

Getting legal advice

About this factsheet

This factsheet helps you identify how to get the help you need, including legal information and advice on civil matters (where you have a dispute with another individual or organisation); but not criminal matters.

It covers free advice from local and national agencies and legal information on the internet, as well as getting advice from a solicitor. It also looks at options for paying for advice and provides information on Legal Aid.

The information given in this factsheet is applicable in England. Different rules may apply in Wales, Northern Ireland and Scotland. Readers in these nations should contact their respective national offices for information specific to where they live – see section 15 for details.

If you need further information or advice, see section 15 for details of how to order other Age UK factsheets and information materials. You will also find the telephone numbers for Age UK Advice there.

If you need more detailed advice tailored to your personal circumstances or representation, it is often best to find a local service offering this. Age UK Advice can give you contact details for a local Age UK, or you could contact one of the independent organisations listed in section 14.

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1 Recent developments

- The Legal Aid, Sentencing and Punishment of Offenders Bill, which proposes major changes to Legal Aid funding, has just been passed by the House of Lords and sent to the House of Commons to be passed.
- The Consumer Direct is to be closed down from the end of March 2012 and its services transferred to Citizens Advice which will now deliver the services formerly carried out by Consumer Direct.
- The Government, after consultation with the public, has announced its intention to amend the law relating to no-win no fee agreements, to permit damage-based/contingency fee agreements to be used contentious matters i.e Litigation.
- The Government also announced, after the same consultation, that successful parties- subject to conditional fee agreements will now have to bear the cost of their own Lawyer's success fees. In addition success fee's in Personal Injury cases will now be fixed at a limit of 25%.

2 Finding legal advice and information

There are many sources of free legal information and advice – for example, you may be able to find the information you need through a helpline or on the internet. In some situations you will need to see a solicitor, but you may be able to get the help you need from an advice agency or another organisation (see section 14 for more details of useful organisations).

2.1 Community Legal Service

The Community Legal Service (CLS) is run by the Legal Services Commission, which administers the Legal Aid system. It sets a quality mark standard for all legal advice agencies and legal firms at the levels of general help, general help with casework and specialist help. Organisations that are assessed to meet the quality mark standard include solicitors, generalist advice agencies and specialist advice agencies.

The CLS has a directory listing all quality-marked organisations. The directory is available online or by can be ordered by phone (see section 14). Some of these organisations provide free legal advice; some will charge you for their work.

The CLS directory includes all organisations that can provide advice under civil Legal Aid funding. You can search by geographical area, the level of specialism and the subject you need help with. Subject areas currently include family, welfare benefits, housing, debt, employment, immigration, mental health, consumer affairs, clinical negligence, personal injury, actions against the police, education, community care, public law and crime.

You can also search for organisations that provide advice targeted at specific groups including people with alcohol problems, carers, people with disabilities, lesbians, gay men and bisexuals, minority ethnic groups, older people, patients, people with HIV/AIDS, and prisoners. If you require a language other than English, you can search for the language of your choice.

Community Legal Advice (CLA) was the name for Community Legal Service Direct, the CLS website. It offered a free legal advice service for people who eligible for Legal Aid. The Government announced the closure of this website – effective from 6 April 2011 and transferred its content to the www.direct.gov.uk website, which will contain a section on Legal Aid in the Government, Citizens and Rights section. Specialist casework is still available over the phone and by post, in cases relating to benefits and tax credits, debt, employment, education and housing.

The CLA adviser will ask you questions to find out if you are eligible for Legal Aid. If you are, you will be transferred to a specialist adviser; if you are not, CLA can still send you leaflets and provide details of local advice services. You can also use the calculator on the website to see if you are eligible for Legal Aid.

2.2 Legal information on the internet

A lot of information on legal rights is available on the internet (see below). You may be able to find the answer to your question without having to seek further advice:

- www.adviceguide.org.uk is the online Citizens Advice Bureau service. It provides information on your legal rights, including 'frequently asked questions' and factsheets that can be downloaded.
- www.advicenow.org.uk is an independent, not-for-profit website providing information on legal rights and issues. It includes many links to information provided by other organisations, all of which have been checked to ensure the information is accurate and up to date.
- www.adviceuk.org.uk is the website of Advice UK, a national network of organisations providing advice. There are links to sources of information and advice on a range of subjects.
- www.direct.gov.uk is the Government's information website www.direct.gov.uk is a government website that brings together public service information, including information about your legal rights. The Government has transferred a number of websites into this website, in a bid to reduce the number of websites under the various heads and bring them under one platform. There is a section specifically aimed at educating people over 50 of their rights to protection from discrimination. It also now contains the information previously held on the Community Legal Service website, which provided free legal information leaflets and links to other sources of information and advice, as well as the information held by the various Tribunal's websites, such as the Employment and Employment Appeal Tribunals, The Asylum and Immigration Tribunals, The Mental Health Tribunals etc.

3 Local advice organisations

Advice from the agencies described in this section is usually free. Most will only give advice, and will not be able to represent you in court or at a tribunal. Check whether there will be any charge and whether or to what extent the agency will provide casework and representation, for example by writing letters on your behalf or providing representation for you in court if required.

3.1 Age UK

On 1 April 2009, Age Concern England and Help the Aged joined to create a new charity dedicated to improving the lives of people in later life. The new charity is called Age UK.

All Age UK's should be able to signpost you to reliable sources of information and advice, and many Age UK's have their own information and advice service. They do not usually offer legal representation but can give information and advice on a range of issues such as social care and benefits, and should be able to signpost you to other local services.

For details of your nearest Age UK, ring Age UK Advice on 0800 169 65 65 (free call, daily 8am to 7pm) or visit www.ageuk.org.uk, where a wide range of free information materials can also be viewed and downloaded.

