review simply requires an examination of the procedure adopted by the managing solicitor in dealing with the complaint or whether it requires a fresh full examination of the entire complaint. 14. On reviewing the decision of the managing solicitor, the review officer can:     1. uphold in full that decision;     2. uphold it in part;     3. not uphold it;     4. vary it or;     5. make a new decision. 15. The law centre will act upon the decision of the review officer. |

|  |
| --- |
| **Procedure 7.4 – Dealing with a written complaint against a managing solicitor or member of the solicitors panel**   1. If the complaint is received locally in a law centre then it should be referred immediately to a complaints officer by email to “Complaints” and copied to the managing solicitor. There may be certain cases where a staff member may not feel comfortable copying the managing solicitor in which case it can just be forwarded to the complaints officer. The complaints officer will immediately log the complaint in the complaints database. If the complaint is received in Head Office it should immediately be sent to the complaints officer for logging. 2. The complaints officer will contact the complainant (within five days) to acknowledge the complaint and say the matter has been referred to the Regional Manager (and name of Regional Manager) to investigate. 3. The Regional Manager willfurnish a copy of the written complaint to the managing solicitor/private practitioner within two days requesting their comments within a further seven days (except in exceptional circumstances where it is not practicable to do so). The Regional Manager will, within five days of receipt of the complaint, inform the complainant that, in accordance with the Board’s procedures, he/she has sent a copy of the client’s complaint to the managing solicitor/private practitioner for a response. The managing solicitor/private practitioner should be mindful that his/her response will be made available to the complainant. Upon receipt of the comments from the managing solicitor/private practitioner, that response should be sent to the complainant for his/her observations. When a response is received from the complainant then it should be sent to the managing solicitor/private practitioner but with no further request for observations. 4. **The complaints officer must be CC’d in all correspondence so that the complaints database will be kept up to date and all documents relating to the complaint will be saved to the client file.** 5. The managing solicitor/private solicitor will continue to provide legal services to the complainant unless the Regional Manager, in exceptional circumstances, feels that it is not appropriate for that solicitor to continue to provide legal services to the complainant and, in those circumstances, the complainant shall be offered a change of solicitor within the law centre/to select an alternative private practitioner, as may be appropriate. 6. If the Regional Manager is of the view that the complaint is complex or requires further investigation then she/he should write to the complainant informing him/her of this and indicating when it is expected to complete the investigation. 7. The complaint should be processed within 30 days of the acknowledgement but if, as contemplated by paragraph 6, the matter is likely to take longer than that then the Regional Manager will write to the complainant advising the likely time frame for completing his/her investigation. The Regional Manager should keep the complainant updated in writing every 20 days. 8. The Regional Manager makes a decision and notifies the parties of the decision, in writing, and also the reasons for reaching that decision. The Regional Manager shall inform all parties of the right to seek a review of the complaint by the review officer, who in these circumstances shall be the Director of Civil Legal Aid. 9. If it is considered that there is merit to the complaint, a decision needs to be made as to what response should be made to the complainant. An acknowledgment of the fact that there was merit in the complaint and an apology might be appropriate. If any other remedy is contemplated then the Director of Civil Legal should be contacted. If it is considered that there is no merit to the complaint then the complainant is notified of this. The law centre will act upon the decision of the Regional Manager/Director of Civil Legal Aid. 10. If no review is sought, that is the end of the matter. 11. If either party seeks a review, the other party should be furnished with a copy of the request for a review and all details should be forwarded to the review officer by the Regional Manager. 12. The review officer will decide whether the review simply requires an examination of the procedure adopted by the Managing Solicitor in dealing with the complaint or whether it requires a fresh full examination of the entire complaint. 13. On reviewing the decision of the Regional Manager, the Director of Civil legal Aid can     1. uphold in full that decision     2. uphold it in part     3. not uphold it     4. vary it or     5. make a new decision. 14. The law centre will act upon the decision of the review officer. |

### Complaints in relation to a member of a solicitors’ panel

Complaints against a member of a solicitors panel may be received locally in law centres or by Head Office. These must be forwarded to the complaints officer within five days of receipt. In accordance with the above procedure, the complaints officer will acknowledge receipt of the complaint to the complainant within five days of receipt. The Regional Manager shall investigate the complaint.

### Recording information in relation to complaints

Civil Operations shall maintain a complaint database containing details of the progress of the complaint.

The complaint database and any accompanying electronic folders should contain information such as

* Complainant details
* Issues raised and action taken
* It should also contain in chronological order, any correspondence about the complaint, notes of meetings and telephone calls (both external and internal).

Civil Operationsshould ensure that the complaint is available for review by the Ombudsman, if required. Any hard copy documents can be scanned and there is no requirement to keep hard copy documents provided they have been scanned and properly stored in an electronic file. Where documents relate to a law centre file the documents should be uploaded to that file by the complaints officer in addition to being kept on an electronic complaints file.

The Complaints database shall contain information on the complaint which includes:

* Category or nature of the complaint
* Action taken to resolve the complain
* The outcome of the complaint and whether the complainant was satisfied with the outcome

The database should also include

* The date of receipt of the complaint
* The date of the acknowledgement letter
* The date the solicitor/managing solicitor/Regional Manager or Director of Civil Legal Aid is copied with the complaint
* The date of the substantive response to the complainant
* The date the complainant sought a review, if applicable
* The date of the response to the complainant regarding any review

The complaints officer shall maintain the database accurately and it shall be made available to the internal audit function. The onus will be on the managing solicitor/Regional Manager to ensure that the complaints that they receive are dealt with in accordance with these procedures. Senior management and the Board will also be provided with regular reports on the number and the type of complaints received; the findings of any investigations; and any actions taken as a result. Particular attention should be paid to the narrative within complaints’ data as this can be used to improve the organisation and our effectiveness.

### Formal investigation following on from a complaint

If the Director of Civil Legal Aid/Regional Manager, as appropriate, considers that the nature of the complaint is such that a formal investigation is required into the behaviour of the member of staff/member of a solicitors panel/barrister, such an investigation will be carried out by a person appointed by the Chief Executive. In carrying out such an investigation, due regard will be had to the need for fair procedures and all relevant material will be provided to the individual staff member/member of a solicitors panel/barrister and to the relevant managing solicitor, if appropriate. Any findings in relation to a staff member shall be referred to the staff member’s immediate line manager. Any findings relating to a member of a solicitors panel or barrister will be referred to the Director of Legal Aid.

### Issues of performance –barristers

Where any issue is raised by a member of staff in relation to the performance of a barrister, the matter is to be referred to the managing solicitor who will be responsible for deciding what action, if any, to take in relation to the matter.

It will be open to a managing solicitor to take a decision, based on the professional nature of the relationship between a solicitor and a barrister, that it is not appropriate to refer any further cases to a particular barrister.

It will be a matter for a managing solicitor to determine whether and to what extent any issue of performance should be referred to the individual barrister.

### Removal / suspension of private solicitors/barristers from a panel

In the event that a Managing Solicitor recommends that a member of a solicitors panel /barrister be suspended / removed from the relevant panel, this recommendation will be forwarded to the Director of Civil Legal Aid in the case of barristers, or the Regional Manager in the case of members of a solicitors panel, for a decision.

In the event that the Director of Civil Legal Aid/ Regional Manager, as appropriate, determines that a member of a solicitors panel/barrister should be so suspended / removed, the private solicitor/barrister who is to be suspended / removed will be advised of:-

* the reasons for the decision; and
* the right to seek a review and/or appeal of the decision to the Chief Executive of the Board within one month of the notification.

### Issues of performance – law centre staff

There are specific arrangements in place for managing the performance of law centre staff, in particular ePMDS and the disciplinary code, and they should be followed where any performance issues arise in respect of the service provided by staff of the Board.

### Oversight by the Customer Liaison Officer

This complaints procedure is subject to oversight by the Board’s Customer Liaison Officer. The Customer Liaison Officer will, from time to time, conduct audits into how this complaints procedure is being implemented to ensure that complaints are being handled in a fair and transparent manner. This oversight role may mean that the CLO will, on occasion, review the handling of an individual complaint if the CLO feels the circumstances warrant such a review. In exceptional cases, where the CLO finds that the complaint was not properly investigated, then the CLO may direct that the complaint be re-investigated.

### The Office of the Ombudsman

As of 1st July 2013, the Legal Aid Board comes within the remit of the Office of the Ombudsman. The Ombudsman can examine complaints in relation to the 'administrative actions' of the Board **which occurred on or after 1 May 2013 only**.

Common complaints which tend to be dealt with by the Ombudsman’s office are as follows:

* Delay;
* Failure to respond;
* Poor Communication;
* Inconsistent implementation of scheme/policy;
* Lack of fair procedures.

The Office of the Ombudsman is not however entitled to investigate the provision of legal services by solicitors of the Board or by private solicitors who are providing services on behalf of the Board.

**Contact Details for the Office of the Ombudsman are as follows:**

Office of the Ombudsman,

18 Lower Leeson Street,

Dublin D02 HE97.

Lo-call: 1890 223030

E-mail: Ombudsman@ombudsman.gov.ie

For clients under the age of eighteen, the Ombudsman for Children’s Office may perform the same role:

**Contact details for the Ombudsman for Children’s Office are as follows:**

Ombudsman for Children’s Office

52-56 Great Strand St

Dublin D01 F5P8

Free Phone: 1800 20 20 40

E-mail: [ococomplaint@oco.ie](mailto:ococomplaint@oco.ie)

[www.oco.ie](http://www.oco.ie)

## Change of solicitor requests

The procedures to be followed when a client or a solicitor seeks to change solicitors are designed to secure fairness and consistency in decision making.

The general principles and procedures to be applied when dealing with a request for a change of solicitor, at the request of the solicitor or of the client, are set out below.

### A solicitor requests a change of solicitor

Solicitors are required to obtain approval from the Board in accordance with the following principles and procedures:-

* each request is dealt with on its own merits, and in writing;
* once it is established that the request is a reasonable one, the Board will authorise and make provisions for a change of solicitor;
* there should be a minimum of inconvenience to the client;
* any request for a change must be referred to the managing solicitor;
* in the case of the managing solicitor, or a member of the solicitors panel, the request must be made to the Director of Civil Legal Aid/Regional Manager, as appropriate;
* if the request is granted, the matter must, unless there are exceptional circumstances, be handled within the law centre;
* smaller centres may operate a twinning arrangement;
* where the request relates to a member of the solicitors panel, the Director of Civil Legal Aid/Regional Manager will inform Legal Services of the decision so as the applicant may be referred back to the panel to retain a new solicitor and Legal Services may take any other action that is appropriate in the circumstances
* solicitors are reminded that in cases involving an abusive or aggressive client, the appropriate course of action may be to seek the withdrawal of legal services rather than seek a change of solicitor, solicitors are further reminded that in such cases the procedures set on in the Administrative Procedures Handbook should be strictly observed and the appropriate warning letter sent to the client regarding her/his unreasonable behaviour
* if the managing solicitor grants the request, the client should be informed and be given an opportunity to seek a review of the decision and/or to appeal the decision to an appeal committee
* if the managing solicitor rejects the request and the requesting solicitor does not agree with the decision, the requesting solicitor may seek a review of the decision by the Director of Civil Legal Aid/Regional Manager, as appropriate
* if the request for a change of solicitor relates directly to the managing solicitor, the decision will be made in the first instance by the Director of Civil Legal Aid/Regional Manager, as appropriate
* if the Director of Civil Legal Aid/Regional Manager, as appropriate, grants the request, the client should be informed and be given an opportunity to seek a review of the decision and/or to appeal the decision to an appeal committee
* if the request is granted, the change of solicitor must nevertheless, unless there are exceptional circumstances, be handled within the law centre
* if the Director of Civil Legal Aid/Regional Manager, as appropriate rejects the request and the managing solicitor does not agree with the decision, the managing solicitor may seek a review of the decision by the Chief Executive.

### A client requests a change of solicitor

As these requests relate to service provision to the client, they should be treated differently than a complaint. Where the request relates to a solicitor in the law centre then the request should be directed to the managing solicitor.

Where the request relates to a managing solicitor or to a member of a solicitors panel then the request should be directed to the Regional Manager/Director of Civil Legal Aid, as appropriate.

In the case of private solicitors and solicitors in law centres, efforts should be made to resolve the matter by accommodating the request, unless there are compelling reasons not to accommodate it.

If a client requests a change of solicitor on grounds of difficulties or breakdown in the solicitor/client relationship, a conflict of interest and/or any other reasonable grounds, the client should be facilitated with a change of solicitor, subject to a decision on any additional expenses that might arise. If it is considered that the request is on account of matters such as the quality of the legal advice offered; the professional competence of the solicitor; the personal integrity of the solicitor then, in those instances, the solicitor should be contacted to see if she/he has any objection to the request being accommodated on a strictly without prejudice basis and without any formal investigation/findings in relation to the matters alleged by the client.

In cases where the request for a change is sought by the client on account of matters such as poor communication; lack of courtesy; rudeness or other bad behaviour towards the client; the quality of the legal advice offered by the solicitor; the professional competence of the solicitor; the personal integrity of the solicitor then these, by their very nature, may be viewed as complaints against the solicitor involved.

All requests for a change of solicitor should be copied to a complaints officer and the request shall be logged as a potential complaint. The managing solicitor/Regional Manager, as appropriate, shall decide whether the issues raised should be processed under the complaints procedure above. If that is the case then the complaints officer will be notified and the matter changed from a potential complaint to a complaint.

**Procedure 7.5 – Dealing with a change of solicitor request**

1. The request must be in writing, stating the grounds upon which the request is being made. In the law centre upload the request to the client’s EOS file. Where the request relates to a member of the solicitors panel, a complaints officer will record the request and refer it to the Director of Civil Legal Aid /Regional Manager.
2. In EOS, open the case, click on the Submissions tab and click on “Create New Submission”.
3. Select the following:
   1. **Submission Type:** Submission for Change of Solicitor
   2. **Type of Proceedings, Court, and Litigation Options:** As appropriate to the individual case
   3. **Statement of Facts:** The solicitor should outline the grounds in the request and their response to same. When preparing this statement the solicitor should be mindful that it will be available to the client; Where the request relates a member of the solicitors panel, the complaints officer should simply refer to the applicant’s letter on the Documents tab.
   4. **Recommendation:** Either Grant or Refuse as appropriate
   5. **Decision Maker:** If the request relates to the managing solicitor, choose “Director of Civil Legal Aid” or “Regional Manager”. If it relates to any other solicitor choose “Managing Solicitor”.
   6. **Documents:** Choose the written request you scanned earlier
   7. **Status:** To Be Submitted
   8. When finished, click “**Make New Submission**”
4. Requests by a client for a change of solicitor will be copied to a complaints officer. If the managing solicitor/Director of Civil Legal Aid/Regional Manager, as appropriate, considers that the nature of the request is such that it may constitute a complaint, then the Board’s formal complaints procedure will be invoked.
5. If the managing solicitor/Director of Civil Legal Aid/Regional Manager grants the request, the case is passed on to the next nominated solicitor and the provision of services continues as normal, subject to any conditions that may be imposed when granting a request for a change of solicitor. The matter should be closed once confirmation has been received that the client has been given a new appointment
6. If the managing solicitor/Director of Civil Legal Aid/Regional Manager refuses the request, the client should be informed by letter, copied to the nominated solicitor, setting out the reasons why the request is refused. If the request is refused then the solicitor with conduct of the matter continues to provide legal services to the client. The client should be informed of his/her right to seek a review/appeal in relation to this decision. The client should be offered an opportunity to seek a review of the decision and given the opportunity to furnish any additional information not previously considered. In relation to an appeal, this appeal is to an appeal committee of the Board. In the meantime, the client is entitled to continue to receive services from the solicitor having conduct of the matter. A template letter setting out the decision which should be used is on the next page.

Where a request is made by a client to a staff member for a change of solicitor:-

* where possible, the staff member should endeavour to route the request to the Managing Solicitor, after which the procedures outlined above should be followed; and
* if the request for a change of solicitor relates directly to the Managing Solicitor and the client does not wish to make a direct approach to the Managing Solicitor, the client should be asked to write directly to the Director of Civil Legal Aid/Regional Manager. It should be made clear however that any client complaint / request for a change of solicitor will be passed to the solicitor with conduct of the matter for their observations.

***Template letter refusing a change of solicitor***

|  |
| --- |
| **10th March 2015**  **Client Name: John Smith**  **Subject Matter:**  **Application for: Change of solicitor**  Dear Mr Smith,  I refer to the application for a change of solicitor that you made on <<xxth month 20xx>>.  The material submitted in support of your application, <<and the observations that your solicitor has provided>> has been considered by the Board. The following decision has been made:  **Having regard to section 31(4)(a) of the Civil Legal Aid Act 1995**  **we are refusing to consent to the application to for a change of solicitor on the grounds that we do not consider it reasonable in all the circumstances to do so**  Section 31(4)(a) provides that:  “Where a person to whom the Board has decided to grant legal aid or advice has… accepted the nomination of a solicitor or selected a solicitor from the solicitors' panel.…the person may apply to the Board to have the services of that solicitor …dispensed with and the services of another solicitor of the Board or solicitor from the solicitors' panel….obtained in the matter and where the Board considers it reasonable in all the circumstances, it may consent to the application.”  The reasons why we do not consider it reasonable in all the circumstances to consent to the application are as follows <<outline all relevant reasons>>.  **Your options**  You have the option to request a **review** this decision. A review means that you can submit further information and ask that the decision be re-considered in the light of such new information. A request for a review must be submitted within one month of when you receive this letter. I will notify you of the outcome of the review after the review has been completed.  You may also **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will usually be either to confirm the decision, or they may overturn this decision and grant the change of solicitor. The Committee have wide powers and are not confined to either of these approaches. Usually, an appeal does not involve submitting any further information to the Board. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal. I will notify you of the outcome of the appeal once I have received the decision from the Secretary to the Appeal Committee.  You should send your request for a review or appeal to me at the address at the top of this letter.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **<<Managing Solicitor/Regional Manager/Director of Civil Legal Aid>>** |

## Dealing with unreasonable complainant behaviour

### Introduction

This section of the Handbook gives guidance on when complainant behaviour can be classed as unreasonable and it outlines options to manage such situations. It should be read in conjunction with the Board’s policy for dealing with complaints.

While the majority of complainants interact with the office in a restrained and reasonable manner, we fully appreciate that some are particularly stressed when pursuing complaints against the Board and that, from time to time, this stress will show in how they interact with the Office. Each member of staff knows that managing such interactions is an intrinsic part of the job.

However, this does not mean that we expect our staff to tolerate behaviour by our customers that is abusive, offensive, threatening or, due to the frequency of contact,accounts for a disproportionate amount of time and resources at the expense of dealing with other complaints and investigations. This issue is particularly acute at a time when resources are at a premium.

Unreasonable complainant behaviour has been estimated as comprising of between 3% and 5% of cases.[[3]](#footnote-4)

### What is unreasonable complainant behaviour?

Classifying complainant behaviour as unreasonable is a serious matter and deciding whether to do so should be carefully considered.

When complainants are **aggressive, threatening, make excessive or inappropriate demands of the Board’s staff or engage in unacceptable behaviour towards the Board’s staff,** this is viewed as unreasonable complainant behaviour. When this happens, consideration should be given to the impact of behaviour on staff capacity to do their work and provide a service to others.

In the context of this guidance, unreasonable complainant behaviour may be categorised as[[4]](#footnote-5):

**Unreasonable persistence:** Persistence with a complaint that has already been investigated by the Board/Ombudsman’s Office, often after an internal appeal. The persistence may manifest itself in different ways, for example insisting that the complaint be looked at again by another Officer (following completion of appeal process), re-framing the complaint to present it as a fresh complaint, or persevering with an argument that has already been addressed.

**Unreasonable demands:** An outcome or approach is expected that is unrealistic or disproportionate. Examples include repeated demands for investigation of a matter that is outside the remit, or trying to direct the investigating officer as to how to conduct the investigation. The sending of multiple and lengthy emails is an example of unreasonableness. The sending of such emails can be relatively easy for someone bearing in mind that the issue may be consuming their attention and time. However, for staff who are expected to respond to every communication the receipt of multiple and lengthy emails (sometimes in one day) is beyond their capacity. Complaint emails should be limited to one email per week and should be of reasonable length (e.g. not more than 750 words). Failure to abide by this approach may result in the senders email address being blocked.

**A demand becomes unreasonable when**

* It starts to impact substantially on the work of staff investigating the complaint; or
* Complying with the demand would impact substantially on the work of staff investigating the complaint
* The complainant is repeatedly demanding responses within an unreasonable timeframe
* The complainant is insisting on seeing or speaking to a particular member of staff when that is not possible or necessary
* The complainant is repeatedly changing the substance of a complaint or raising unrelated concerns

**Unreasonable lack of co-operation:** Persistent presentation of a complaint in a disorganised manner. Examples include:

* Not identifying the complaint clearly
* Presentation of often unnecessary voluminous material while expecting almost instantaneous responses
* Transforming the complaint mid-way through the process and occasional dishonesty in the statement of facts.

**Unreasonable arguments:** Examples include:

* Exaggerating issues;
* Presenting irrelevant and/or unreasonable arguments;
* Placing too much emphasis on trivialities;
* Insisting that the complainant’s version of events be accepted as fact where there is no objective evidence to support this view;
* Obstinately refusing to consider counter arguments;
* Being guided by unfounded conspiracy theories;
* By desire for revenge or retribution against another person or public body.

**Threats, intimidation and/or abuse:** Examples of this include:

* Threats of violence;
* Actual violence;
* Verbal abuse of Board staff;
* Rude or aggressive conduct or threats of self-harm;
* Violence is not restricted to acts of aggression that may result in physical harm.[[5]](#footnote-6) It also includes behaviour or language whether verbal or written that may cause staff to feel afraid, threatened or abused and may include threats, derogatory personal remarks, inflammatory statements or rudeness.

### Principles to apply to unreasonable complainant behaviour

The following approach should be taken in responding to unreasonable complainant behaviour.

