

Our Ref: JW/CSG/11/018/5

20 July 2005

Dear Consultee

Public Funding in Ancillary Relief and other Financial Matters

This is a consultation exercise on the guidance and approach to be taken in relation to the new power in the Funding Code to refuse publicly funded Legal Representation in ancillary relief and other financial cases if the client is in a position to arrange for private funding.

The new criterion will apply to all cases under section 11.12 of the Code i.e. ancillary relief, financial provision and all miscellaneous family cases which do not fall within any other specific parts of section 11.

Applications should only be refused under this power where there are available assets that could be used to fund the case or where the client has sufficient disposable income to be able to secure a loan to cover the likely costs. The detailed guidance enclosed sets out the approach which will be used in the circumstances by the Commission's regional offices when considering such applications.

Also enclosed is the amendment which will be added to the application forms CLS APP 3 and CLS APP 8 to obtain the information necessary to apply the new power.

The guidance and amendment to the application form are being consulted upon internally and externally and the consultation period will close on **12 September 2005** so that the text can be finalised prior to the starting date of the operation of the new provision on 3 October 2005.

Comments on the guidance and changes to the application forms are sought and can be sent by e-mail to colin.stutt@legalservices.gov.uk or by hard copy to the address above, and may be published unless you ask that they be kept confidential.

If you have any queries regarding the consultation exercise please do not hesitate to contact me. Should you wish to receive this consultation by e-mail please contact Christine Gardner at christine.gardner@legalservices.gov.uk.

Yours faithfully

Colin Stutt
Head of Funding Policy

Encl.