3.2 Citizens Advice Bureau

Citizens Advice Bureaux (CAB) are locally run charities operating in most areas of the country. Their umbrella organisation is Citizens Advice. They advise on a range of legal problems including debt, benefits, housing, employment and consumer problems. You should be able to obtain the address of your local CAB from the local library, your local council, the local telephone directory or via the website www.citizensadvice.org.uk.

Citizens Advice also has another website, www.adviceguide.org.uk, which includes information on subjects such as employment, housing, debt, welfare benefits and consumer affairs.

3.3 Law Centres

Law Centres are independent, locally based charities that provide free legal advice and representation. They have rules about who is eligible for their free services so you should contact them to find out if you qualify. They employ solicitors and other specialists to advise in specific areas of social welfare law such as housing, employment, immigration, education, benefits and community care. Their umbrella organisation is the Law Centres Federation. They will tell you if there is a Law Centre in your area or you can use the website www.lawcentres.org.uk Details can also be found in the CLS Legal Advisers directory or in your local phone book.

3.4 Other local advice agencies

There may be another independent advice agency providing free advice in your area. Advice UK is the UK's largest network of free, independent advice centres. Advice UK members include large national advice organisations, as well as small local organisations specialising in a particular area of welfare law or targeting a specific section of the community. You can contact Advice UK on 020 7469 5700 to find a suitable advice provider in your area.

4 Local authority-based services

Most local authorities run or provide funding for advice units.

Welfare Rights Units advise and assist people with problems relating to welfare benefits. Money Advice Units advise about debt and consumer matters. Housing Advice Centres and Tenancy Relations Units advise on housing. Although the housing advice services are usually for council tenants, they will sometimes advise owner-occupiers threatened with repossession. Contact your local authority to find out what is available in your area.

Trading Standards officers can advise you on consumer problems; for example, if you have problems with goods you have bought or a dispute with a local tradesman. Contact your local authority for details or go to www.tradingstandards.gov.uk. Also see section 5.1 below.

5 National and specialist agencies

Many organisations give free information and advice on specific issues, and this may include some legal advice. Some are public bodies; some are charities. They are not necessarily a substitute for a solicitor or other legal adviser, and most do not undertake any casework but provide expertise about their area. The list below is not comprehensive but it does give examples of the range of issues covered. Some may also be able to tell you about lawyers who specialise and who will give their advice free of charge (often called 'pro bono' advice).

5.1 Consumer issues

A range of consumer watchdogs exists – for gas, electricity, water and telecommunications.

Local Trading Standards offices can provide consumer advice (see section 4 above).

Consumer Direct formerly provided an advice and information service on consumer issues, Consumer Direct has however been closed since the end of March 2012. This service is now provided by Citizens Advice.

5.2 Disability

The Equality and Human Rights Commission (EHRC) has taken over responsibility for promoting and enforcing the law on disability discrimination from the Disability Rights Commission (see section 5.4 below). Their helpline gives advice on disability issues among other issues (see section 14).

DIAL UK is a national organisation of 140 local Disability Information and Advice Line Services, run by and for disabled people. Its members can provide information and advice on any aspect of disability although legal representation is not available (see section 14 for details).

5.3 Employment

Trade unions and professional associations can give advice to members on employment law and some unions can arrange legal advice on other matters for members and their families. Contact your union, if you have one, to find out what services you are entitled to. The Trades Union Congress (TUC) runs the Worksmart website (www.worksmart.org.uk), which includes information on employment rights, and a search facility to find the union most relevant to you, or you can call them on 0870 600 4882.

The Advisory Conciliation and Arbitration Service (ACAS) is a publicly funded, independent organisation aiming to improve employment relations. Their website www.acas.org.uk gives useful information on employment rights. ACAS also runs a helpline giving advice and information on employment questions at 08457 474747, textphone: 08456 061600.

5.4 Equality and human rights

The EHRC (see section 5.2 above) replaced the Equal Opportunities Commission, The Commission for Racial Equality, and the Disability Rights Commission. It has responsibility for promoting and enforcing discrimination legislation on gender, race, disability, age, sexual orientation and religion or belief; and for promoting human rights.

The EHRC runs a helpline giving information and guidance on all these issues. In some cases it can take legal action on behalf of individuals. See section 13 for more details.

The EHRC also has responsibility for promoting human rights and encouraging compliance with the Human Rights Act 1998.

Liberty is an independent organisation that gives advice and help about the Human Rights Act 1998 in various areas of law but focuses on test cases only in terms of representation (tel: 0845 123 2307, website: www.yourrights.org.uk).

The British Institute of Human Rights has produced a guide called *Your human rights – a guide for older people*, which can be downloaded from their website at: www.bih.org.uk. They do not give advice to individuals.

5.5 Health and social care

Please note that the agencies below do not offer legal advice, but a complaints service that is free and meant to help resolve matters without the need to resort to litigation.

- Your local Patient Advice and Liaison Service (PALS) provides information, advice and support in relation to complaints about the National Health Service (NHS). To find your nearest PALS, contact NHS Direct on 0845 46 47 or phone your local hospital, clinic or GP surgery. The PALS website is www.pals.nhs.uk.
- The Independent Complaints Advocacy Service (ICAS) is a free, impartial and independent service for people who wish to make a formal complaint about the NHS. PALS or NHS Direct can give you details about your local ICAS service. See Age UK's Factsheet 66 *Resolving problems and making a complaint about NHS care*, for more information.