* The substance of the complaint should determine how the investigating officer responds to the complaint (not the complainant’s demands or behaviour);
* The Board will act respectfully towards the complainant and impartially with regard to the complaint, regardless of the complainant’s behaviour;
* The investigating officer will ensure that the complaints procedure has been correctly followed and no element of the complaint has been overlooked or inadequately addressed;
* The investigating officer will explain to the complainant when and why it is considered the complainant’s behaviour is unreasonable and afford the complainant the opportunity to change their behaviour;
* Any measure taken in relation to unreasonable complainant behaviour must be proportionate and appropriate to the circumstances, fair to the complainant and fair to the staff involved.

### Process for responding to unreasonable complainant behaviour

The procedure outlined below should be followed where the investigating officer considers categorising a complainant’s behaviour as unreasonable.

* Where the investigating officer is the managing solicitor and the managing solicitor considers a complainant’s behaviour as unreasonable then the managing solicitor will review the matter with the Regional Manager who will consider this matter in accordance with the procedures below.
* Where the investigating officer is the Regional Manager and the Regional Manager considers a complainant’s behaviour as unreasonable then the Regional Manager will review the matter with the Director of Civil Legal Aid who will consider this matter in accordance with the procedure below.
* Following this determination, the manager (Regional Manager/Director of Civil Legal Aid) will notify the complainant of these measures in writing and of the reasons why his/her behaviour has been deemed unreasonable
* This notification will be copied for the information of all those involved
* A hard copy should be placed on the client file and a separate complaint file will be set up for future reference regarding the reasons why an individual’s behaviour is deemed as unreasonable and actions taken relating to same

### Appropriate measures

Measures taken must be appropriate and proportionate. Options to consider include

* Confirm to the complainant that all lines and avenues with regard to the complaints process have been exhausted in line with the Board’s complaints policy
* Ask the complainant to enter into an agreement about their future conduct
* Requesting contact in a particular form (letters only)
* Requiring contact to take place with a named officer and restricting any phone calls to specified days and times
* Limit the email addresses that can be contacted by the complainant
* Restrict the number of issues that will be dealt with in a given period
* Limit the number of emails in any one period and direct that they be as concise as possible

At all times, the Board will try to maintain at least one form of contact with the complainant.

Terminating all contact with the complainant will be considered where the behaviour shows no sign of abating (this decision will be taken at Director level)

Where the behaviour of a complainant is so extreme that it threatens the safety and welfare of the Board’s staff, the Board will consider options such as notifying the Garda Síochána. In such circumstances, the Board may not give the complainant prior warning. The staff member who is dealing with a complainant in these circumstances will be supported by their manager and offered advice in relation to the Civil Service Employee Assistance Officer.

|  |
| --- |
| **Procedure 7.6 – Staff guidelines for managing unreasonable complainant behaviour.**  Any member of staff who directly experiences aggressive or abusive behaviour from a complainant (as described in this note) has the authority to deal immediately with that behaviour in a manner that is reasonable and proportionate. The staff member should:   1. Record a memo of the date and time and the language/behaviour of the complainant and your response; 2. Be accurate in your recording; 3. Avoid using emotive language; 4. Keep copies of written materials, letters, emails or other social media messages; 5. Bring details to the attention of your manager.   This process gathers evidence to assist in assessing whether a complainant’s behaviour amounts to unreasonable behaviour having regard to the contents of this policy.  **Standard process for abusive calls or abusive behaviour experienced on phone**   1. Be polite at all times and remain calm; 2. When the person first uses unacceptable or threatening behaviour (including inappropriate language), inform them that this is not acceptable and ask them to stop; 3. If the behaviour continues remind the caller that your have asked them to stop and that you will end the call if he/she continues in the same manner; 4. If the behaviour continues – end the conversation; 5. If the caller calls back, repeat point 2 to 4 above and inform the person that his/her behaviour could be regarded as abusive/threatening and it is the Board’s policy to discontinue telephone calls- repeat step 4, if necessary.   **Standard process for abusive correspondence**   1. Consider whether a response is required. This may be done in conjunction with your line manager; 2. If a response is required: At all times be polite. Do not use emotive language. Do not show anger 3. Point out why this correspondence is unacceptable; 4. Advise that you will not accept further correspondence from the person concerned unless he/she ceases using unacceptable/threatening language.   **Standard process for persistent telephone calls**   1. Be polite at all times; 2. Advise the caller that you are aware that he/she has made previous calls about the same issue; 3. Advise the caller that you have answered to the best of your ability and that nothing further can be done or that the matter is being addressed and that they can accept contact from the investigating officer by a certain date and that you will not be in a position to update then until then; 4. Advise the caller that you are unable to spend any further time discussing the matter and that you therefore intend to end the call; 5. Advise the caller that you are ending the call and that he/she should not call again unless there is something new to discuss; 6. End the call; 7. If the caller calls back repeat step 3 and advise the caller that his/her behaviour could be regarded and unreasonable behaviour – repeat step 4 to 6; 8. If the caller calls back again advise the caller that you intend to report the matter to your manager, repeat step 5 and end the call   **Standard process for persistent correspondence**   1. Advise the correspondent that you are aware that he/she has made previous contact about the same issue; 2. Advise the person that you have answered to the best of your ability and that nothing further can be done or that the matter is being addressed and that he/she can expect contact from the investigating officer by a certain date and that you will not be corresponding with him/her until then. |

### Checklist

|  |  |
| --- | --- |
| I have reviewed the file |  |
| I have consider the following criteria |  |
| * The merits of the complainant’s case |  |
| * The complainant’s circumstances |  |
| * Proportionality |  |
| * Organisational responsibility |  |
| * Behaviour that is unreasonable in all circumstances |  |
| Has the complainant been afforded the opportunity to address their behaviour |  |
| I have considered all reasonable options for managing the complainant’s behaviour, including those that do not involve restricting their access to services |  |
| **Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |

## Customer Charter

The Board has adopted a Customer Charter. The purpose of the Charter is to identify to applicants and clients how they can and should expect to be treated by the Board and its staff, what they can do if they are not satisfied that they are being so treated and what the Board’s expectations are from them in relation to their interaction with the law centre and Board staff. All staff should have careful regard to the terms of the Charter and the ethos that it seeks to create.

The Customer Charter is available on the Bulletin Board.

Customer Service should form a standard agenda item on all staff meetings (🡺 Procedure 2.13)

## Freedom of information

### Background

The Freedom of Information Act 2014 governs access to information held by State bodies, including the Legal Aid Board. It asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals. The legislation gives members of the public the following rights:-

* the right to access official records held by Government Departments or other public bodies listed in the Act;
* the right to have personal information held on them corrected or updated where such information is incomplete, incorrect or misleading; and
* the right to be given reasons for decisions taken by public bodies that affect them

These rights of access to records, to have personal information amended and to have a statement of reasons for a decision can also be exercised by a parent or guardian in respect of a minor or disabled person and by the next of kin or personal representative of a deceased person (subject to guidelines published by the Minister for Public Enterprise and Reform from time to time).

These rights mean that members of the public can seek access to personal information and to other records created by the Board.

### Publication Scheme

Under the Freedom of Information Act 2014, the Board has a statutory obligation to prepare and publish a scheme on its website which sets out detailed information about the Board and its operations and about the information and records it will make available, both generally and under the freedom of information legislation. The Board’s publication scheme must be in line with the model publication scheme published by the Department of Public Expenditure and Reform. This is to ensure that the Board and other public bodies present information in a uniform and consistent manner and publish as much information as possible on a routine basis. The publication scheme requires information to be published under the following headings:

1. Information about the Board
2. Services provided or to be provided to the public
3. Decision making process for major policy proposal
4. Financial information
5. Procurement, and
6. FOI disclosure log and other information to be published routinely.

### Dealing with enquiries

Law centres should normally co-operate in relation to client requests for their own personal information or for a copy of their file. It is significantly more cumbersome and time consuming to have to deal with a Freedom of Information/Data Protection request for a client’s file than it is to hand over the file, assuming that there are no documents on the file that the law centre is or might be precluded from releasing to the client. It should not therefore be necessary for a client to make an FOI request in order to obtain copies of personal documentation which may have been submitted as part of an application for legal services or as part of their case or which have been created by the law centre on their behalf as part of their case.

The Board has created a number of Information Leaflets which are available and give general information on the Board’s services. A member of the public making a general enquiry regarding the services provided by the Board may be handed one of these leaflets which are available from Organisation. They may also be given general information regarding the Board’s policies and procedures.

While the member of the public must be informed of the FOI request procedure if they ask, consideration should be given at all times as to whether it would be possible for the relevant member of the public to be given the information, with regard to the Board’s need to also comply with the Data Protection Act, the Official Secrets Acts, and solicitor-client confidentiality.

### FOI requests

Where a Freedom of Information request does arise, it is dealt with through Organisation, Cahirciveen. The Assistant Director, Organisation is the Board’s Freedom of Information Officer. Law centre staff should be aware of, and be able to advise a member of the public, of the procedure for making a Freedom of Information request.

Staff in Legal Services in Cahirciveen will normally liaise with the law centre in respect of obtaining copies of the relevant records. Copies of all records should be sent on, even if there is a possibility that they will not be released. The Assistant Director, Legal Services will make a decision.

**Procedure 7.6 – Dealing with a person who wishes to make a request under the Freedom of Information Act 2014**

1. If the person is a client, consult with the solicitor dealing with the file. Identify whether or not the information being requested is something that cannot be released to the client without recourse to an FOI request.
2. Advise the person that they will need to put the following in writing:  
   - the request  
   - specify that the request is being made under the Freedom of Information Act; and  
   - be clear enough so that the Board understands what records are being requested.
3. A fee may be payable, by cheque/postal order made payable to the “Legal Aid Board”. No fee is payable when the request relates to personal information about the requester (other than where the grant of information concerned relates to a significant number of records and in such cases, the means of the requester must be taken into account).
4. For non-personal requests, where the estimated time for search, retrieval and copying is less than five hours, no fees are payable.
5. They must submit the request to the following address:

**Freedom of Information Officer  
Legal Aid Board  
Quay St.  
Cahirciveen  
Co. Kerry V23 R36**

1. They should be advised that a decision will normally issue within four working weeks. The Freedom of Information Officer will send an acknowledgement to the requester.

### Fees for FOI requests

The fees in respect of FOI requests are set out in the FOI Act 2014 as follows:-

* Personal records: no fee is payable when the request relates to personal information about the requester (other than where the grant of information concerned relates to a significant number of records and in such cases, the means of the requester must be taken into account). No application fee is payable in respect of a request for an internal review.
* Non-personal information: no fee is payable where the total Search, Retrieval and Copying (SRC) charge is €100 or less (5 hours at €20 per hour). Where the estimated (SRC) charge is in excess of €100 full fees apply for all the time attaching to the request. There is a cap on the amount of SRC fees that can be charged of €500. There is a further upper limit on estimated SRC fees of €700 (35 hours) above which the Board can refuse to process a request. Alternatively, if the requester agrees, the Board can decide to process such a request but full SRC fees apply without limit. Other fees may also be charged (4c per sheet for photocopying; €10.00 for a CD-ROM containing copy of documents; €6 for a radiograph). There will be no charge in respect of the time spent by the Board in considering requests; and
* An internal review of non-personal information decisions: a fee of €30 may also be charged (€10 for medical card holders).

Where the estimated SRC charge is likely to reach €101, a deposit of not less than 20% of that charge is charged to and paid by the requester. The charging of SRC is mandatory in these circumstances. In such a case, the Board will make every effort to assist the applicant to amend the request so as to reduce or eliminate the amount of the deposit.

It should be noted that a law centre cannot charge a client a fee for their law centre file when it is requested nor can a charge for the retrieval of it from outside storage be applied.

**Reductions and Waivers**

* A fee in respect of search and retrieval and copying of records will be waived where the cost of collecting and accounting for the fee would be less than €101.
* A fee in respect of search and retrieval and copying of records or a deposit may be reduced or waived where the information in the record would be of particular assistance to the understanding of an issue of national importance.

### Internal review procedure

Under the Freedom of Information Act 2014 an applicant who is unhappy with the decision, or who does not receive a reply within four weeks, may seek an internal review of that decision or lack thereof. At present, such reviews in the Board are conducted by the Director of Human Resources.

To request an internal review the applicant must write to the Board referring to the decision received (if one was made) and state that they are seeking an internal review in the matter. The applicant cannot raise any further issues in the internal review request; the sole purpose of the review is for another officer to reconsider the decision on the original request only. The Director of Human Resources has three weeks to make a decision on the request for an internal review.

A standard application fee of €30 (€10 for medical holders and their dependents) may apply. There is no fee for internal review applications concerning only personal information in relation to the applicant or in relation to a decision to impose a fee or deposit.

### Application for review to the Office of the Information Commissioner

Following completion of an internal review, an applicant may seek an appeal of the decision to the Information Commissioner which is a statutory office set up under the Freedom of Information Act. An application seeking an appeal to the Information Commissioner must be made within 6 months of notification of the decision by the Board to the applicant.

A standard fee of €50 (€15 for medical holders and their dependents) may apply. Again there is no fee for internal review applications concerning only personal information in relation to the applicant or in relation to a decision to impose a fee or deposit.

Applicants may apply for an appeal through the Commissioner’s website, or alternatively write to:

The Office of the Information Commissioner

18 Lower Leeson Street

Dublin D02 HE97

## Data protection

### 

The **EU** **General Data Protection Regulation (GDPR)** was enacted in 2016 and came into force after a two-year preparation period on 25 May 2018. GDPR considerably strengthens data protection legislation and lays out six principles for processing of personal data. These are:

1. **Lawfulness, fairness and transparency**Data should be gathered and used in a way that is legal, fair, transparent and understandable. The public have the right to know what data is being gathered and to have this corrected or removed
2. **Purpose limitation**Organisations should only use data for a legitimate purpose specified at the time of collection. This data should not be shared with third parties without permission
3. **Data minimisation**Data collected by organisations must be limited strictly to what is required for the purpose stated. Organisations must not collect data without specific purpose
4. **Accuracy**The personal data held should be accurate, kept up to date, and, if it is no longer accurate, should be rectified or erased
5. **Storage limitation**Personal data should only be stored for as long as is necessary. Data can be archived securely and used for research purposes in the future. Where possible, the personally identifiable information should be removed to leave anonymous data
6. **Integrity and confidentiality**Personal data should be held in a safe and secure way that takes reasonable steps to ensure the security of this information and avoid accidental loss, misuse or destruction

The GDPR applies to the processing of personal data by controllers and processors in the EU, regardless of whether the processing takes place in the EU or not.

The **Data Protection Act 2018** changes the previous data protection framework, which was established under the Data Protection Acts 1988 and 2003. Among its provisions, the Act:

* Establishes a new Data Protection Commission (replacing the Data Protection Commissioner) as the State’s data protection authority
* Transposes the law enforcement Directive into national law
* Gives further effect to the GDPR in areas where member states have flexibility

Pursuant to the GDPR and the Data Protection Acts 1988–2018, the Legal Aid Board is a data controller.

### Rights of a data subject

Under the Data Protection Acts, data subjects have the right to obtain confirmation of whether or not personal data concerning them is being processed.

Where personal data concerning them is being processed, data subjects have the right to a **copy** of their personal information and other additional information as follows:

* Purpose(s) of the processing;
* Categories of personal data;
* Any recipient(s) of the personal data to whom the personal data has or will be disclosed, in particular recipients in third countries or international organisations and information about appropriate safeguards;
* The retention period or, if that is not possible, the criteria used to determine the retention period;
* The existence of the following rights –
  + Right to rectification (to have the data corrected)
  + Right to erasure (to have the data deleted)
  + Right to restrict processing
  + Right to object –

and to request these from the controller.

* The right to lodge a complaint with a supervisory authority (in Ireland this is the Data Protection Commission).
* Where personal data is not collected from the data subject, any available information as to their source;
* The existence of automated decision making, including profiling and meaningful information about how decisions are made, the significance and the consequences of processing.

### 

### Subject Access Requests (SARs)

If data subjects (e.g applicants for legal services) wish to access their personal data held by the Legal Aid Board they should contact the relevant Section, law centre, mediation office or the Data Protection Officer in the first instance. Law centre staff should check if the data can be released in accordance with the guidance below. There are guidelines in 🡺 **Part 9 of the Circular on Legal Services** in relation to releasing a law centre file to a client or a private solicitor.

If this is not possible data subjects can make a Subject Access Request (SAR).

If data subjects wish to access their personal data relating to **family mediation,** staff should advise the data subject to request their information under the Data Protection Acts or Freedom of Information Acts as the mediation file is a joint file.

If making a Subject Access Request, the request should clearly state that the data subject is applying under the Data Protection Acts. A subject access request (SAR) form is available on the Legal Aid Board website to assist data subjects in making their request.

To help us answer requests, such requests should be as specific as possible about the information required and should provide as much information as possible to assist us in finding the required data.

We must provide a copy of the information for **free**. However, if any further copies are requested by the data subject, we may charge a reasonable fee.

Data subjects are legally entitled to a decision regarding requests within **30 days** of the Board receiving the request. However, every effort should be made to deal with any requests as soon as possible.

|  |
| --- |
| **Procedure 7.7 – Dealing with a person who wishes to make a subject access request under the Data Protection Acts 1988-2018**   1. All Subject Access Requests (SAR) should be forwarded immediately to:   **Data Protection Officer**  **First Floor,**  **Montague Court, 7-11 Montague Street, Dublin 2**  OR  [dataprotection@legalaidboard.ie](mailto:dataprotection@legalaidboard.ie)   1. The Data Protection Officer (DPO) will record the SAR, allocate it a reference number and send an acknowledgement letter/email to the data subject. They will then liaise with local staff on the matter and confirm the deadline for response. 2. Data subjects are legally entitled to a decision regarding requests within 30 days of us receiving same. However, every effort will be made to deal with any requests as soon as possible. 3. Local staff are fully responsible for the compilation of SARs – the DPO can offer advice as to content. 4. When preparing data for release, a schedule should be prepared of all data being released. This schedule should be retained on the relevant files and a copy also sent with the data being provided. A copy of the schedule should also be provided to the Data Protection team. 5. Staff should notify the DPO when the information is ready for collection. The DPO will then notify the data subject that their information is ready for collection. 6. Data subjects will be asked to provide proof of their identities before being issued their personal information. We will allow data subjects collect their information at the most convenient office of their choice. In exceptional circumstances information may be released to a data subject via secure email or registered post where staff have verified the data subjects identity and the validity of the corresponding address. 7. Staff should notify the DPO when the information has been collected by the data subject. |

### Exceptions to the right of access

The Data Protection Act 2018 sets out some limited circumstances in which an organisation may not be required to provide a data subject with a copy of their personal data:

* to safeguard cabinet confidentiality, judicial independence and court proceedings, parliamentary privilege, national security, defence and the international relations of the State
* for the prevention, detection, investigation and prosecution of criminal offences and the execution of criminal penalties
* for the administration of any tax, duty or other money due or owing to the State or a local authority.
* in contemplation of or for the establishment, exercise or defence of, a legal claim, prospective legal claim, legal proceedings or prospective legal proceedings whether before a court, statutory tribunal, statutory body or an administrative or out-of-court procedure
* for the enforcement of civil law claims, including matters relating to any liability of an organisation in respect of damages, compensation or other liabilities or debts related to the claim, or
* For the purposes of estimating the amount of the liability of an organisation on foot of a claim for the payment of a sum of money, whether in respect of damages or compensation, in any case in which the application of those rights or obligations would be likely to prejudice the interests of the organisation in relation to the claim.

In addition, an organisation may not be required to provide a copy of personal data where the data consists of an expression of opinion about a data subject by another person given in confidence, or on the understanding that it would be treated as confidential, to a person who has a legitimate interest in receiving the information.

An individual's right of access may also be restricted where, in the opinion of a medical professional, to grant access to the data would be likely to cause serious harm to the individual's physical or mental health. Access to personal data kept for, or obtained in the course of, carrying out of social work by a public authority, public body, voluntary organisation or other body may be similarly restricted.

The GDPR also provides that the right to obtain a copy of your personal data must not adversely affect the rights and freedoms of others.

Further information on limiting data subject rights and the application of Article 23 of the GDPR can be found on the website of the Data Protection Commission.

### Concerns regarding a SAR raised by the data subject

If a data subject is not satisfied with the decision in relation to their request, the data subject should be referred to the DPO who will review the request and aim to resolve the issue.

If a data subject is still not satisfied with the decision in relation to their request s/he has the right to raise a concern with the Data Protection Commission (DPC) who will investigate the matter. The DPC outline three types of access request complaints:

* no response to an access request
* incomplete response to an access request
* exemptions to withhold data being applied incorrectly

The Commission has legal powers to ensure that data subject’s rights are upheld. If we refuse to release personal data to a data subject, it must be clearly communicated to the data subject why that information is being withheld.

### Data breaches

It is extremely important that any member of staff who becomes aware of a potential breach of the Data Protection Acts reports the matter to their managing solicitor and to the Data Protection Officer (DPO), [dataprotection@legalaidboard.ie](mailto:dataprotection@legalaidboard.ie) First Floor, Montague Court, 7-11 Montague Street Dublin 2, immediately. Depending on the seriousness of the breach the managing solicitor concerned may consider that the Director of Civil Legal Aid/Regional Manager should also be informed and if so, they should do so immediately. As an indication, anything other than a relatively minor breach should be reported to the Director of Civil Legal Aid/Regional Manager.

Data protection breaches may include but are not restricted to:

* loss of or theft of an electronic device, including mobile phones, laptops, dictation equipment *(report to IT also)*
* sending mail to the wrong address
* loss of or theft of official files, briefcase, etc.
* burglary/trespass etc at Board’s offices (*report to Organisation also)*
* misplacement of files or papers
* leaving a file down in a public place, even temporarily, allowing for someone else to read it or tamper with it
* incorrect disposal of files which may result in personal data being released inappropriately
* inappropriate destruction of files

If you are unsure whether a data protection breach has occurred you should immediately inform your managing solicitor **and** the Data Protection Officer.

