

LEGAL AID BOARD



Rules, Procedures, Practices, Guidelines and Interpretations Used by the Board

FREEDOM OF INFORMATION ACTS, 1997 & 2003

SECTION 16 MANUAL

July 2007 Edition

Contents

	<i>Page</i>
1. Introduction	3
2. Service Delivery	5
<i>Legal Aid</i>	5
<i>Refugee Legal Services</i>	11
<i>Refugee Documentation Centre</i>	13
Appendix: List of Law Centres	16

1. INTRODUCTION

The Freedom of Information Acts, 1997 & 2003 ('the FOI Act'), assert 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.

This manual is prepared in accordance with publication requirements set out in Section 16 of the FOI Act, to provide information on the rules, procedures, practices, guidelines and interpretations used by the Board for the purposes of implementing the Civil Legal Aid Act, 1995 ('the Act'). It also sets out how the Board administers its services on foot of the Act.

The Legal Aid Board provides civil legal aid and advice in accordance with the terms of the Civil Legal Aid Act, 1995, and Regulations made under the Act. Legal aid and legal advice are provided in civil cases to persons who satisfy the financial eligibility and merits test set out in the Act and Regulations. Under the terms of the Act, the Board is precluded from providing legal aid or advice on certain designated matters, but persons should check with their local law centre if they consider that a matter may be excluded from the scope of legal aid or advice. The Act also provides for the dissemination of information by the Board in relation to its services and their availability.

In brief, **legal advice** is any oral or written advice given by a solicitor or barrister, including writing letters and negotiation.

Legal aid is representation by a solicitor or barrister in court proceedings in the District, Circuit, High and Supreme Courts. Legal aid is not available for the conduct of proceedings before an administrative tribunal, except for appeals to the Refugee Appeals Tribunal. Legal advice and assistance may be provided, however, to persons involved in proceedings before a tribunal.

Legal aid and advice are provided, in the main, through law centres by solicitors in the full-time employment of the Board. The Board operates 33 full-time law centres (see appendix), including 3 dedicated to the Refugee Legal Service (RLS), which provides independent legal advice and assistance to asylum seekers at all stages of the asylum process. The Board also has a dedicated unit dealing with alleged cases of medical negligence.

The services of barristers are retained in certain cases in accordance with the terms of an agreement between the Bar Council and the Board.

The Board also operates a complementary Private Practitioner Service, which involves the use of solicitors in private practice providing services on behalf of the Board on a fee-per-case basis. This Service operates for certain family law matters in the District Court (such as domestic violence, maintenance, guardianship and custody/access cases); for divorce and judicial separation cases in the Circuit Court; and for asylum appeals before the Refugee Appeals Tribunal.

In addition, the Board operates a specialised Refugee Documentation Centre (RDC) to provide a library and research service for all bodies involved in the asylum process.

Expenditure incurred by the Board in the operation of its services is met from the Legal Aid Fund. This fund consists of a grant-in-aid from the Department of Justice, Equality and Law Reform, specific funding from the Oireachtas for the Refugee Legal Service, as well as other income including contributions from legally-aided persons and costs recovered by the Board.

2. SERVICE DELIVERY

2.1 Legal Aid and Advice

2.1.1 Introduction

The Legal Aid Board provides legal services in relation to civil law matters to eligible persons. These legal services include legal advice and legal aid. To qualify for services a person must:

- satisfy the financial eligibility requirements, and
- show that the case has merit.

The Civil Legal Aid Act 1995 and the Civil Legal Aid Regulations govern the provision of all legal aid services by the Board, including setting out the details of the financial eligibility requirements and the other criteria that must be taken into account in making a decision on an application for legal services.

They set out also the matters that will be taken into consideration in the ongoing continuation of the provision of legal services.

The Board does not provide legal aid or legal advice in criminal matters.

2.1.2 Applications for legal services

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 and acting in negotiations with other persons. Solicitors in the Board's law centre network provide legal advice. See the appendix for a list of law centres.