- For complaints about social services, your local authority will have a complaints procedure and local advice agencies may be able to help with advice on how to challenge decisions. See Age UK's Factsheet 59, *How to resolve problems and make a complaint to the local authority*, for more information.
- If you have a dispute about the standard of care received in a care home, or social care received in your own home, which cannot be resolved informally, you can contact the Care Quality Commission, the independent regulator of health and social care in England on tel: 0300 061 6161 or via their website at www.cqc.org.uk.
- Counsel and Care gives advice on issues around care homes. Contact them on tel: 0845 300 7585 or via their website: www.counselandcare.org.uk.

5.6 Housing

Shelter gives advice on housing issues, such as homelessness, tenants' rights and poor housing conditions. Call them on 0808 800 4444 (free call) or visit the website at www.shelter.org.uk.

The Elderly Accommodation Counsel provides information on housing options for older people, and signposts to relevant advice organisations. Call them on 020 7820 1343 or visit the website at www.housingcare.org.

5.7 Debt

The National Debtline is a national helpline for people with debts, giving self-help advice, counselling and support over the telephone. Free information packs are available. Call them on 0808 808 4000 (free call) or visit the website at www.nationaldebtline.co.uk.

The Consumer Credit Counselling Service is a charity that gives counselling sessions by phone, online or sometimes in person. They can help draw up a repayment plan and propose it to creditors. Call them on 0800 138 1111 (free call) or visit the website at www.cccs.co.uk.

Also see Age UK's Factsheet 75, *Debt management*, for more information and advice.

5.8 Immigration, nationality and asylum

The Immigration Advisory Service provides legal advice and representation to immigrants and asylum seekers. This is free to those who are eligible for Legal Aid. Information on immigration law is available on their website. For central London telephone 020 7967 1229 (answerphone and call back); the website www.iasuk.org gives details of regional services.

The Joint Council for the Welfare of Immigrants offers a free telephone advice service (from 11.00am to 1.00pm on Wednesdays only) and provides a wide range of information materials. Their website is www.jcwi.org.uk.

5.9 Lesbian, gay and bisexual issues

EHRC has responsibility for enforcing legislation on sexual orientation discrimination. See section 5.4 above.

Stonewall has a website, www.stonewall.org.uk, that gives information on your rights, and where to get legal advice, as well as a list of specialist solicitors. You can also call them on 020 7593 1850.

See Age UK's Information Guide *Lesbian, gay or bisexual – planning for later life* for more information. There are further resources on the website at www.ageuk.org.uk/health-wellbeing/relationships-and-family and a new factsheet, Age UK's Factsheet 16, *Transgender Issues in later life*.

6 Mediation

Mediation is a way of resolving disputes without going to court. The mediator is an independent third party.

The mediator does not take sides or make a decision about the problem, but is trained to help you and the other party involved reach a mutually acceptable solution through communication and negotiation. The emphasis is on helping you both find common ground and agree a way forward. Mediation is quicker and less formal than going to court.

The process is voluntary and can be a constructive and helpful way of resolving a dispute; particularly where you need to have an ongoing relationship after the dispute is settled. Mediation meetings are completely confidential and the information discussed cannot be used in court.

Mediators do not give legal advice, so for some cases you will need to obtain independent legal advice from another provider, such as a solicitor or advice agency. Some providers of mediation services are able to provide services free of any costs (for example, neighbourhood mediation), while others charge (for example, commercial dispute mediation). Any costs are usually shared equally between the parties involved.

Where time limits apply for lodging a claim in court or with a tribunal (for example with employment tribunals), you should get independent advice before arranging a mediation to ensure that you do not miss an important time limit.

Providers of mediation services

Community/neighbour disputes: Community mediation services are usually offered free to local residents. To find out if a mediation service is available in your area, search the Directory of UK Mediation on the website: www.intermedial.org.uk.

Family/divorce: Some solicitors and independent agencies offer family mediation for disputes involving family members, divorce or separation, or access to children. Contact the Law Society, the Solicitors Regulation Authority or the College of Mediators, the national umbrella body for family mediation (see section 14 for more details).

Other types of legal dispute: The National Mediation Helpline can arrange mediation for people with types of disputes including personal injury, small claims, business and consumer disputes, tel: 0845 6030 809 or website: www.nationalmediationhelpline.com They charge for mediation services.

The website www.adrnow.org.uk is run by the Advice Services Alliance, the umbrella body for independent, not-for-profit advice networks in the UK, and gives information about alternative dispute resolution, including a directory of organisations providing mediation and alternative dispute resolution services.

7 Commercial non-solicitor organisations

A growing number of commercial organisations, run by people who are not legally qualified, offer legal services such as will writing and/or advice on management of assets. These organisations are not governed by any independent regulatory body and therefore are not subject to the same degree of regulation as solicitors' firms, or charitable and publicly funded organisations that are subject to public scrutiny.

If you are considering using one of these organisations, rather than a solicitor, to write a will, you should check that they have public indemnity insurance to provide compensation if they make a mistake; and consider if they have an adequate complaints procedure in case things go wrong. You should check the qualifications and experience of the person providing the service and make sure you are satisfied with any arrangements for storing the will.

The other main area where services are offered by commercial non-solicitor organisations is claims management: where the organisation acts as an intermediary for people claiming compensation, often relating to personal injury cases. They often advertise themselves as acting on a 'no win, no fee' basis.

There is a new regulation regime for companies and individuals offering claims management services. They now have to be authorised if they are dealing with claims relating to personal injury, criminal injuries compensation, employment, housing disrepair, financial products or industrial injury disablement benefits. Solicitors and not-for-profit organisations are exempt from the requirement to be authorised and so can continue to handle these claims. To find out if an organisation is authorised to provide these services you can carry out a search at www.claimsregulation.gov.uk or phone 0845 450 6858.

8 Ombudsman schemes

Some legal problems can be resolved by taking a complaint to the relevant ombudsman. Ombudsmen consider complaints from citizens and consumers and can be a last resort when problems are not resolved through an organisation's own complaints procedure. Ombudsman services are free to use.