### Reporting a data breach

The Legal Aid Board is legally required to notify the Data Protection Commission of a breach **without undue delay and within 72 hours**.

The Data Protection Officer is responsible within the Legal Aid Board for notifying the Data Protection Commission of any breach, this is **not the responsibility** of other staff in the Legal Aid Board.

The Data Protection Officer (DPO) will liaise with staff to establish all the necessary details in relation to the breach to notify the Data Protection Commission. The following information should be included when informing the Data Protection Officer of a breach:

1. If you have not notified the DPO of the breach within 72 hours, provide an explanation why
2. Date and time the breach occurred – and is this an estimate
3. Date and time you discovered the breach
4. Did you notify the people affected and if not, why not? (this includes not only the client but other parties identified in the documents.)
5. Is the breach ongoing?
6. Explain the nature of the breach and how it occurred
7. Is any of the following information disclosed
8. Name, PPSN, contact details, date of birth, passport, driving licence (or other national id card), location data, economic or financial data, criminal convictions, offences or security measures?
9. Any other details of data released additional to question 8
10. Do the documents contain any of the following sensitive data?

Data relating to race or ethnicity, religious or philosophical beliefs, political opinions, trade union membership, sex life data, genetics, health, genetic or biometric data? If unknown please specify.

1. How many people are affected - Is there personal data of others in the documents involved? (for example spouse/children named)?
2. Does the breach relate to vulnerable people?
3. How many documents are in involved in the breach? The general nature of the documents
4. Does the breach involve data maintained for the prevention, detection, investigation, prosecution of criminal offences or the execution of criminal penalties in the State?
5. Have you take any steps, additional to notification, to address the breach?
6. What internal controls are in place within your office to minimise breaches occurring
7. Have you secured or retrieved the data?
8. If retrieval is possible and has not occurred, explain why.

If it is not possible to provide the above information immediately, inform the DPO of this.

The Legal Aid Board is legally required, in some, but not all circumstances to **notify the person whose data has been breached**. The Data Protection Officer in the Legal Aid Board will advise as to whether the person needs to be notified. Where notification to the person is necessary, this should be done in writing and without undue delay.

Legal Aid Board staff in the section/unit/office who are responsible for the breach are responsible for notifying the person whose data has been breached. A template notification letter is available on the Data Protection tab on iLAB.

### Retention and destruction of data

We are committed to keeping data accurate, complete and up-to-date and have appropriate procedures to assist staff in keeping data up-to-date.

For guidance on our retention and destruction policies for law centres please see earlier in this chapter.

### Responsibility for data protection within the Board

All staff who collect and/or control the use of personal data are responsible for compliance with Data Protection legislation. Management will provide support, assistance, advice and training to support compliance with the legislation. **Managers** have overall responsibility for ensuring compliance with GDPR in the areas which report to them.

Personal data should not be accessed without a direct business requirement and it must never be discussed with nor disclosed to any unauthorised third party.

All staff should familiarise themselves with the provisions of the Data Protection Acts. Further information is available on the website of the Data Protection Commission [www.dataprotection.ie](http://www.dataprotection.ie)

The Board has appointed a Data Protection Officer (DPO) whose role is to assist the Board and its staff in complying with the Data Protection legislation. The DPO (who is the Assistant Director, Research, Learning, and Development) can be contacted via [dataprotection@legalaidboard.ie](mailto:dataprotection@legalaidboard.ie) or at

**Data Protection Officer**

**Legal Aid Board**

**First Floor,**

**Montague Court,**

**7-11 Montague Street,**

**Dublin 2.**

### Data Protection Commission

The **Data Protection Act 2018** established a new Data Protection Commission (replacing the former Data Protection Commissioner) as the State’s data protection authority. The Data Pprotection Commission may carry out investigations in the form of data audits, including accessing the premises of a controller or processor.

The Commission can order an organisation to change their processes, comply with data subject requests, issue warnings as well as commence legal proceedings against a controller or processor.There are different penalties, depending on the importance of the breach that are outlined in the Data Protection Act 2018.

A data subject may wish to contact the Data Protection Commission in relation to a data protection issue such as a subject access request or a data breach. Applicants may raise a query through the Commission’s website, or write to:

**Data Protection Commission**

**Canal House  
Station Road  
Portarlington  
Co. Laois R32 AP23**

**057 8684800  
0761 104 800**

**1890 252 231 (Lo Call Number)**

[**info@dataprotection.ie**](mailto:info@dataprotection.ie)

# Working with files

This chapter deals with:

1. Opening a file
2. File management
3. Closing, storing and destroying files
4. Storing and destroying non client files

## Opening a file

A physical file should be opened where possible, immediately prior to the first consultation and according to the procedure below:

**Procedure 8.1 – Opening a client file**

1. Keep a supply of file folders and treasury tags easily accessible.
2. Punch a hole in the top left hand corner of the file folder and insert a treasury tag through this.
3. Place on the file the application form on the left hand cover together with copies of any documentation retained in support of the application.
4. Give the client file the number assigned by the IT system.
5. Copies of all correspondence must be retained on the file in reverse chronological order (latest correspondence first).
6. The financial contribution payable and the amount paid by the client should be recorded at the top left on the inside cover of the file.
7. Staple a checklist to the front of the file and fill it in as each step is completed.
8. Prepare a suspension file and tab.
9. File as appropriate according to the system in the law centre, or hand to the solicitor for storage.

It must be recorded on the client file that the client has been sent the Board’s standard terms and conditions letter. The standard letter (as illustrated in 🡺 **Chapter 5**) **must be used** and may not be altered in way without prior authority of the Director of Civil Legal Aid.

The standard letter incorporates the Board’s obligations under Section 68 of the Solicitors (Amendment) Act 1994 to outline the basis on which it intends to charge clients.

Terms and conditions letters do not need to be sent to clients referred to the solicitors panels. However, separate Section 68 letters must be sent to all clients referred to the Circuit Court solicitors panel, unless they have already been sent the Board’s terms and conditions letter. This is dealt with in 🡺 **Chapter 6,** which contains a template letter for this purpose**.**

## File management

All files should be maintained in a structured manner. (Different file covers for different subject matters should be used where possible).

Files should be maintained as follows:-

* one subject matter per file (see below);
* certificates/application form kept together, on the inside left cover;
* correspondence should be filed in chronological order;
* use standard format for factual information;
* multiple copies of papers, drafts etc. should not be retained;
* memo’s, correspondence etc. should be concise;
* documents such as pleadings, reports, valuations, marriage certificates, birth certificates and copies of any previous orders should be kept together in a separate folder/wallet/treasury tag. An index to record issued pleadings, receipt of papers, etc. should be attached to the folder;
* any undertakings given or received should be copied and stapled with the legal aid certificate on the inside cover and a record of the undertaking should be recorded in marker at the front of the file; and
* any title documents the law centre comes into possession of should be stored in the safe.

**Files should never be stored on the floor and one file should be worked on at a time.**

Information and files left on floors and on desks is also more likely to be damaged or destroyed in a disaster such as fire or flood. This should not be considered a remote possibility, as a law centre has had recent experience of serious flooding.

### Case management

Each file should contain an individual case plan and checklist based on the client’s circumstances, outlining the steps that are to be taken in relation to the case. This assists in an easy assessment of the status of the file. The plan should highlight key stages of the file and target time frames by which each key stage should be completed.

The following six key stages are considered to be the general breakdown of the stages that could arise in all files. The content of each stage would depend on the nature of the particular proceedings of the case.

Key stage 1: Initial consultation and legal advice

Key stage 2: Application for legal aid

Key stage 3: Pleadings

Key stage 4: Court proceedings

Key stage 5: Enforcement and costs

Key stage 6: File closure

**🡺 The Circular on Legal Services provides greater detail on case management for different types of cases.**

### Confirmation of “subject matter”

At the first appointment, the solicitor/caseworker must confirm that the “*subject matter,*” as stated on the application form, is an accurate description of the matter in respect of which the applicant is actually seeking legal services.

**Procedure 8.2 – Recording confirmation of the subject matter**

**Solicitors only**

Where it transpires that the subject matter as described by the applicant is incorrect or is stated in broad or vague terms and the solicitor/caseworker and applicant agree that the subject matter is a different matter or is clarified or made more specific, the solicitor/caseworker should:-

1. record the amended *“subject matter”* in an attendance;
2. alter the hard copy of the application form to reflect the amended *“subject matter*;*”*
3. arrange for the applicant to initial same; and
4. amend the subject matter on EOS, by clicking the twisty beside the Case Reference, choosing a new case category and case type, and clicking “Save Updated Case Details”. Remember to review and if necessary update the risk and priority levels of the case each time the case type is updated.  
   (🡺**Chapters 3 & 5**)

The amended subject matter is then the matter in respect of which legal services are sought.

### District Court family law matters

When a person is receiving legal aid for a family law matter in the District Court, other related family law matters may also arise in the District Court. This may happen either during the course of or after the determination of the proceedings. This can be done on foot of the original application form with an appropriate note on the file as to the matter for which legal services are being sought.

In practice, where a person is granted legal aid/advice, for example, for a domestic violence remedy, and issues of custody/access/maintenance arise at the same time, or within a period of 3 months, all matters should be dealt with on the same file. A contribution is payable in respect of the new certificate unless all matters can be dealt with at the same time.

### Appealing a court order where applicant was legally aided at first instance

A person seeking legal aid for an appeal of a matter which they have already been legally aided must make a fresh application for legal services. The application will be dealt with as a priority.

### Re-entering proceedings where applicant was formerly legally aided

An application for legal aid to re-enter proceedings in which the applicant was formerly legally aided is considered to be an application in respect of the same “*subject matter*” where the application is made no later than 4 months from the date:-

* that the Court Clerk/Registrar signs the order(s) to which the re-entry relates, or
* by which, pursuant to the order, certain steps were to be carried out by one of the parties.

The applicant, however, must apply for, and be granted, an amended legal aid certificate in respect of re-entry. It is not necessary, therefore, for the applicant to complete a new application form or to pay an additional contribution.

Applications for legal aid in relation to the re-entry of proceedings that are made outside the above mentioned time period are regarded as new applications.

### Enforcement proceedings where the applicant was formerly legally aided

An application for legal aid in relation to the enforcement of orders made in proceedings in which the applicant was formerly legally aided is considered to be an application in respect of the same *“subject matter”,* where the application is made no later than 4 months from the date of the orders to which the enforcement relates.

The applicant, however, must apply for, and be granted, an amended legal aid certificate in respect of the enforcement.

It is not necessary, therefore, for the applicant to complete a new application form, or pay an additional contribution.

Applications for legal aid in respect of enforcement proceedings that are made outside the above mentioned time period are regarded as new applications.

### Circumstances where two client files must be maintained

An applicant may apply simultaneously for legal services in respect of two separate matters, for example

* defence of District Court maintenance
* instituting judicial separation proceedings

The applicant must complete a separate application form in respect of each matter, be financially assessed and pay an advice contribution in respect of each matter. One file should be maintained in respect of the District Court maintenance proceedings and another in respect of the judicial separation proceedings.

The same procedure applies where the applicant applies simultaneously for legal services in respect of separate matters, for example

* instituting judicial separation proceedings
* legal advice in relation to an employment matter

A new (second) file must be opened where an applicant applies for legal services in relation to re-entry or enforcement proceedings outside the time periods referred to above.

A new (second) file must be opened where an applicant applies for legal services in respect of a conveyancing matter connected to a matter in which legal services have already been provided.

### Examples of where only one client file must be maintained

Only one client file should be maintained in respect of these particular services:-

* legal advice and subsequent legal aid in relation to the same matter
* District Court matter (including related matter)
* case stated
* judicial review
* subsequent re-entry of the same proceedings pursuant to an amendment to the original certificate
* subsequent enforcement proceedings pursuant to an amendment to the original certificate

When the *“subject matter”* has been determined, the client should be advised in writing that:-

* the subject matter has been determined
* if s/he wishes to obtain legal services in respect of a new subject matter, this will require the completion of a new application for legal services form.

### Subsequent application for legal services

A former client who completes a new application for legal services form is treated as a new applicant for legal services.

## Closing, storing and destroying files

### Recording details regarding closed files

The details of closed files must be recorded on EOS, in the “Comments” tab at present.

### Closure of files

When a solicitor intends to close a file the file should be reviewed for the purpose of making sure that there are no matters outstanding that need to be attended to.

When a file is being closed, a letter from the solicitor informing the client should be sent and a copy retained on the file. Documents should be returned to clients as follows:-

* all original documentation, e.g. court orders, separation agreements, except documentation which in the view of the solicitor should not be returned e.g., professional/expert reports, and a record kept of this;
* all original documentation furnished by the client; and
* any conveyancing documentation.

A *“disposal form”* should be attached to the outside of each file. A model disposal form is shown on 🡺 **Page 8-9** and must be used. Once the file disposal form has been completed a record of the closure of the file should be entered on a Closed File Register on the IT system.

When closing files, law centres should ensure that the files are closed in such a way that they can be marked with the year of disposal so as to avoid the need for the files to be reviewed prior to disposal. In this regard, a register should be maintained of the files that have been marked for disposal by reference to the year of disposal, with files being allocated a number. This reference number should be recorded on the IT system.

### Files with costs outstanding

If costs are outstanding on a file which is due to be closed, the matter should be referred to Legal Services for a decision as to whether or not recovery of costs should be pursued.

Where there are orders for sale of properties but the properties have not sold, the file should be closed on receipt of the final order and a register of outstanding settlements should be kept as an Excel spreadsheet in the format on the following page. Managing solicitors have a responsibility to monitor the register and should periodically ask solicitors to check with the relevant clients as to whether a sale has taken place. Details of every settlement must be added to the Financial tab in EOS.

### Childcare cases

Child care case should be closed if a full care order was made with no renewal date. Where a care order is made with a specific (calendar) review date arrangements will be made to include a status on EOS to indicate that a child care file, in this regard will be marked dormant but the file will not be closed or put away and the applicant will not be required to re-apply. Cases where care orders are made ‘to be reviewed on the child’s 16th birthday’ should be closed.

### Disposal date

As a practical example of the date on which a file should be marked for disposal, a case file that is being closed in the year 2011 should be retained for 7 years, namely the years 2012 to 2018, and marked for disposal in 2019.

### Time periods

Files should be retained in the law centre for the following time periods:-

family law and litigation - 7 years,   
conveyancing - 12 years,

childcare - until the youngest child who is the subject of the care order reaches the age of eighteen,

but at least seven years

other cases - depending on the nature of the case and having regard to the views of the individual solicitor, but not less than 7 years.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Schedule of outstanding settlements with potential costs recoveries** | | | | | | |
| **Client name and address** | **File ref** | **Date of court order/**  **Settlement** | **Terms of court order / settlement** | **Date of implementation** | **Date file closed** | **Most recent information** |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

**Procedure 8.3 – Closing a client file**

**Prior to closing a client file, the solicitor/caseworker should be satisfied that legal services have been concluded and no further instructions e.g. an appeal, are likely to arise.**

1. On EOS, enter the file closure workflow for the relevant case type (e.g. DIVA20.Close File) and complete all required steps.
2. Print the file closure form (available in the Documents tab on EOS) and attach to the front cover of the file.
3. Fully complete the file closure form, taking into account the guidelines in this chapter regarding retention of files.
4. Remove all original documentation from the file and take a record of this and place the record on the file.
5. Print out a file closure letter (available in the Documents tab on EOS) and have the solicitor/caseworker sign the letter.
6. Send the file closure letter, along with the original documentation and a comment card, to the client.
7. Attach to the front of the file a full index of the entire contents of the file. If you have been scanning all documentation on the file to EOS, you can create this index automatically, by clicking on the Documents tab and collating all the documents on the file. The front page of the collation generated will be an index. You can print the index only and then discard the collation. **If you have not been scanning all documents to EOS or otherwise working outside of EOS you must proceed at this point to review the file against the index generated and add any documents not included to the index.**
8. On EOS, make sure the File Closure workflow is completed. Do not start another workflow.
9. On EOS, click the twisty, then click “Set Outcome”. Choose an outcome (normally “Aid file completed and closed”) Enter the date for destruction and click Close File. The file is now closed on EOS.
10. Store the closed file, along with the other closed files, in an area of the law centre’s filing room dedicated to the purpose. Each drawer in this area should be clearly marked with the year for disposal of the file and the file should be placed in a suspension within this drawer.
11. On EOS, a comment should be added referring to where to the file is stored.

**Note: You cannot close a file on EOS while a workflow is open**

**Every time a file is moved, a new comment should be added to the case on EOS stating where it is. If the file is stored offsite the full details (including company, box number and file number) should be added to EOS**

### AAA.File closure letter

*Available via Other Templates.*

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1 September 2015

**RE: CONCLUSION OF LEGAL SERVICES**

Dear Mr Smith,

I refer to the above matter.

[As you are aware, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ an Order of the \_\_\_\_\_\_\_\_\_\_\_\_\_ Court was made and I enclose a copy of same. You should keep this document in a safe place as you may need it for official purposes. In addition, please find enclosed all original documentation which was held on the file.]

[As you are aware the matter on which you have been provided with legal services has concluded and I am closing your file.]

You should note that your file will be retained in storage for \_\_\_ years after which it will be securely destroyed in line with Legal Aid Board policy.

If you wish to re-apply for legal services at any point in the future please contact the law centre.

I am enclosing a comment card which you may wish to complete and return to the Legal Aid Board, 48-49 North Brunswick Street, Dublin D07 PE0C.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Solicitor**

### AAA.File disposal form

*Available via Other Templates*

**LEGAL AID BOARD --- FILE DISPOSAL FORM**

|  |  |
| --- | --- |
| **Name of client** |  |
| **File reference number** |  |
| **State the year in which the file may be disposed of** |  |
| **Title and record of any court proceedings** |  |
| **Date of closing letter to client** |  |
| **Confirm if all original documentation has been returned to the client or appropriately retained in law centre** |  |
| **Please include any relevant comments relating to the files closure and eventual disposal** |  |

|  |  |
| --- | --- |
| **Disposal form completed by:** |  |
| **Date:** |  |
| **Solicitor:** |  |
| **Law Centre:** |  |

### Storing and destroying files

All law centres should maintain a secure facility for storing files that need to be maintained on premises and a method for recording them. Passageways corridors or stairways should not be used for storing files, even for a short period while files are being prepared for disposal.

The cabinets needed to store closed files should comprise of:-

* at least one drawer for each year of closed files for the next twelve years; and
* sufficient space to store any other files which might be retained for a longer period

For example, a file to be destroyed in 2017 should be placed in the cabinet labelled “2017”. At the end of each year all files in the cabinet marked with the current year can be destroyed confidentially. That cabinet should then be re-labelled with a date 12 years from now. If all files that can be destroyed have been destroyed, and the remainder organised for destruction according to these instructions and storage space still remains at a premium, the law centre can seek authorisation from Organisation to store files securely off-site.

Permission will not be granted unless law centres can confirm that they have properly disposed of and arranged existing files in line with the Handbook. Those files to be stored off site should be those nearest to disposal date. Under no circumstances should files be stored off-site without the express authorisation of Organisation and without Organisation being aware of their location.

Head Office should be consulted, in the event of any doubt whatsoever over what constitutes a confidential and secure manner for the disposal of files. The destruction details of the file must be recorded.

### Review of closed files and preparation for disposal

In relation to files that have been closed where clients were not advised that the files would be closed and where original documentation may not have been returned to clients, it is considered that any such file in which there is original documentation should be retained for a period longer than the 7 years.

A disposal form should be completed in respect of each of the existing closed files for the purpose of disposal of those files. However, no effort should be made to seek to return any original orders/agreements or documentation to clients, having regard to the time lapse, difficulties about current address, and to avoid causing any concern/difficulties for former clients.

Files that were opened and closed more than thirteen years ago can be disposed of in total, even if there is original documentation or orders on those files. It is considered that a 13 year period is a very reasonable approach in relation to the disposal of files in which no activity has taken place for a period in excess of 13 years. It will, of course, be necessary to review each individual file and, in the review of files, a law centre may come to the view that certain files should be retained. If that is the case, then those files should be retained.

Files closed more than seven years ago should also be reviewed. In these cases, any duplication of material and any material relating to an application for legal services, fees and expenses or means tests should be removed from the files and disposed of. The files should then be marked for disposal on a date 13 years from the closing date.

### Special circumstances requiring retaining files

Where any solicitor considers that any file should be retained, then that file should be retained.

## Storing and destroying non-client files

A law centre will normally hold a number of files in relation to applicants who do not proceed to becoming clients and files relating to the administration of the law centre.

### Applicants who do not become clients

An applicant may not proceed to become a client for a number of reasons:-

* they withdraw their application; or
* their application is rejected; or
* having been made an offer of an appointment with a solicitor, they do not respond or otherwise contact the law centre.

### Withdrawn applications

An applicant may withdraw their application for legal advice and/or aid and decide not to proceed with the matter.Their application form and accompanying documentation should remain on the applications lever arch file for the year in question. Lever arch files containing application forms that have not been pursued should be retained for a period of at least three years after the end of year in question e.g, the 2011 lever arch file should be retained until 2015 and should be destroyed then.

**Where a completed application is closed prior to receiving a second consultation the “application not pursued” closure reason must be used**

### Refused applications

The application of a person who has been refused legal services must remain open for at least 35 days after a refusal letter has been issued. Following that, if no appeal has been made, the application should be closed (and the case should be closed on EOS by click the Set Outcome link) and treated in similar manner to a withdrawn application.

In the event of an appeal the application should be kept open for the duration of the appeal. In the event that the refusal decision is upheld, the application should then be treated similarly to a withdrawn application.

### Files relating to the administration of the law centre

Law centres open and maintain files relating to invoices, payments, and other general correspondence relating to the administration of the law centre.

These files must be kept separate from applications and client files and must be retained no longer than necessary. Law centres should seek guidance from the appropriate Head Office section as to the length of time such correspondence should be held on file. Files relating to the financial records of the centre must be retained for a period of seven years and should then be destroyed.