A person, who wishes to seek legal advice in relation to any matter, must apply in writing to a law centre. A copy of the application form (form LAA3) is available from law centres or may be downloaded from the Board's website www.legalaidboard.ie. The application form must be completed fully and submitted to the law centre before it will be processed by the Board.

Legal advice is available in relation to most civil matters. It is a matter of law as to whether or not a particular matter comes within the scope of the Act. For that reason, law centres will provide further information about the services available from the Board.

Legal aid

Legal aid means representation by a solicitor or barrister in civil proceedings in the District, Circuit, High and Supreme Courts. Legal aid is also available for representation before the Refugee Appeals Tribunal (see section 2.2).

A person, who wishes to seek legal aid in relation to any matter, must apply in writing to a law centre. The form used is the same as that for legal advice. A copy of the application form is available from law centres or may be downloaded from the Board's website, www.legalaidboard.ie. The application form must be completed fully and submitted to the law centre before it will be processed by the Board

Legal aid is not granted automatically. The Board must consider if it is reasonable to grant legal aid. This procedure is called the merits test. This test is applied to each individual case. The criteria for the merits test are set down in the Act, and include such matters as the applicant's prospects of success in the proceedings, and whether the cost of proceedings would outweigh the benefit to the person. If the Board considers that it is reasonable to grant legal aid, a legal aid certificate will be issued authorising legal representation in the case.

Solicitors employed by the Board in its law centres provide legal aid. In certain family law and asylum cases, solicitors in private practice who are contracted by the Board and placed on a panel for this purpose may provide legal aid.

Legal aid is available in relation to most civil matters. A limited number of matters are excluded from the scope of civil legal aid under the provisions of the Civil Legal Aid Act 1995. Any person who wants additional information or clarification as to whether or not a particular matter is excluded should consult with a solicitor in the nearest law centre. The question as to whether or not a matter is included within the scope of the Act is a matter of law and the law centre is in a position to advise by reference to the particular facts of the case.

Persons who live in the Dublin area and wish to seek assistance for a District Court family law matter can apply to the Board's Private Practitioner Service at Montague Court, Montague St, Dublin 2 (tel. 01 4776200).

Evaluating applications – criteria used

Each application is evaluated on its merits by reference to the specific statutory provisions in the Act and Regulations.

The Board has prepared detailed instructions for the procedure to be followed in considering applications for legal services, particularly in cases where consideration is being given to refusing an application. These instructions have recently been consolidated.

2.1.3 Provision of legal services

The Board provides legal services through:

- a network of 33 full time law centres located throughout the country, three of which are dedicated to asylum related matters
- a dedicated Medical Negligence Unit
- a number of other part-time law centres
- the Private Practitioner Service, which deals with the engaging of private solicitors and barristers to provide services on a contract basis, and
- a range of information leaflets in relation to the legal issues that the Board encounters most frequently.

The Board determines the cases that are referred to private practitioners and does so on the basis of seeking to ensure that all applicants for legal services receive an appointment with a solicitor within a maximum period of 4 months. In practice, the assigning of District and Circuit court cases to private practitioners depends on the level of demand for services at any time and on the capacity of each particular law centre to meet that demand within the maximum period of 4 months.

2.1.4 Appeals against refusal of legal services

A person who is refused legal aid or is unhappy with any decision of the Board may have that refusal/decision reviewed, if he or she is able to produce more information that assists his/her case.

A person may appeal any refusal / decision to an appeal committee of the Board, which will consider the original decision and all the papers about the case and decide whether or not to allow the appeal.

The appeal committee consists of five members of the Board. A person who is refused legal services and who wishes to appeal that refusal should request the law centre solicitor to submit an appeal to the Board. Alternatively, a person may submit an appeal directly to the Board's head office and the staff in that office will process the appeal.

2.1.5 Withdrawal of legal services

The Board may withdraw legal services in accordance with the criteria set down in the Regulations. This can happen, for example, where a person has not paid the required contribution, or is in the opinion of the Board behaving unreasonably in connection with the proceedings. Detailed procedures are set down in the Board's Circular on Legal Services.

2.1.6 Financial eligibility

In order to qualify financially for legal services from the Board, a person must satisfy a means test and his or her annual disposable income must be less than €18,000. The

application form that a person completes requires an applicant to provide certain details regarding income, expenses and capital resources.