There are ombudsman schemes covering local government and Parliament, the Health Service, financial services, housing associations and many other areas. For example, if you have a dispute with your bank over your liability for payments made with your credit card, you could make a complaint to the Financial Services Ombudsman. Although you do not have to use a solicitor to help you take a complaint to an ombudsman, it can be helpful to get independent advice from a solicitor or advice agency. Contact the British and Irish Ombudsman Association on tel: 020 8894 9272 or via the website: www.bioa.org.uk for details of independent ombudsman.

9 Solicitors

Solicitors deal with a range of legal matters such as buying and selling property, business matters, wills, criminal cases, family problems and accident claims. Not all solicitors' firms cover all types of work, so you should ensure that the solicitor you are seeing has experience in the relevant area.

9.1 How to find a solicitor

Community Legal Advice can provide details of solicitors in your area, including those who can provide their services under the Legal Aid scheme (see section 2.2 above).

The Solicitors Regulation Authority (part of the Law Society) can also give details of solicitors in your area, including the types of law they specialise in. Call them on 0870 606 2555 or use the online search facility at www.sra.org.uk.

Agencies such as CAB or Age UK may be able to give you the names of solicitors in your area who specialise in certain areas of law. They may not be able to recommend any particular firm. Alternatively, local solicitors are listed in your telephone directory.

To find a local solicitor specialising in personal injury cases, call Accident Line on 0800 19 29 39 (free call) or try their website www.accidentlinedirect.co.uk (The Law Society endorses this scheme.)

You could telephone a few firms to compare the service they offer. Many firms will offer a free initial interview to discuss your case, give you some basic advice and let you know if they can act for you.

9.2 Checklist of questions to ask a solicitor

How much will it cost and how long is it likely to take?

Are there alternatives to legal action?

Is mediation possible?

Is Legal Aid available for the case and are you eligible?

What are the chances of the case succeeding? (The solicitor will need to see the main relevant documents, and to ask you about the situation.)

Could you be liable for the opponent's costs?

Are there any deadlines for taking action?

Will the person you meet be dealing with the case themselves? If not, who will it be? What experience and qualifications do they have?

What are the next steps?

10 Paying for legal advice and representation

There are a number of options for funding work done by a solicitor. You should make sure that you have considered which option is most suitable for you. Solicitors have a duty to let you know if you are eligible for Legal Aid.

10.1 Fixed fees

Some types of standard work, such as conveyancing and preparation of simple wills, are often charged as a fixed fee. The fee should be made clear at the outset of the work undertaken and the agreement should be in writing. A fixed fee usually excludes any extra expenditure that has to be paid in connection with the transaction, such as local authority search fees or Land Registry fees. These are called disbursements and will be added on to the bill unless otherwise agreed.

10.2 Charges based on hourly rate

For cases where the amount of work involved is less easy to predict, a more common arrangement is for the solicitor to charge an hourly rate for the time spent on the work, including time spent with you whether in person or on the phone, plus any external expenses (disbursements) such as a medical report or a barrister's (Counsel's) fees. VAT is payable on solicitors' bills and on most but not all disbursements.

The hourly rate will vary depending on the location of the solicitor, the type of work being done and the level of experience of the solicitor. For example, solicitors' charges in central London are generally higher than those elsewhere because of higher overheads and a higher concentration of specialists.

If a partner of a firm handles your case you should get the benefit of their experience, but they are likely to charge more than a less senior solicitor.

A solicitor will not be able to give you a definite figure for costs at the outset because they will not know how long the case will take. They should state their hourly rate and an estimate of the costs for the work. Ask for this information to be confirmed in writing together with details of what work is to be carried out. Ask your solicitor to keep you informed about the costs.

Limiting the amount of costs

You may wish to limit the amount of costs to be spent in your case, in which case the solicitor will have to contact you once the limit is reached and get your agreement before doing anything further. If you decide to do this discuss this with your solicitor and confirm any arrangement in writing.

Another option is to arrange to be billed on a regular basis rather than at the end of the case.

Payment in advance

If you are paying privately for the work, the solicitor is likely to ask for some money in advance. This is known as 'money on account'. Sometimes this is to pay for disbursements; alternatively it may be requested as an advance payment for the firm's costs. The solicitor should place the money in a separate account (known as the client account).

Disbursements

Where a solicitor states that the fees will be 'plus disbursements' this means that any expenditure to outside parties, e.g. for local authority searches, Land Registry fees, a fee for a medical report, etc, will be charged on top.

10.3 Legal expenses insurance

You can take out legal expenses insurance to cover the cost of certain types of legal action, although the insurer is unlikely to agree to cover the cost of any disputes you know about at the time of taking out the insurance. You may already have legal expenses insurance as part of an existing insurance policy, such as a household contents policy. You should check any policies, or contact your insurer to find out if you are covered. Depending on the terms of the policy, legal expenses insurance could cover all your legal costs and other expenses.

Your insurer may try to insist that you use a particular solicitor, but you have the right to your own choice of solicitor once legal proceedings have started. Your solicitor should be able to advise you about this and help to persuade the insurer to allow them to act for you under the policy.

10.4 Conditional fee agreements ('no win, no fee')

This type of agreement is often used for personal injury cases (accident claims for compensation for an injury suffered as a result of someone else's fault) and can be used for other civil cases, but not for family proceedings. Such agreements are not allowed if you have been granted Legal Aid for the case.

Under a conditional fee agreement the solicitor acts on the basis that you will only have to pay their costs if you win. But this does not mean that there will be nothing at all for you to pay if you lose your case. You will be responsible for paying your opponent's legal costs and expenses if you lose, as well as any out-of-pocket expenses your own solicitor has incurred (for example the cost of obtaining an expert's report).

