Legal aid

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1 What costs are involved in legal proceedings and who normally has to bear them?

The costs involved in a trial vary depending on the Court, the proceedings involved and the complexity of the case.

2 What exactly is 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 and Supreme Court and in certain instances before the Court of Justice of the European Union. It also applies to appeals to the International Protection Appeals Tribunal. It is also available for certain inquests where a request has been made to the Board by the coroner.

Generally, legal aid is provided by solicitors employed by the Board in its law centres. However, legal aid may also be provided by a solicitor in private practice from a panel of solicitors which has been established by the Board. This is particularly the case for family law matters and international protection cases.

3 Do I have a right to legal aid?

Financial Eligibility & Contributions

In order to get civil legal aid advice, the Legal Aid Board Home - LAB (legalaidboard.ie) will undertake a means test of your financial circumstances to see if you qualify for their services. To get civil legal aid and advice you will need to have an annual disposable income of less than €18,000 and disposable assets of less than €100,000. In both cases, the Legal Aid Board apply certain allowances when calculating these. The house you live in is not included when calculating your assets.

In most cases you will have a make a payment called a “contribution”. The amount of the contribution(s) will depend on your disposable income and assets. When you first see a solicitor you will have to pay an **advice contribution.** The minimum advice contribution is €30. Depending on your income, you might have to pay up to €150.

If the Legal Aid Board agree to represent you in Court, you must pay an **aid contribution.** The minimum aid contribution is €130. Depending on your income and assets you might have to pay more. The amount of the aid contribution includes the advice contribution, so in the case where your contribution is calculated at €130, you would only need to pay a further €100.

You don't have to pay a contribution if:

Tusla is asking the Court to allow it to take your children into State care or to allow its staff to supervise your children in your own home.

You are taking or defending proceedings in the District Court for a barring order, safety order, protection order, or interim barring order

There are a small number of other circumstances where the Legal Aid Board won't charge a contribution. These include cases where they give legal advice to a person who alleges that the have been a victim of rape or sexual assault or represent them at the trail of the person who has been accused of committing the rape or sexual assault.

International protection (asylum)

If you're applying for legal aid to help you with a claim for international protection in Ireland, you'll only need to pay a contribution of €10.

How is my income assessed?

The first step is for you to complete a statement of means on the application for legal services form. You will be asked to give the following information on the form:

Income- this is your total income, for example wages, salary, social welfare payments (though some social welfare payments such as Child Benefit and Carer's Allowance are not included) (No housing support measure, provided by any public body, will be treated as income either), pension and certain personal circumstances and also certain items of expenditure in order to decide what allowances may be offset against your income for the purpose of calculating you disposable income.

The allowances are as follow:

Allowance	Maximum Amount
Spouse/Partner	€3,500
Adult and Child Dependents	€1,600 per dependent
Accommodation Costs	€8,000
Child Care	€6,000 per child
Income Tax	Full Amount
PRSI	Full Amount
Universal social charge	Full Amount
Ex-gratia payments received	Deduction of €20 for each payment received each week.

The Legal Aid Board will calculate you disposable income and advise you of the contribution that you must pay. You may complete the statement of means form on your own, or staff in the law centre will help you to complete the form if you are unable to do so. https://www.legalaidboard.ie has an on-line indicator which will assist you in finding out if you are likely to be financially eligible. The indicator does not guarantee financial eligibility for legal services. It only acts as a guide.

How do I confirm my main source of income and allowances?

You may be required to provide confirmation of your main source of income by providing, for example:

A copy of your latest payslip

A copy of your social welfare slip

A rent book/mortgage statement

The Legal Aid Board can request the Department of Employment Affairs and Social Protection to investigate the means of any person applying for, or in receipt of, legal services. In some circumstances, the Legal Aid Board might ask you to provide further documentation in relation to the allowances you have claimed.

How are my capital resources calculated?

