

## Notes on how to fill in the forms

This guidance is designed to help you complete your application for legal aid and covers the questions asked in Version 7 of the following forms. It will say on the bottom of the form which version it is.

- CDS14 – Application for Legal Aid in Criminal Proceedings
- CDS15 – Financial Statement for Legal Aid in Criminal Proceedings
- CDS16 – Application for Review on the Grounds of Hardship

### CDS14: Application for Legal Aid in Criminal Proceedings

#### General

This form is for applications for the following types of proceedings:

- ✓ Magistrates' court cases
- ✓ Crown Court trials
- ✓ Committals for Sentence
- ✓ Appeals to the Crown Court
- ✓ Retrials/Voluntary Bills in the Crown Court

You must follow the instructions on the form and answer all questions unless directed otherwise. If you do not, it may delay a decision on your legal aid. If a question has a yes or no option you must answer the question. If you strike through any of the questions your application will be returned to you for clarification.

If you have a partner, you must also fill in their details throughout the forms where necessary. 'Partner' refers to a person you are married to or a person you normally live with. If you have been remanded into custody by the court or are already a serving prisoner, you should still fill in details for your partner.

- To get free legal aid in **magistrates' court** cases you must pass two tests:
  - ✓ Interests of Justice
  - ✓ Means assessment

(The Interests of Justice test considers whether it is in the interests of justice that you be represented by a solicitor and is explained at note 10 below).

- If your case is **Committed for Sentence** from the magistrates' court to the Crown Court, you will also get free legal aid if you pass the means assessment.
- If your case is a **Crown Court trial**, you will still get legal aid but if your income and/or capital are above a certain level, you may have to contribute towards your defence costs. (This also applies to Retrials and Voluntary Bills).

## Criminal Legal Aid Application Forms Guidance

- If you are **appealing to the Crown Court** against your conviction, sentence, or order, you will have to pass the Interests of Justice test before the means assessment can be done. If you pass the Interests of Justice test you will get legal aid, but you will have to pay towards your costs if you fail the means assessment, and your appeal is not successful (or you abandon it).

Your solicitor will be able to tell you more about this and you should indicate on the CDS14 what type of case your application relates to.

You must fill in the form in **BLOCK CAPITALS** and black or blue ink. If we can't read your application, we will return it. You should ask a solicitor for advice if you are not sure how to answer any questions on the form.

It is important that you tell the truth and that you are accurate when you fill this form in. If you tell us anything on the application form that is untrue, or leave anything out:

- a) You may be prosecuted which could result in a prison sentence or a fine; or
- b) You may have to repay all of the cost of your legal aid, and in addition, your legal aid may be taken away; or
- c) The Legal Services Commission may vary the amount of any Contribution Order you have to pay (if your case is in the Crown Court)

### Part A - About you

#### **Note 1** Do I need to provide my National Insurance number?

Yes if:

- ✓ You are on one of the benefits listed in question 10
  - If you are included on your partner's benefit claim, you will need to fill in your partner's National Insurance number in question 16
  - If you or your partner can't provide your National Insurance number you must provide recent evidence instead, e.g. a benefit book, notice of entitlement or letter from Job Centre Plus setting out the benefits you receive
  - This evidence must be dated within the last 3 months
- ✓ You are over 18 when you apply and your case is going to the Crown Court for trial

#### **Note 2** When can I use my solicitor's address as my correspondence address?

If you have no fixed abode and don't have another address that we can write to you at then you can use your solicitor's address for any correspondence.

If you have a usual home address or postal address, this is the address we will use.

If you have been remanded into custody by the court or are already a serving prisoner you should provide your usual home address and the name of the prison as your correspondence address.

**Note 3 Why do you need to know my age?**

If you are under 18 when you apply, you should tick 'yes' and you will automatically pass the means test and only need to fill in form CDS14. For some cases, such as those in the magistrates' or youth court, you will also need to pass the Interests of Justice test.