Your solicitor should be able to arrange insurance for you, to cover the risk that you will lose your case and be responsible for your opponent's costs. It is extremely risky to proceed under a conditional fee agreement without such an insurance policy.

If you win, the costs will include a 'success fee' in addition to the usual legal costs. Your opponent will usually be ordered to pay your legal costs, and this can include the success fee and the insurance premium. However, bear in mind that your opponent needs to be informed in advance that you have a conditional fee agreement in place and the level of the success fee, for you to be entitled to claim back these costs. Also, the court may decide that your opponent should not have to pay the full amount your solicitor is charging you, or they may not have the money to pay. You will be responsible for paying any shortfall. The Government passed a new law fixing the maximum success fee in publication cases, i.e. defamation, which includes libel and slander, at 10%. The Government also announced, after consultation with the public, that successful parties- subject to conditional fee agreements will now have to bear the cost of their own Lawyer's success fees. In addition success fees in Personal Injury cases will now be fixed to a limit of 25%.

Your solicitor should explain the circumstances in which you could be responsible for paying their fees, your opponent's fees and any expenses. They should also explain if any interest is to be paid on the cost of an insurance premium, if this is not paid upfront.

Conditional fee agreements can be long and complex documents. If you do not fully understand what the agreement means, ask your solicitor to explain it, and consider using a different solicitor if you are still not clear.

The Community Legal Service's leaflet, *No win, no fee actions*, provides general information on conditional fee agreements. It is currently under revision but is ordinarily available free and you can order it on 0845 3000 343.

You can find more information on claiming compensation on the Advicenow website www.advicenow.org.uk.

Contingency fee agreements

A contingency fee agreement is another type of 'no win, no fee' agreement. Under this type of agreement you do not have to pay your own legal costs if you lose your case. If you win your case, the agreement is usually for you to pay your solicitor a percentage of the compensation you are awarded or of the amount you settle the case for. This type of agreement is often used in Employment Tribunal cases, where the general rule is that you do not have to pay your opponent's costs if you lose. You should ask your solicitor for details of when you could be responsible for their costs, or your opponent's costs, under such an agreement. Solicitors are allowed to deduct costs to a maximum of 35% of the amount recovered (including VAT).

Solicitors were previously not permitted – by their rules of professional conduct – to enter into contingency fee agreements for contentious work, i.e. cases that have been filed in the ordinary courts (County Court, High Court, etc.) but they are permitted to do this for non-contentious work, i.e. cases that are settled without the need to go to court. The Government however- after a consultation with the public-has recently announced its intention to allow Damage based/Contingency fee agreements in contentious matters.

Contingency fee agreements for solicitors are required to be drafted in a particular manner clearly stating the fee payable, the reason why it is payable, how the agreement may be terminated, sources of funding and details on the right to challenge the fees, in case of disagreement among other requirements. Information on the requirements of contingency fee agreements for solicitors can be obtained from the Law Society.

11 Barristers

Traditionally, barristers were not permitted to accept instructions directly from the public, ordinarily receiving their instructions from solicitors. Since 2004, under the Bar Public Access Scheme, a select number of barristers, who have satisfied the Bar Council's qualification requirements of three years' qualification, training and registration, are permitted to deal with and take on cases from the public, directly.

The Bar Council, however, placed some limitations on barristers taking on public access work. For example if you are entitled to public funding or indeed if it will be in your best interest to instruct a solicitor, based on the nature of your case, the barrister is required to refer you to a solicitor.

Barristers are required under this scheme when they accept the instructions, to inform you about the nature of work they will be doing on your behalf, the costs and contact arrangements.

Under this scheme, the Barrister advises you in respect of the case and appears in court on your behalf, however the Barrister does not write letters to third parties, however they will usually guide carefully you in preparing letters for you to send out in respect of the case at hand.

The Barrister is also not allowed to receive letters, sign documents or handle money on your behalf.

If the Barrister however believes that you need a Solicitor, then they have a duty to inform you accordingly.

For more information on the Bar Public Access Scheme, contact the Bar Council on 020 7242 0082, or via their website www.barcouncil.org.uk.

12 Legal Aid

Legal Aid is administered by the Legal Services Commission (LSC). This factsheet does not deal with the Legal Aid system for people who have been charged with a criminal offence. For information on the Criminal Defence Service see the LSC's leaflet *A practical guide to criminal defence services*.

This factsheet explains the two main types of Legal Aid: Legal Help and Legal Representation. There are other types, which are not discussed here, for example Legal Aid relating specifically to family law matters. For more details of the civil Legal Aid system see the LSC's leaflet *A step-by-step guide to Legal Aid* or contact a solicitor. Solicitors have a duty to advise you if you are eligible for Legal Aid in any situation you seek advice about. Not all solicitors provide their services under Legal Aid.

The Government is proposing far reaching changes, limiting the range of areas in which Legal Aid will be offered, these are currently under consultation. The proposals intend to cut Legal Aid in the areas of Family Law cases (such as divorce and Child contact), debt, education, employment, housing, clinical negligence, immigration and welfare benefits unless where life and personal liberty or a person's home is at risk.

12.1 Eligibility for Legal Aid

Legal Aid eligibility schemes are means-tested and limits for capital and income are set each year. Different parts of the scheme have different means-testing arrangements including the method of calculating disposable income. The Government announced proposals changing the Legal Aid eligibility schemes, for which consultations took place between November 2010 and February 2011. Some of the proposals including the scrapping of waiver of value of the first £100,000.00 of Mortgage property of Pensioners ("The Pension disregard").

The Legal Services Commission website www.legalservices.gov.uk has an eligibility calculator to help you find out if you are eligible.