The value of your **home** is **excluded** for the assessment of your capital resources. If your capital resources are more than €4000 you must complete the statement of capital on the application form. The following information is required:

Capital - Your total capital of every nature, whether in the form of property, car, cash in hand, in the bank, investments or other resources and

Debt - You may be given an allowance for certain debts that may be offset against capital for the purposes of arriving at disposable capital, for example, credit union loans.

What happens if I am awarded costs?

If you awarded costs of your case then these must be paid into the Legal Aid Fund and used to pay the costs The Legal Aid Board spent providing you with legal services. This does not usually happen on family law cases. In non-family law cases if you win your case you will usually be awarded your costs. If on the other hand you lose your case, the other party's costs might be awarded against you. If this happens, the LAB are not liable to pay the other party's costs and you are personally responsible.

What happens if I gain or keep money or other property as a result of my case?

If you gain or keep money or real property as a result of your case, The Legal Aid Board are allowed - with some exceptions - to use that money or real property to pay for you legal aid. You must pay into their Legal Aid Fund any money you gain or keep as a result of your case that is not exempt. They will deduct their cost and give you back what is left. If it is real property (for example a house or land) that you gain or keep they are entitled to place what is known as a "charge" on that property, so that it cannot be sold until they are repaid.

What should I do if there is a change in my financial circumstances?

If you are in receipt of legal services you must tell the Legal Aid Board (through your solicitor) of any change in your income or capital, for example, if you have been given a pay rise, the value of your social welfare has changed, or if you have bought a new car or house. The reason you need to do this is because you must stay eligible for legal services while you are receiving legal services, until your case is closed. Just because your financial circumstances have improved does not necessarily mean that they will stop your legal aid, though they might ask you to pay a higher contribution.

What will happen if I fail to notify the law centre of a change in my circumstances?

If you do not tell the Legal Aid Board that your income or capital has changed, and they discover that it has, the Board might decide to stop your legal aid.

4 Is legal aid granted for all types of proceedings?

Provided that the proceedings are within the Irish jurisdiction, applicants from abroad, who satisfy the financial eligibility and merits test laid down in the Act and Regulations, will qualify for legal aid in Ireland.

Although most Applicants for legal aid are resident in Ireland, it is possible for a person who resides outside of Ireland, whether an Irish citizen or not, to apply for legal aid and/or advice in Ireland, provided that person seeks legal aid or advice about a legal matter governed by Irish Law and usually if legal aid is given to a person residing outside of Ireland where real or personal property is in dispute such property is located in Ireland. In the same way as Irish Applicants need to undergo a means test to determine eligibility for legal aid, persons residing outside of Ireland also are required to undergo the same financial eligibility assessment.

Legal assistance is provided without application of means test eligibility criteria in Court proceedings instituted under the Child Abduction and Enforcement of Custody Orders Act 1991 and under the Maintenance Orders Act 1994 (where recovery of maintenance in reciprocating jurisdiction is concerned).

In general, legal advice is not provided where it would be possible for the applicant, without hardship, to obtain legal advice outside the Act. This would apply generally where services are available from another source e.g. advice agencies or another state body.

Advice on matters of criminal law is outside the scope of the Act except for advice to complainants in “rape” cases.

The Board must satisfied before legal aid is authorised that it is reasonable to take or defend proceedings, having regard, for example, to the legal merits of the case and the likely outcome. The criteria include: prospects of success; reasonable grounds for taking or defending proceedings; availability of any method, other than court proceedings, for dealing satisfactorily with the problem (e.g. mediation or negotiation of a settlement); ability of the legally aided person to obtain legal representation outside the Act (e.g. possibility of costs being met by insurance company, etc.).

5 Are there special procedures in cases of need?

Consideration is given as to whether applicants should be dealt with otherwise other than in accordance with the general rule under which appointments to see solicitors are given to applicants; that is, in strict order of the date on which applicants' names are placed on the waiting list for legal services. Priority will be given to new applicants seeking legal services in the following categories of cases:

child abduction proceedings

where there is a real danger of children being taken out of the jurisdiction without the consent of the applicant

child care proceedings

domestic violence

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 in other legislation expiring

where there is a danger that assets may be dissipated so that they would be unavailable to meet the claims of the applicant.