If you are over 18, you should tick 'no'. If you are not on any of the benefits listed in Q10 you will also need to fill in form CDS15 and submit it with this form.

**Note 4 Why do you need to know what benefits me or my partner receive?**

If you tick 'yes' to any of the benefits we ask about in question 10, we will use your National Insurance Number (or your partner's) to verify this with the Department for Work and Pensions (DWP).

If we can confirm your benefits, you will automatically pass the means test and only need to fill in form CDS14. (For some cases you will also need to pass the Interests of Justice test).

If the check with the DWP doesn't confirm that you are on that benefit you can either provide evidence (see Note 1) or fill in form CDS15.

If you tick 'no' to the benefits we ask about in Q10, you will also have to fill in form CDS15.

**Note 5 What happens if my partner is involved in the case as a victim, prosecution witness or co-defendant with a conflict?**

If you tick 'yes', to any of these options, you do not need to fill in any partner details throughout the form.

If you tick 'none', then the questions about your partner need to be answered on form CDS14 where you are asked and on form CDS15 where this is also needed. Your partner must also sign the form.

**Note 6 What should I do if my partner is unable to sign the declaration?**

If your partner is unable to sign the form, for example they are in hospital, you must set out the reasons why and give us their contact details

If your partner doesn't sign the form and you complete Q18, this doesn't always mean that your application can be processed. Sometimes the court will return your application and tell you that your partner still needs to sign, for example if they are working away.

If you have been remanded into custody by the court and your case is going to the Crown Court for trial, your partner still needs to sign the form. If they are not able to do this before you submit your application, the court can still process it, but they will issue a reminder to tell you that your partner still needs to sign. If the court has reminded you and your partner still doesn't sign the form, you could be asked to pay £900 per month (or more, if your monthly disposable income is higher than that).

If you are having genuine difficulty, you (or your solicitor) can speak to the court for more advice.

**Note 7** What is the Further Information section for?

You may give us any additional information in support of your application.

**Note 8** What is the Disability and Equal Opportunities Monitoring part for?

This helps us to understand more about the background of people who apply for legal aid. You must complete this section but you may choose the "prefer not to say" options. Your personal information will be held confidentially and helps us with statistical monitoring and research.

**Part B - Interests of Justice**

**Note 9** How do I fill in this section?

If you can, you should get help from a solicitor to fill in PART B. This is because they can provide you with the proper legal reasons why you should be granted legal aid.

Your solicitor may wish to consult the guidance by the Justices' Clerks' Society on the Interests of Justice test, which is available at [www.legalservices.gov.uk](http://www.legalservices.gov.uk).

**How do I know if my Arrest Summons Number (ASN) is available?**

This is shown on the 'charge sheet' the police will have given to you when you were charged at the police station. If you are unable to provide this the court will still be able to process your application.

**How do I know what 'class of offence' I have been charged with?**

Your solicitor will be able to help you complete this part of the form.

**Note 10** I don't understand the reasons for wanting representation given in question 4a.

Some types of case, such as Crown Court trials, will always pass the Interests of Justice test and your solicitor will be able to help you with this section.

i) It is likely that I will lose my liberty if any matter in the proceedings is decided against me:

Loss of liberty does not include non-custodial sentences but does include remand into custody and prison sentences (including hospital orders). If the entry point for this offence in the magistrates' guidelines is not custody, please explain why you think custody is likely in this case (for example, relevant previous convictions, aggravating features of the offence). Please give dates of relevant convictions, if known.

ii) I have been given a sentence that is suspended or non-custodial. If I break this, the court may be able to deal with me for the original offence:

You should give details of your sentence its conditions, alleged breach and if this is the first or subsequent breach of the order.

iii) It is likely that I will lose my livelihood:

The loss of livelihood should be a direct result of the conviction or sentence - please provide supporting evidence where possible. This would normally refer to your current livelihood, although it can apply if someone is genuinely unemployed for a short period between jobs. If you plan to plead guilty, please explain how legal representation might help you avoid losing your livelihood.