Eligibility for Legal Aid also depends on the type of legal case and the merits of the case. Criteria include the prospects of success; potential benefit of taking the case; chances of recovering any money claimed or of the other party complying with the order sought; the costs involved compared with the potential benefits; whether it is in the wider public interest; and the level of legal help required. Your solicitor will explain how these apply to your case.

You cannot get Legal Aid funding for all types of cases; for example, it is not available for most personal injury cases, conveyancing, defamation, boundary disputes or cases arising out of running a business. Legal Representation is not available for cases in the Employment Tribunal.

The new The Legal Aid, Sentencing and Punishment of Offenders Bill, will make substantial changes to the circumstances in which Legal Aid shall be available both in Criminal and Civil matters. The bill has just been passed by the House of Lords and has now been passed back to the House of Commons.

12.2 Legal Help

Legal Help covers giving general advice, writing letters, negotiating and preparing a written case to go to a tribunal but does not include representation in a court or tribunal on the day (but see 'Help at court' below). 'Representation' means taking any steps in proceedings, for example by signing court documents on your behalf or appearing as your representative at a hearing.

Advice about clinical (medical) negligence can only be provided by a specialist provider who has a contract with the Legal Services Commission.

The Legal Help scheme only covers making a will or Lasting Power of Attorney if you are aged 70 or over or you are disabled (within the meaning of the Disability Discrimination Act). It can be difficult to find a solicitor who can advise on Lasting Powers of Attorney under Legal Aid, as many specialists in this area do not have contracts with the Legal Services Commission. See section 9.1 above for information on how to find a solicitor.

Help at court

This allows for someone to speak on your behalf at certain court hearings, without formally acting for you in the whole proceedings. The eligibility requirements are the same for Help at Court as for Legal Help.

Do I qualify for Legal Help or Help at Court?

To qualify, your income and capital must be below certain levels. If you have more than £8,000 capital (see section 12.3), or your gross income is more than £2,530 per month you will not be eligible. The rules are complicated and even if you have less than these limits you may not be eligible. Ask your adviser to check whether you are eligible.

You will automatically be eligible if you receive the Guarantee Credit part of Pension Credit, Income Support or income-based Jobseeker's Allowance.

12.3 Legal Representation

Help with Legal Representation enables you to be represented by a solicitor or barrister in civil proceedings, i.e. proceedings in the courts other than the criminal courts (e.g. County Court, High Court). Costs may cover mediation if this is agreed as the course of action.

To apply for a funding certificate you need to consult a solicitor who will advise you about whether you are likely to qualify for funding and send the application to the Legal Services Commission on your behalf. In an emergency an application can be made over the telephone and some solicitors' firms are also authorised to issue their own certificates for some types of work, which can speed up the process.

Seek advice as soon as possible, especially if proceedings have been issued against you and you have been given a date for a court hearing.

12.3.1 The means test

Representation at a Mental Health Review Tribunal is available regardless of a person's financial circumstances. The rules are also different for representation in cases before the Asylum and Immigration Tribunal. Your solicitor or adviser can advise you on eligibility in this situation.

An applicant for all other types of Legal Representation must satisfy another means test, which means coming within limits set for both income and capital. The rules are complex and provide for upper and lower limits both for capital and income. Legal Representation may be offered subject to payment of a contribution.

It is also common for a funding certificate to be limited to a certain amount of work, after which your solicitor will have to obtain authority from the Legal Services Commission before they can incur any further costs under the certificate.

Income is based on a person's disposable income. For Legal Representation this is a person's net income after tax and National Insurance, less allowances for dependants and certain other expenditure such as housing costs. You will only be eligible if you have a disposable monthly income of £698 or less.

The capital limit for eligibility is £8,000. The first £100,000 of a home is ignored when calculating capital but any other capital assets such as jewellery or savings are taken into account. Changes to this are currently being considered by Parliament.

There are detailed rules about calculation of disposable income and calculation of capital – ask your adviser about them. The income and capital of your spouse or partner (with whom you are living) will also be taken into account unless that is the subject of a dispute.

There are also provisions for re-determining your eligibility on financial grounds if your circumstances change. Ask your adviser about these matters.

People aged over 60 and funding for Legal Aid

If you or your partner are over 60 and on a low income you may still qualify for funding (Legal Help, Help at Court and Legal Representation) even if you have capital over the usual limits. This is because pensioners are allowed to have higher amounts of capital. This higher limit does not apply for immigration cases or legal representation for some family cases in the magistrate's court. The amount allowed depends on how much income you have.

In 2010/2011, where the client (or partner or spouse where an aggregated assessment is carried out) is 60 or over, and their disposable income is less than £300 per month, capital disregards apply as follows:

Monthly disposable income	Amount of capital disregarded
£0–25	£100,000
£26–50	£90,000
£51–75	£80,000
£76–100	£70,000
£101–125	£60,000
£126–150	£50,000

£151–175	£40,000
£176–200	£30,000
£201–225	£20,000
£226–300	£10,000
Over £300	Nil

12.4 Paying back Legal Aid (the statutory charge)

If you win your case the other party may be ordered to pay your costs as well as any compensation or other remedy. In practice, you may only recover a proportion of your legal costs.

If you have received Legal Representation, the Legal Services Commission is likely to ask you to use part or all of your compensation to pay the rest of your legal costs back to them. This is known as the statutory charge and does not apply to Legal Help or Help at Court.

It is therefore in your interests for your costs to be kept to a minimum, and for an order to be obtained for your opponent to pay your costs, as this will keep down the amount you have to pay as the statutory charge.