6 Where can I obtain a legal aid application form?

A person seeking legal services can apply at any one of the Law Centres by calling in, telephoning, or writing to the Law Centre which is nearest in location to where the Applicant resides.

A list of law centres can be found on the Legal Aid Board website.

If any enquiry is made by telephone, the Applicant is requested to call to that Law Centre to apply in person so that a written form of application may be completed, and a means assessment carried out to determine whether the Applicant is financially eligible for legal aid. A postal application may be made and is usually appropriate if the Applicant cannot easily call in person to a Law Centre.

Legal assistance is provided without application of means test eligibility criteria in Court proceedings instituted under the Child Abduction and Enforcement of Custody Orders Act 1991 and under the Maintenance Orders Act 1994 (where recovery of maintenance in reciprocating jurisdiction is concerned).

Additionally, the Legal Aid Board allow for an application to be made online through their website.

7 Which documents need to be submitted with the legal aid application form?

A payslip/P60, social welfare receipt, or Notice of Assessment from Revenue/Audited Accounts

Details of any other income your receive (e.g. maintenance payments)

Details of your income tax, PRSI, and USC payments (these will be on your payslip or Notice of Assessment).

Details of your monthly mortgage/rent payments
Approximate values of all of your capital assets except the house you live in
Values of any savings you have
Outstanding amounts on any loans/debts that you have

8 Where do I submit my application for legal aid?

A list of the addresses and telephone numbers of all the Law Centres, full-time and part-time, is available on the Board's Website.
The online form is also submitted through the Legal Aid Board website.

9 How do I find out whether I am entitled to legal aid?

Financially eligible Applicants are offered an appointment to see a Solicitor in accordance with the waiting list procedure, or under the established categories of priority subject matters. Usually an appointment is offered to the Applicant with one of the Solicitors employed by the Legal Aid Board and based in one of it's offices.
The Applicant pays the legal advice contribution before attending the first appointment and receives a receipt for same.
At the first appointment the Solicitor will explain that if the Applicant requires representation by a Solicitor in instituting or defending proceedings that a legal aid contribution will become payable on the granting of a legal aid certificate.
Applications for a legal aid certificates may require additional information. Depending on the nature of the case this additional information may include the following:
Medical records/reports
Copies of statements and/or reports obtained or prepared by the Gardai
Copies of any contracts.
If, on receipt of all necessary information it is considered that an application for legal aid does not meet the provisions of the Civil Legal Aid Act, 1995 and the 1996 Regulations a letter of refusal will issue from the solicitor.
This letter will state the grounds on which the application is refused and the relevant Section(s) of the Civil Legal Aid Act and/or Regulations. The letter also informs the applicant of the right to have the decision reviewed and/or appealed to an Appeal Committee of the Board.

10 What should I do, if I am entitled to legal aid?

When an applicant for legal aid meets the requirements of the Act and Regulations, a Legal Aid Certificate is granted to provide representation by a solicitor and, if necessary, a barrister in certain civil proceedings in the District, Circuit, High and Supreme Courts.
A legal aid certificate only authorises legal services for the proceedings or subject matter stated on it. The issuing of a legal aid certificate to an applicant does not mean that the applicant is legally aided in other matters. If an applicant requires legal aid for more than one subject matter a separate application must be made.
Applications for a legal aid certificate are made by a solicitor in a law centre after consultation with an applicant.
Section 29(1) of the Act provides that a person shall not qualify for legal aid or advice unless he or she pays a contribution. This contribution is determined by a financial assessment based on the information provided by the applicant in their Statements of Means and Capital. Where a person has no capital assets the minimum amount payable for legal aid is €35 and the maximum amount is €1,210.
The full contribution should be paid on returning the legal aid certificate and before legal services are provided. The Board may, in exceptional circumstances, allow the applicant to pay by instalments. However, the full amount due must be paid within twelve months and prior to the finalisation of the proceedings.