# Financial procedures

This chapter deals with:

1. Recording financial information relating to a case on EOS
2. Managing the local banking account
3. Petty cash
4. Documenting cash receipts
5. Daily cashing up
6. Managing solicitor’s role re finances
7. Approving Counsel fees
8. Contacting Finance Unit by post or email

A substantial amount of cash flows through law centres on a weekly basis, including contributions, settlements, and imprests.

It is a requirement that law centres keep proper records of all financial dealings.

|  |  |
| --- | --- |
|  | **The managing solicitor is responsible for ensuring proper financial records are kept and monthly returns are made to Finance Unit.** |

## Recording financial information related to a case on EOS

EOS features a facility whereby financial information relating specifically to a case may be recorded. The following information related to a case should be recorded on the Financial tab, by either the law centre or Legal Services as appropriate:

* Contributions
* Waivers
* Costs Recovered
* Settlements
* Law Centre Outlays
* Waived Costs
* Authorised Expenditure
* Interim Settlement Payments
* Solicitor Hours.

The Financial tab should be completed as thoroughly as possible. Doing so will allow the Board to extract as much information as possible from it using reports, now and in the future.

## Managing the local bank account

Each law centre has a local bank account to meet certain local expenses of a minor and routine nature, including, for example, court fees and routine maintenance. The maximum amount of any one cheque that can be issued **must not exceed €1,000**

Law centres must complete, each month, a:-

* Bank Reconciliation Return; and
* Local Bank Expenditure Return.

and forward them to Finance Unit for processing. Finance Unit uses these returns to calculate the amount of imprest each law centre should receive for the following month. Each centre should ensure that the account is never overdrawn.

### Payments

Business cheque books are obtained from the bank at which the law centre’s local account is maintained. Cheques may only be signed by a nominated cheque signatory. All cheque signing arrangements should be agreed with Head Office, as nominated signatories to bank accounts must be approved by the Chief Executive on the sanction of the Board.

### Lodgements

Only the imprest and other miscellaneous receipts should be lodged to the local bank account.

Contributions, settlements, costs recovered etc should **not** be lodged to the local bank account. These must be lodged to the Legal Aid Fund.

### Paying an invoice

When an invoice is received by the law centre it should be date stamped. This is necessary to comply with the Prompt Payment of Accounts Act 1997as interest occurs after 30 days of receipt of the invoice. Care should be taken at all times to avoid interest penalties by ensuring that invoices are processed promptly.

Payments subject to withholding tax e.g. most witness expenses, fees to summon servers, etc, must not be made locally and should be forwarded to Legal Services for payment.

If a final account for witness expenses is being forwarded to Legal Services for payment and a viaticum has already been paid locally, the law centre should bring this matter to the attention of Legal Services.

**Procedure 9.1 – How to complete a local bank cheque requisition voucher.**

1. A cheque voucher must be completed. This must be signed and authorised by the managing solicitor or other nominated solicitor before a cheque is written.
2. If expenditure relates to a particular case file, the case file name and reference number should be recorded on the Voucher.
   1. The category of expenditure such as cleaning, office supplies etc should be indicated on the Voucher under the heading “Expense Category”. This will assist in completing the monthly return.
3. The relevant supporting documentation such as original invoices and or receipts should be attached to the Voucher. Payment may only be made on original invoices.
4. After a cheque has been written the voucher should be stamped ‘paid’ and the cheque number should be entered on the Voucher.
5. Vouchers and supporting documentation should be kept on a file entitled ‘Local Bank Vouchers year 20.... .’
6. The vouchers should be filed in order and be easily accessible to the auditors.

**Local Bank Cheque Requisition Voucher**

Expense Category: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cheque No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please prepare the cheque as follows:-

PAYEE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AMOUNT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN RESPECT OF: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I have examined the attached invoices/vouching documentation and certify that same has been properly approved and certified as being in order for payment and that I have checked same.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Solicitor

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### Local Bank Reconciliation and Expenditure Returns

Returns to Finance Unit should be made by the seventh working day of each month at the latest. These should be reviewed and signed by the managing solicitor. If the managing solicitor is not available then Finance should be contacted for guidance. A copy should be retained at the centre.

**Procedure 9.2 – How to complete the local bank reconciliation and expenditure returns**

**Local Bank Reconciliation Return**

1. **Balance as per Bank Statement:** This is the sum held in the bank account at the end of the month. The original bank statement should be attached to the return.
2. **Less: Uncashed Cheque(s):** A comparison between the cheques cashed and cheques issued should be carried out. Any cheques that remain uncashed should be listed. The total amount of cheques listed should be entered here.
3. **Funds on Hands:** Any receipts that are held in the law centre which are due to be lodged should be entered here. (This excludes petty cash)
4. **Funds Lodged but not recorded on the Bank Statements:** Any amounts lodged into the account but which do not appear on the bank statement, should be entered here.
5. **(A) Reconciled Bank Balance:** This is the sum total of points 1 – 4 above.
6. **Opening Balance on January 1st:** The reconciled bank balance at 31st December in the year previous should be entered here.
7. **Imprests received to date:** This is the cumulative balance of imprests received from Finance Unit in the year to date.
8. **Other income received to date:** This is the cumulative balance of income received from sources other than Finance Unit in the year to date.
9. **Total Expenditure to date:** This is the cumulative expenditure incurred by the centre in the year to date.
10. **Cancelled Cheques:** This is the cumulative total of cheques cancelled in the year to date.
11. **(B) Reconciled Bank Balance:** This is the sum total of points 6 – 10 of the above

**Local Bank Expenditure Return**

1. **Balance on First Day of Month:** This is the reconciled balance from the previous month.
2. **Imprests:** Funds received from Finance Unit in a particular month.
3. **Other Income:** Any income received excluding Imprests.
4. **Monthly Expenditure:** A record of the expenditure in a particular month under the various different headings. This information can be ascertained from the ‘Cheque Requisition Vouchers’.
5. **Cancelled Cheques:** Any cheques cancelled in that particular month.
6. **(C) Reconciled Bank Balance:** This is the sum total of points 1 – 5 of the above.

**The reconciled Bank Balance should be the same for (A), (B), and (C)**

### Additional information

Additional information is required to support the Bank Reconciliation and Expenditure Return. This includes:-

1. List of all cheques issued in the month.
2. A list of uncashed cheques to date.
3. List of cancelled cheques to date.
4. List of other income received in a month.
5. List of miscellaneous expenditure.

Attach a copy of the bank statement and a copy of ESB/Telephone/Gas bills to the return (where appropriate)

**Note:** The limit for any cheque is €1,000.

### Uncashed cheques

The life of a cheque is six months from the date of issue. In the event that a cheque has not been cashed during that time, it should be treated as a cancelled cheque and the following procedure should be adhered to:-

Where possible, contact the payee with a view to having the cheque returned and re-dated. Cheques to be re-dated should be returned to Finance Unit.

If it is not possible to have the cheque re-dated, then it should be cancelled. The bank should be contacted and a stop should be put on that particular cheque. Once the cheque is cancelled by the bank, it should be accounted for as a ‘Cancelled Cheque’ in the cheque journal, by placing a red C at the end of the cheque reference and by re-entering the cheque information in red but with a minus figure where originally there was a plus figure and on the actual cheque itself. Cancelled cheques should be properly filed so that they are accessible to the auditors.

### Missing or stolen cheques

In cases where a cheque has issued and the payee reports it missing or stolen, the centre should contact their local bank to ascertain whether the cheque has already been cashed. If the cheque has been cashed but not by the correct payee, a duplicate cheque cannot be issued until it is ascertained who cashed the cheque. A copy of the cheque should be requested from the bank and Head Office should be notified immediately.

If the cheque has not been cashed the bank should be instructed to put a ‘stop payment’ on it. A duplicate cheque may then be issued to the payee. The original cheque should then be treated as a cancelled cheque as above.

Local Bank Reconciliation Return

Law Centre - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Bank Reconciliation Statement for \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_**

Balance as per Bank Statement €\_\_\_\_\_\_\_\_\_\_\_\_\_

(copy attached)

Less: Uncashed Cheque(s) €\_\_\_\_\_\_\_\_\_\_\_\_\_ €\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Add: Funds on Hand €\_\_\_\_\_\_\_\_\_\_\_\_\_

Add: Funds Lodged but not

Recorded on Bank Statement €\_\_\_\_\_\_\_\_\_\_\_\_\_ €\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(A) Reconciled Bank Balance €\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Opening Balance on January 1st 20\_\_ €\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Add: Imprests received to date: €\_\_\_\_\_\_\_\_\_\_\_\_\_

Add: Other Income received to date €\_\_\_\_\_\_\_\_\_\_\_\_\_ €\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Subtotal: €...........................

Total Expenditure to Date €\_\_\_\_\_\_\_\_\_\_\_\_\_

Less: Cancelled Cheques in year

to date €\_\_\_\_\_\_\_\_\_\_\_\_\_ €\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(B) Reconciled Bank Balance €\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Solicitor Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Local Bank Expenditure Return**

**Local bank return for ........................ 20\_\_**

Balance on first date of Month €..........................

Add: Imprests: €..........................

Add Other Income: €.......................... €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(see attached list)

**Less: Monthly Expenditure**

Office Supplies €..........................

Legal Fees €..........................

Cleaning €.........................

Postage/Franking €........................

Maintenance Equipment €........................

Maintenance Premises €........................

Bank Charges €........................

Travelling Expenses €........................

Photocopying Charges €........................

Courier €........................

Refund Contribution €.......................

Library €.......................

Data Storage €.......................

Miscellaneous Expenses €.......................

(see list attached)

Petty Cash €.......................

**Total Expenditure €\_\_\_\_\_\_\_\_\_\_\_\_**

Less: Cancelled Cheques €....................... €...............................

**(C) Reconciled Bank Balance €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Additional Information**

**List of cheques issued in ........................ 20\_\_**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date of Cheque** | **Cheque Number** | **Expenditure Heading** | **Amount (€)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of Uncashed cheques to date**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date of Cheque** | **Cheque Number** | **Expenditure Heading** | **Amount (€)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of cancelled cheques in year to date**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date of Cheque** | **Cheque Number** | **Expenditure Heading** | **Amount (€)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of other income received in ........................ 20\_\_\_**

|  |  |  |
| --- | --- | --- |
| **Date of Receipt** | **Source** | **Amount (€)** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of miscellaneous expenditure in ......................... 20\_\_\_**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date of Cheque** | **Cheque Number** | **Expenditure Details** | **Amount (€)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Petty Cash

Each centre may have petty cash not exceeding €500 on hands to meet minor local expenses such as bus fares, cleaning, sundry supplies etc.

Petty cash in the centre is operated from the local bank account with a cheque being written to reimburse the centre’s petty cash float. This float should not exceed €500.

All petty cash money should be kept in a lockable cash box which should be locked in the safe when not in use.

The petty cash should be operated as follows:

**Petty Cash Voucher**:- A voucher must be completed and signed by the person receiving money. The solicitor who approves the expenditure must sign the form before a petty cash payment is made. The relevant receipt should be attached to the voucher and the voucher should be numbered in order. The numbering system should commence at the start of each year and have a reference such as 1/2014 for the first voucher of 2014.

The category of expenditure such as cleaning, office supplies etc should be indicated on the voucher under the heading “Expense Category”. This will assist in completing the monthly return.

If expenditure relates to a particular case file, the file name and reference number should also be recorded on the voucher. Vouchers and receipts should be kept on a file entitled ‘Petty Cash vouchers year 20....’

**Petty Cash Book**:- Once a petty cash payment is made the corresponding entry should be made in the petty cash book immediately. Entries on the left hand page of the book should consist of voucher number, voucher date and amount. The opening balance or cash on hands at the beginning of each month should be indicated at the top of the page. Any subsequent ‘top-ups’( to maintain the €500 limit) or other receipts should also be shown. The right hand page of the book should give a breakdown of expenditure under various expenditure headings. Expenditure headings should be in the same order as those on the Petty Cash Monthly Return form. The petty cash book pages for each month should be totalled and then summarised at the back of the book.

**Petty Cash Monthly Returns:** Returns to Finance Unit should be made by the seventh working day of each month. A copy should be retained at the law centre.

**PETTY CASH VOUCHER**

EXPENSE CATEGORY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PETTY CASH VOUCHER No:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I received the sum of €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In respect of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

being expenditure properly incurred on behalf of the Board.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Solicitor

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Procedure 9.3 – How to complete the petty cash return**

1. **Balance on hands on first day of month:** This should equal the amount in the petty cash box as per the end of the previous month.
2. **Imprests received:** This should equal the amount of petty cash allotted from the Local Bank Account.
3. **Other income:** Any income received other than an imprest. Details should be provided.
4. **Monthly expenditure:** All expenditure made during the month. This information can be ascertained from the ‘Petty Cash Vouchers’.
5. **Miscellaneous expenditure:** All non classified expenditure. Details should be provided.
6. **Refund contributions:** Any contribution refunded to clients.
7. **Additional information:** Details of other income received and details of miscellaneous expenditure should be completed.

**The balance on hand and the actual amount in the petty cash box should be the same.**

.

Petty Cash Return

Law Centre - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Petty cash return for ........................ 20\_\_**

Balance on hands on first date of Month €..........................

Add: Imprests: €..........................

Add Other Receipts: €.......................... (see attached list)

**Total receipts (A)€\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Less: Monthly expenditure**

Office supplies €..........................

Legal fees €..........................

Cleaning €.........................

Travelling expenses €........................

Postage €........................

Library €........................

Photocopying €........................

Maintenance premises €........................

Maintenance equipment €........................

Miscellaneous expenses

(see list attached) €........................

Refund contributions €.......................

**Total Expenditure (B) €\_\_\_\_\_\_\_\_\_\_\_\_**

**Balance on hands on the last day of the month (A-B) €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Actual cash on hands in the petty cash box €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Additional Information**

**List of other receipts received in ........................ 20\_\_\_**

|  |  |  |
| --- | --- | --- |
| **Date of Receipt** | **Source** | **Amount (€)** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of miscellaneous expenditure in ......................... 20\_\_\_**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date of Cheque** | **Cheque Number** | **Expenditure Details** | **Amount (€)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Documenting cash receipts

**For the purposes of this section, the term cash is used to cover cash, cheques, postal orders, bank drafts etc.**

When a client makes a payment in respect of contributions, costs, settlements or other moneys, a receipt should be issued. Particulars should be entered on the cash receipt book. Contributions and settlements must also be recorded in the Contributions and Settlements ledger, entered on the Financial tab in EOS, and noted on the file. See 🡺 **Chapter 5** for details on how to record a contribution in EOS.

Contributions received by way of credit/debit card or Android/Apple Pay should be recorded on the Contributions and Settlements ledger (and explicitly noted as being electronic payments by placing the word “(Card)” beside the client name), entered on the financial tab on EOS (with the word “Card” inserted in the comments section), and noted on the file. They are not recorded on the cash receipt book but should be entered onto a separate spreadsheet.

***Security of moneys received***

All moneys received must be kept in a lockable cash box provided for that purpose and **separate from the petty cash box**.

The locked cash receipts box must be kept in the safe at all times when it is not in use and the safe must be kept locked at all times except when it is necessary to access it. The safe must be locked immediately after it is accessed at any stage. The last person to leave the office at lunchtime or the evening should carry out a check to ensure that the cash receipts box is in the safe and the safe is securely locked. The maximum amount held in cash in a law centre should not exceed €1,000 and the amount held in cheques should not exceed €3,000.

***Lodgements***

A lodgement **must** be made at least once a week or as soon as is possible, once cash in hand exceeds €1,000. Law centres whose average weekly income exceeds €2,000 must make at least two lodgements a week. It is advised that lodgements be made on an irregular pattern each day. The night safe of the local bank may also be used for lodgement of moneys outside of normal banking hours.

A lodgement must be made any day that a settlement cheque is received, unless it is received so late in the day that it is not possible to lodge it to the Fund that date. In that case a lodgement must be made the following morning.

**Procedure 9.4 – How to lodge contributions and settlements received to the Fund.**

1. The amount in the cash box should be counted and compared with the receipts book. The two should match.
2. Complete a bank giro in the lodgement book.
3. Complete a “Notification of Bank Lodgement” using the information in the Contributions and Settlements Ledger (excluding any contributions made using the credit card terminal).
4. Go to the bank (at least two staff members should do a lodgement together, for security purposes) and physically lodge the cash to the Fund.
5. Send the “Notification of Bank Lodgement” to the email group **Banking.** Print a copy and place it on a file in the law centre.
6. When a lodgement book is full, the empty lodgement books should be retained on a file.

Copies of the ‘Notification of Bank Lodgement’ should be retained on a file by the law centre, together with the stamped counterfoils of the bank giro dockets.

**Procedure 9.5 – How to complete the Monthly Cash Receipts Return**

1. Returns to Finance Unit should be made by the seventh working day of each month at the latest. A copy should be retained by the centre.
2. Enter the opening cash balance at the start of the month.
3. Enter the cash received during the month.
4. Enter the number and amount of the local lodgements made during the month.
5. Calculate the balance on hand on the last day of the month.
6. Enter the actual cash on hand on the last day of the month.

**The balance on hands on the last day of the month and the actual cash on hands in the cash box should be the same.**

**Any discrepancy should be brought to the attention of Finance immediately.**

### Daily batching the payment terminal and notifying Finance

At the end of each day, the Reception person must Batch the payment terminal and send a notification of the amount taken (in the same format as a lodgement notification) by email to Finance.

|  |
| --- |
| Procedure 9.6 – Bating the payment terminal   1. From home screen Select F1 2. Select Batch from main menu 3. Select End of Day 4. Press “Yes” to confirm sale and refund totals 5. Place the batch report as printed on file 6. Send a notification of lodgement to the email group **Banking** using the form on the next page |

Notification of Electronic Bank Lodgement

€\_\_\_\_\_\_\_\_\_\_ was transferred to the AIB, 24 Main St, Caherciveen

The funds were lodged into (please tick as appropriate):

1. Main Current Account \_\_\_\_\_

(Contributions/Costs/other income) Date of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Sort Code 93-60-60 Account Number 03464046

1. Client Deposit Account \_\_\_\_\_

(Settlements only) Date of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Sort Code 93-60-60 Account Number 03464558

**The lodgement comprises:**

**(a) Contributions (nom. code 1020)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Please attach details as per page 7-20)

**(b) Costs - client (nom. code 1030)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(c) Costs - opposing party (nom. code 1040)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(d) Costs - commercial (nom. code 1050**) €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(e) Other Income (nom. code 1060**) €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Details: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(f) Settlements**

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Law Centre: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Breakdown of notification of electronic bank lodgement for ................................ Law Centre

Date of lodgement \_\_\_\_\_\_\_\_\_\_\_ Number of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Aid condtributions lodged €\_\_\_\_\_\_\_\_\_\_\_\_\_

Advice contributions lodged €\_\_\_\_\_\_\_\_\_\_\_\_\_

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_

**Contributions:**

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Cert No. | Date of Payment | Amount Paid |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Cash Receipts Return**

Law Centre: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cash receipts monthly return for .................................. 20\_\_

Balance on hands on first date of Month €......................

Add: Cash Received €......................

Subtotal €..........................

Less: Lodgements numbered \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ €..........................

Balance on hands on last day of month **€\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Actual cash on hands in the cash box **€\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

I certify that the above details are correct and that the actual cash on hands agrees with the balance as per the accounts.

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Solicitor

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notification of Bank Lodgement

€\_\_\_\_\_\_\_\_\_\_ was transferred to the AIB, 24 Main St, Caherciveen

The funds were lodged into (please tick as appropriate):

1. Main Current Account \_\_\_\_\_

(Contributions/Costs/other income) Date of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Sort Code 93-60-60 Account Number 03464046

1. Client Deposit Account \_\_\_\_\_

(Settlements only) Date of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Sort Code 93-60-60 Account Number 03464558

**The lodgement comprises:**

**(a) Contributions (nom. code 1020)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Please attach details as per page 7-20)

**(b) Costs - client (nom. code 1030)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(c) Costs - opposing party (nom. code 1040)** €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(d) Costs - commercial (nom. code 1050**) €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

**(e) Other Income (nom. code 1060**) €\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Details: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(f) Settlements**

Name of Client \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HQ Ref No. \_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Law Centre: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Breakdown of notification of bank lodgement for ................................ Law Centre

Date of lodgement \_\_\_\_\_\_\_\_\_\_\_ Number of Lodgement \_\_\_\_\_\_\_\_\_\_\_\_\_

Aid condtributions lodged €\_\_\_\_\_\_\_\_\_\_\_\_\_

Advice contributions lodged €\_\_\_\_\_\_\_\_\_\_\_\_\_

Total €\_\_\_\_\_\_\_\_\_\_\_\_\_

**Contributions:**

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Cert No. | Date of Payment | Amount Paid |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

## Daily cashing up

At the end of each day, the safe must be counted to ensure that the balance in the safe is correct. The sheet below should be completed on a daily basis and kept as a record that daily cashing up has been done.

|  |  |
| --- | --- |
| **SAFE COUNT - Date** | |
| **Balance in safe at close of business yesterday** | € |
| **PLUS** Cash received today | € |
| Subtotal | € |
| **LESS** Lodgements made today | € |
| **Balance in safe at close of business** | € |

Where there is any discrepancy between the Safe Count and what is actually in the safe, the safe should be immediately recounted and if the discrepancy remains, it must be immediately notified to the managing solicitor.

## Managing Solicitor’s role re finances

A managing solicitor must be satisfied that accounts procedures are being followed, check that the returns being submitted are accurate and sign a confirmation that they are satisfied of this.

To assist in the checking procedure, please see the following:

### Local Bank Reconciliation and Expenditure Returns

The totals at **A, B & C** should be the same. If these are not the same, then further investigation is required.

### Petty Cash Returns

The ‘Balance on hands on the last day of the month’ and the ‘Actual cash on hands in the petty cash box’ should be the same. This requires a physical check on the cash in the petty cash box. If these do not balance, then further investigation is required.

### Cash Receipts

The ‘Balance on hands on the last day of the month’ and the ‘Actual cash on hands in the cash box’ should be the same. This requires a physical check on the cash in the cash box. If these do not balance, then further investigation is required.