A person's capital resources, other than his or her home, are also taken into account when assessing financial eligibility. If the value of those resources exceeds €320,000, the person will not qualify for legal services from the Board.

Income

In order to calculate a person's disposable income, the Board will take gross income (whether in the form of wages, salary or social welfare etc.) and deduct from it certain allowances. The maximum allowances are as follows and are set out in the Civil Legal Aid Regulations:

Allowances	Maximum amount
Dependent spouse / partner	€3,500
Adult and child dependants (per dependant)	€1,600
Accommodation costs	€8,000
Child care per child	€6,000
Income tax	full amount
PRSI	full amount
Ex gratia payments to applicant	€1,040

The amount of income after these deductions will determine if a person qualifies for the Board's legal services. Child Benefit (and certain other payments) is not regarded as income for the purpose of assessing a person's gross income.

A person will be required to produce documentary evidence of his or her income and evidence of accommodation and childcare costs. The Board can request the Department of Social and Family Affairs to investigate a person's means, either when applying for, or in receipt of, legal services.

Capital

A person's home is not considered as a capital resource for the purpose of assessing capital under the Regulations. Capital resources include other property, cars, cash, investments, and any other resource that has a value. Allowances are given for certain debts, such as credit union or bank loans that may be offset against capital for the purposes of calculating disposable capital.

2.1.7 Cost of the service

A person who wishes to obtain *legal advice* must pay a contribution towards the cost of providing such advice. It may be as low as €10 where the amount of the disposable income is less than €11,500. If the amount of disposable income exceeds €11,500, the

amount is calculated on the basis of one-tenth of the difference between disposable income and €11,500, subject to a maximum of €150.

A person who obtains *legal aid* must also pay a contribution towards the cost. This is based on the amount of disposable income and disposable capital, if any. The minimum income contribution for legal aid is €50, if disposable income is less than €11,500. If it is above that amount, the actual contribution is calculated on the basis of €50 plus one-quarter of the difference between disposable income and €11,500. A person, who is granted a legal aid certificate for the purpose of court proceedings, will have to pay a contribution of at least €50 before a solicitor can represent him or her in court.

A person may also be liable for a capital contribution depending on the extent of his or her disposable capital. The contribution is assessed as follows:

Disposable capital	Contribution
€4,000 or less	no contribution
€4,001 to €54,000	2.5% of amount over €4000, (a maximum of €1,250)
€54,001 or more	€1,250 plus 5% of the amount over €54,000.

If a person is liable for a contribution above the minimum contribution, the actual contribution payable may relate to the cost to the Board of providing legal services in the particular case. The nearest law centre will advise of the actual amount that would be payable in any individual case.

A separate contribution is payable for each application for legal services, for example, a person involved in two separate court cases, will have to pay contributions in respect of each of them.

Changes in financial circumstances

Persons in receipt of legal services are required to notify the Board of any change in their financial circumstances in order that the Board can ensure that the person remains entitled to legal services. Failure to notify the Board of any change may lead to a withdrawal of services and may result in the person being liable for the cost of the services provided.

Further information on contributions and costs payable can be obtained from the nearest law centre.

2.1.9 Foreign legal aid

A person, who is resident outside of Ireland and has court proceedings or a legal dispute in Ireland, may be entitled to legal aid. An application should be made through the

appropriate authority in the country in which the person is resident. The application will then be sent to the Board for consideration.

A person, who is resident in Ireland and is party to a dispute in another European Union country, can apply to the Board and the Board will transmit an application for legal aid on his or her behalf to that other country. It is necessary to complete the application form, which may be accessed on the Board's website www.legalaidboard.ie and which should be sent to Legal Services Section, Legal Aid Board, Quay Street, Cahirciveen, Co Kerry.

2.2 Refugee Legal Services

The Refugee Legal Service (RLS) is a law centre and the material contained in the section on law centres applies to persons applying for legal services from the RLS.

Certain additional information is contained in this section, setting out some of the services provided by the RLS.