11 Who chooses my lawyer, if I am entitled to legal aid?

If the Applicant on application expresses a preference to be represented by a particular Solicitor in the Law Centre, the Managing Solicitor will take the Applicant's wishes into account when deciding what Solicitor to allot to that Applicant. Other circumstances will also be taken into account by the Managing Solicitor in deciding what Solicitor to allot, for example whether a Solicitor requested by the applicant would be available to represent the client on a particular Court date. If the Solicitor requested by the Applicant already had a commitment to another client at a different location on the date of the Applicant's case then it would be necessary for the Managing Solicitor to allot to the Applicant a Solicitor to represent him/her other than the Solicitor of his choice.
If the Applicant previously was represented by a Solicitor of the Law Centre then it would be usual for the Managing Solicitor to allot the same Solicitor to provide legal services to the same client for the new subject matter. An Applicant does not have an absolute right to consult or be represented by the Solicitor of his choice but an Applicant's wishes will be taken into account usually by a Managing Solicitor when a decision is made as to what Solicitor to allot to an Applicant. If an Applicant had a preference to be represented by a Solicitor of his/her own sex then in so far as possible the Managing Solicitor would endeavour to ensure that an Applicant's preference in this regard be taken into account.

12 Does legal aid cover all the costs of the proceedings?

Payment of the Legal Aid Contribution specified on the Certificate will cover all costs involved in proceedings. However, costs and general damages awarded to you as a result of court proceedings or a settlement reached out of court are payable to the Legal Aid Board. The Board will be entitled to deduct the costs it has incurred from any monies that you receive subject to certain limited exceptions. This also applies to settlements made to a legally aided person as a result of matrimonial proceedings, Separation Agreements or Judicial Separation. If the total cost incurred by the Board in providing legal services is less than the total amount paid by you, or on your behalf, by way of contribution and by virtue of the recovery of costs or damages or when account is taken of a charge on property, the balance will be refunded to you.

13 Who bears the other costs, if I am entitled only to limited legal aid?

N/A

14 Does legal aid also cover appeals?

A legal aid certificate provides legal services for the proceedings or subject matter stated on it. When the proceedings or subject matter stated are completed the certificate expires. An applicant who requires additional services that may relate to the original subject matter may apply for an amendment to the legal aid certificate or a new certificate. The individual circumstances of the case will determine whether an amendment or new certificate is required and the solicitor will advise.

15 Can legal aid be withdrawn before the proceedings are concluded (or even revoked after the proceedings have terminated)

If you furnish incorrect information or fail to disclose any material fact (for example, in relation to a change in your financial circumstances), or if you are behaving unreasonably, legal advice or legal aid or both may be withdrawn and you may be liable for the full costs incurred on your behalf.

16 Can I contest a refusal to give legal aid?

An applicant who is aggrieved by any decision of the Board may request a review of the decision. If the applicant wishes to have the decision reviewed, further information in writing must be submitted for consideration together with an opinion from the applicant's solicitor as to whether the decision should stand. Applicants may request a review of a decision through the Law Centre.

An applicant who is aggrieved by any decision of the Board or a review of any decision of the Board may appeal that decision to a committee of the board. If the applicant wishes to appeal the decision, an appeal must be lodged to an Appeal Committee of the Board. Applicants may request an appeal of a decision either through the law centre or directly to the Board.

The submission of further information for the purpose of review or the lodgement of an appeal must be made within a period of one month from the date on which an applicant was informed that they were not entitled to the service applied for.

The Appeal Committee comprises of a chairperson and four other members, two of whom who prior to their appointment to the Board were either practising barristers or practising solicitors. The committee shall consist of persons who were not involved in the original decision.

Further information

Further information including a list of addresses and telephone numbers of all the Law Centres is available on the Board's Website.

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