If there are any irregularities, please contact the Higher Executive Officer in Finance Unit immediately.

Managing Solicitors

Confirmation Sheet

Law Centre \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Month \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I wish to confirm that I am satisfied that the attached

* Bank Reconciliation Return
* Bank Expenditure Return
* Petty Cash Return
* Cash Receipts Return

have been completed and that I have checked them for accuracy.

Signed\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Managing Solicitor

## Approving Counsel fees

The use of Counsel is strictly subject to the prior approval of Legal Services. Counsel may be authorised either as part of the grant of a legal aid certificate or by way of amendment to the original certificate.

A claim by Counsel for fees should not be accepted unless it is made on the appropriate claim form.

On receipt of a claim for payment by Counsel, a solicitor should check that:-

1. The services were authorised in advance on a legal aid certificate.
2. The claim has been made on the correct form with all appropriate sections being fully completed.
3. Full information about the services provided has been declared.
4. The information declared on the form accurately reflects the services which were provided by Counsel.

If the solicitor is satisfied that the claim is in order, they should sign and date the form and forward it, together with a copy of the legal aid certificate (or amended certificate as appropriate) to Legal Services. Claims that are not in order should be returned to the Barrister concerned along with an explanation as to the reason the claim was not processed. Under no circumstances should a claim be certified if the fees claimed are not properly payable.

## Contacting Finance by post or email

When addressing post for Finance, it should be addressed to the correct section or group email. Post or email for Finance should not be sent to a specific staff member, unless in reply to an email sent by a specific staff member.

***Post/email addresses for Finance***

* If you have post for the Travel & Subsistence Section - send it to T&S Section, Finance. Likewise if you have emails for the Travel & Subsistence Section - send it to “T&S”
* If you have post for the Payroll Section - send it to Payroll Section, Finance. Likewise if you have emails for the Payroll Section - send it to “Payroll”
* If you have post for the Invoices/Fee Notes Section - send it to Invoices Section, Finance. Likewise if you have emails for the Invoices/Fee Notes Section- send it to “Invoices”
* If you have post that concerns Local Banking/Petty Cash/Settlements - send it to Banking Section, Finance. Likewise if you have emails for the Local Banking/Petty Cash/Settlements Section- send it to “Banking”

# Management information requirements

This chapter deals with:

1. EOS reports
2. Declarations re: no professional negligence
3. Declarations re familiarisation and compliance with the contents of the Board’s Administrative Procedures Handbook
4. Human Resources reporting requirements

## EOS reports

EOS, the Board’s case management system, is capable of running what are known as **reports** to obtain information on the system. A report searches for information on EOS that meets set criteria and returns the results in a format which is easy to read. The output from the report can be subsequently exported to Microsoft Excel and other formats for further use.

Law centres no longer need to make returns on service delivery information to Head Office. Instead, this information will be obtained using the reports in EOS. Most of the reports can be run locally in law centres, though users in law centres can only see the information relating to their own law centre for security and data protection purposes.

|  |  |
| --- | --- |
|  | **Important information about reports** |
| In order for reports to be correct it is essential that staff follow all instructions for the use of EOS. In particular, it is essential that law centres keep the status of cases on EOS up to date by ensuring that each case is in the correct workflow in EOS at all times and that milestones are correctly completed. Once created, a case should always be in the correct workflow in EOS until it is time to close the case. It is also essential that staff complete the workflows as they progress through cases.  Except where otherwise noted, **all enquiry cases are excluded from reports**. Therefore it is very important that:   * all applications, other than those case types excluded altogether from financial assessment (such as child abduction, foreign maintenance, and rape/sexual assault), are initially created as enquiry cases; and * all applications, once deemed financially eligible for legal services and ready to be placed on the applications record, are immediately updated from an enquiry to a case type as described in 🡺 **Chapter 5.** | |

Managing solicitors should use the reports as management tools to help them discharge their day to day responsibilities. They should also ensure that any local management information procedures that have been superseded by the use of EOS reports are discontinued.

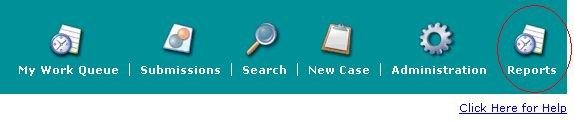
### Reporting database

For stability and speed purposes, the reports run off a copy of the EOS database, called a “snapshot”. This snapshot is updated twice daily. What this means is that a change made on EOS isn’t reflected on the reports until the snapshot is next updated. If a change is made to a file and isn’t reflected in a report, wait overnight and then run the report again the next day.

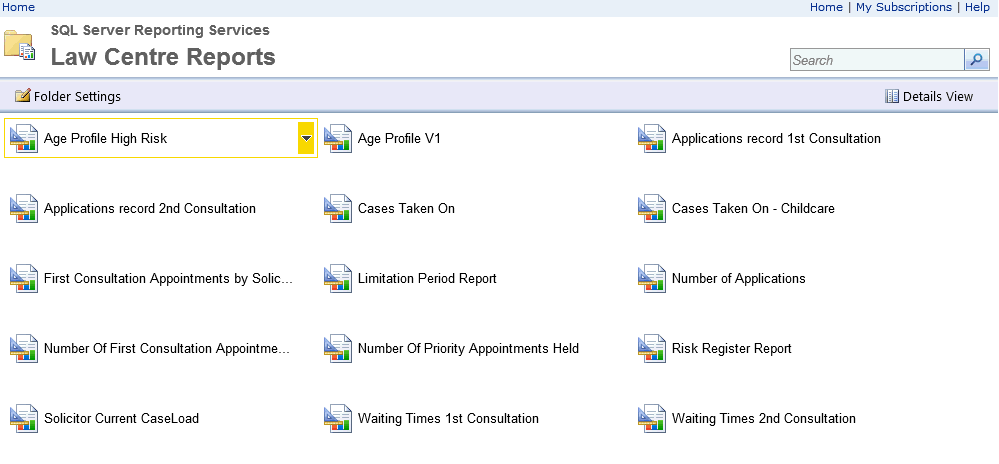
If any staff member has reason to think that the reporting snapshot has not updated overnight – e.g. new cases not being added to the applications record – a call should be logged with the IT Helpdesk **(🡺 Chapter 2).**

### Running reports

The reports are run through a program called *Microsoft SQL Server Reporting Services* (SSRS) that can be accessed using the “Reports” icon on the EOS toolbar. Like EOS itself, SSRS is hosted in Microsoft Internet Explorer and will open in a new tab.

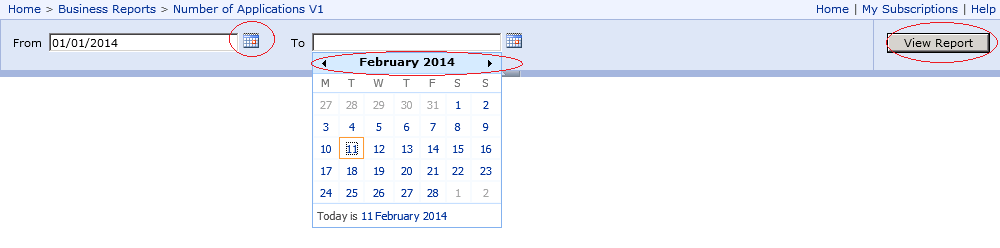


In SSRS, you will see the names of all the reports you have access to. To run a report, click the name of the report once.



Some reports are **point in time** reports. That means, they will run straight away and look for the information as it exists on EOS today. An example of a point in time report is the Applications Record First Consultation report.

The second type of report is the **periodic** report. This type of report looks for historic information and has what are called “parameters”, which means it will need some input from you before you run it. Typically, this will be the start and end point of the period you are seeking information for. An example of a periodic report is the number of applications report. When accessing a periodic report, the screen below appears:

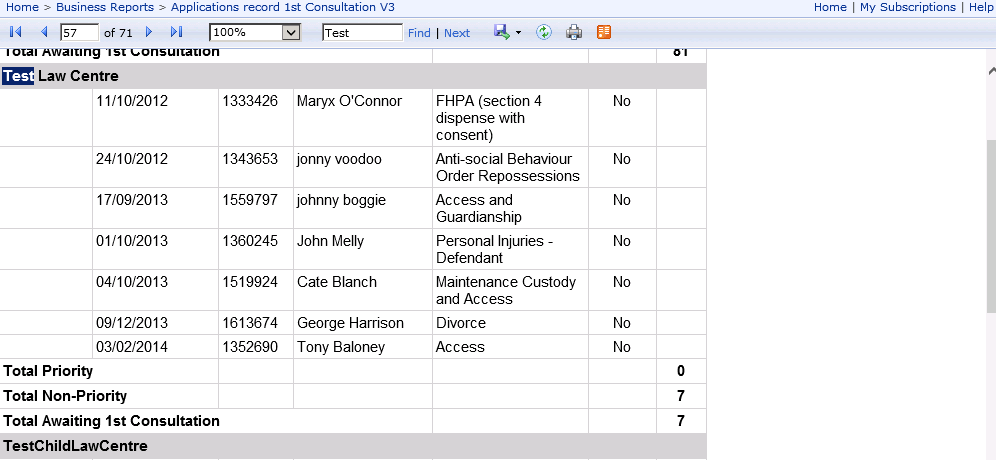


You will notice the parameters in this report are the “From” (start date) and “To” (end date). You can either manually enter these dates (in the format DD/MM/YYYY) or use the date picker (the calendar icon) to choose the date. Use the < and > arrows to change the month, or pick today’s date at the bottom.

**NB: Do not run the Monthly PP Referral reports for a period spanning the end of a calendar year** (e.g from 1st October 2014 to 1st February 2015)**.** There is a known issue with these reports that may cause the data to be laid out incorrectly and/or the data for the same month in different years to be added together. Instead run them separately for each calendar year (e.g. from 1st October 2014 to 31st December 2014 and separately for 1st January 2015 to 1st February 2015).

Some reports ask you if you would like a “Full” or “Partial” view. Typically, the “Partial” view will only display a summary instead of the full data, but will run quicker.

Once finished, click the “View Report” icon to run the report.



### Searching in reports

Use these controls to navigate through the report and to zoom (make bigger or smaller) the text size.



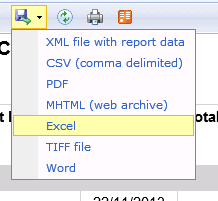
Use this box to search for text in the report



### Printing reports

You can print the report directly from SSRS, although you may find it easier to export it to Microsoft Excel. In Excel, you can apply filters, search for data more easily, and copy and paste the data to other Windows applications.

To export the report output, click the Save button (3½” floppy disk icon) and choose “Excel”:



Then click the Open button when this dialog box appears.



You may save the exported report to the Common drive by clicking File 🡪 Save As.

To run a different report, click the “Law Centre Reports” (this will be labelled “Business Reports” if you work in Head Office) link at the top of the page to return to the list of available reports.

### Things to know

|  |  |
| --- | --- |
| **Enquiry case** | A case in the “Family Law Enquiry”, “Non Family Law Enquiry” or “Online Application” case type is **automatically excluded from all reports** with the sole exception of the Risk Register report. |
| **A person is placed on the applications record (and appears on the Applications Record 1st Consultation Report) when…** | The milestone “Case is updated from an enquiry to a specific case type” in the workflow APP001.Application Received is Completed and when this action is actually carried out.  *(For migrated cases, the date they started waiting is the date of applicant’s signature in the checklist in the Means Test Form on the Applications Database.)* |
| **A person receives a date of first consultation (and appears on the Applications Record 2nd Consultation Report) when…** | The milestone “First Consultation Attended” in the workflow APP003.First Consultation is Completed.  *(For migrated cases, the date of first consultation is the Triage Date in the LAA3 on the Applications Database, if completed)* |
| **A person receives a date of second consultation when…** | The milestone “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is completed.  *(For migrated cases, the date of second consultation is the 1st Consultation Date in the LAA3 on the Applications Database, if completed, or the date a First Consultation Form was created on the Applications Database)* |
| **Solicitor resources** | If more than one solicitor is assigned to the case, only the last added solicitor will be recognised as the resource on reports.  A solicitor MUST be assigned to the case with the **solicitor** role, even if they are a managing solicitor. If a solicitor is assigned to the case with the managing solicitor role, or with no role (if they created the case, or the case was transferred directly to them from another law centre), they won’t be recognised as the solicitor assigned to the case. In this situation the solicitor must be removed from the case and then reassigned with the Solicitor role in order to be recognised as the solicitor on the case. |
| **Closed case** | A case is closed when an Outcome is set (it will have either “CLOSED” or “ARCHIVED” in the case summary bar on EOS). However, depending on the report, certain outcomes will exclude a case from the report in question. Contact **Civil Operations** if you have a query about any particular report. |

**Once an applicant has a date started waiting, a date of first consultation, or a date of second consultation, it cannot be removed!**

### Reports explained

1. Number of applications received
   1. Number of Applications
   2. Number of Applications by Case Type
2. Applications Record Reports and Waiting Times Reports
   1. Applications Record First Consultation
   2. Waiting Times First Consultation
   3. Applications Record Second Consultation
   4. Waiting Times Second Consultation
3. Appointment Reports
   1. Number of First Consultations Held
   2. First Consultation Appointment by Solicitor
   3. Cases Taken On
   4. Cases Taken On Childcare
   5. Number of Priority Appointments Held
   6. Number of Second Consultations Held
4. Solicitor Case Reports
   1. Solicitor Current Caseload
   2. Solicitor Caseload by Year
   3. Solicitor Annual Caseload
   4. Law Centre Annual Caseload
   5. Age Profile
   6. Closed Cases
   7. Cases Closed by Type
   8. Solicitor Inactive Open Files
   9. Case Status
5. Risk Reports
   1. Risk Register
   2. Limitation Period
   3. Age Profile High Risk
6. Other Reports
   1. Referrals to Mediation
   2. Contributions
   3. Monthly PP Referrals District Family
   4. Monthly PP Referrals District Appeals
   5. Monthly PP Referrals Circuit Family

### Number of applications received

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Number of applications** | Shows the number of cases created on EOS where the application has been fully processed between the To and From dates chosen when running the report. | * All cases where the milestone “Application changed from an enquiry to a specific case type” in the workflow APP001.Application Received is Completed. * Closed cases are included in this report. * **Enquiries are included in this report.** * International Protection (Transition) cases are excluded from this report |
| **Number of applications by case type** | Shows the number of cases created on EOS where the application has been fully processed between the To and From dates chosen when running the report. This report differs only from the above in that it breaks down applications by case type rather than law centre. |

These reports are periodic reports and requires you to enter start (From) and end (To) dates.

### Applications record/waiting times reports

These reports are point in time reports and will run automatically when you click them in SSRS without the need for further input.

This group of reports show the numbers waiting for a first or second consultation, as appropriate. Note that an application is now deemed to be waiting for a first/second consultation right **up until the consultation actually occurs** and the relevant milestone is completed on EOS. Previously, an applicant was deemed to be removed from the applications record when an appointment was offered. Law centres should ensure that the relevant milestone is not marked Complete until the day of the first/second consultation, remembering that **once a date of first consultation/second consultation is entered, it can only be overwritten with a new date, never removed.**

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Applications Record First Consultation** | Shows the names of all applicants who have been placed on the applications record and have yet to receive a first consultation. | * Cases where the milestone “Case is updated from an enquiry to a specific case type” in the workflow APP001.Application Received is Completed * Placed on the applications record * Has not received either a first or second consultation * Has not been closed * Is not in the APP005.Refer to Private Practitioner Workflow |
| **Waiting Times First Consultation** | Shows the time in weeks the longest person has been waiting since they were placed on the applications record, the date they are waiting from i.e. date found financially eligible,  the number of priority applications waiting for a first consultation and the total number of persons waiting for a first consultation. |
| **Applications Record Second Consultation** | Shows the names of all applicants on the applications record who have received a first consultation and have yet to receive a second consultation. | * Cases where the milestones “Case is updated from an enquiry to a specific case type” in the workflow APP001.Application Received and “First Consultation Attended in the workflow APP003.First Consultation are Completed * It has been placed on the applications record and received a first consultation. * It has yet to receive a second consultation * It hasn’t been closed * Is not in the APP005.Refer to Private Practitioner Workflow * The case is not Priority |
| **Waiting Times Second Consultation** | Shows the time in weeks the longest person has been waiting since they received a first consultation appointment, the date they are waiting from i.e. date of first consultation and the total number of persons waiting for a second consultation. |

The “Waiting Time” version of the report displays only a summary and is useful for overview purposes. The “Applications Record” version of the report displays all of the individual case names. This version is useful for managing the waiting list. In particular, where the waiting time is longer than it should be, this report can be used to identify the case in question and take further action.

### Appointment reports

These reports are periodic reports and require you to enter start (From) and end (To) dates.

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Number of First Consultations Held** | Shows the number of first consultations held in the law centre between the From and To dates. | * Cases where the milestone “First Consultation Attended” in the workflow APP003. First Consultation is Completed * A first consultation has been held between the From and To dates. * International Protection (Transition) cases are excluded from this report * For closed cases, certain outcomes will exclude them from these reports. Contact **Civil Operations** for details. |
| **First Consultation Appointments by Solicitor** | Shows the number of first consultations held in the law centre between the From and To dates, but breaks them down by individual solicitor. Cases with no solicitor assigned appear as “No Solicitor Assigned”. |
| **Cases Taken On** | Shows the number of first consultations held in the law centre between the From and To dates, but breaks them down by individual solicitor. |
| **Cases Taken On – Childcare** | Shows the number of first consultations for childcare cases held in the law centre between the From and To dates, but breaks them down by individual solicitor. Cases with no solicitor assigned are not included in this report. | * Cases where the milestone “First Consultation Attended” in the workflow APP003.First Consultation is Completed * A first consultation has been held between the From and To dates. * The Case Type is Child Care – Care Order, Child Care – Supervision Order or Child Care – Special Care Order. * For closed cases, certain outcomes will exclude them from these reports. Contact **Civil Operations** for details. |
| **Number of Priority Appointments Held** | Shows the number of priority appointments held in the law centre between the From and To dates where the case is priority. | * Cases where the milestone “First Consultation Attended” in the workflow APP003.First Consultation is Completed * A first consultation has been held between the From and To dates. * The case is Priority. * International Protection (Transition) cases are excluded from this report * For closed cases, certain outcomes will exclude them from these reports. Contact **Civil Operations** for details. |
| **Number of Second Consultations Held** | Shows the number of second consultations held in the law centre between the From and To dates. | * A second consultation has been held between the From and To dates * International Protection (Transition) cases are excluded from this report * For closed cases, certain outcomes will exclude them from these reports. Contact **Civil Operations** for details.. |
| **Second Consultation Appointments by Solicitor** | Shows the number of second consultations held in the law centre between the From and To dates, but breaks them down by individual solicitor. Cases with no solicitor assigned appear as “No Solicitor Assigned”. |

### Solicitor case reports

The Solicitor Current Caseload Report and the Solicitor Caseload by Year report are point in time reports. The Age Profile Report is a periodic report.

These reports give information on a solicitor’s cases.

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Solicitor Current Caseload** | This gives a list of all open cases to which the selected solicitor(s) are assigned, broken down first by year of application and then by case type, oldest first. This is a point in time report, but it requires you to select (a) solicitor(s). | * Cases where the milestone "First Consultation Attended” in the workflow APP003.First Consultation or “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is Completed * A first consultation or second consultation has been held, or the case type is Conveyancing. * The selected solicitor(s) have been assigned * The case is not closed * Cases where the milestone "First Consultation Attended” in the workflow APP003.First Consultation or “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is Completed * A first consultation or second consultation has been held, or the case type is Conveyancing. * A solicitor has been assigned as a solicitor resource. * The case is open or has been closed in the last 365 days * For closed cases, selecting certain outcomes will exclude the case from the report. (Contact Civil Operations to enquire if a case meets this criteria) |
| **Solicitor Caseload by Year** | This gives a list of all open cases and cases closed in the last twelve months in the law centre, broken down first by year of application, then by solicitor, and then by case type, oldest first. This is a point in time report. |
| **Solicitor Annual Caseload** | This gives a list of all open cases and cases closed in the last twelve months to which the selected solicitor(s) are assigned, broken down first by solicitor, then by year of application and then by case type. This is a point in time report, but it requires you to select (a) solicitor(s). |
| **Law Centre Annual Caseload** | This gives a list of all open cases and cases closed in the last twelve months in the selected law centre broken down first by law centre, then by solicitor, then by year of application and then by case type. This is a point in time report, but it requires you to select (a) law centre(s) (in most cases, you will only be able to select your own. Some law centres will be able to choose between a full time and part time centre or both). |
| **Age Profile** | This gives a list of all open cases and cases closed in the last twelve months to which the solicitor is assigned, broken down first by year of application and then by case type, oldest first. This is a point in time report. | * A second consultation has been held between the From and To dates. * The case is not closed. |
| **Closed Cases** | Gives the number of cases closed in a particular period. This report requires you to enter a From and To date and is available in Full and Partial (summary) versions | * Cases where the milestone "First Consultation Attended” in the workflow APP003.First Consultation or “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is Completed, or the case type is “Conveyancing – Family Law” or “Conveyancing – Non-Family Law”. * A first consultation or second consultation has been held, or the case is a conveyancing case.. * The case is closed * There is a solicitor assigned. * Selecting certain outcomes will exclude the case from the report. (Contact Civil Operations to enquire if a case meets this criteria) |
| **Cases Closed by Type** | Gives a breakdown of the cases closed by type in the twelve months prior to the report being run. This then is further broken broken down by how long these cases were open for (in years). This is a point in time report. | * Case was closed in the last twelve months * Case has a solicitor assigned * Cases where the milestone "First Consultation Attended” in the workflow APP003.First Consultation or “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is Completed, or the case type is “Conveyancing – Family Law” or “Conveyancing – Non-Family Law” * A first consultation or second consultation has been held, or the case is a conveyancing case. * Selecting certain outcomes will exclude the case from the report. (Contact Civil Operations to enquire if a case meets this criteria) |
| **Solicitor Inactive Open Files** | Lists the cases in the law centre where there has been no activity on the case for at least six months. Note that “activity” means that something on the file must be changed – a milestone ticked, a document added, and appointment created etc. Merely accessing the file will not register as an activity. | * A solicitor has been assigned * The case is not closed. |
| **Case Status** | Lists the number of cases on hand in the law centre by each case status on the system. This is a point in time report. Cases with no case status will appear as “No Workflow Assigned” | * Cases where the milestone "First Consultation Attended” in the workflow APP003.First Consultation or “Client Attends for Second Consultation” in the workflow APP006.Awaiting Second Consultation is Completed, or the case type is “Conveyancing – Family Law” or “Conveyancing – Non-Family Law” * A first consultation or second consultation has been held, or the case is a conveyancing case. * Case is not closed |

### Risk reports

These point in time reports give details of current High Risk cases.