iv) It is likely that I will suffer serious damage to my reputation:

Reputation refers to good character, including honesty and trustworthiness, and is not related to social class or position. 'Serious' damage is judged to happen in cases where the disgrace of a conviction is more than the direct effect of the penalty. If you plan to plead guilty, please explain how legal representation might help you avoid serious damage to your reputation.

v) A substantial question of law may be involved (whether arising from an act, judicial authority or other source of law):

This applies where any matter in relation to the proceedings raises a point of law, which you cannot be expected to deal with unaided. Please explain why the question of law is relevant to the case. Questions of fact alone are not relevant. Where possible, please list the cases or laws, which give rise to the question of law.

vi) I may not be able to understand the court proceedings or present my own case:

There may be a number of reasons why you may not be able to understand court proceedings or to present your own case. These may include (but are not limited to) mental or physical disability, poor knowledge of English, age or vulnerability. The ability to understand proceedings or to present your own case is also likely to depend on how complicated the case is.

vii) Witnesses may need to be traced or interviewed on my behalf:

You may need witnesses to be traced or interviewed to see whether they can support your case if pleading not guilty or to help with a plea of mitigation (an explanation for the offence given on behalf of a guilty party in order to excuse or

partly excuse the offence committed in an attempt to minimise the sentence) if pleading guilty. You should explain why you need legal representation to trace or interview witnesses.

viii) The proceedings may involve expert cross-examination of a prosecution witness (whether an expert or not):

Expert cross-examination is likely to be needed where you are pleading not guilty and you expect the prosecution to call witnesses whose evidence you want to challenge. You are likely to need a lawyer to carry out expert cross-examination on your behalf if the evidence to be given by the prosecution witness is complicated or technical.

ix) It is in the interests of another person (such as the person making a complaint or other witness) that I am represented:

If you are charged with a sexual or violent offence, or where the person making a complaint is a child, it would not be appropriate for you to cross-examine in person. This criterion should not be used to argue that legal representation is in the general interests of your family or of the court.

x) Any other reasons

Please provide full details of any other reasons (which you have not mentioned elsewhere on the form) why you think it would be in the interests of justice that you are represented. For example, legal representation might be justified if you are likely to receive a demanding community sentence if convicted or if defence witnesses need skilful examination.

## **Part C - Declaration**

**Note 11** My partner is unable to sign the declaration.

If you have a partner (and you have ticked 'none' in question 12) they need to sign the form. But, if your partner is unable to sign at the point of application, please refer to note 6 and question 18 in Part A.

If your case is a Crown Court trial and your partner's signature isn't on the form when you apply, your representation order can still be issued but a reminder will be issued for your partner to sign the form afterward, even if you have been remanded into custody by the court.

It is important to know that by signing your declaration on this form you are giving the Legal Services Commission, the courts and your solicitor consent to approach and check the information where your partner is contactable.

## **CDS15: Financial Statement for Legal Aid in Criminal Proceedings**

### **General**

You must also fill in form CDS14 and submit it with this form.

The form must be filled in BLOCK CAPITALS and black or blue ink. If we can't read your application, we will return it. You should ask a solicitor for advice if you are not sure how to answer any questions on the form.

This form asks questions about your income, property and capital (and your partner's if you have one).

It is important that you tell the truth and that you are accurate when you fill this form in. If you tell us anything on the application form that is untrue, or leave anything out:

- a) You may be prosecuted which could result in a prison sentence or a fine; or
- b) You may have to repay all of the cost of your legal aid, and in addition, your legal aid may be taken away; or
- c) The Legal Services Commission may vary the amount of any Contribution Order you have to pay (if your case is in the Crown Court)

The information you provide on this form is used to do the means assessment. It determines whether:

- You are financially eligible in the magistrates' court
- You have to contribute to your defence costs in the Crown Court

Your application will be accepted if your partner is unable to sign, for example if they are in hospital, but you must provide evidence of this. But this does not mean that the court will process your application. They will assess the reasons you have set out in question 18 on form CDS14 and decide whether it is acceptable.

