

**LEGAL AID BOARD
PRIVATE PRACTITIONER SCHEME FOR THE DISTRICT COURT
TERMS AND CONDITIONS**

INTRODUCTION

1. The Civil Legal Aid Act, 1995 (“the Act”) provides that the Legal Aid Board (“the Board”) may establish and maintain a panel of solicitors who are willing to provide legal aid and advice to persons who are in receipt of legal services. The Board has now decided to establish and maintain a new panel of solicitors who are willing to provide services to persons who have been granted a legal aid certificate by the Board in certain family law matters in the District Court, to be known as the Private Practitioner District Court Panel (“the Panel”). This Panel will replace the existing Panel.

PANEL OF SOLICITORS

2. Any solicitor/firm wishing to be considered, in accordance with the provisions of these terms and conditions, to have his, her or their name placed on the Panel must apply in writing to the Board. The solicitor/firm must give an undertaking, in the form at Appendix 1, to comply with these terms and conditions and the provisions of the Act when providing legal aid and/or advice.
3. Any solicitor/firm wishing to apply to be placed on the Panel must hold a current practising certificate from the Law Society of Ireland and must have professional indemnity insurance that is adequate for the purposes of the Scheme. The current figure is €1.5 million in any one case, but the Board may revise this amount from time to time.
4. Solicitors/firms on the Panel must comply with the tax clearance procedures specified in the Department of Finance Circular 22/95 entitled ‘Tax clearance Procedures- Public Sector Contracts’ or any such circular amending or replacing that circular.
5. The Panel shall be in place for a period of three years from the 1st May 2008 or such other date or period as the Board may determine. The Board will consider applications to be included on the Panel at such times as the Board, from time to time, may determine.
6. Solicitors/firms on the Panel must have access to e-mail facilities and must have IT software that is compatible with Microsoft Office software in order to ensure the effective and efficient administration of the Scheme.

ANTI MONEY LAUNDERING

7. The Board shall identify clients in accordance with the terms of the anti money laundering legislation and the Law Society’s Guidance Notes prior to the referral of a case to a solicitor/firm on the Panel. Copies of the identification documents shall be

furnished to the solicitor/firm. It shall be a matter for the solicitor/firm to ensure compliance with any remaining obligations on foot of that legislation.

QUALITY SERVICE

8. Solicitors/firms are expected to act in a fiduciary manner in relation to all legally aided clients and to provide a service in keeping with the Family Law in Ireland – Code of Practice issued by the Family Law and Legal Aid Committee of the Law Society of Ireland and with the Guides to Professional Conduct that are issued from time to time by the Law Society of Ireland.
9. The Board is committed to the provision of a quality legal service to its clients and will from time to time provide solicitors/firms on the Panel with guidelines on the approach to be adopted in dealing with family law matters. The Board has issued Guidelines on certain categories of District Court cases and in relation to file management. Copies of these Guidelines are attached at Appendix 2. Solicitors/firms on the Panel are expected to broadly comply with the Guidelines.

MONITORING

10. A solicitor/firm on the Panel shall provide the Board with any information relating to a person in receipt of legal aid, which is required by the Board for the purpose of enabling the Board to discharge its functions under the Act. Such information shall be furnished within fourteen days of any such request. Solicitors/firms shall retain files of legally aided persons for a period of six years from the date of completion of the services authorised on foot of the legal aid certificate.
11. As part of its commitment to ensuring that its clients receive a quality service, the Board will review a number of files of legally aided clients so as to satisfy itself that the solicitor/firm on the Panel is providing an appropriate level of service. In the event that that review identifies issues of concern in relation to the provision of an appropriate level of service, the Board will inspect any or all legally aided client files assigned to that solicitor/firm.