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Risk Register** | Gives a list of all open High Risk enquiries and cases in the law centre. | * Risk level is High * Case is not closed. * **This report includes Enquiries** |
| **Limitation Period Report** | Gives a list of all open High Risk cases where the Statute of Limitations deadline is set to expire within the next six months. | * Risk level is High * Case is not closed * Date of Statute Expiry is completed and is within next six months * Proceedings have not been instituted (Contact Civil Operations to enquire if a case meets this criteria) |
| **Age Profile High Risk** | Gives the number of High Risk cases on hand broken down first by year, then by case type, then by law centre, then by solicitor. This report requires you to enter a From and To date. | * A second consultation has been held between the From and To dates * The case is not closed * The case is High Risk |

### Other reports

|  |  |  |
| --- | --- | --- |
| **Report** | **What does it do?** | **What cases are included?** |
| **Referrals to Mediation** | Gives the number of cases that have been referred for an information session on family mediation. | * The milestone “Offer information on mediation” in the APP003.First Consultation workflow is Completed. |
| **Contributions** | Lists all the contributions recorded on the Financial tab in a given period. | The Date of the contribution is between the From and To dates. |
| **Monthly PP Referrals District Family** | Shows the number of referrals to private practitioners for matters in the District Court under the District Court Family Law Private Practitioner Scheme broken down by month of referral. **Note: Do not run this report for a period spanning the end of a calendar year.** | There is a Submission for a Private Practitioner Legal Aid Certificate:   * Status is Granted * Date of Decision is between the From and To dates * Court is District Court * Type of Proceedings is not Childcare |
| **Monthly PP Referrals District Appeals** | Shows the number of referrals to private practitioners for appeals to the Circuit Court, where the applicant was not legally aided at first instance, under the District Court Family Law Private Practitioner Scheme broken down by month of referral. **Note: Do not run this report for a period spanning the end of a calendar year.** | There is a Submission for a Private Practitioner Legal Aid Certificate:   * Status is Granted * Date of Decision is between the From and To dates * Court is Circuit Court * Type of Proceedings is not Childcare, Judicial Separation, Divorce, or Nullity |
| **Monthly PP Referrals Circuit Family** | Shows the number of referrals to private practitioners under the Circuit Court Private Practitioner Scheme broken down by month of referral. **Note: Do not run this report for a period spanning the end of a calendar year.** | There is a Submission for a Private Practitioner Legal Aid Certificate:   * Status is Granted * Date of Decision is between the From and To dates * Court is Circuit Court * Type of Proceedings is Judicial Separation, Divorce, or Nullity * Litigation Options is not Appeal |

### Other reports

The above reports are those made available to law centres. Some reports are, or will be, only available to Head Office.

The reporting engine is a flexible tool and new reports may be designed in future as changing business needs demand.

### Frequently asked questions about reports

1. **How do I add a case to the applications record reports?**

A case is added to the applications record reports by completing the milestone “Case is updated from an enquiry to a specific case type” in the APP001.Application Received workflow.

1. **How do I remove a case from the awaiting first consultation reports and add them to the awaiting second consultation report?**

A case is removed from the awaiting first consultation report and added to the awaiting second consultation report by completing the milestone “First Consultation Attended” in the APP003.First Consultation workflow.

1. **How do I remove a case from the awaiting second consultation reports?**

A case is removed from the awaiting second consultation report by completing the milestone “Client Attends for Second Consultation” in the APP006.Awaiting Second Consultation workflow.

1. **I need to send a person to the bottom of the waiting list. How do I change a date the person started waiting or date of first consultation?**

The date started waiting or date of first consultation should not ever be changed. Contact Civil Operations for advice.

1. **I made a mistake and moved a person on too early. How do I remove the date of first consultation or date of second consultation?**

Contact Civil Operations for advice.

1. **When does a case become a “live” case?**

A case becomes a live case for the purpose of most reports when it receives a date of first consultation. However for the purposes of the some reports it becomes a live case when it receives a date of second consultation. In addition, conveyancing cases are live cases for the purposes of most reports, irrespective of whether they have a date of first or second consultation.

Check the entry for the relevant report in this Chapter for further details.

1. **Why are enquiry cases excluded from reports?**

Enquiry cases are excluded from reports so that incomplete applications and financially ineligible cases are not included.

1. **What’s different for centres where the first consultation is a substantive appointment?**

Law centres where the first consultation is a substantive appointment (now the majority of law centres) must still complete all applications record workflows. As with law centres who operate a two-part applications record, cases should be put into APP001.Application Received and progressed to APP003.First Consultation as usual. When the client attends for their first consultation, APP003 workflow can be completed and immediately after, the case should be ran though APP006.Awaiting Second Consultation completing all milestones. This will ensure the case does not appear on the Applications Record 2nd Consultation report but will appear on other reports. Centres where the first consultation is a substantive appointment should disregard the number of second consultations for their centre if one is reported.

1. **Do I need to run conveyancing cases through the applications record workflows?**

As conveyancing cases are only dealt with by the Board in connection with a previous case, and there is no “application” or waiting process as such, these cases should not be run through the applications record (APPxxx) workflows. There is a special criterion in the solicitor caseload reports that will allow these cases to appear even if they do not have either a first or second consultation.

1. **There are two solicitors assigned to a case. Which solicitor will the file appear under?**

The file will only appear under the solicitor most recently assigned to the case. For this reason it should only be in exceptional circumstances that two solicitors are assigned to a single case.

## Professional risk declarations

A regular formal review of all cases in law centres is essential to enable the Board ensure the quality of its services and to ensure that there is a proper structure in place to limit the scope of any potential actions against it in the future. The formal process must, therefore, be operated by each and every solicitor. This requires that solicitors review their files and ensure that the case status on EOS is up to date. Each solicitor is required to complete a review before the end of May, September and January.

A declaration as set out in this Chapter must also be completed by each solicitor three times a year and sent to the Director of Civil Legal Aid. It is permitted to scan the completed declaration or to make the declaration via e-mail (by copying the form below into an email and inserting your name and today’s date where applicable)

## Declarations re familiarisation and compliance with the contents of the Board’s Administrative Procedures Handbook

Problems have been experienced in law centres on occasion on account of a lack of familiarity with, or failure to follow guidelines and procedures that have been laid down by the Board. All law centre staff should familiarise themselves with the contents, in particular, of the Administrative Procedures Handbook. Solicitors are required to declare that they are broadly familiar with the contents of the Handbook. Adherence to procedures should be a regular agenda item at staff meetings.

**Professional Risk Declaration by solicitor following review of files**

I declare that I have reviewed all of my files for the four month period ending \_\_\_\_\_\_\_\_\_\_\_ and that the case status on EOS is up to date.

I further declare that, at the date of this declaration and following a review of all case files, I am not aware of any circumstances that may give rise to a claim in respect of breach of professional duty against myself or against the Legal Aid Board.

I further declare that I am familiar with the contents of the Board’s Administrative Procedures Handbook.

**NAME (BLOCK CAPITALS):**

**LAW CENTRE:**

**SIGNED**: **DATE**:

**Professional Risk Declaration by managing solicitor following review of files**

I declare that I have reviewed all of my files for the four month period ending \_\_\_\_\_\_\_\_\_\_\_ and that the case status on EOS is up to date.

I further declare that, at the date of this declaration and following a review of all case files, I am not aware of any circumstances that may give rise to a claim in respect of breach of professional duty against myself or against the Legal Aid Board.

I further declare that I am familiar with the contents of the Board’s Administrative Procedures Handbook and that I regularly discuss the contents of the Handbook with staff.

I further declare that the risk register which I have attached is up to date and that I monitor it regularly.

**NAME (BLOCK CAPITALS):**

**LAW CENTRE:**

**SIGNED**: **DATE**:

## Human Resources reporting requirements

***Monthly absences and leave return***

Notwithstanding the introduction of Peoplepoint managing solicitors continue to be required, on a monthly basis, to submit a return of all absences and leave regarding solicitors (including managing and trainee solicitors) in their law centre to Human Resources. It is expected that the completion of the form would be delegated to a law centre administrative staff member but approved and signed off by the managing solicitor and the form should be returned to HR not later than the deadline for submission of law centre monthly financial returns.

**Procedure 9.4 – How to fill in the solicitor staff absence form**

The managing solicitor should ensure, that the solicitor staff absence formis completed by a staff member and approved and signed off by the Managing Solicitor or in their absence a senior solicitor or other staff member.

1. **All solicitor staff should enter leave of whatever nature in the law centre shared diary and notify the recording staff member of same**
2. The recording staff member shall enter the absences and leave for each solicitor for the preceding month on the Staff Return Form
3. Save the form and have the managing solicitor electronically sign the form or print and have it signed and scanned.
4. Attach the saved form to an email and send to “HR Cahirciveen”.

IMPORTANT: The managing solicitor should be satisfied that the information on the return is correct before sending the form to Human Resources.

IMPORTANT: The manual recording of solicitor’s time does not relieve managing solicitors of their obligation to record leave in Peoplepoint and for solicitor staff to adhere to the Civil Service rules in relation to seeking approval for leave in advance and the reporting of other forms of leave, including sick leave.

A blank solicitor staff absence form is shown below. Blank copies may also be obtained from Human Resources.



### Learning and Development Plans

As part of the Performance Management and Development System (PMDS), each staff member must complete with their managing solicitor a Learning and Development Plan in January of each year. Managing Solicitors must complete their plans with the Director of Civil Legal Aid/Regional Manager.

The plan sets out the staff member’s requirements for on-the-job training, training courses, and other development to take place over the next twelve months and is agreed between the staff member and Managing Solicitor based on the staff member’s Goal Setting. See also 🡺**Chapter 11.**

### Computer-based time recording

Law centres are staffed 9:15-12:45 and 14:00-17:30 (17:15 on Friday). This is known as “Standard Working Hours”. At least one staff member must be on the premises at all times during Standard Working Hours.

The main purpose of flexitime is to provide a more flexible system of attendance for staff and to allow them to vary their times of arrival and departure, to vary length and time of their lunch break and to take flexi-leave if they have accumulated sufficient credit hours. Flexitime is available to all administrative (up to Higher Executive Officer, and to Assistant Principals who already had flexi-time before 1st July 2013) and paralegal staff (up to Legal Staff Officer) in the Board, but not to solicitors at present.

An average of 37 hours (excluding breaks) must be worked each week over a four week period. The following are the flexi arrangements:-

**08:00 – 10:00** Staff must start work during this period, but no earlier than 08:00

**10:00 – 12:30** Staff must be present for work during this period unless on an authorised absence

**12:30 – 14:30** Staff may take between 30 minutes and 2 hours break during this period, but must take at least 30 minutes.

**14:30 – 16:00** Staff must be present for work during this period unless on an authorised absence

**16:00 – 19:00** Staff may finish work at any time during this period, but no later than 19:00.

An application is available on the user’s PC which allows staff to record their times of starting and finishing work as well as lunch breaks and business absences. It also allows staff to check their current flexi balances. Certain law centres which have swipe-card based equipment already installed are permitted to continue the use of the swipe card system for clocking in and out only, however functions such as applying for leave must be done through the PC application. Solicitors do not at the moment clock in – solicitors should be present during solicitor’s working hours (see below).

Staff who have built up positive balances over the previous four-week period are able to take *leave in lieu of time worked up* (normally called flexi-leave) of between a half day and a day and a half, in the following four week period, depending on the amount of time worked up (3:42+ for a half day, 7:24+ for a day, and 11:06+ for a day and a half). The same principles apply to granting such leave as normally apply to the grant of annual leave. Time worked up in excess of 11:30+ is lost. Flexi-time is always subject to the requirements of the law centre.

**Procedure 10.1 – How to access the Flexitime application**

1. If the LAB Portal is not already open, open it by clicking Start 🡪 Programs 🡪 Internet Explorer, then Favourites 🡪 LAB Portal.
2. In the portal, click the link to “Flexi” under Quick Links on the right hand side of the screen.
3. Enter your username and password and click “Logon”. The Employee Dashboard will appear.

🡺 Full **User and Supervisor Manuals** for the computer-based flexi system, detailing full procedures for using the system, have been distributed to all law centres. Additional copies are available on request from Human Resources Section. Online help is also available by clicking on the “?” icon in the top right-hand corner of the Employee Dashboard page.

### Managing solicitor’s responsibilities re Flexitime

Managing the time and attendance of staff is an important function of managing solicitors. In exercising their responsibilities, they should ensure as far as is practicable, that all staff are rostered appropriately to ensure that sufficient staff are available to deliver the Board’s services. Managing solicitors must ensure at least one staff member is on the premises at all times during Standard Working Hours and that all staff members scheduled to work are on the premises (or otherwise on approved business absence, such as attending court). Managing solicitors should be aware of attendance patterns in the law centre and require staff numbers during non-core hours to reflect this. They must also ensure that the law centre remains open to the public during public opening hours. In smaller law centres, this may require the managing solicitor to ensure that at least one staff member has taken and returned from their lunch break by 14:00 to open the law centre.

Managing solicitors must also manage staff (including solicitors) to ensure they are working the required number of hours.

A deficit (a negative closing balance at the end of a flexi period) may not be carried over by a staff member for two flexi periods in a row. Human Resources Section may intervene, where a staff member has carried over a deficit for more than two flexi periods, or where a substantial deficit (in excess of 8:00- ) has been carried over.

🡺 Pages 9-11 of the **Staff Handbook** contain more details on the operation of the flexitime system.

**The continued operation of flexitime is subject to conditions!**

**The law centre MUST be staffed adequately during Standard Working Hours and must be open during public opening hours (10:00 – 12:30, 14:00 – 16:00).**

### Queries regarding the flexitime system

Queries regarding the flexitime system, and time and attendance generally, are dealt with by Human Resources. If you have a query you should email the group Time Management. The general Human Resources/Training email address should not be used for such queries.

### Solicitors’ working hours

Solicitors are not required to clock in. Their normal working day is 9:00-17:45 with a break of 1 hour 15 minutes for lunch

# Managing performance

This chapter deals with:

1. PMDS – an overview
2. ePMDS and Goal Setting
3. Conducting the Mid-year Review
4. Conducting the End of Year Review
5. Support for ePMDS

## PMDS – an overview

The Managing Solicitor (assisted, where appropriate, by the Managing Solicitor Grade II) is responsible for managing the performance of the law centre as a whole and of individual staff in the law centre. One of the principal tools available to managers in the Board is the Performance Management and Development System (PMDS) which is used throughout the Civil and Public Service. Participation in the PMDS process is compulsory for all staff. The PMDS process is carried out by engagement between the staff member and their direct line manager. In most law centres this will be the managing solicitor. In larger law centres, the Managing Solicitor Grade I and Managing Solicitor Grade II may share this task. Managing solicitors participate in PMDS with the Director of Civil Legal Aid/Regional Manager. This Chapter deals with some aspects of managing performance. Other responsibilities are detailed elsewhere, including the Board’s 🡺 **Circular on Legal Services.**

## ePMDS and goal setting

At the start of the year, the managing solicitor and staff member must meet and complete Goal Setting for each staff member and for the year ahead. Generic templates are available on iLAB. In the case of managing solicitors it is likely that his or her Goal Setting will be discussed and agreed with the Director of Civil Legal Aid/Regional Manager over the telephone.

PMDS is completed on online. An electronic PMDS form (ePMDS) for each staff member is available on the National Shared Services Office website at [www.peoplepoint.ie](http://www.peoplepoint.ie). NSSO will send you an email when each year’s form is available. The form can be approved electronically by your manager on the same website, or returned to you for revision. There is no need to print out or sign the form. There is no longer any need for returns to be made to Human Resources.

To use the templates on iLAB, but you will need to copy and paste from the Word document into ePMDS.

Where a staff member joins a law centre mid-year, they should, as soon as possible after their start date, agree their goal setting with their managing solicitor. The Goal Setting form of the staff member they are replacing may be used, alternatively, the generic precedent form, appropriately customised, may be used.

**Procedure 11.1 – Goal setting**

1. The staff member and managing solicitor should agree a time and date for goal setting(to take place no later than 31st January of each year, subject to NSSO making the form available by that date).
2. In advance of the goal setting meeting, the staff member should complete the Goal Setting form on ePMDS  
   **Note:** It is a requirement for all Managing Solicitors (Grades 1 & 2), and any other staff who have staff reporting to them, to include the **Goal 1 “Manage the performance of all staff reporting to me”** in their Goal Setting section.
3. In advance of the goal setting meeting, the staff member should submit the draft Goal Setting to their managing solicitor.
4. At the meeting, the staff member and managing solicitor should discuss the draft Goal Setting. They should identify which competencies need to be developed over the coming year. Based on that, they should complete together a draft Learning and Development Plan. They should also agree a date in June/July for the completion of the Mid-year Review. The manager should then click “Return to Jobholder”.
5. The staff member should make changes to their Goal Setting based on the discussion at the PMDS meeting.
6. The staff member should submit their updated Goal Setting (including LDP) to the managing solicitor. If both are happy with the updated versions, then they may be signed off on (by clicking “Sign Off”), otherwise **steps 3-5 need to be repeated** until ready to be signed off.

## Completing the Mid-year Review

The Mid-year Review allows the manager and staff member to reassess the objectives and key deliverables set out in Goal Setting, to measure progress in relation to the key deliverables and to make the appropriate changes for the remaining six months of the year.

At the time of completing Goal Setting, the staff member and manager should agree a date for completion of the Mid-year Review. When agreeing this date managers should bear in mind any Term-Time Leave arrangements that may have been approved for the staff member in question. Where this occurs, the staff member’s Mid-year Review should be completed prior to the commencement of term-time leave.

**Procedure 11.2 – Holding the Mid-year Review**

1. The staff member and managing solicitor should arrange the date for their Mid-year Review and the time.
2. In advance of the meeting, the staff member should complete the Mid-year Review on ePMDS.
3. At the meeting, the staff member and managing solicitor should discuss their drafts and any performance issues. The staff member may give upward feedback.
4. The staff member should submit a revised Mid-year Review based on the meeting and present this to the managing solicitor. If both are happy with the revised version, then it may be signed off on, otherwise **steps 3-4 need to be repeated**.

## Completing the End of Year Review

The End of Year Review should where possible be completed in December/January of each year. It is recognised that in order to make the reviews more meaningful, reviews with solicitors should be deferred until a level of information is available in relation to the solicitor’s case throughput and case mix in the year in question and comparative information in relation to case throughput in other centres / regions. This information should be available by no later than the middle of February and the reviews should take place as soon as possible thereafter.

If a staff member transfers out of the law centre, the End of Year Review should be completed prior to their departure.