If the court does not accept your explanation then we will require you to gain your partner's signature before your application can be processed and any representation order issued.

If you have been remanded into custody by the court and your case is going to the Crown Court for trial, your partner must still sign the form. If they are not able to do this before you submit your application, the court can still process it, but they will issue a reminder to tell you that your partner still needs to sign. If the court has reminded you and your partner still doesn't sign the form, you could be asked to pay £900 per month (or more, if your monthly disposable income is higher than that).

If you do not provide supporting evidence where we ask, your application will be returned to you. If you are having genuine difficulty, you (or your solicitor) can speak to the court for more advice.

To find out more about our financial assessment, you can read our guidance. This can be found in the office of any firm of solicitors involved in criminal defence work or online at [www.legalservices.gov.uk/criminal/getting\\_legal\\_aid/guidance.asp](http://www.legalservices.gov.uk/criminal/getting_legal_aid/guidance.asp)

## **Part A – Income**

### **Note 12 Who should complete this section?**

If you are employed you should complete this section, answering the questions as directed. If you are employed cash in hand, you should still complete this section and you will still need to provide evidence.

If you are self-employed or a company partner you should tick 'no' and complete the rest of the form as directed. You must also complete **Part B**.

If you are employed and also a company director or shareholder in a private company you should complete **Part A** and **Part B**.

### **What kind of evidence do I need to provide to prove my income?**

You must provide your most recent available pay slip (or pay slips if you have more than one job). This must be dated within the last three months. If a pay slip cannot be provided we will need a letter from your employer, telling us how much you have earned in the last 12 months.

If you are employed, have been remanded into custody by the court and are unable to provide a pay slip, you should fill in the remainder of the form (including question 1c) and tick the box that says 'I have been remanded into custody by the court' in the declaration on page 9.

If you have been remanded into custody by the court and your case concludes in the magistrates' court you won't need to provide the evidence.

If your case progresses to the Crown Court for trial, you will need to provide the evidence within 14 days. The court will send you a request if your case is in the Crown Court and there is still evidence missing. If the court has reminded you and you still haven't provided the evidence, you could be asked to pay £900 per month (or more, if your monthly disposable income is higher than that).

If you have been remanded into custody by the court, we still expect you to provide the evidence and your solicitor can assist you with this.

However, if you are having genuine difficulty providing the evidence we ask for, you (or your solicitor) can speak to the court for more advice.

### **Note 13 What do you mean by benefits from work that are not money?**

This refers to any benefits you receive (usually from your employer) instead of, or in addition to, cash payments or salary and are known as 'benefits in kind'. Some examples include:

- Company car, fuel allowance (or both)
- Private health insurance
- Free accommodation
- Luncheon vouchers
- Childcare vouchers
- Help with paying your mortgage
- Relocation payments

HM Revenue and Customs (HMRC) treat benefits such as these as taxable income even though they aren't received in cash. If you receive any of these (or any other benefits in kind that aren't listed) you must tell us about them. Their value is counted as income on the means assessment.

You also need to provide a copy of Form P11D. This can be requested from HMRC.

**Note 14** If I give you my pay slip do I still need to complete question 1c?

Yes, you still need to complete this question, even if you have provided evidence.

**What if I only know my salary or wage but not the deductions (such as tax and National Insurance)?**

You should complete the question to the best of your ability. Where deductions information is missing, the court can still process but if the information you provide does not match the supporting evidence your application will be reassessed once the evidence is received. If your case is in the Crown Court, this could mean a change to whether you need to pay from your income and the amount.

**Note 15** Why don't you ask for the amount of housing benefit?

Question 7a asks you to tell us about your housing costs after deducting housing benefit, so you don't need to declare how much you receive here.

**What if I don't receive any of the benefits listed?**

If you don't receive any of the benefits listed then you need to tick the no box for each of the benefits listed including 'any other benefit'.