EXCLUSION/REMOVAL/WITHDRAWAL FROM THE PANEL

12. The Board may suspend or remove a solicitor/firm from the Panel if it considers that:
 - the solicitor/firm's conduct when providing or selected to provide legal services or his/her/their professional conduct generally render him, her or them unsuitable, in the opinion of the Board, to provide such services; or
 - the solicitor/firm has failed to comply with these Terms and Conditions; or
 - the solicitor/firm has not participated in the Scheme to a satisfactory level, including but not confined to his/her refusal on a regular basis to accept a legally aided person as a client or to give a client appropriate legal advice or aid; or

- the solicitor has a medical condition that would render him or her unfit to provide the required service. The Board reserves the right to require medical evidence from a solicitor or to refer a solicitor to a medical practitioner in order to confirm their fitness in this respect.
13. If the Board decides to suspend or remove a solicitor/firm from the Panel, the solicitor/firm will be notified in writing of the grounds for the decision. The solicitor/firm may, within a period of one month from the date of such notification, appeal in writing the decision to the Chief Executive of the Board, setting out the grounds of appeal in full. The Chief Executive may restore the solicitor/firm, if satisfied that a case for restoration to the Panel is made out. Any appeal does not operate to delay or negate the suspension or removal of the solicitor from the Panel, unless the Chief Executive determines otherwise.
 14. Solicitors/firms who wish to withdraw from the Panel must inform the Board, in writing, of their intention to withdraw. Solicitors/firms shall give one month's notice of intention to withdraw from the Panel. Solicitors/firms who withdraw from the Panel must complete all outstanding cases that have been referred to them.

MAINTAINING THE PANEL

15. The Panel shall be maintained in alphabetical order on a national basis and shall comprise the names of all solicitors/firms whose applications for placement have been accepted by the Board. For ease of reference the Panel may be distributed to applicants who have been granted legal aid certificates in the form of a separate list of solicitors/firms on the Panel who are willing to provide the services authorised on foot of the certificate in the District Court area/County in which the legally aided person resides.
16. Every solicitor who has been accepted for membership of the Panel will be allocated a number, to be known as a PP Number, which must be quoted on all correspondence.

SCOPE OF THE SCHEME

17. The Scheme will apply only in relation to persons who have been granted legal aid certificates issued by the Board for family law proceedings in the District Court regarding:
 - maintenance (other than enforcement through the District Court clerk)
 - custody / access
 - guardianship
 - domestic violence
18. Legally aided persons who were represented in the District Court on foot of a legal aid certificate issued under the Scheme and who, subsequent to the determination of a case by that court, wish to appeal, or defend an appeal, to the Circuit Court may apply to the Private Practitioner Unit, Legal Aid Board, Quay St, Cahirciveen, Co Kerry, DX 166 004 for legal aid in relation to the appeal.

OPERATION OF THE SCHEME

19. Persons seeking legal aid services make their applications at law centres. In the event that an applicant is granted a legal aid certificate in respect of any of the proceedings listed at paragraph 17 above, the Board may refer the person to the Panel to select a solicitor/firm from the Panel to act on their behalf. The Board or the legally aided person shall notify the solicitor and shall furnish them with:

- The legal aid certificate will indicate the legally aided person's name, the nature of the proceedings authorised and the steps authorised on foot of those proceedings, in terms of the expenditure on witnesses that may be incurred; and
- a Claim Form on which the legal aid certificate number should be entered.

The certificate shall be the solicitor's authority to provide legal aid to the client under this Scheme. Part III of the certificate should be retained by the solicitor / firm on the client file. Part IV of the certificate should be attached to the Claim Form for payment of the fee and any outlay, when the case is concluded.

Legal services cannot be provided under the Scheme without a valid legal aid certificate.

AMENDING LEGAL AID CERTIFICATES

20. If a solicitor/firm considers that further steps that will incur expenditure are required **to process the client's claim, over and above those authorised on the certificate, for example**, that a professional report should be obtained or that professional or other witnesses are required, an application must be made in writing seeking an amendment to the certificate to incur such expenditure. Such application should provide sufficient information, particularly in relation to how the additional expenditure is likely to benefit the client's case, to allow a decision to be made and to enable the terms of the Act to be complied with by the Board when considering the application. The application may be made to the Private Practitioner Unit (see paragraph 18).