The Refugee Legal Service is a specialised law centre established by the Legal Aid Board to provide confidential and independent legal services to persons applying for asylum in Ireland. Legal aid and advice is also provided on immigration and deportation matters. The same rules and procedures as contained in the Act and Regulations apply to asylum cases as to other civil law cases. The RLS provides its services from locations in Dublin, Cork and Galway.

The RLS provides a service to asylum seekers at all stages of the asylum process. A person applying for asylum in Ireland can obtain legal advice and assistance from the RLS to assist with the application. A person may register with the RLS at any stage of the asylum process, though it is strongly recommended that persons should apply for legal services at the earliest stage of the asylum process. The services available from the RLS are dealt with in the following paragraphs.

2.2.1 Initial application for asylum

A person, who applies for asylum to the Office of the Refugee Applications Commissioner (ORAC), must complete a questionnaire detailing his or her claim for asylum. He or she should complete this questionnaire personally, as it is the factual basis for the claim for asylum and the individual asylum seeker is the best person to tell why he or she is claiming asylum. After submitting the questionnaire, ORAC will interview the person.

The RLS will provide the person with information and advice about:

- the asylum process
- the need to be truthful and to cooperate with ORAC
- the questionnaire, and
- attending for interview with ORAC.

A person who is, for example, a minor or otherwise vulnerable person, may receive assistance from the RLS in completing the questionnaire and may be accompanied to the interview.

2.2.2 Appeal stage of asylum process

If ORAC recommends a refusal of an application for asylum, the asylum seeker may be granted legal aid to appeal to the Refugee Appeals Tribunal against that recommendation. This appeal may be either an oral appeal or a written appeal.

Legal aid may be provided by an RLS solicitor or by a private solicitor/barrister under the Board's Private Practitioner Service or Barristers' Panel. The solicitor/barrister will be responsible for submitting the appeal form within the time limit and a copy of the appeal form will be given to the asylum seeker. If the person has an oral appeal, legal aid will include representation at the Refugee Appeals Tribunal on the day of the hearing.

2.2.3 Leave to remain stage

A person who is refused refugee status may receive assistance from the RLS in making an application for leave to remain on humanitarian grounds. The person will be advised as to what documents are required and an application for leave to remain will be submitted to the Minister for Justice, Equality and Law Reform.

2.2.4 Subsidiary protection

A person can make an application for subsidiary protection to the Minister for Justice, Equality and Law Reform only if his or her application for refugee status has been refused. The letter from the Minister notifying the refusal will also contain an application form, which will enable a person to apply for subsidiary protection. The RLS will assist in drafting the application.

2.3 Refugee Documentation Centre

2.3.1 Introduction

The role of the Refugee Documentation Centre is to:

- provide a research and query service for all organisations involved in the asylum process
- build and maintain a collection of objective and up to date country of origin information (COI), asylum, immigration, legal and human rights documentation for general access
- provide training on country of origin information research
- undertake other research activities and provide a lending and research library service, and
- cooperate with similar agencies elsewhere to enhance knowledge of the country of origin research area.

Members of the public and other agencies may also use the Documentation Centre to conduct their own research. The Query service is not available to them. Members of the public may consult the RDC library but may not borrow materials. Photocopying facilities are available and a note of the applicable copyright regulations is publicly displayed in the photocopying area. An acceptable usage policy document must be signed by any visitor wishing to access the Internet on the RDC standalone Internet PC.

2.3.2 Query service

RDC users may contact the unit by phone, email, fax or in person. It is strongly recommended that all queries are submitted on the RDC query form which is available in all agencies and from the RDC. The RDC does not assign an interpretation to either a query or its response. Research is conducted based on the information supplied in the query form. Searches are carried out based on an evaluation of a broad range of publicly available COI information sources. Corroboration of sources and full referencing of sources is part of the research process.

Unless requested otherwise, all RDC query responses are supplied via email to the address provided by the requester at the time of making the query. A disclaimer is appended to the request as follows:

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merits of any particular claim to refugee status or asylum. Please read in full all documents referred to.

