

**TRANSPOSITION NOTE FOR IMPLEMENTATION IN THE UNITED KINGDOM OF THE
LEGAL AID DIRECTIVE (Council Directive 2002/8/EC of 27 January 2003 to improve
access to justice in cross-border disputes by establishing minimum common rules
relating to legal aid for such disputes)**

Article	Objectives	Implementation	Responsibility
12	<p><u>Authority granting legal aid</u> Legal aid shall be granted or refused by the competent authority of the Member State in which the court is sitting.</p>	<p>England and Wales No action required. The Legal Services Commission will take decisions about the granting of legal aid in respect of any cross-border dispute to be determined by the courts in England and Wales.</p> <p>Northern Ireland No action required. The NI Legal Services Commission will take decisions about the granting of legal aid in respect of any cross-border dispute to be determined by the courts in Northern Ireland.</p> <p>Scotland No implementing measures are required.</p>	
13	<p><u>Introduction and transmission of legal aid applications</u> Legal aid applications may be submitted to either the competent authority of the applicant's Member State (transmitting authority), or that of the Member State in which the court is sitting or where the decision is to be enforced (receiving authority).</p>	<p>England and Wales This article closely matches the provisions of the European Agreement on the Transmission of Applications for Legal Aid (the Strasbourg Agreement) under which the United Kingdom already operates. The Legal Services Commission will accept legal aid applications either from a transmitting authority or from the applicant directly. Where necessary applications will be directed to solicitors in England and Wales who are authorised to provide legal aid services. Applicants transmitting applications under the Directive will generally receive assistance initially through the Legal Help scheme from a supplier chosen by them or allocated to them.</p> <p>Northern Ireland This article closely matches the provisions of the European Agreement on the Transmission of Applications for Legal Aid (the Strasbourg Agreement) under which the United Kingdom already operates. The NI Legal Services Commission will accept legal aid applications either from a transmitting authority or from the applicant directly. Where necessary applications</p>	<p>England and Wales The Legal Services Commission is responsible for complying with this article, in particular paragraph 4.</p> <p>Northern Ireland The NI Legal Services Commission is responsible for complying with this article, in particular paragraph 4</p>

	<p>Paragraph 4 imposes on the transmitting authority requirements to assist the applicant and to transmit the application to the receiving authority.</p>	<p>may be directed to solicitors in Northern Ireland who are authorised to provide legal aid services. Applicants transmitting applications under the Directive will generally receive assistance initially through the advice and assistance scheme from a solicitor chosen by them.</p> <p>Scotland</p> <p>No implementing measures are required.</p> <p>England and Wales</p> <p>The Legal Services Commission will provide training for staff to ensure that the requirements of paragraph 4 are complied with. No charge will be made for the transmission or receipt of applications.</p> <p>Northern Ireland</p> <p>The NI Legal Services Commission will provide training for staff to ensure that the requirements of paragraph 4 are complied with. No charge will be made for the transmission or receipt of applications.</p>	
14	<p><u>Competent authorities and language</u> Member States shall designate competent transmitting authorities and receiving authorities, and specify the languages in which they will accept applications.</p>	<p>England and Wales, and Northern Ireland</p> <p>The United Kingdom has designated the Legal Services Commission as the designated transmitting and receiving authority for England and Wales, and Northern Ireland.</p> <p>It will accept applications under the Directive in English or French.</p> <p>Scotland</p> <p>The designated receiving and transmitting authority in Scotland will be the Scottish Legal Aid Board.</p> <p>Applications will be accepted in English or French.</p>	<p>England and Wales, and Northern Ireland</p> <p>The Secretary of State for Constitutional Affairs has designated the Legal Services Commission.</p> <p>Scotland</p> <p>Scottish Ministers have designated the Scottish Legal Aid Board.</p>
15	<p><u>Processing of applications</u> Legal aid authorities are to ensure the applicant is fully informed of the processing of an application, and given reasons if the application is rejected.</p>	<p>England and Wales</p> <p>No implementing measures are necessary.</p> <p>The computer system of the Legal Services Commission ensures that applicants are informed when applications are received and when any decisions are made on an application. Section 8(5)(c) of the Access to Justice Act 1999 requires the Funding Code to include provision</p>	

	<p>Member States are to provide for review of or appeals against decisions rejecting legal aid applications.</p>	<p>requiring applicants to be informed of the reasons for any decision to refuse an application: such provisions are contained in paras B7, C19 and C20 of the Code.</p> <p>Northern Ireland</p> <p>No implementing measures are necessary. The systems of the NI Legal Services Commission ensures that applicants are informed when applications are received and when any decisions are made on an application, including the provision of reasons for any decision to refuse an application.</p> <p>Scotland</p> <p>No implementing measures are required.</p> <p>England and Wales</p> <p>Section 8(5)(e) of the Access to Justice Act 1999 requires the Funding Code to include provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures. For most forms of legal aid the Funding Code provides for a right of appeal to a Funding Review Committee, an independent legal panel of experienced lawyers drawn from private practice. Refusal of legal aid is always ultimately challengeable in the courts through judicial review.</p> <p>Northern Ireland</p> <p>The 1981 Order includes provision for appeals against decisions about funding and for the giving of information about those procedures. Refusal of legal aid is always ultimately challengeable in the courts in Northern Ireland through judicial review.</p> <p>Scotland</p> <p>No implementing measures are required.</p>	
16	<p><u>Standard form</u> Standard forms shall be established for legal aid applications and for the transmission of applications.</p>	<p>England and Wales</p> <p>No action required. The Legal Services Commission will accept the standard form of legal aid application established under the Directive which will entitle the applicant to any required pre-litigation advice. As with any applicant, further information or a further form may be required to proceed to representation in court. The solicitor providing initial advice will assist the applicant in preparing any</p>	

		<p>further information or application form that may be required.</p> <p>As well as the standard form under this Directive, the Legal Services Commission will accept applications for legal aid in cross-border disputes from persons using its own domestic application forms.</p> <p>Northern Ireland</p> <p>No action required. The NI Legal Services Commission will accept the standard form of legal aid application established under the Directive which will entitle the applicant to any required pre-litigation advice. As with any applicant, further information or a further form may be required to proceed to representation in court. The solicitor providing initial advice will assist the applicant in preparing any further information or application form that may be required.</p> <p>As well as the standard form under this Directive, the Legal Services Commission will accept applications for legal aid in cross-border disputes from persons using its own domestic application forms.</p> <p>Scotland</p> <p>The existing provisions regarding the form of applications for legal aid have been amended to allow the use of the standard EU form. The amending regulations are the Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2004.</p>	
18	<p><u>Information</u> Information shall be provided about systems of legal aid.</p>	<p>England and Wales Full information and guidance on legal aid in England and Wales can be found on the website of the Legal Services Commission – www.legalservices.co.uk</p> <p>Northern Ireland Full information and guidance on legal aid in Northern Ireland can be found on the website of the NI Legal Services Commission – http://www.nilsc.org.uk/</p> <p>Scotland Full information and guidance on legal aid in Scotland can be found on the website of the Scottish Legal Aid Board – www.slab.org.uk</p>	<p>Legal Services Commission</p> <p>NI Legal Services Commission</p> <p>The Scottish Legal Aid Board</p>