The statutory charge also applies if you have recovered or preserved property as a result of the legal proceedings (rather than being awarded compensation). One example would be if you won a case about who owned your house in that instance it might not always be possible for you to pay back the costs immediately and the Legal Services Commission might therefore place a charge on the property for any outstanding Legal Aid costs. This operates in a similar way to a mortgage, in that you have to pay the money when the property is sold. Interest is charged on the money outstanding.

Maintenance payments, state benefits and tax credits are exempt from the statutory charge. So, for example, if you won a case on eligibility for benefits, you would not have to pay back the LSC out of those benefits.

The LSC can allow your adviser to waive all or part of the statutory charge if paying it would cause you grave hardship or distress, or if it would be unreasonably difficult to recover the charge, due to the nature of the property.

If you are receiving Legal Aid, ask your solicitor about the implications of the statutory charge.

Since 11 January 2010, the funding of civil legal aid has changed. If you or your partner have also applied for Legal Aid in a criminal matter, the Legal Services Commission will need to consider any monthly payment you or your partner needs to make under a 'contribution order', towards the costs of legal representation in your criminal case. The contribution amount will need to be deducted along with other deductions you make for income tax, National Insurance payments, housing costs, etc., when assessing your disposable income.

13 Complaints about your solicitor or adviser

If you have a complaint about your solicitor, either about how much they have charged you, or about the standard of their work, your first step is to raise the complaint with the solicitors. All solicitors' firms must have a procedure for dealing with complaints; ask your solicitor for details of their complaints procedure, if you have not already been given this.

Put your complaint in writing, setting out what you want the solicitor to do about it.

If you are not satisfied with how the solicitor has dealt with your complaint, you can contact the Legal Complaints Service (LCS). This is an independent part of the Law Society, responsible for handling complaints against solicitors. There is no charge for using the LCS. You should contact them within six months of the date of your solicitor's final response to your complaint.

The LCS can order the solicitor to reduce your bill, pay you compensation, or correct a mistake. See section 14 for contact details.

If you are not satisfied with the LCS's handling of your complaint, you can send details to the Legal Services Ombudsman who can recommend that the LCS reconsiders your complaint and/or pays compensation (see section 14 for contact details). You should contact the Ombudsman within three months of the final decision of the LCS.

If your complaint is about a Barrister, instructed under the Bar Public Access scheme, you may complain in writing to the Bar Council, which regulates Barristers generally.

If your complaint is about an advice agency ask for a copy of their complaints procedure for dealing with client care issues.

13.1 **What to do if you don't agree with your solicitor's bill**

The amount you have to pay will depend on what has been agreed under the contract between you and your solicitor. You will only be liable to pay once a bill has been delivered.

Your Solicitor has a duty to provide you with full information about the unit charge for work to be carried out and to provide you with an estimate of the amount of time required to carry out the work or the amount of money, it is likely to cost you, as far as is possible. Your Solicitor also has a duty to provide you with a final bill, that complies generally with the information given you at the onset about the likely cost of the work to be done.

Assessment of solicitor's bill of costs

If you are unhappy about your bill, you can apply to have the bill assessed by a court. You should apply within one month of the date of the bill. You can still apply up to one year after the date of the bill, as long as you haven't paid it, but the court does not have to agree to assess the bill; this will be down to the discretion of the court. The process is lengthy and involves a detailed bill of costs being submitted to the office of the relevant court for approval.

You may incur extra costs in doing this and you should get advice from another solicitor or advice agency to see whether it would be worthwhile.

The Legal Ombudsman Service provides an information and complaint service relating to Solicitors, including issues with Solicitors bills. In particular, it publishes a guide called “Ten questions to ask your Lawyer about costs”, available on its website, which gives information on things to look out for, in relation to Solicitors bills.

14 Useful organisations

Advice Services Alliance

The umbrella body for independent, not-for-profit advice networks in the UK.

Tel: 020 7953 3088

Website: www.asauk.org.uk

Advice UK

The support network for free, independent advice centres.

Tel: 020 7469 5700

Website: www.adviceuk.org.uk

Advisory Conciliation and Arbitration Service (ACAS)

A publicly funded, independent organisation aiming to improve employment relations. ACAS runs a helpline and website giving advice and information on employment questions.

Tel: 08457 474747

Textphone: 08456 06 1600

Website: www.acas.org.uk

The Bar Council

The Bar Council represents barristers in England and Wales. It promotes the Bar's high quality specialist advocacy and advisory services.

Tel: 020 7242 0082

Website: www.barcouncil.org.uk

British and Irish Ombudsman Association (BIOA)

Ombudsmen deal with complaints from the public about certain public bodies and private services. Their services are free of charge.

Tel: 020 8894 9272

Website: www.bioa.org.uk for details of independent ombudsman schemes.

British Institute of Human Rights

BIHR has produced a guide called *Your human rights – a guide for older people*, which can be downloaded from their website.

Website: www.bihar.org.uk

Care Quality Commission (CQC)

Independent regulator of health and social care in England.

Tel: 0300 061 6161

Website at www.cqc.org.uk

Citizens Advice

The Citizens Advice service helps people resolve their legal, money and other problems by providing free, independent and confidential advice, through a national network of free advice centres. It has now taken over the services of Consumer Direct.

Tel: 020 7833 2181 (for local contact details only – not telephone advice)

Websites: www.adviceguide.org.uk and www.citizensadvice.org.uk

College of Mediators

The national umbrella body for family mediation.

Tel: 0845 65 85 258

Website: www.collegeofmediators.co.uk

Community Legal Service (CLS)

The Community Legal Service (CLS) is a network of LSC funded organisations and advice providers that fund, provide and promote civil legal aid services.

Tel: 0845 345 4 345

Website: www.legalservices.gov.uk

Counsel and Care

Give advice on issues around care homes.