For legal queries the disclaimer appended is as follows:

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be a statement of the law nor conclusive as to the merits of any particular claim to refugee status or asylum. Please read in full all documents referred to.

The response document is prepared as a short report based on an objective summary of and quotation from the sources used in the report along with a list of references of materials used and a list of sources consulted. All viewpoints apparent in the source material will be outlined. It is the responsibility of the requester to draw his/her own conclusions from the material presented.

Publication of responses

All queries received and responses prepared are stored by the RDC. These are available only to RDC staff. Responses are selected for publication to our library catalogue on an ongoing basis. Published responses are visible to user agencies. These responses are 'anonymised' before publication. This involves the removal of all identifying information of the requester, client details and reference numbers and researcher information. It may also involve rephrasing the original question asked. Queries and responses deemed by either the requester or researcher to be 'sensitive' (client-specific) will not be published but will be retained by the RDC.

Query deadlines

Responses are normally completed according to the deadline specified by the requester. Where no deadline is specified, the next available deadline is assigned to the query. Where the deadline cannot be met, for example, due to high query loads, the requester will be contacted in advance to be advised of the situation and to re-negotiate a new deadline where possible.

At times of high query load a contingency plan is put into operation. Part of this plan involves the prioritisation of queries according to query/requester type. This is as follows:

- i. private practitioners/BLs with statutory deadlines
- ii. queries in respect of repatriation or written appeal stages
- iii. other asylum agency and private practitioner queries, and
- iv. queries from NGOs and general queries from other agencies.

2.3.3 Library materials

Regarding library materials, any user wishing to borrow materials must register with the RDC. Reader details are held on the RDC library management system, which is available to RDC staff only. Agency users may use their username and password to access the system and search the library catalogue. Library materials may be requested directly from the catalogue. At the present time, private practitioners and barristers on the RLS panels cannot access the intranet based catalogue but can register to use the library and borrow materials.

Requests for certain materials such as journal articles (photocopies) requires the completion of a copyright declaration form which has been made available to the agencies and is also available from the RDC.

Certain library materials are reference only and may not be borrowed. They must be consulted in the library.

Books and articles may be supplied to the requester by DX or post. Couriers may be used for certain materials such as inter library loan requests. Great care should be taken when returning library materials as the person who has borrowed them is responsible for their safe return.

Library materials may also be collected and returned in person. Borrowing transactions are recorded on the RDC library management system.

2.3.4 Further information

An information leaflet is available on the RDC (to be updated 2007) and the RDC has its own page on the Legal Aid Board website.

APPENDIX – Contact Details for Law Centres and the RLS

Full-Time Law Centres

Centre	Address	Tel. No.	Fax No.
Cavan	The Newcourt Shopping Centre, Church Street, Cavan	(049) 4331110	(049) 4331304
Clare	Unit 6A, Merchants Square, Ennis, Co. Clare	(065) 6821929	(065) 6821939
Cork	North Quay House, Pope's Quay, Cork	(021) 4551686	(021) 4551690
Cork	5th Floor, Irish Life Building, 1a South Mall, Cork	(021) 4275998	(021) 4276927
Donegal	Houston House, Main Street, Letterkenny, Co. Donegal	(074) 9126177	(074) 9126086
Dublin	9 Lower Ormond Quay, Dublin 1	(01) 8724133	(01) 8724937
	45 Lower Gardiner Street, Dublin 1	(01) 8745440	(01) 8746896
	48/49 North Brunswick Street, Dublin 7	(01) 6469700	(01) 6469799
	44/49 Main Street, Finglas, Dublin 11	(01) 8640314	(01) 8640362
	Unit 6, Blanchardstown Business Centre, Clonsilla Road, Dublin 15	(01) 8200455	(01) 8200450
	Tower Centre, Clondalkin Village, Dublin 22	(01) 4576011	(01) 4576007
	Village Green, Tallaght, Dublin 24	(01) 4511519	(01) 4517989
	Medical Negligence Unit 7-11 Montague Court, Dublin 2	(01) 4776200	(01) 4776241
Galway	9 Francis Street, Galway	(091) 561650	(091) 563825
Kerry	1 Day Place, Tralee, Co. Kerry	(066) 7126900	(066) 7123631
Kildare	Law Centre, Canning Place, Newbridge, Co. Kildare	(045) 435777	(045) 435766
Kilkenny	86 Maudlin Street, Kilkenny	(056) 7761611	(056) 7761562
Laois	Unit 6A, Bridge Street, Portlaoise, Co. Laois	(057)8661366	(057)8661362
Limerick	Unit F, Lock Quay, Limerick	(061) 314599	(061) 318330
Longford	Credit Union Courtyard, 50 A Main Street, Longford	(043) 47590	(043) 47594
Louth	Condil House, Roden Place, Dundalk, Co. Louth	(042) 9330448	(042) 9330991