21. The Board will issue an amended certificate, if it is decided to approve an application. A solicitor may not seek reports, engage witnesses or otherwise incur costs or expenses save as authorised on foot of a certificate or an amending certificate. **The Board will be responsible only for costs or expenses incurred where these have been approved in writing in advance.**

22. Decisions by the Board to refuse applications for professional or expert witnesses shall be subject to the relevant review and appeal procedures contained in the Civil Legal Aid Regulations 1996 to 2006 (Regulation 12).

FEES

23. The Claim Form shall be the document whereby the solicitor shall be entitled to claim the appropriate fee and any authorised outlay. The appropriate fee is inclusive of any fee that might be paid to a barrister and the Board will not pay any additional fee for any barrister retained. Instructions for the completion of the Form are printed on the reverse of the Form. Care should be taken in completing the Form, as incomplete or improperly completed claim forms will be returned without payment.
24. The completed Claim Form, together with Part IV of the Certificate, should be returned to the Private Practitioner Unit (see paragraph 18) when the services specified in the certificate have been provided and the case has been determined.
25. A case will be deemed to have been determined where:
- Court proceedings have been settled or the Court has made a final Order(s); or
 - the client has withdrawn his or her instructions.
26. Legally aided persons must not be charged any fees and must not be asked to discharge any fees, expenses, costs or outlay, except in accordance with such specific instructions as may be issued from time to time by the Board. Furthermore, legally aided persons must not be asked to sign undertakings to pay for additional services and the charging of additional fees, expenses, costs or outlay or the seeking of undertakings to pay for additional services will be grounds for immediately removing a solicitor/firm from the Panel.

FEES PAYABLE

27. There shall be a standard scale of fees (set out in Schedule 1 below) payable per case to solicitors/firms on the Panel for the provision of services.
28. In the event that the case is part heard when the application for legal aid is made, the Board reserves the right to pay part only of the fee that would otherwise be payable.
29. Solicitors on the Panel shall be responsible for the outlay of any necessary viaticum to secure the attendance of witnesses, but shall be entitled to a refund of any outlay authorised on foot of the certificate or amendment thereof. If it becomes necessary to pay a fee for professional services that has been authorised by the certificate or an amendment thereof, in advance of the determination of a case, an Interim Claim form together with the original fee note may be submitted to the Board. The fee shall be paid by the Board directly to the relevant person or body and the solicitor will be advised when payment has been made.

COMPLAINTS

30. Section 31(4) of the Act provides that:

“ Where a person to whom the Board has decided to grant legal aid or advice has -

(a) accepted the nomination of a solicitor or selected a solicitor from the solicitors' panel pursuant to subsection (1) or been granted the services of a solicitor pursuant to an application under subsection (3), or

(b) accepted the nomination of a barrister pursuant to subsection (2) or been granted the services of a barrister pursuant to an application under subsection (3),

the person may apply to the Board to have the services of that solicitor or barrister dispensed with and the services of another solicitor of the Board or solicitor from the solicitors' panel or, as may be appropriate, barrister from the barristers' panel obtained in the matter and where the Board considers it reasonable in all the circumstances, it may consent to the application.

If a client makes a complaint to a solicitor/firm about his, her or their performance and it is not possible to address the complaint to the client's satisfaction, the client should be requested to put the complaint in writing and the complaint should be forwarded to the Board. If the Board receives a complaint from a client or if the Board identifies a performance issue, a copy of the complaint or a note of the performance issue shall be forwarded to the solicitor/firm for his/her/their observations. The Board shall consider the complaint/performance issue in accordance with its Information Leaflet entitled "Customer Care and Complaints Procedure", and also in accordance with the terms and conditions contained herein, including the appendices attached hereto.