**Note 16** What kind of evidence do I need to provide to prove any income I receive from a private pension?

If your pension is £1,000 or more you must provide either a recent bank statement (within the last three months) to show the amount you receive from a private pension or your annual pension statement which shows how much you will receive.

**If I have any other income do you need evidence of this?**

If you have ticked yes to receiving rent or income from any other source you need to provide bank statements for the last 3 months.

**Note 17** What should I consider when completing question 7?

It is important that you tell us how much rent and/or mortgage you and/or your partner pay, after you have deducted the amount of any housing benefit received.

What about the money I spend on things like water, gas and electricity or other household expenditure?

The reason we only ask about your housing costs and not any of the household bills such as water, electricity and gas that you pay is because the means assessment automatically includes a living allowance, which takes your family circumstances into account.

The living allowance covers a range of living costs, such as food, clothing, education, transport and utility costs (water, heat and power).

If you would like more information on what is included in the living allowance, go to the 'Criminal Legal Aid Manual' on the Legal Services Commission website – [www.legalservices.gov.uk](http://www.legalservices.gov.uk) - and look at the 'General Principles of Assessment' section.

**What evidence do I need to provide?**

If your housing costs, after deducting housing benefit, are more than £500 per month, you will need to provide evidence of this. This could be a copy of your tenancy agreement or mortgage statement. We may also need evidence that you are paying this, so we may ask for bank statements too.

**Note 18** What evidence do I need to provide for my childcare costs?

If your child-care costs are more than £500 each month, you must provide a receipt of payment or bank statement.

**Note 19** What further information can I add on page 4?

The 'Further Information' box on page 4 can be used to clarify any information you have provided elsewhere on the form.

If you don't have any income and don't get any benefits you need to tell us how you support yourself and pay for things like your bills or day-to-day living expenses. The court will look at the reasons you have given and decide whether it is acceptable.

**Part B - Self-employment, partnerships and directorships**

**Note 20** I'm not sure if I am self-employed, in a partnership, or in a directorship.

If you are not sure whether you are self-employed or not, these questions may help:

- **Do you give clients invoices for the work you do for them?**
- **Do you have a number of different clients that you work for?**
- **Is it up to you to find the work that you do?**
- **Are you responsible for the losses of your business as well as receiving the profits?**
- **Can you hire other people to do the work you've taken on?**
- **Have you invested your own money into your business?**
- **Do you provide major items of equipment, which are essential for your work?**
- **Have you had to fill out a self-assessment tax return for Her Majesty's Revenue and Customs (HMRC)?**

If you have answered **yes** to most of these questions then you are probably self-employed. Working for yourself (being self-employed) does not mean that you cannot also work for someone else (as an employee).

Many small businesses are **sole-traders**. This means that you receive all the income generated by the business to keep for yourself or to re-invest. You are in complete control and can make decisions as you choose. Sole-traders also assume complete responsibility for liabilities and debts.

As a sole-trader you are required to make an annual self-assessment tax return to HMRC. You must also keep records showing your business income and expenses. **You must supply both of these when applying for legal aid.**

In a **partnership**, two or more people share the risks, costs and responsibilities of the business. Each partner is self-employed and takes a share of the profits. Usually each partner shares in the decision-making and is personally responsible for any debts of the business. A partnership is not the same as a limited company. You should answer 'Yes' to this question even if you are a **sleeping partner** (that is, you are not involved in the partnership, but you are entitled to a share of the business and its profits).

The partnership itself **and** each individual partner must make an annual self-assessment tax return to HMRC. The partnership must also keep records showing business income and expenses. **You must supply your tax return, the partnership's tax return and the partnership's most recent business accounts when applying for legal aid.**

A **company director** is anyone registered as a director of a limited company (this does not include charities). A company director does not need to hold shares in that company. **You must supply you company's business accounts and your full self-assessment tax return when you apply for legal aid.**

For the purposes of this form **shareholder** means anyone who holds a number of shares in a **private limited company**.