The End of Year Review incorporates a self-appraisal by the staff member of how he / she has performed during the year, an appraisal by the manager, and a rating. There is also an opportunity for upward feedback.

|  |
| --- |
| **Procedure 11.3 – Holding the End of Year Review meeting**   1. The staff member and Managing Solicitor should confirm the date for their end of year review. In the case of solicitors, this date should be arranged as soon as there is information available about the solicitor’s case throughput and case mix and comparative information about case throughput in other centres / regions. 2. The Jobholder should complete the End of Year review form and submit it to their managing solicitor. 3. A discussion should then take place between the Managing Solicitor and the staff member based on the performance in the review period. 4. Following discussion with the staff member, the Managing Solicitor should complete the assessment of performance and the rating. In reviewing performance, account should be taken of the agreed goals, tasks, competencies, learning and development and any attendance issues that might have arisen during the year that have impacted on performance. The Managing Solicitor and staff member should agree the assessment of performance by signing off on this part of the form. 5. The “Feedback Conversation” is optional, but it is recommended that it is completed. |

## Support for ePMDS

|  |
| --- |
| **Support for ePMDS is available on the Peoplepoint website at** [**www.peoplepoint.ie**](http://www.peoplepoint.ie) |

# Appendices

Appendix A – Structure of Head Office

The Board’s Head Office functions are physically located in the following offices:

As in any organisation the management structure is subject to ongoing review and change, and updates will be issued to staff from time to time.

|  |  |
| --- | --- |
| Appendix B – Style Guide – May 2017 (Version 1.1) | |
| **Introduction** | |
| **What is this document?** This is the Legal Aid Board’s Style Guide. A Style Guide is a set of standards for writing documents.  **Why do we need or want a style guide?** The aim is to ensure all written communications follow a consistent accessible style.  **What does this apply to?** This style guide applies to all written communications in the English language, whether internal or external.  **Are there any exceptions?** You can draft Court and other legal documents, as well as correspondence **between lawyers** using legal English and include Latin phrases, if you clearly need to. Even with this exception you should aim to make the documents as clear as possible.  Correspondence to clients should follow this guide. There are other exceptions which we will note.  **What does the Style Guide not cover?** It does not cover things like fonts, layout, or presentation. The Style Guide is not a Corporate Identity Guide or a Presentation Guide. | |
| **Writing Basics** | |
| **Guidance** | **Example** |
| 1. Use the active rather than the passive voice where possible. It is clearer. Use “you” to refer to the reader, “we” and us” to refer to the Board. | **You can appeal this decision to an appeal committee**, not“This decision can be appealed to an appeal committee” |
| 1. Make sentences as short as possible. Think about whether you can do without particular words. If you can, drop them. Do not repeat phrases unnecessarily. | Instead of “For the purposes of this handbook the term “law centre” includes all law centres unless the context indicates otherwise” use “**Law centre” means all law centres.** |
| 1. Use the present tense. Keep paragraphs short. Paragraphs in external publications and e-mail should be three to five lines. Paragraphs in long documents/reports can be longer, but should not be any more than six lines. Each paragraph should have only one “idea”. If there is a new idea, start a new paragraph. |  |
| 1. Use everyday professional English. Avoid contractions and do not make points longer than they should be. If in doubt, ask someone who does a different job to you if they understand | Use **money** not “monies”. |
| 1. Try not to use words like “aforementioned”. “In relation to” can usually be phrased differently – “for” or about”, for example. “Reference is made at” can be replaced with “You can find this at”. “Thereunder” should be avoided. | **The Civil Legal Aid Regulations** not “the Regulations made thereunder” |
| 1. Be careful about the amount of commas used in a sentence. If there are more than two commas in a sentence, consider using two or more separate sentences. |  |
|  |  |
| **A-Z of Style** | |
| **Abbreviations**  The first time you use an abbreviation, spell it out | The **Department of Justice and Equality (DJE)** has announced… |
| Abbreviations which are made up of initials should be in all caps without full stops. If an abbreviation originally stood for something, but is no longer used, you should still capitalise it unless the body in question stops doing so. You do not need to spell out the former meaning of an abbreviation that is no longer used. | **Permanent TSB,** not “Trustee Savings Banks (TSB)” |
| Abbreviations that are not formed of initials can be in mixed case, and should not have a full stop afterwards unless they are an abbreviation of one word.  If the body concerned has a preferred abbreviation, trading name or other style which they consistently use, use that. | **Tusla** not “TUSLA”.  **Tusla**, not “CFA” |
| Try to avoid using “LAB” as an abbreviation for Legal Aid Board, and do not use it at all in any publication for external circulation. Use **us** or **we** where possible. If you must refer to the Board in the third person – for example in the context of taking legal proceedings against us – use **the Board.** | **The Board** not “LAB” |
| **Bullets** Begin each bullet with a capital letter. Do not end with any punctuation **unless** there is more than one sentence in the bullet point, in which case end with a full stop.  There is no need to use “and” or “or” in a bullet list unless it is not obvious from the context whether it is a list of steps or of alternatives. If it is a list of steps think about whether a numbered list rather than a bullet list would be more appropriate.  If you have more than one sentence in a bullet point, think about whether or not a bullet list is appropriate. A number list might be more appropriate, or simply use normal paragraphing.  For a set of instructions, use a number list, not a bullet list. |  |
| **Currency** Use the € currency symbol to indicate an amount of euro currency. Only use “euro” when you need to refer to the currency by name. The plural of euro is euro, not euros, and it is not capitalised unless part of a proper noun or starting a sentence. | The minimum aid contribution is **€130**  To convert from pounds to **euro** |
| **Dates** In most communications, use **4th June 2016,** not 4/6/16 or 4th June 2016. However you may use any date format in a spreadsheet. | **4th June 2016** |
| **Irish** You can use Irish language terms that are commonly used in Irish English in the contexts that you would normally use them. | The **Garda Síochana** or **the Gardaí**, not police, but only when referring specifically to the Garda Síochana, not to the PSNI, airport police or any other service. Do not use “the guards”.  **Taoiseach,** but **British prime minister** |
| **Latin** If at all possible try to avoid using Latin or other foreign language terms (other than proper nouns). | **Among other things**, not “inter alia” |
| If you think you **must** use a Latin term, consider whether or not it possible to use the English meaning without the Latin term. If you still find you must use the Latin term, you **must** explain what it means in the same sentence. | **We will be seeking from the court what is known as a writ of *certiorari.* What I mean by that is that we will be looking for an order quashing the decision of the public body and sending it back to them to be reconsidered.** |
| **Numbering** Number points as 1., 2., 3.. Use a., b.,c. to indicate second level headings, and i., ii., iii. for third level headings if required. | 1. **One** 2. **Two**    1. **Two A**       1. **Two A i**    2. **Two B** |
| When using numbers in a sentence, spell out numbers from one to twenty. From 21 onwards use digits, but try to avoid starting a sentence with digits. If you must, you can spell out the number. Use commas in numbers greater than 999. In numbers greater than 1,000,000 you can use the format 1.xxxm. Do not spell out per cent. Use the % symbol. | **Ten** not “10”  **22** not “twenty-two”  **1,000** not “1000”  **1.345m,** not “1,345,000”  **100%,** not “one hundred per cent” |
| **Spelling** The working language of the Board is Irish English (also called Hiberno-English). Spelling in Irish English generally is the same as UK English, not US English. | **Colour,** not “color” |
| Do not change spellings of proper nouns (names) | The **Honorable** Society of King’s Inns |
| Where a software package includes commands that are spelt with US English you can refer in documentation to the command as it is spelt. | The **Color** command in Lotus Notes. |
| **Names** | |
| * Refer to Law Centres as **Law Centre (**name of law centre**).** But use **law centre** if speaking about law centres in general * Refer to the civil legal aid office in Dolphin House as **Dolphin House Service** except in Court documents. Use “Law Centre (Dolphin House)” in Court documents. Never refer to this office as the “Private Practitioner Centre” – to do so may cause confusion with the Private Practitioner Service in Head Office. * Mediation offices are called **(name of mediation office) Mediation Office**, but use **mediation office** if talking about mediation offices in general * Cahirciveen is the Board’s **Head Office** and North Brunswick Street is the Board’s **Dublin Office.** You can alsouse **Cahirciveen** and **Smithfield** on an informal basis if the document is for internal circulation only**.** | * Name sections as e.g. **Legal Services, IT, Human Resources, etc.** Do not use “Legal Services” or “IT Unit”.You can refer to Human Resources as **HR.** * Do not use “Refugee Legal Service” or “RLS”.Refer to the individual law centres by name, or if speaking generally, to **civil legal aid and advice for international protection.** * Do not use “Family Mediation Service” or “FMS”. Refer to **family mediation** or the Board’s **mediation services.** * Use **Research, Learning, and Development** to refer to the section of that name, except if it is a publication specifically aimed at the international protection area. Use **Refugee Documentation Centre** if aimed at the international protection area. Do not use “LAB Library”except to refer to the physical library itself. |
| Do not capitalise a grade unless as part of a signature or a table where it stands on its own. For example **John Smith is the managing solicitor.** | |
| **Rules for specific documents** | |
| **Writing in legal publications** In legal publications (including *The Researcher* and *Legal Ease*) you can use an appropriate legal style guide, such as OSCOLA Ireland ([www.legalcitation.ie](http://www.legalcitation.ie)). You should use it as an accompaniment to this guide and apply common sense as to which one should prevail in a conflict. You can use Latin terms in legal publications, but if it is a Legal Aid Board publication, you should explain what the term means. You should aim to write your article in plain English | |
| **Referring to judges and courts in non-legal publications**  In any writing that is intended for a non-lawyer (or even partially non-lawyer) audience refer to judges along the lines of Judge Smith (for district or circuit judges) or Mr/Ms Justice Jones (for judges of the Superior Courts), or as “the judge” or “the Court”. Do not use Jones J (which is pronounced “Mr Justice Jones”, not “Jones Jay”) outside of correspondence between, lawyers or legal writing, or in a publication intended primarily for legal circulation.  A District or Circuit Court venue can be named <name of venue> District/Circuit Court. Dolphin House is acceptable shorthand for the Dublin Metropolitan District Court that sits in that building, but do not use it if it would confuse it with the Dolphin House Service or Dolphin House Mediation Office. The High Court, Court of Appeal, and Supreme Court are always called those names and collectively are the Superior Courts. | |
| **Any queries** | |
| **You can submit queries to Civil Operations** | |

# Abhaile

**This Chapter deals with:**

1. Introduction  
2. The Solicitor Consultation Service  
3. The Duty Solicitor Service  
4. The PIA Review Legal Aid Service  
5. Queries

## Introduction

On 22nd January 2016, the Minister for Justice and Equality announced a new independent scheme of advice and aid in home mortgage arrears. The aim of the scheme to help people who are insolvent, and in mortgage arrears on their home, to access independent expert financial and legal advice.

The Scheme was formally launched in October 2016, under the title “Abhaile – Mortgage Arrears Resolution Service”; the title was amended in early 2017 to “Abhaile – Free Mortgage Arrears Support”.

### Who is Abhaile for?

Abhaile is aimed at people who are unable to pay their debts as they fall due (called “insolvency”). They also need to be in mortgage arrears in the home they normally reside in (called their “principal private residence”). But a person will not be eligible if their home is much larger than what they actually need to live in.

There are a number of detailed criteria for each element of Abhaile which we will deal with later in this Chapter.

Abhaile includes both a financial advice component and a legal advice and assistance component. While we are only concerned with the legal advice and assistance component here, it is important to know that the financial advice component exists. Refer a person to MABS or the keepingyourhome.ie website for further details.

### Who is running Abhaile and what is our role?

Abhaile is being co-ordinated by the Department of Justice and Equality and the Department of Employment Affairs and Social Protection. Other bodies involved include the Insolvency Service, Citizens Information Board, MABS, and the Legal Aid Board.

### What will we do?

We will be providing the legal advice and assistance component. This comprises of three services:

* A **Solicitor Consultation Service –** a solicitor will provide legal advice to the borrower. In some cases, they will also be able to negotiate a settlement with the person’s lender.
* A **Duty Solicitor Service –** there will a duty solicitor present at each repossession list in the Circuit Court for the duration of the scheme. The Duty Solicitor will be able to speak on behalf of the borrower, but not represent them in proceedings.
* A **PIA Review Legal Aid Service –** This will provide legal aid to persons to make an application for a court review of a Personal Insolvency Arrangement which has been rejected by their creditors.

### Who will be providing legal services?

All Abhaile legal services are provided by private solicitors. Abhaile involves a number of novel elements for the Board. For the first time, we are making referrals to private solicitors for advice only. We will also be providing an element of representation in court without a legal aid certificate. The PIA Review service may involve the provision of civil legal aid by private solicitors in the High Court.

We have set up a panel of solicitors to provide services – the Abhaile Solicitors Panel.

Though we refer to this as one “Panel” solicitors will be able to choose whether or not to participate in any particular component of the Scheme and we will make clear which particular services any solicitor is willing to provide.

### How will referrals under this Scheme be made?

**All referrals under the Solicitor Consultation Service and Duty Solicitor Service will be from MABS directly to a private practitioner.**

For the purposes of this scheme MABS will be able to request the grant of civil legal advice for an applicant by issuing a legal advice voucher. They will notify the Board of each legal advice voucher issued.

A person who wants to avail of the PIA Review Legal Aid Service must make an application for legal services to the Board, but there will be a special application form. The application must be completed with and co-signed by the person’s PIP. Legal Services Unit 4, Cahirciveen will centrally process all applications for legal services for PIA reviews.

MABS is the “single gateway” to the Scheme. Refer anyone who wish to avail of the Solicitor Consultation or Duty Solicitor services to MABS

### Is there any role for law centres under this Scheme?

Law centres will not have any role either in processing applications or providing legal services under this Scheme.

Be proactive. If you think a person falls within the terms of the Scheme, refer them to their local MABS office for information on the scheme. If they do not, they can always return to the law centre and make an application for legal services at that point.

If you receive an application that relates to a PIA review, contact Legal Services Unit 4, Cahirciveen **immediately** if you think it might fall within the terms of the Scheme. **There is a strict fourteen day statute of limitations for PIA reviews and they must be treated as High Risk and Priority**, **whether or not they fall within the scope of the Scheme.**

### Is there a contribution towards legal services?

No, access to services under the Scheme will be free of charge. Neither an advice nor aid contribution will be payable.

### Principal private residence

Sometimes we will refer to the term “principal private residence” in this Chapter. That is the term used in the Personal Insolvency Act and the Scheme itself. It simply means the house in which the person normally lives.

However, it is important to note that it is not necessarily (though often will be) the same as the family home defined in the Family Home Protection Act 1976.

### The Scheme Number

The Scheme Number is a person’s identification number for the purposes of Abhaile. It is allocated by MABS National Development clg (MABS NDL), who will tell the Board and other agencies involved what it is.

We will allocate the person an EOS Person Number and Case Number, as we do with all civil legal aid applicants. But for clients under this Scheme, it is for our use only.

We will refer to the Scheme Number on all correspondence with other agencies, solicitors, and clients as it is the only number they will be familiar with.

### Correspondence

All Abhaile related correspondence will be dealt with by email unless no email address is provided.

## The Solicitor Consultation Service

Under the Solicitor Consultation Service, a solicitor from the Abhaile Panel will provide a single legal advice consultation to an eligible person. In certain circumstances – and if we approve in advance – the Consultation Solicitor can conduct negotiations to settle repossession proceedings. If we give approval for the consultation solicitor to conduct negotiations then we will also allow a second consultation with the client.

### Who is eligible for the service?

The person must satisfy all of the below conditions

1. The person is insolvent – that is, they are unable to pay their debts in full as they fall due
2. The person is in mortgage arrears on the home where they ordinarily live, and
3. The person is at risk of losing that home (**one** of the following applies)
   1. they have received from the mortgage lender repossession proceedings,
   2. a letter indicating that such proceedings will issue,
   3. a letter indicating that they are deemed non-cooperating,
   4. an invitation to consider sale, surrender or other loss of all or part of the home
4. A person **is not eligible** if their home is disproportionate to the reasonable living accommodation needs of the borrower and his or her dependents.

### Referring a person to the Service

The person’s first point of contact with Abhaile is their local MABS service. They will decide whether the person is eligible for Abhaile, and if so they will obtain a Scheme Number from MABS NDL and refer the person to a financial advisor for financial advice. The financial advisor will also complete a document called a Standard Financial Statement (or sometimes, a Prescribed Financial Statement) with the person.

Once financial advice has been provided, the financial advisor will decide if they need legal advice also. If they decide that they do, they will apply to MABS NDL for a Legal Advice Voucher for the person. MABS NDL will issue the voucher to the financial advisor by email. The financial advisor and the client must both sign and date the voucher. The voucher authorises the person to avail of the Duty Solicitor Service and/or the Solicitor Consultation Service. The financial advisor will give a copy of the Abhaile Solicitors Panel to the person to select a solicitor.

The financial advisor will provide the person or the nominated solicitor with the following documentation:

* two copies of the voucher which will indicate the person’s reference number under the Scheme, their name, and the address of the person’s principal private residence (which is at risk of repossession),
* the Standard/Prescribed Financial Statement prepared by the financial adviser,
* a copy of the financial advice provided in writing by the financial adviser to the borrower,
* a copy of the borrower’s file sharing consent

### Voucher is valid for three months

A Legal Advice Voucher is valid for three months. If a solicitor receives a voucher that is more than three months old they should send the person back to MABS to have fresh financial advice. The reason for this is that the Standard/Prescribed Financial Statement is likely to be out of that after this time.

### Sample voucher

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | |  | | R:\Z - Miscellaneous files\LAB logo proper.jpg | | | | | **Abhaile**  **Consultation Solicitor Legal Advice Voucher** | | | | | | | Name of Borrower(s): | |  | | | | |  | |  | | | | | Address of Principal Private Residence: | |  | | | | | (PPR) | |  | | | | | Scheme Number: | |  | | | | | Voucher Number: | |  | |  |  | |  | |  | | | | | Applicant Panel PIP: | |  | | | | |  | |  | | | | |  | |  | | | | | Date of Issue**:** | |  | | | |   **TO THE BORROWER NAMED ABOVE:**  You must provide this voucher to your nominated Consultation Solicitor at your appointment.  Under the Scheme, this voucher entitles you to have a meeting with a qualified and regulated professional from the Legal Aid Board’s consultation solicitor panel. Details of the Scheme’s Solicitor Panel members and their locations can be found at [www.legalaidboard.ie](http://www.legalaidboard.ie). The Consultation Solicitor will assess your individual situation and advise you in writing on your best options.  **You must use this voucher within 3 months of date of issue.**   |  | | --- | | **TO THE NOMINATED CONSULTATION SOLICITOR**  You must retain this voucher and return a copy to the Legal Aid Board when claiming payment under the Scheme.  *This voucher is issued under the Scheme of Aid and Advice for Insolvent Borrowers in Home Mortgage Arrears Serial No: 9E3DB3-FC8DCD-68CED6-1B19E3* | |

### Creating the case on EOS

MABS NDL will email a copy of the voucher to Legal Services Unit 4 at the same time that it is emailed to the local MABS office.

|  |
| --- |
| **Procedure 13.1 – Creating a case for a Solicitor Consultation Service/Duty Solicitor Service client Legal Services Unit 4 only**   1. Search for the person on EOS. If they do not already exist, create a person record for them. You will only have the person’s name and address. 2. Create a non-family law case of the type “Home Mortgage Arrears Scheme –Advice”. 3. Place the case in the HMAA001.HMA Applicant Legal Advice Voucher Issued workflow 4. Upload a copy of the voucher to the Documents tab 5. Complete the workflow and advance the case to the HMAA004.HMA Applicant Close File workflow **(but do not complete any checklist items on this workflow for now).** |

### Authorising negotiations and a further consultation

In certain circumstances, we will authorise a solicitor to conduct negotiations with a view to settling repossession proceedings. When we do this, we will also authorise the solicitor hold a further consultation with the borrower after the negotiations are concluded. This is in order to advise the borrower whether or not to accept the settlement

|  |
| --- |
| **Procedure 13.2 – Processing an application for negotiations and a further consultation Legal Services Unit 4 only**   1. Access the case on EOS. 2. Go to the workflow tab and click “Cancel Workflow” 3. Place the case in the HMAA002.HMA Applicant Negotiations/Further Consultation workflow 4. Upload a copy of the email/letter to the Documents tab 5. On the submissions tab, complete a Submission for Authority for Negotiations/Further Consultation (HMA Scheme) using the details in the solicitor’s submission. 6. A decision will be taken on the matter by a decision maker (the guidelines are below) 7. If the decision maker grants the application, issue the letter of authority via email and record an accrual of €200 on the Financial tab (as “Private Practitioner Fee – HMA Negotiations”) 8. If the decision maker refuses the application, issue a refusal letter via email. 9. Complete the workflow and advance the case to the HMAA004.HMA Applicant Close File workflow **(but do not complete any checklist items on this workflow for now).** |

**Grant the application if (both factors must be true):**

* There are repossession proceedings in being
* The solicitor has formed a view that the borrower could benefit from the solicitor’s assistance in negotiating terms of settlement to the repossession proceedings and expresses this in their request for authority

**Consider refusing the application** **if:**

* there are no repossession proceedings in being (refuse under section 24(a) and (b) and section 26(7)
* The solicitor not expressed a view that the borrower could benefit from the solicitor’s assistance in negotiating terms of settlement to the repossession proceedings   
  (refuse under section 24(b) and 26(7))

The normal review and appeal procedures apply (🡺 **Circular on Legal Services**) where an application is refused.

When an application is granted an additional €200 fee is payable to the solicitor. Record this under the Financial tab on EOS.

### Sample authorisation

|  |
| --- |
| **Client Name: Mark Markson**  **Subject Matter: Advice on Repossession Proceedings  Application for: Authority at Advice Stage**  **Scheme No: 1234567**  Dear John,  I refer to the application for authority that you made on behalf of the above client on 5th March 2015.  We considered the statement of facts you made on the clients behalf, the material submitted in support of the statement, and the recommendation you made.  We made the following decision:  **We authorise you to conduct negotiations to settle repossession proceedings  and to conduct a second consultation with the client**  You may claim an additional fee of €200 for this work.  Please include a copy of this letter when you claim payment.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_ **Jane Jones Legal Services Unit 4** |

### Sample refusal letter

|  |
| --- |
| **Client Name: Mark Markson**  **Subject Matter: Advice on Repossession Proceedings  Application for: Authority at Advice Stage**  **Scheme No: 1234567**  Dear John,  I refer to the application for authority that you made on behalf of the above client on 5th March 2015.  We considered the statement of facts you made on the clients behalf, the material submitted in support of the statement, and the recommendation you made.  We made the following decision:  **We refuse to extend the grant of civil legal advice  to cover negotiations and a further consultation**  Our reasons for this decision are:   * **Section 24** **(a)**: because a reasonably prudent person, whose means were such that the cost of seeking such services at his or her own expense, while representing a financial obstacle to him or her would not be such as to impose undue hardship upon him or her, would not be likely to seek such services in such circumstances at his or her own expense   **Reason:** a person would not seek legal advice to settle proceedings if there were no proceedings to settle.   * **Section 24** **(b)** because a solicitor or barrister acting reasonably would not be likely to advise him or her to obtain such services at his or her own expense.  **Reason:** a solicitor or barrister acting reasonably would not be likely to advise a person to seek legal advice to settle proceedings if there were no proceedings to settle. * **Section 26(7):** because the Board may cease to grant legal advice to a person where it considers that it is no longer reasonable for the person to continue to receive it  **Reason:** There are no legal proceedings in being to settle. We cannot grant legal advice to settle proceedings if there are none in being to settle.   **Applicant’s options**  The applicant can request a **review** of this decision. A review means that the applicant, through you as their solicitor, or on their own initiative, can submit further information and ask that the decision be re-considered in the light of such new information. You or your client must submit a request for a review within one month of when you inform your client of the decision. I will notify you of the outcome of the review after the review has been completed.  The applicant may also **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your client’s appeal and take a decision, which will usually be either to confirm the decision, or they may overturn this decision and grant legal aid. The Committee have wide powers and are not confined to either of these approaches.  Usually, the applicant will not submit any further information to the Board when they appeal. However, if the applicant asks for a review and submits further information, they will have a further month after we tell them the outcome of the review to appeal. I will notify you of the outcome of the appeal once I have received the decision from the Secretary to the Appeal Committee. The applicant must submit an appeal within one month when they are informed about the decision they wish to appeal.  Please notify the applicant of this decision immediately and inform him/her of his/her options to seek a review and or appeal. You must then take instructions from your client and let me know if they wish to take either of these steps.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **Legal Services** |

### Letter refusing after review

|  |
| --- |
| **10th April 2015**  **Client Name: Mark Markson**  **Subject Matter: Defence of claim for liquidated sum  Review of: Decision to refuse legal aid**  Dear John,  We refused legal aid to your client on 10th March. On the 14th March 2015 you asked that this refusal by reviewed in the light of new information which you submitted. The information included the following (outline of information in narrative form and any additional materials)    We have now reviewed the decision in the light of the further information you submitted.  The outcome of the review is as follows:  **We are refusing to extend the grant of civil legal advice to cover negotiations and a further consultation**  The reasons for this decision are:   * **Section 24** **(a)**: because a reasonably prudent person, whose means were such that the cost of seeking such services at his or her own expense, while representing a financial obstacle to him or her would not be such as to impose undue hardship upon him or her, would not be likely to seek such services in such circumstances at his or her own expense   **Reason:** a person would not seek legal advice to settle proceedings if there were no proceedings to settle.   * **Section 24** **(b)** because a solicitor or barrister acting reasonably would not be likely to advise him or her to obtain such services at his or her own expense.  **Reason:** a solicitor or barrister acting reasonably would not be likely to advise a person to seek legal advice to settle proceedings if there were no proceedings to settle. * **Section 26(7):** because the Board may cease to grant legal advice to a person where it considers that it is no longer reasonable for the person to continue to receive it  **Reason:** There are no legal proceedings in being to settle. We cannot grant legal advice to settle proceedings if there are none in being to settle.   The applicant may **appeal** the original decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider the appeal and take a decision, which will usually either be to confirm the original decision, or they may overturn the decision and grant legal aid. The Committee have wide powers and are not confined to either of these approaches.  You should give a copy of this letter to your client and ensure that they are aware that they have the right to appeal. Alternatively your client may, if they wish to do so, appeal directly in writing via post, email, or fax. You or your client must lodge any appeal within one month from the date you tell them about the decision.  Please immediately notify the applicant of this decision.  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **Legal Services** |

### Claims for payment

A solicitor can claim payment for services under the Solicitor Consultation Service in the same way as under any other private practitioner scheme. To claim payment, the solicitor must enclose a copy of the Legal Advice Voucher (and letter of authority, if one was issued).