Tel: 0845 300 7585

Website: www.counselandcare.org.uk

DIAL (the Disability Information and Advice Line)

DIAL UK is a network of local groups throughout the country providing information and advice to disabled people. They should be able to tell you if there is a group in your area or it may be in the local telephone directory.

Tel: 01302 310 123

Website: www.dialuk.org.uk

Directory of UK Mediation

A new online service set up to provide a database of community mediation services in the UK.

Website: www.intermedial.org.uk

Elderly Accommodation Counsel

Provides information on housing options for older people, and signposts to relevant advice organisations.

Tel: 020 7820 1343

Website: www.housingcare.org

Equality and Human Rights Commission (EHRC)

The EHRC Disability Helpline provides information and advice about all aspects of the Disability Discrimination Act.

Tel: 0845 604 6610 textphone: 08457 622 644

Website: www.equalityhumanrights.com

Joint Council for the Welfare of Immigrants (JCWI)

JCWI offers a free telephone advice service (see below) and provides a wide range of information materials that are an important resource for those looking in this area.

Tel: 020 7251 8708 (from 11 am – 1 pm (on Wednesdays only))

Website: www.jcwi.org.uk

Law Centres Federation

Law Centres are not-for-profit legal practices that give free legal advice and representation to disadvantaged people in the UK. Their site can help you find Law Centre near you. The LCF does not give advice directly to the public. If there is no Law Centre in your area, you can visit Community Legal Advice (see above).

Website: www.lawcentres.org.uk

Law Society

The Law Society is the representative body for solicitors in England and Wales. It contains a searchable database to help you find a solicitor; advice on what to expect; and guides to common legal problems and what to do if things go wrong.

Tel: 0870 606 2555 (provided by the Solicitors Regulation Authority)

Website: www.lawsociety.org.uk

The Legal Ombudsman

The Legal Ombudsman has formal powers to resolve complaints about lawyers. It is a free service. It looks at legal complaints in a fair and independent way.

Tel: 0300 555 0333

Website: www.legalombudsman.org.uk

Legal Services Commission (LSC)

The LSC runs the Legal Aid schemes in England and Wales and has regional offices.

Tel: 0300 200 20 20

Website: www.legalservices.gov.uk

Liberty

A non profit-making organisation protecting and promoting civil liberties and human rights.

Tel: 0845 123 2307

Website: www.yourrights.org.uk

Patient Advice and Liaison Service (PALS)

Information, advice and support in relation the National Health Service (NHS). To find your nearest PALS, contact NHS Direct on 0845 46 47 or phone your local hospital, clinic or GP surgery.

Website: www.pals.nhs.uk

Public Access Bar Association

PABA represents the interests of the several hundred English and Welsh Barristers who offer direct legal services to the public and the business community in cases where the use of a Solicitor is no longer necessary.

Website: www.paba.org.uk

Shelter

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and housing benefit.

Tel: 0808 800 444 (free call) (textphone for deaf callers)

Website: www.shelter.org.uk

Solicitors Regulation Authority

Previously the Law Society Regulation Board, the SRA can provide details of solicitors in your area.

Tel: 0871 606 2555

Website: www.sra.org.uk

Stonewall

The lesbian, gay and bisexual charity offers a range of help and advice.

Tel: 08000 50 20 20

Website: www.stonewall.org.uk

Trades Union Congress (TUC)

TUC runs the Worksmart website, which includes information on employment rights, and a search facility to find the union most relevant to you,

Tel: 0870 600 4882

Website: www.worksmart.org.uk

15 Further information from Age UK

Age UK Information Materials

Age UK publishes a large number of free Information Guides and Factsheets on a range of subjects including money and benefits, health, social care, consumer issues, end of life, legal, issues employment and equality issues.

Whether you need information for yourself, a relative or a client our information guides will help you find the answers you are looking for and useful organisations who may be able to help. You can order as many copies of guides as you need and organisations can place bulk orders.

Our factsheets provide detailed information if you are an adviser or you have a specific problem.

Age UK Advice

Visit the Age UK website, www.ageuk.org.uk, or call Age UK Advice free on 0800 169 65 65 if you would like:

- further information about our full range of information products
- to order copies of any of our information materials
- to request information in large print and audio
- expert advice if you cannot find the information you need in this factsheet
- contact details for your nearest local Age UK

Age UK

Age UK is the new force combining Age Concern and Help the Aged. We provide advice and information for people in later life through our publications, online or by calling Age UK Advice.

Age UK Advice: 0800 169 65 65

Website: www.ageuk.org.uk

In Wales, contact:

Age Cymru: 0800 169 65 65

Website: www.agecymru.org.uk

In Scotland, contact:

Age Scotland: 0845 125 9732

Website: www.agescotland.org.uk

In Northern Ireland, contact:

Age NI: 0808 808 7575

Website: www.ageni.org.uk

Support our work

Age UK is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and taking calls at Age UK Advice on 0800 169 65 65.

If you would like to support our work by making a donation please call Supporter Services on 0800 169 87 87 (8.30 am–5.30 pm) or visit www.ageuk.org.uk/donate

Legal statement

Age UK is a registered charity (number 1128267) and company limited by guarantee (number 6825798). The registered address is Tavis House, 1-6 Tavistock Square, London, WC1H 9NA. VAT number: 564559800. Age Concern England (charity number 261794) and Help the Aged (charity number 272786) and their trading and other associated companies merged on 1 April 2009. Together they have formed Age UK, a single charity dedicated to improving the lives of people in later life. Age Concern and Help the Aged are brands of Age UK. The three national Age Concerns in Scotland, Northern Ireland and Wales have also merged with Help the Aged in these nations to form three registered charities: Age Scotland, Age Northern Ireland, Age Cymru.

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