**If you have ticked "yes" to question 2 you must provide the most recent copy of your completed business accounts and your full self-assessment tax return form (sa100). It is not sufficient to only supply your tax calculation sheet. This**

is because not everything that is counted as a deduction in your tax calculation is an allowed outgoing on the means assessment.

If you are a **subcontractor** you undertake work from a contractor. From 6th April 2007, the Construction Industry Scheme (CIS) places an obligation on contractors to make a monthly return. CIS paper vouchers will not be used after this date. Subcontractors now receive a **statement of payment and deduction**, which **must** be provided when applying for legal aid.

If you work for an **agency**, you may not be classed as an employee of the company you are working for, but you must supply wage slips **for the last three months to date**.

### **When the question says 'How many', what does that mean?**

If you have more than one form of self employment, are a director/partner in more than one company or have multiple shareholdings you need to tell us how many.

### **Note 21 Can you explain the difference between the terms used to describe self-employed income and what evidence should I provide?**

There are three main types of income you are likely to get if you are self-employed:

- Turnover** The total of invoices (sales) issued during an accounting period excluding any VAT.
- Drawings** Money or goods that the owner or partner takes out of the business takes out of the business for personal use.
- Profit** This is your turnover minus expenses such as travel, rent and rates and telephones.

If you are self-employed, with any of the types of income described above, you must provide the most recent copy of your completed financial accounts and full self-assessment tax return form (SA100). For a full list of evidential requirements please refer to the Criminal Legal Aid Manual, which is available on the Legal Services Commission website – [www.legalservices.gov.uk](http://www.legalservices.gov.uk) > criminal defence service > criminal legal aid eligibility.

### **What if I can't answer all of the questions in question 5?**

Based on your form of employment, please accurately complete the breakdown of your income in this section, to the best of your ability.

The entirety of this question may not be relevant to your form of employment, however if a particular section has not been addressed (which is relevant), your application will be returned for completion, before the outcome of your application can be determined.

Any questions that you consider are not relevant should be marked 'N/A', not left unanswered.

**Note 22**      **Do I need to complete Part C?**

If you have been charged with an either-way or indictable offence, you must complete Part C. Your solicitor will be able to tell you what type of offence you have been charged with.

The information you declare on Part C must provide sufficient information so that what you tell us can be verified. If the information isn't sufficient, your application will be not be processed and will be returned to you.

**What do you mean by 'does anyone else own a share' of this property?**

This would normally apply if you have bought your property on a shared ownership basis, or if someone other than you, your partner if you have one, or your mortgage lender owns a share of your property.

**Note 23**      **What if I don't know the exact market value or outstanding mortgage/loans on the property (or properties) I own?**

We don't expect you to get a valuation or mortgage statement to answer these questions but you do need to provide a reasonable estimate, as we will check the information you provide with third parties such as the Land Registry.

**Note 24**      **What if I have multiple properties, land or business premises?**

You should make this clear in the further information box and provide details on another sheet if necessary. If you do provide a further sheet, you need to include on this your name and date of birth.

**Do I need to provide any evidence for any of the questions on page 6?**

Because we will check the information you put on the form, you don't need to provide any additional evidence for the questions on page 6. The court will also check that you have given a full postal address on form CDS14.

**Note 25**      **Do I need to tell you about my current account or just any bank/building society accounts I have savings in?**

You need to tell us about all of your bank and building society accounts, including your current account and any accounts that are empty or overdrawn. You should also tell us about any accounts that you have benefits, wages or salary paid into.

**What if I don't know my sort code or account number?**

If you do not know this information at the point of application, we can accept the application form as long as you have provided the name of your bank/building

society and the name of the branch for each of the bank/building society accounts you hold.

**What if I don't know my current balance?**

We don't expect you to know your exact balance to answer this question but you do need to provide a reasonable estimate.

**What if I have a National Savings Certificate and don't know the type of investment or cash value?**

If you do not know this information at the point of application you should confirm that you have a National Savings Certificate, the type of investment and provide a reasonable estimate of the value.