Mayo	Humbert Mall, Main Street, Castlebar, Co. Mayo	(094) 90 24334	(094) 9023721
Meath	Kennedy Road, Navan, Co. Meath	(046) 9072515	(046) 9072519
Monaghan	Alma House, The Diamond, Monaghan	(047) 84888	(047) 84879
Offaly	Harbour Street, Tullamore	(057)9351177	(057)9351544
Sligo	Bridgewater House, Rockwood Parade, Thomas Street, Sligo	(071) 9161670	(071) 9161681
Tipperary	Friars Court, Abbey Street, Nenagh, Co. Tipperary	(067) 34181	(067) 34083
Waterford	Canada House, Canada Street, Waterford	(051) 855814	(051) 871237
Westmeath	Paynes Lane, Irishtown, Athlone, Co. Westmeath	(090) 6474694	(090) 6472160
Wexford	Unit 8, Redmond Square, Wexford	(053) 9122622	(053)9124927
Wicklow	Bridge Street, Wicklow	(0404) 66166	(0404) 66197
RLS Dublin	Registration Unit Timberlay House, 79-83 Lower Mount St., Dublin 2	(01) 6310800	(01) 6615011
	48/49 North Brunswick St. Brunswick Street, Dublin 7	(01) 6469600	
RLS Cork	North Quay House, Pope's Quay, Cork	(021) 4554634	(021) 4557622
RLS Galway	Seville House, New Dock Rd. Galway	(091) 562480	(091) 562599

Part-time Law Centres

Location and telephone	Open	Law Centre
Carlow St. Catherine's Citizens Info. Bureau, St. Joseph's Road, Carlow. Tel: (059) 9138700	First and last Friday of every month	Kilkenny
Cork Citizens Info. Bureau, Wolf Tone Square, Bantry . (021) 4551686	Once a month	Cork (Popes Quay)
Donegal The Courthouse, Donegal Town. Tel: (074) 9126177	Once a month	Letterkenny
Kerry 52 High Street, Killarney Tel: (066) 7126900	Every Friday morning	Tralee

<p>Leitrim The Health Centre, Leitrim Road, Carrick-on-Shannon. Tel: (043) 47590</p>	<p>Once a month</p>	<p>Longford</p>
<p>Louth Drogheda Community Services Centre, Scarlett Crescent, Drogheda Tel: (041) 9836084/9833490</p>	<p>First and second Tuesday of every month</p>	<p>Monaghan</p>
<p>Mayo The Pastoral Centre (Cathedral Grounds) Ballina, Co. Mayo Tel: (094) 9024334 Health Centre, Knock Road, Ballyhaunis Tel: (094) 9024334</p>	<p>Once a month Fourth Tuesday of every month</p>	<p>Castlebar Galway</p>
<p>Roscommon Citizens Information Centre, 7 Elphin Street, Boyle Tel: (071) 9161670</p>	<p>Once a month</p>	<p>Sligo</p>
<p>Tipperary Thurles Community Social Services, Rossa Street, Thurles Tel: (0504) 22169 Citizens' Information Centre, 14 Wellington Street, Clonmel. Tel: (052) 22267</p>	<p>Second Tuesday of every month Three or four times a month</p>	<p>Nenagh Nenagh</p>
<p>Westmeath Enterprise Centre, Bishopgate Street, Mullingar Tel: (090) 6474694</p>	<p>Once a month</p>	<p>Athlone</p>