

Community Legal Service

KEYCARD NO 45 - Issued April 2009

General

This card is intended as a quick reference point only when assessing financial eligibility for those levels of service for which the supplier has responsibility: Legal Help; Help at Court; Legal Representation before the Asylum and Immigration Tribunal, and before the High Court in respect of an application under s. 103A of the Nationality, Immigration and Asylum Act 2002; Family Mediation; Family Help (Lower), and Legal Representation in respect of Specified Family Proceedings before a Magistrates' Court (other than proceedings under the Children Act 1989 or Part IV of the Family Law Act 1996). Full guidance on the assessment of means is set out in Part F of Volume 2 of the Legal Services Commission Manual. References in this card to volume and section numbers e.g. volume 2F-section 1 are references to the relevant parts of that guidance. Suppliers should have regard to the general provisions set out in guidance volume 2F-section 2, particularly those set out in sub paragraphs 3-5 regarding the documentation required when assessing means. This keycard and the guidance are relevant to all applications for funding made on or after 6 April 2009.

Eligibility Limits

The summary of the main eligibility limits from 6 April 2009 are provided below:

Level of Service	Income Limit	Capital Limit
<p>All Levels of Service*:</p> <ul style="list-style-type: none"> ○ Legal Help; ○ Help at Court; ○ Family Mediation; ○ Family Help (Lower), and ○ Legal Representation before the Asylum and Immigration Tribunal, and before the High Court in respect of an application under s. 103A of the Nationality, Immigration and Asylum Act 2002; ○ Legal Representation in respect of Specified Family Proceedings before a Magistrates' Court (other than proceedings under the Children Act 1989 or Part IV of the Family Law Act 1996). 	<p>Gross income not to exceed £2657** per month</p> <p>Disposable income not to exceed £733 per month.</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Income Based Employment and Support Allowance or Guarantee Credit.</p> <p>[Also passported for Legal Help, Help at Court and Legal Representation (asylum and immigration matters only), if in receipt of NASS Support].</p>	<p>Disposable Capital not to exceed</p> <p>£3000 (CLR immigration matters)</p> <p>£8000 (All other levels of service)</p> <p>Passported if in receipt of Income Support, Income Based Job Seekers' Allowance, Income Based Employment and Support Allowance or Guarantee Credit.</p> <p>[Also passported for Legal Help, Help at Court and Legal Representation (asylum and immigration matters only), if in receipt of NASS Support].</p>

* May be subject to contribution from income and/or capital (see volume 2F-section 3.2 paras 1 to 5)

** A higher gross income cap applies to families with more than 4 dependant children. Add £222 to the base gross income cap shown above for the 5th and each subsequent dependant child.

Additional information regarding the financial eligibility criteria is also provided in guidance volume 2f-section 3

STEP BY STEP GUIDE TO ASSESSMENT

Step One Determine whether or not the client has a partner whose means should be aggregated for the purposes of the assessment (see guidance in volume 2F-section 4.2 paras 1-5).

Step Two Determine whether the client is directly or indirectly in receipt of a 'passporting' benefit in order to determine whether the client automatically satisfies the relevant financial eligibility test, as indicated by the 'passported' arrangements stated in the eligibility limits summary table.

Step Three For any cases which are not 'passported' determine the gross income of the client, including the income of any partner, (see guidance in volume 2F-section5). Where that gross income is assessed as being above £2,657 per month, then the client is ineligible for funding for all levels of service and the application should be refused without any further calculations being performed. Certain sources of income can be disregarded and a higher gross income cap applies to families with more than 4 dependant children (see guidance in volume 2F-section 3).

Step Four For those clients whose gross income is not more than £2,657 per month assess disposable income. Fixed allowances are made for dependants and employment expenses and these are set out in the table below. Other allowances can be made for: tax; national insurance; maintenance paid; housing costs and child-care. If the resulting disposable income is above the relevant limit then funding should be refused across all levels of service without any further calculations being necessary.

Fixed rate allowances (per month) from 6 April 2009	
Work related expenses for those receiving a wage or salary	£45
Dependants Allowances	
Partner	£159.25
Child aged 15 or under	£243.81
Child aged 16 or over	£243.81
Housing cap for those without dependants	£545

Step Five Where a client's disposable income is below the relevant limit then it is necessary to calculate the client's disposable capital (see guidance in volume, 2F-section7). If the resulting capital is above the relevant limit, then the application should be refused.

Step Six For those clients whose disposable income and disposable capital have been assessed below the relevant limits then for all levels of service other than Legal Representation in Specified Family Proceedings, the client can be awarded funding.

Step Seven For Legal Representation in Specified Family Proceedings, it is necessary to determine whether any contributions from either income or capital (or both) should be paid by the client (see guidance in volume 2F-section 3.2 paras 1 to 5). For ease of reference the relevant income contribution table is reproduced below. Such contributions should be collected by the supplier (see guidance in volume 2F-section 3.2 para 4).

Band	Monthly disposable income	Monthly contribution
A	£316 to £465	1/4 of income in excess of £311
B	£466 to £616	£38.50 + 1/3 of income in excess of £465
C	£617 to £733	£88.85+ 1/2 of income in excess of £616