**What if I have Premium Bonds but don't know the holder's number or cash savings value?**

If you do not know this information at the point of application you should confirm that you hold Premium Bonds and provide a reasonable estimate of the value.

**If I have ticked yes to anything for question 3, what evidence do I need to provide and when do I need to provide it?**

You will need to provide documents that support the information you have given on the form, such as:

- 3a Most recent 3 months of bank statements for each account
- 3b Building society statements / pass books showing transactions for the last 3 months for each account
- 3c Cash ISA statement / certificate for each Cash ISA
- 3d Premium Bond certificate(s)
- 3e National Savings or Post Office Account statements covering the last 3 months for each account
- 3f National Savings Certificate(s)
- 3g Statement / passbook / certificate covering transactions for the last 3 months

The evidence can be either the original (the court will take a copy and return the original to you) or a copy certified by your solicitor and needs to be provided within 14 days of your case going to the Crown Court. This includes if you have been remanded into custody.

The court will send you a reminder if there is any evidence missing. If you have been remanded into custody by the court, we still expect you to provide the evidence and your solicitor can assist with this.

If the court has reminded you and you still haven't provided the evidence, you could be asked to pay more of your defence costs at the end of your case.

However, if you are having genuine difficulty providing the evidence we ask for, you (or your solicitor) can speak to the court for more advice.

**If I have ticked yes to anything for question 4, what information do you need on the form?**

If you have any investments, the information you declare must be sufficient so that they can be identified. If the information provided is not sufficient to identify the investment your application form will be returned to you.

For example if you have shares to the value of £5,000, you should tell us how the shareholding is made up, such as National Express £2,000, Marks & Spencer £1,500, HSBC £1,500.

**What evidence do I need to provide for question 4?**

You will need to provide documents that support the information you have given on the form, such as:

- 4a Certificate for each Stock held
- 4b Latest dividend counterfoil for each company in which you hold shares
- 4c Certificate for each PEP investment
- 4d Certificate for each Share ISA investment
- 4e Certificate for each Unit Trust investment
- 4f Certificate for each Investment Bond
- 4g Statement / passbook / certificate covering transactions for the last 6 months

The evidence can be either the original (the court will take a copy and return the original to you) or a copy certified by your solicitor and needs to be provided within 14 days of your case going to the Crown Court. The court will send you a reminder if there is any evidence missing.

If you have been remanded into custody by the court, we still expect you to provide the evidence and your solicitor can assist with this.

If the court has reminded you and you still haven't provided the evidence, you could be asked to pay more of your defence costs at the end of your case.

However, if you are having genuine difficulty providing the evidence we ask for, you (or your solicitor) can speak to the court for more advice.

**If I have a trust fund what do I need to tell you and what evidence do I need to provide?**

If you have been remanded into custody by the court, you should give us a reasonable estimate of the amount held in the trust fund and the yearly dividend. But, if you have been released on bail, we expect you to get this information before you submit your application.

You will also need to provide evidence. This can be either the original (the court will take a copy) or a certified copy and needs to be provided within 14 days of your case going to the Crown Court. The court will send you a reminder if this evidence is missing.

If you have been remanded into custody by the court, we still expect you to provide the evidence and your solicitor can assist with this.

If the court has reminded you and you still haven't provided the evidence, you could be asked to pay more of your defence costs at the end of your case.

However, if you are having genuine difficulty providing the evidence we ask for, you (or your solicitor) can speak to the court for more advice.

### **For Part D – who needs to complete this section?**

This section should be completed if you have been charged with an either way or indictable offence. Your solicitor will be able to tell you what type of offence you have been charged with.

If this section is not completed, the court will still be able to process your application but if your case is a Crown Court trial and you are required to contribute to the costs of your defence, we will be in touch to confirm your payment arrangements.

### **Note 26** What should I do if my partner is unable to sign the declaration on the form?

If you have a partner (and you have ticked 'none' in question 12 on form CDS14) they must sign the form. But, if your partner is unable to sign at the point of application, please refer to note 6 and question 18 in Part A on form CDS14.