GENERAL

31. Nothing in these Terms and Conditions shall give rise to, or be construed as giving rise to, a relationship of employer and employee between the Board and any solicitor on the Panel.
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Schedule 1

<i>Fees for District Court cases (inclusive of any payments made to counsel and exclusive of VAT)</i>	<i>Fee</i>
a) Maintenance only	€339
b) Guardianship only	€339
c) Custody and or access only	€339
d) Domestic Violence only	€339
e) Custody and / or access and guardianship	€339
f) Maintenance and custody / and or access / and / or guardianship	€423
g) Domestic Violence and maintenance	€423
h) Domestic Violence and custody / and or access / and / or guardianship	€423
i) Maintenance and Domestic Violence and custody / and or access / and / or guardianship	€508

Appendix 1

Legal Aid Board
Private Practitioner Scheme for the District Court
Undertaking

I hereby confirm that I have read the attached Terms and Conditions and I undertake to abide by those Terms and Conditions when providing legal services to clients on behalf of the Legal Aid Board.

Dated this day of 20

Signed: _____
Name: _____

Appendix II

Best practice guidelines – guardianship

Introduction

This part of the circular deals with best practice guidelines in relation to guardianship.

Approach

Key stage 1 - Initial consultation and legal advice

- Take written instructions from the client (before the day of the hearing if a date has already been fixed) in relation to, inter alia, the circumstances surrounding the birth of the child, the relationship between the parents, the way in which parental responsibilities have been shared, the history of access, and whether the father is named on the child's birth certificate;
- get client to furnish copies of any existing orders or live proceedings;
- explain to the client, the consequences of having a father appointed a guardian, including, if appropriate, the preclusion on adoption;
- ensure that the client is fully aware of the distinction between custody and guardianship;
- ascertain from the client, the child's apparent wishes (if the child is of sufficient age);
- in the event that the father is named on the birth certificate, ascertain from the client, the possibility of both parties swearing a Statutory Declaration on foot of Section 2(4) of the Guardianship of Infants Act 1964 to have the father appointed a guardian or whether it is more appropriate to seek an Order from the Court;
- manage the client's expectations including informing the client what is likely to happen if court proceedings are instituted;
- contact the other party or his or her solicitor with a view to achieving a solution to the client's difficulties without contested court proceedings;
- if considered appropriate and both parties agree, prepare a Statutory Declaration in accordance with the procedures laid down by the Guardianship of Children (Statutory Declarations) Regulations 1998 and arrange to have it sworn. Clients should be made aware of the limitations on Statutory Declarations including the fact that they cannot be registered anywhere;
- furnish the original Declaration to the client, a certified copy for the other party, and a copy for the file;
- if no further action is required proceed to key stage 6 - file closure;
- if it is necessary to make an application to court, apply for a legal aid certificate.

Key stage 2 - Pleadings and further steps

- Advise client to attend District Court to issue application (if this is the normal practice in the particular District Court office) and revert with date; or

- issue application from Law Centre / office;
- take steps to obtain any proofs that may be required including a copy of the child's birth certificate.

Key stage 3 - Court proceedings

- Attempt to reach a resolution of the issues without the necessity of the parties giving evidence;
- represent the client at the hearing if it is not possible to reach a resolution;
- advise client of the Order made, the possibility of an appeal, the deadline for appealing, and the possibility of further applications being made at a later stage e.g, to remove a guardian in the event that an Order appointing a father is made;
- confirm outcome and advices to the client in writing.

Best practice guidelines – access

Introduction

This part of the Circular deals with best practice guidelines in relation to access. While the word access is used in the Guidelines, solicitors are encouraged, when dealing with clients, to concentrate on the contact arrangements rather than using particular terminology.

It is not envisaged that a solicitor monitor access arrangements and this circular outlines the approach to be adopted in relation to:

- access advice only; and
- instituting or defending access proceedings;

Access - advice only

Key stage 1 - Initial consultation and legal advice

- Take instructions.
- Ascertain from the client, the child's apparent wishes (if the child is of sufficient age).
- Advise client appropriately, suggesting practical resolutions to difficulties including, where relevant, third party intervention and having particular regard to the solicitor's obligations on foot of Section 20 of the Guardianship of Infants Act 1964 (as amended) to advise the applicant of the possibility of engaging in counselling, mediation or effecting a deed or agreement in writing.
- Manage the client's expectations, including informing the client what is likely to happen if Court proceedings are instituted and the possibility that no party will be happy with the Court solution.
- Contact the other party or his or her solicitor with a view to achieving a solution to the client's difficulties without having to institute Court proceedings.
- If it is necessary to make an application for legal aid, apply for legal aid certificate.