## The Duty Solicitor Service

The Duty Solicitor Service is a new departure for the Board. It will involve a solicitor being present in a courthouse at least one hour before each repossession court list in the Circuit Court.

Since 2013, repossession cases involving principal private residences are now almost always in the Circuit Court. They are heard by the County Registrar, who may grant possession in certain circumstances or transfer the matter into the Judge’s list if the matter is being contested. It is proposed that duty solicitors will be present at County Registrar’s repossession lists only. At present the County Registrar sits to hear repossession applications at most Circuit Court venues monthly. However, the Dublin County Registrar sits up to two days a week to hear these cases.

The Duty Solicitor may give advice and assistance on the day in relation to the borrower’s legal position. They may also speak on the borrower’s behalf in court, but may not come on record. The only application they can make is to have the proceedings adjourned. They may offer to settle the proceedings, but it is important to note that they may only act “on the day”.

### Eligibility requirements

The eligibility requirements for the Duty Solicitor Service are the same as for the Solicitor Consultation Service. The same Legal Advice Voucher will be issued by MABS and can be used to access both services.

### The Duty Solicitor Rota

Legal Services will organise the duty solicitor rota, so that:

* All Circuit Court venues have a Duty Solicitor present for each County Registrar’s repossession list
* Each solicitor on the Panel who has indicated
  + their intention to participate in the Duty Solicitor rota
  + their willingness to provide services at the Circuit Court venue in question

will have an equal opportunity to act as Duty Solicitor, either at the particular Circuit Court venue, or in general

Legal Services Unit 4 must ensure the Duty Solicitor rota is made available to all Duty Solicitors and that it is published on our website.

Any Duty Solicitor who is unable to be present in Court at the required date and time must contact Legal Services Unit 4 as soon as he or she becomes aware that he or she is unable to be present to enable the Board to arrange for another member of the Duty Solicitor Sub-Panel to act as Duty Solicitor on the date and arrange for the transfer of the files of any and all relevant clients to the replacement Duty Solicitor.

### Where the person decides to contest the application

At the moment proceedings for repossession will always be put back to another date the first time they come before the County Registrar, unless the borrower agrees to the order being made. This is the current practice, but it is not a rule, and it might change in the future.

The next time the case comes before them, the County Registrar may make an order for possession, as long as the lender’s papers are in order and the borrower has not filed the papers they need to contest the application.

If the borrower does decide to contest the application, and files all the correct papers, then the County Registrar will transfer the case to be heard by a Judge. But the Duty Solicitor cannot draw up these papers for the borrower. Nor can they represent the borrower when the matter goes before a judge.

Duty Solicitors have been advised that where a person does want to contest the application, they can advise them of the procedure on applying for civil legal aid and assist the person to complete an application form.

Law centres process applications to defend repossession proceedings in the usual way. They are not outside the scope of civil legal aid, but the usual means and merits criteria will apply.

Proceedings for repossession are covered by the Civil Legal Aid Act 1995  
The usual means and merits criteria apply

### Claims for payment by duty solicitors

Duty solicitors will be paid on a half-day or full day basis and claim fees by completing a claim form and returning it to Legal Services Unit 4. They must complete a Client Details Form and return it with their claim.

### Client details form

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| image001  Abhaile Solicitors Panel  Duty Solicitor Service  Client Details Form   |  |  |  |  | | --- | --- | --- | --- | | Solicitor |  | Circuit Court Venue: |  | |  |  |  |  | | Date: |  | Time list commenced: |  |   Details of persons to whom services were provided:   |  |  |  |  |  | | --- | --- | --- | --- | --- | | Name | Voucher ID & Scheme numbers | Address PPR | Plaintiff (lender) | Record No | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  | |  |  |  |  |  |   PLEASE RETURN THIS SHEET WITH YOUR CLAIM FORM  You may use extra sheets if there is not enough space |

|  |
| --- |
| **Procedure 13.1 – Processing a claim for payment under the Duty Solicitor Service Legal Services Unit 4 only**   1. Check the Client Details Form is included with the claim. 2. Search each named client on EOS 3. Click the workflow tab then “Cancel Workflow” 4. Place the client in the HMAA003.HMA Advice Applicant Duty Solicitor Service Used workflow 5. Complete the “Applicant avails of Duty Solicitor Service” milestone 6. Place the client back in HMAA004.Close File 7. Once completed for all named clients, authorise payment to the solicitor. Two Client Details Forms (or other such evidence that the solicitor attended for a full day) is required to make a full day claim.   There is no need to record details of payments under the Duty Solicitor Service on each individual case on EOS, but we need to record that the client availed of the service. |

## The PIA Review Legal Aid Scheme

A Personal Insolvency Arrangement is an arrangement between a person who owes money (called a debtor) and cannot pay it back as it falls due, and the people to whom he owes money (called creditors). It can include both debt that is secured (i.e. there is an asset owned by the debtor that the creditor can take to satisfy the debt if it is not paid back – for example, a property that is mortgaged) and unsecured. A PIA must be agreed by the debtor and approved at a creditors’ meeting by a qualified majority of creditors. The Insolvency Service must process the PIA and it must be approved by the Court.

Sometimes a qualified majority of creditors will not approve the PIA. Where that happens, and the PIA includes the home in which the person normally lives (and the person was in arrears on their mortgage on that home on 1st January 2015 or had been in arrears prior to that date and had entered into an alternative repayment arrangement), then the law allows the person’s personal insolvency practitioner (PIP) to make an application to Court to have the PIA “confirmed” – i.e. the PIA will come into force, even though the required qualified majority of creditors have not approved it.

The PIA Review Legal Aid Service is to provide legal aid for these applications.

### Who is eligible for the service?

The person must satisfy all of the below conditions

1. The person is insolvent – that is, they are unable to pay their debts in full as they fall due
2. The person has made a proposal for a PIA which has not been approved by their creditors
3. The debts covered by the proposed PIA include a debt
   1. Secured on the home in which the person ordinarily lives
   2. The person was in arrears on the mortgage on that home on 1st January 2015, (or they were in arrears before then, but have entered into an alternative repayment arrangement with the lender).
4. A person **is not eligible** if their home is disproportionate to the reasonable living accommodation needs of the borrower and his or her dependents.
5. The person’s Personal Insolvency Practitioner considers that there are reasonable grounds for applying to the Court to have the PIA “confirmed”.

### Role of the PIP

The Personal Insolvency (Amendment) Act 2015 and the rules of court provide that these applications to the Court are made in the name of the personal insolvency practitioner on behalf of the borrower. However applications for legal services and legal aid certificates will be in the name of the debtor and they will be the legally aided person under the Civil Legal Aid Act 1995. We will, upon application, pay the PIP a fee for services provided under the Scheme.

### Application for legal services

If the PIP considers that there are grounds for an eligible person to make an application for a PIA review, they will complete the Application for Legal Services (Review of Personal Insolvency Arrangement) form with the debtor, and return it to Legal Services Unit 4, Cahirciveen.

|  |  |
| --- | --- |
| **Procedure 13.3 – Processing an application for negotiations and a further consultation** | |
|  | **Legal Services Unit 4 only This is a summary. The procedures in 🡺 Chapter 3 apply to the extent that they are not adapted here.**  **Application must be processed immediately and without delay** |
| 1. Date stamp the application 2. Search to see if the person exists on EOS. If not, create a person record for them. 3. Create a Non-Family Law case of the type “HMA Scheme – Review of Personal Insolvency Arrangement”. 4. Place it in the PIAA001.HMA Scheme PIA Review Applicant Application Received workflow 5. Ensure that the case is set to Priority and High Risk. 6. Proceedings must be instituted no later than 14 days after the creditors meeting. If you can identify the correct statute date from the application, set it to that date. Otherwise leave 14 days from today. 7. Scan the application form to EOS. 8. Check the application to ensure that a copy of the proposed PIA has been included. If it is included, scan it to EOS. **If it is not included, or the “Grounds for court review” section is not completed you must call the PIP immediately and ask them to fax or email you the missing information.** In the event that you cannot get in touch with the PIP, or have no contact details for the PIP, send an Incomplete Application letter (preferably via email) to the client. 9. Create a Submission for Private Practitioner Legal Aid Certificate (PIA Review) on EOS.    1. Type of Proceedings is **Review of Personal Insolvency Arrangement**    2. Court is either **Circuit Court** or **High Court – call the PIP if you are not sure which jurisdiction the proceedings will be in.**    3. Litigation Options is **Institute**    4. In your Statement of Facts refer to the grounds that have been included on the application form and to the guidelines below for granting and refusing certificates.    5. Decision Maker is **Private Practitioner Services – Decision Makers**    6. The submission is **Urgent**    7. The Documents are the **Application Form** and **Proposed PIA**    8. Recommenda **Grant** unless the application does not meet the criteria for the PIA Review Legal Aid Service. At present Legal Services are not required to go behind the Personal Insolvency Practitioner’s grounds for applying to Court to perform an independent assessment of whether they are reasonable.    9. Status is **To Be Submitted** 10. When you have submitted the application, mention to the decision maker that you have made a submission. The decision maker should decide the application as soon as possible. **If there is no decision maker in Legal Services Unit 4, Cahirciveen on the day in question you must phone the Assistant Director or Director, as appropriate and ask them to take a decision on the application.** 11. If the application is granted, send the applicant the letter below along with two copies of the Legal Aid Certificate along with a copy of the panel for their particular area. **Send a copy of this correspondence by email to the PIP.** 12. Complete the workflow and advance the case to the PIAA002.HMA Scheme PIA Review Applicant Close File workflow **(but do not complete any checklist items on this workflow for now).** | |

### Application must be immediately processed

**There is a fourteen day time limit, starting on the day the PIA was rejected by the person’s creditor(s), for a PIA review application to be commenced. The Courts have held that this time limit cannot be extended in any circumstances.** Legal Services must process a completed application for a PIA review **immediately** and as quickly as possible when it is received and **this takes priority over other work.**

All correspondence should be sent by email with a copy being placed in the post only if the mail server returns an error or the IT system is not accessible.

All correspondence must be copied to the PIP by email. In the event of clarification needing to be sought it is permissible to call the PIP.

### Incomplete applications

|  |  |
| --- | --- |
|  | An applicant must include a copy of the proposed PIA with their application and the grounds for review section of the application form must be completed. |

**If either is missing/incomplete you must call the PIP immediately and ask them to fax or email you the missing information.** Only in the event that you cannot get in touch with the PIP, or have no contact details for the PIP, send an Incomplete Application letter (preferably via email) to the client.

The need to act quickly in relation to these cases must be emphasised. There is a fourteen day statute of limitations and there is no provision in the legislation for this to be extended.

### Incomplete application letter

|  |
| --- |
| **PRIVATE AND CONFIDENTIAL**  **Mr John Smith**  **1 Main Street**  **Ballymore**  **Co. Dublin**  1st September 2016  **RE: Application for Legal Services**  Dear {{ApplicantTitle}} {{ApplicantSecondName}}  On <<date of application>> you applied for civil legal aid in relation to a court review of a proposed personal insolvency arrangement.    In order to process your application I will need:   * A statement of the grounds for making the application, completed and signed by your Personal Insolvency Practitioner. * A copy of the proposed personal insolvency arrangement   You or your PIP should scan the documentation required and send it to me by email as soon as possible.  **As there is a fourteen day deadline for you to take the proceedings for a review of a personal insolvency arrangement you need to discuss this matter with your PIP urgently. I have sent a copy of this letter to your PIP.**  If I do not hear from you within seven days of the date on this letter I will have to close your application. You can reapply for civil legal aid again if you wish to do so, **but if your PIP does not make the application to the court within fourteen days of the date of the creditors meeting the court will be unable to consider the application.**  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ Jane Jones  Legal Services Unit 4 |

### Granting the application

Guidelines for decision making in PIA review cases can be found in the 🡺 **Circular on Legal Services** If we grant the application, Legal Services Unit 4 will refer the applicant to a solicitor in the same way as a law centre refers an applicant under the Circuit Court judicial separation and divorce solicitors panel, except that the applicant does not have to pay a contribution. The procedures in 🡺 **Chapter 6** apply. The following letter should be sent instead of the letters on pages 6-8 to 6-10.

****

**PRIVATE AND CONFIDENTIAL**

Mr John Smith

1 Main Street

Ballymore

Co. Dublin

1st September 2016

**RE: APPLICATION FOR LEGAL SERVICES**

Dear Mr Smith,

I refer to your application for legal services dated . We considered your application and have decided to grant legal aid.

Enclosed please find two copies of your legal aid certificate and also a list of solicitors who are on the Legal Aid Board’s private practitioner panel for County \_\_\_\_\_\_\_\_.

To accept this certificate, you must:

* Sign and date BOTH copies of the certificate
* Contact a solicitor from the panel
* When a solicitor from the panel agrees to represent you, enter that solicitors name on both copies
* Return one copy of the certificate to us at the address above within 30 days.
* Give the other copy of the certificate to the solicitor.

You can ask any solicitor on the attached panel to represent you, and normally they will agree to do so. However, if after asking three solicitors on the attached panel to represent you, you cannot find a solicitor who is willing to do so, you should contact us at the telephone number at the top of this letter and we endeavour to assist in finding a solicitor who is willing to represent you.

**I have sent a copy of this correspondence by email to your Personal Insolvency Practitioner, Ms Jenny Johnson, 1 New Road, Ballymore, Co. Dublin.**

Yours sincerely

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Jane Jones**

**Legal Services Unit 4**

Enc

### Sample refusal letter

|  |
| --- |
| **Client Name: Mark Markson**  **Subject Matter: Review of Personal Insolvency Arrangement  Application for: Legal Aid**  **Scheme No: 1234567**  Dear Mr Markson,  I refer to the application for legal services that you made on 5th March 2015.  We considered the application form, the proposed personal insolvency arrangement and the grounds for court review your Personal Insolvency Practitioner submitted on your behalf.  We made the following decision:  We are refusing you legal aid for a review of your proposed personal insolvency arrangement  Our reasons for this decision are:   * **Section 24** **(a)**: because a reasonably prudent person, whose means were such that the cost of seeking such services at his or her own expense, while representing a financial obstacle to him or her would not be such as to impose undue hardship upon him or her, would not be likely to seek such services in such circumstances at his or her own expense   **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. A reasonably prudent person would be unlikely to seek a court review of a personal insolvency arrangements if they did have reasonable grounds to do so.   * **Section 24** **(b)** because a solicitor or barrister acting reasonably would not be likely to advise him or her to obtain such services at his or her own expense.  **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. A solicitor or barrister acting reasonably would not advise you to seek a court review of a personal insolvency arrangements if you do not have reasonable grounds to do so. * **Section 28(2)(c):** the applicant is reasonably likely to be successful in the proceedings, assuming that the facts put forward by him or her in relation to the proceedings are proved before the court or tribunal concerned  **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. You are unlikely to be successful in a court review if you do not have reasonable grounds. * **Section 28(2)(e):** having regard to all the circumstances of the case (including the probable cost to the Board, measured against the likely benefit to the applicant) it is reasonable to grant it. * **Reason:** In all the circumstances of the case, including those we have outlined about, we do not consider that you would obtain any benefit from us granting legal aid to you to take these proceedings.   **Your options**  You can request a **review** of this decision. A review means that you or your PIP on your behalf can submit further information and ask that the decision be re-considered in the light of such new information. You must submit a request for a review within one month of when you receive this letter. I will notify you of the outcome of the review after the review has been completed.  You may also **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will usually be either to confirm the decision, or they may overturn this decision and grant legal aid. The Committee have wide powers and are not confined to either of these approaches.  Usually, you will not submit any further information to the Board when you appeal. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal. I will notify you of the outcome of the appeal once I have received the decision from the Secretary to the Appeal Committee. You must submit an appeal within one month when they are informed about the decision you wish to appeal.  I have sent a copy of this letter to your Personal Insolvency Practitioner.  **As there is a fourteen day deadline for you to take the proceedings for a review of a personal insolvency arrangement you need to discuss this matter with your PIP urgently and either you or your PIP should phone me as soon as possible if you wish to seek a review or appeal.**  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **Legal Services Unit 4** |

### Refusal letter after review

|  |
| --- |
| **Client Name: Mark Markson**  **Subject Matter: Review of Personal Insolvency Arrangement Application for: Legal Aid**  **Scheme No: 1234567**  Dear Mr Markson,  We refused legal aid to you on 10th March. On 14th March 2015 you asked that this refusal by reviewed in the light of new information which you submitted. The information included the following (outline of information in narrative form and any additional materials)    We have now reviewed the decision in the light of the further information you submitted.  The outcome of the review is as follows:  We are refusing you legal aid for a review of your proposed personal insolvency arrangement  Our reasons for this decision are:   * **Section 24** **(a)**: because a reasonably prudent person, whose means were such that the cost of seeking such services at his or her own expense, while representing a financial obstacle to him or her would not be such as to impose undue hardship upon him or her, would not be likely to seek such services in such circumstances at his or her own expense   **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. A reasonably prudent person would be unlikely to seek a court review of a personal insolvency arrangements if they did have reasonable grounds to do so.   * **Section 24** **(b)** because a solicitor or barrister acting reasonably would not be likely to advise him or her to obtain such services at his or her own expense.  **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. A solicitor or barrister acting reasonably would not advise you to seek a court review of a personal insolvency arrangements if you do not have reasonable grounds to do so. * **Section 28(2)(c):** the applicant is reasonably likely to be successful in the proceedings, assuming that the facts put forward by him or her in relation to the proceedings are proved before the court or tribunal concerned  **Reason:** your personal insolvency practitioner has not made out reasonable grounds to take a court review. Reasonable grounds are necessary in order to take a successful court review. You are unlikely to be successful in a court review if you do not have reasonable grounds. * **Section 28(2)(e):** having regard to all the circumstances of the case (including the probable cost to the Board, measured against the likely benefit to the applicant) it is reasonable to grant it. * **Reason:** In all the circumstances of the case, including those we have outlined about, we do not consider that you would obtain any benefit from us granting legal aid to you to take these proceedings.   **Your options**  You may **appeal** the decision to an *appeal committee*, which consists of members of the Board of the Legal Aid Board. They will consider your appeal and take a decision, which will usually be either to confirm the decision, or they may overturn this decision and grant legal aid. The Committee have wide powers and are not confined to either of these approaches.    Usually, you will not submit any further information to the Board when you appeal. However, if you ask for a review and submit further information, you will have a further month after we tell you the outcome of the review to appeal. I will notify you of the outcome of the appeal once I have received the decision from the Secretary to the Appeal Committee. You must submit an appeal within one month when they are informed about the decision you wish to appeal.  I have sent a copy of this letter to your Personal Insolvency Practitioner.  **As there is a fourteen day deadline for you to take the proceedings for a review of a personal insolvency arrangement you need to discuss this matter with your PIP urgently and either you or your PIP should phone me as soon as possible if you wish to appeal.**  Yours sincerely,  \_\_\_\_\_\_\_\_\_\_\_\_ **Jane Jones**  **Legal Services Unit 4** |

## Queries

Legal Services Unit 4, Cahirciveen are available to assist in any queries in relation to Abhaile.

1. Where the office is known by a title other than “law centre”, the appropriate title can be used. [↑](#footnote-ref-2)
2. Regulation 13(3) of the Civil Legal Aid Regulations 1996 to 2017 provides that “An applicant whose disposable income exceeds €18,000 per annum shall not be eligible to obtain legal aid or advice. [↑](#footnote-ref-3)
3. -Office of the Ombudsman of Ireland,2015 [↑](#footnote-ref-4)
4. These categories are based upon the Office of the Ombudsman, Ireland, Policy for Dealing with Unreasonable Complainant Conduct, [www.ombudsman.gov.ie](http://www.ombudsman.gov.ie) [↑](#footnote-ref-5)
5. EU definition of work-related aggression and violence is “Any incident where staff are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well being or health” [↑](#footnote-ref-6)