If your case is a Crown Court trial and your partner's signature isn't on the form when you apply, your representation order can still be issued but a reminder will be issued for your partner to sign the form afterwards, even if you have been remanded into custody by the court.

It is important to know that by signing your declaration on this form you are giving the Legal Services Commission, the courts and your solicitor consent to approach and check the information where your partner is contactable.

### **Note 27** There is a lot of information here. What do I need to know?

The declaration on the form covers a number of circumstances including for magistrates' court cases, committals for sentence, appeals to the Crown Court and Crown Court trials.

Your solicitor will be able to explain this to you in more detail but it is important to know that by signing your declaration on the form you are giving the Legal Services Commission, the courts and your solicitor consent to approach third parties and check the information you have provided.

**Note 28 What happens if I don't attach the evidence?**

If your case is in the magistrates' court, is committed for sentence or is an appeal to the Crown Court, you will need to provide evidence of your income (and outgoings if necessary) when you apply. If you don't, the court will return your application for you to get the evidence and resubmit. Your application will not be processed without it.

If you have been remanded into custody and your case is in the magistrates' court, you won't need to provide the evidence but you will need to tick the box on the declaration.

If your case progresses to the Crown Court for trial, evidence of your income and capital will need to be provided within 14 days, even if you have been remanded into custody. Your solicitor can assist with this.

**CDS16: Application for Review on the Grounds of Hardship**

**General**

This form is for applicants who want to request a review on the grounds of hardship and can be submitted at any point before your case concludes. The CDS16 can only be submitted in addition to the CDS14 and CDS15. Further guidance on how the Hardship Review process works and what types of expenditure are included can be found in the 'Criminal Legal Aid Manual' on the Legal Services Commission Website – [www.legalservices.gov.uk](http://www.legalservices.gov.uk).

It is important that supporting evidence is enclosed with the application form. Originals are not required – legible photocopies are sufficient. Applications will be rejected without assessment if the supporting evidence is not provided when requested.

You must complete all relevant sections on the application form except Part C, Solicitor Details and Solicitors' Costs. Your solicitor will complete these parts.

**Part A – Applicant Details**

You should complete this section.

**Part B – Reasons for review on the review on the grounds of hardship**

**Other sources of funding**

Following a recent policy change, this section does not need to be completed

**Denied access to income**

This section applies to magistrates' and Crown Court cases and should be completed if relevant.

Details should be provided of any income declared on the CDS15 that has been denied to you e.g. where wages have not been paid or you are subject to a

restraining order. Details should only be included of income that has been denied to you in the last 12 months. You will need to provide evidence of this, eg letter from your employer confirming suspension of pay or a copy of the restraining order.

### **Extra Expenditure**

This section applies to magistrates' and Crown Court cases and you should complete this section if relevant, providing evidence for each type of expenditure you declare.

### **Additional Information**

This section applies to magistrates' and Crown Court cases and you should use this section to tell us about any additional circumstances that have not been taken into account elsewhere on the form, but would impact on you being able to pay privately for the cost of your defence in the magistrates' court or meet any income contribution in the Crown Court.

### **Part C – Solicitor's details**

Your solicitor will complete this section.

### **Where to send your application**

If you submit your Hardship Review application (CDS16) at the same time as your initial application (CDS14 and CDS15), both applications should be sent to the magistrates' court where case will be heard.

If you submit your Hardship Review application directly to the LSC, you should send it to the office your solicitor usually sends their legal aid claims to. Contact details are shown below.

### **CONTACT DETAILS**

NCT - Liverpool Office  
Legal Services Commission  
Cavern Walks  
8 Mathew Street  
Liverpool  
L2 6RE  
DX: 14208 LIVERPOOL-1

NCT - Nottingham Office  
Legal Services Commission  
Fothergill House  
16 King Street  
Nottingham  
NG1 2AS  
DX: 10035 NOTTINGHAM