Instituting or defending access proceedings

Key stage 2: application for legal aid

- Ascertain if there is merit in instituting / defending proceedings.
- Apply for delegated legal aid certificate indicating whether legal aid should be granted/refused.
- All requests for authority for independent reports to should be made to the appropriate unit in Legal Services Section. Where a report is authorised and the other side is not legally aided, 50% of the cost only should be borne by the Board, within the approved limits.

Key stage 3: Pleadings

- Advise client to attend District Court to issue summons (if this is the normal practice in the particular District Court office) and revert with date/or

- Issue proceedings from law centre;/or,
- Refer to private practitioner.
- File a Certificate pursuant to Section 20(3) of the Guardianship of Infants Act 1964 (as amended).
- Take steps to obtain any proofs that may be required.

Key stage 4: Court proceedings

- Attend hearing.
- Attempt to reach a resolution of the issues without the necessity of the parties giving evidence.
- Represent the client at the hearing if it is not possible to reach a resolution.
- Obtain order (either on Consent or on foot of a Judge's decision).
- Special occasions and holidays should be raised and taken into account in any order or agreement.

Key stage 5 Enforcement

- It is not envisaged that a solicitor monitor access arrangements or agreements.
- Enforcement of Court Orders is a matter for Courts. Clients should be advised to make a formal complaint to the District Court clerk if an access Order has been breached. The Court clerk can then issue a breach of access summons. As the summons is a criminal summons the issue of legal aid does not arise. Solicitors should however be mindful of the possibility of the Court treating a breach of access summons as an opportunity to vary an access Order.

Best practice guidelines – custody

Introduction

This part of the Circular deals with best practice guidelines in relation to custody and outlines the approach to be adopted in relation to:

- Custody - advice only; and
- Instituting or defending custody proceedings

While the word custody is used in the Guidelines, solicitors are encouraged, when dealing with clients, to concentrate on the day-to-day care arrangements rather than using particular terminology.

Custody - advice only

Key stage 1 - Initial consultation and legal advice

- Take written instructions from the client (before the day of the hearing if a hearing date has already been assigned) in relation to, inter alia, the history of the relationship between the parents and the way in which parental responsibilities have been shared;
- get from the client, copies of any court orders or current proceedings;
- ascertain from the client, the child's apparent wishes (if the child is of sufficient age);
- advise client appropriately suggesting practical resolutions to difficulties including, where relevant, third party intervention and having particular regard to the solicitor's obligations on foot of Section 20 of the Guardianship of Infants Act 1964 (as amended) to advise the applicant of the possibility of engaging in counselling, mediation or effecting a deed or agreement in writing;
- manage the client's expectations including informing the client what is likely to happen if Court proceedings are instituted, the possibility that the Court will impose a solution that no party is happy with, and whether or not it might be more appropriate to seek better contact arrangements rather than formal custody;
- contact the other party or his or her solicitor with a view to achieving a solution to the client's difficulties without having to institute Court proceedings;
- if it is necessary to make an application for legal aid, apply for legal aid certificate;

Instituting or defending custody proceedings

Key stage 2 – application for legal aid

- Ascertain if there is merit in instituting / defending proceedings or if the more appropriate application to be made on behalf of the client should relate to contact with the child/children;
- apply for delegated legal aid certificate indicating whether legal aid should be granted/refused having particular regard to Sections 24(a) and (b) of the Act. It should be made clear to clients that there is no guarantee that a legal aid certificate will be forthcoming to institute or defend custody proceedings;

- all requests for authority for independent reports should be made to the appropriate unit in Legal Services Section. Where a report is authorised and the other side is not legally aided, 50% of the cost only should be borne by the Board, within the approved limits.

Key stage 3 - Pleadings and further steps

- Advise client to attend District Court to issue application (if this is the normal practice in the particular District Court office) and revert with date/or
- issue application from law centre/office;
- file Certificate pursuant to Section 20(3) of the Guardianship of Infants Act 1964 (as amended);
- take steps to obtain any proofs that may be required including any independent assessments that are required;
- if necessary, make a preliminary application to the court for an independent assessment in relation to the welfare of the children, bearing in mind the responsibility to ensure that the assessor's fees have been authorised. It is essential that the legal aid certificate, or an amendment thereof, authorises the obtaining of a report before such a preliminary application is made.

Key stage 4 - Court proceedings

- Attempt to reach a resolution of the issues without the necessity of the parties giving evidence;
- represent the client at the hearing if it is not possible to reach a resolution;
- obtain order (either on Consent or on foot of a Judge's decision);
- advise the client of the steps that can be taken to enforce the Order if there is non-compliance;
- advise the client of the possibility of an appeal;
- confirm outcome and advices to the client in writing.

Key stage 5 – Enforcement

- It is not the responsibility of a solicitor to monitor custody arrangements or agreements.
- Enforcement of Court Orders is generally a matter for Courts. Clients should be advised to make a formal complaint to the District Court clerk if a custody Order has been breached. The court clerk can then issue a Summons in relation to the breach. As the summons is a criminal summons the issue of legal aid does not arise.
- Solicitors should be mindful of the possibility of the Court treating such a Summons as an opportunity to vary a Custody Order.

Best practice guidelines - domestic violence

Introduction

This circular deals with best practice guidelines in relation to domestic violence cases.

The Board acknowledges that in domestic violence situations, it may be inappropriate to encourage a client to seek agreement and that there will be cases where the only appropriate remedy is an Order on foot of the domestic violence legislation.

Approach

Key stage 1 - Initial consultation and legal advice

- Meet with the client (before the day of the hearing if a date has already been fixed) and take written instructions in relation to the family details, the history of the parties relationship and the issues giving rise to current difficulties;
- ascertain if the client satisfies the residence / relationship requirements to come within the ambit of the domestic violence legislation;
- get from the client copies of any existing orders, including any Protection Order in place, or current proceedings;
- ascertain from the client, his or her expectations in relation to the difficulties and in relation to any court proceedings that may be in being;
- ascertain from the client what proofs are available or can be obtained to substantiate or defend any application;
- manage the client's expectations including informing the client what the prospects are of obtaining or defending an application for a domestic violence Order in the event that proceedings are issued, and also, if considered appropriate, the potential involvement of the HSE;
- if considered appropriate, manage the client's expectations in relation to the appropriate remedy to be sought and in particular, whether a separation ought to be sought;
- ascertain the client's instructions;
- ascertain if an undertaking is likely to be appropriate / acceptable / forthcoming and explain implications in terms of enforcement;
- consider instituting proceedings if not already in being and if appropriate to do so at this stage (bearing in mind the residency requirements if relevant);
- obtain a legal aid certificate before taking proceedings.

Key stage 2 - Post consultation and pre hearing

- In the event that the other party has a solicitor, contact his or her solicitor with a view to ascertaining if a solution to the client's difficulties can be achieved without recourse to contested court proceedings;
- ascertain if the court is likely to make consequential orders on foot of Section 9 of the Domestic Violence Act 1996 without separate applications and if so, prepare for those issues in accordance with the appropriate best practice guidelines;
- if no solution can be achieved, take steps to obtain necessary proofs;

- in the event that a legal aid certificate has not already been granted, apply for same;
- arrange institution of proceedings.

Key stage 3 - Court proceedings

- Attempt to reach a resolution of the issues without the necessity of the parties giving evidence;
- represent the client at the hearing if it is not possible to reach a resolution;
- advise the client of the steps to be taken to enforce any Order made (complaint to Gardai), or the consequences of breaching such an Order, if there is non compliance;
- in the event that an undertaking has been given, ensure that liberty to apply has been sought (if acting for an applicant) and advise the client of the steps available in the event of the undertaking being breached (seek to re-enter);
- advise the client of the possibility of the decision being appealed and the consequences of same;
- write to the client confirming outcome and advices.

Key stage 4 – Enforcement

- Enforcement of Domestic Violence Orders is a matter for the Gardai and a breach of an Order is a criminal matter. Clients who have been granted Orders should be advised to make a formal complaint to the Gardai if an Order has been breached.
- As breach of an Order is a criminal matter, there is no provision for advice or assistance on foot of the Civil Legal Aid Act 1995.
- In the event that an undertaking has been breached, application should be made to re-enter the case.

Key stage 5 - File closure

- Files should be closed and client advised of same within four months of the completion of the hearing.
- Claim forms for fees or witness expenses should be forwarded to the Board within two weeks of the completion of the hearing or as soon as available. If necessary steps should be taken to ensure its early availability.

Best practice guidelines – maintenance

Introduction

This Circular deals with best practice guidelines in relation to maintenance.

Approach

Key stage 1 - Initial consultation and legal advice

- Take written instructions from the client (before the date of the hearing if a date has already been fixed) in relation to the family details, the history of the parties relationship, the existing difficulties between the parties, and each of their respective incomes, outgoings and assets insofar as they can be ascertained;
- ascertain from the client, his or her expectations in terms of what he or she expects to pay / receive by way of maintenance and also whether any voluntary arrangement that the parties might agree, is likely to be adhered to;
- manage the client's expectations including informing the client what is likely to happen if Court proceedings are instituted, the possibility that the Court will impose a solution that no party is happy with, the impact maintenance payments may have on any social welfare benefits being received, and any tax consequences of making/receiving payments;
- consider whether it is necessary to seek information from the other party or his/her solicitor in relation to that party's financial circumstances.

Key stage 2 – Post consultation

- Contact the other party or his or her solicitor with a view to, if necessary, seeking information, exchanging information, and ultimately, achieving a negotiated maintenance settlement without having to institute Court proceedings or without having to contest court proceedings;
- if a negotiated settlement is agreed, ensure that it is recorded in writing and that the client is informed in writing, of its terms and the consequences of a failure to comply with the agreement.

Key Stage 3 – Legal aid / pleadings

- If a negotiated settlement is not possible, apply for a legal aid certificate to institute/defend proceedings (if a certificate has not already been granted);
- advise client to attend District Court office to issue summons (if this is the normal practice in the particular District Court office) and revert with date; or
- furnish draft proceedings to the District Court office for issue.

Key Stage 4 – Court proceedings

- Prepare a statement setting out the client's income, expenditure, assets and liabilities and attempt to exchange statements with the solicitor for the other party;
- ensure that vouching documentation is available for the court and for the other party's solicitor, in relation to the items set out in the statement;
- ascertain what other proofs are required;

- ensure client is aware of format of hearing and the nature of the evidence he or she will be required to give;
- ascertain, if not already done, the manner in which the client wishes to pay / receive maintenance payments e.g., through the District Court clerk, by Standing Order, in cash etc.;
- attempt to reach a resolution of the issues without the necessity of the parties giving evidence;
- ensure any Order is split between spouse and children (if appropriate) and that manner of payment is set out in the Order;
- advise the client of the steps available to enforce the Order if there is non compliance, the possibility of an appeal, and the possibility of an application being made to vary the Order;
- confirm outcome and advices to the client in writing.

Key stage 5 – Enforcement

- If payments that are due to the District Court clerk are not made, advise client to make a formal complaint to the clerk. The clerk can then issue an enforcement Summons. As the Summons is a criminal summons the issue of legal aid does not arise;
- be mindful of the possibility of the Court treating a breach of maintenance summons as an opportunity to vary a Maintenance Order;
- if payments are not made to the District Court clerk, apply for a further legal aid certificate to take steps to enforce payments.