

## GENERAL INFORMATION

This keycard is intended as a quick reference point for making financial determinations for those forms of civil legal services for which the provider has responsibility including Legal Help.

### (I) Controlled Work and Family Mediation – Checking Eligibility

Providers must refer to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 *as amended* and the **Lord Chancellor’s guidance on determining financial eligibility for controlled work and family mediation**, for a full list of the relevant forms of civil legal services and detailed guidance for making financial determinations. References in this section are to those regulations and guidance.

Providers must have regard to the general provisions set out in Sections 2.1 paragraphs 3-6 and 12 of the guidance regarding our requirements for evidence of means.

#### **Summary Table 1 – Main eligibility limits from 10 April 2023:**

Forms of Civil Legal Services	Income limits	Capital limits	Passporting Benefits
<b>Legal Help;</b> <b>Help at Court;</b> <b>Family Help (lower);</b> <b>Help with Family Mediation;</b> <b>Family Mediation;</b> <b>Legal Representation for proceedings in:</b> the immigration and asylum tribunal of the First-tier tribunal; or transitional cases (see guidance).	Gross income not to exceed: <b>£2,657</b> per month*  Disposable income not to exceed: <b>£733</b> per month	Disposable capital not to exceed:  <b>£3,000</b> [Legal Representation in respect of an immigration matter set out in Regulation 8(3)]  <b>£ 8,000</b> [All other forms of civil legal services]	Clients properly in receipt, directly or indirectly, of: <ul style="list-style-type: none"> <li>• <b>Income Support,</b></li> <li>• <b>Income-Based Job Seeker’s Allowance,</b></li> <li>• <b>Income-Related Employment and Support Allowance,</b></li> <li>• <b>Guarantee Credit or</b></li> <li>• <b>Universal Credit</b></li> </ul> are passported through the gross income and disposable income test <u>but capital must be assessed in all cases.</u>  <b>For controlled work asylum and immigration matters only described in regulation 6(1) of the Financial Regulations:</b> clients properly in receipt, directly or indirectly, of Asylum Support Payments are passported through both the income and capital tests.
<p><b>*Note:</b> A higher gross income cap applies to families with more than 4 child dependants. Add £222 to the base gross income cap shown above for the 5th and each subsequent child dependant.</p>			

### STEP BY STEP GUIDE for controlled work and family mediation

**Step One** Establish whether or not the client has a partner whose means should be aggregated for the purposes of the financial determination (see Reg.16 and section 4.2 of the guidance).

**Step Two** Establish whether the client is properly in receipt, directly or indirectly, of a 'passporting' benefit and therefore automatically satisfies the income test, (refer to the 'passporting' arrangements stated in summary table 1 on page 1). If the client **is** passported go directly to Step Five. If the client is **not** passported go to Step Three.

**Step Three** For any cases which are not 'passported' calculate the gross income of the client, including the income of their partner, (refer to section 5 of the guidance). Where gross income is above £2,657 per month, then the client is ineligible for all forms of civil legal services covered by this keycard and the application must be refused without any further calculations being performed. Certain sources of income must be disregarded, and a higher gross income cap applies to families with more than 4 child dependants (refer to summary table 1).

**Step Four** For those clients whose gross income is not more than £2,657 per month, calculate disposable income. Fixed allowances are made for dependants and employment expenses, and these are set out in the table below. Other deductions can be made for: tax; national insurance; maintenance paid; housing costs; child-care costs incurred because of remunerative work or a course of study outside of the home (where the individual receives study-related income); and criminal legal aid contributions. If the resulting disposable income is above £733 per month then funding must be refused (without any further calculations being necessary).

<b>Fixed rate allowances (per month) from 10 April 2023:</b>	
Employment Expenses (employees only)	£45
<b>Dependants Allowances:</b>	
Partner	£211.32
Child aged 15 or under	£338.90
Child aged 16 or over	£338.90
<b>Housing cap</b> (for those without dependants)	£545

**Step Five** Where a client's disposable income is assessed below the relevant limit or the client is passported on income (except where client is passported on NASS support as per summary table 1), it is still necessary to calculate the client's disposable capital. See section 7 of the guidance for details of how to calculate capital; this will include the value of the client's interests in disputed assets to the extent that they exceed the maximum subject matter of dispute disregard of £100,000. If the resulting capital is above the relevant limit (see summary table 1), then the application must be refused.

**Step Six** For those clients whose income and capital have been calculated (or *deemed*, if passported) to be below the relevant limits, the client can be awarded funding. **Controlled Work and Family Mediation are non-contributory forms of civil legal services.**

### (II) Licensed Work – Checking Eligibility for Emergency Representation

Providers must refer to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 as amended and the **Lord Chancellor’s guidance on determining financial eligibility for certificated work** for guidance on Family Help (Higher) and Full Representation cases. References in this section are to those regulations and the certificated work guidance.

Providers who are authorised to make a determination that a client qualifies for emergency representation under their delegated functions should refer to the guidance to ascertain whether the individual is *likely* to be eligible.

A determination that an individual qualifies for emergency representation may be made on the basis of limited information and documents; however, the determination must be revoked following the receipt of the substantive amendment application and full information if the individual is ineligible.

#### Summary Table 2 – Main eligibility limits from 10 April 2023:

Forms of Civil Legal Services	Income limits	Capital limits	Passporting Benefits
<b>Full Representation</b> (see guidance); <b>Family Help (Higher).</b>	Gross income not to exceed: <b>£2,657</b> per month*  Disposable income not to exceed: <b>£733</b> per month	Disposable capital not to exceed: <b>£3,000</b> [Legal Representation in respect of an immigration matter set out in Regulation 8(3)]  <b>£ 8,000</b> [All other forms of civil legal services]	Clients properly in receipt, directly or indirectly, of: <ul style="list-style-type: none"> <li>• <b>Income Support,</b></li> <li>• <b>Income-Based Job Seeker's Allowance,</b></li> <li>• <b>Income-Related Employment and Support Allowance,</b></li> <li>• <b>Guarantee Credit or</b></li> <li>• <b>Universal Credit</b></li> </ul> are passported through the gross income and disposable income test <u>but capital must be assessed in all cases.</u>
* <b>Note:</b> A higher gross income cap applies to families with more than 4 child dependants. Add £222 to the base gross income cap shown above for the 5th and each subsequent child dependant.			

**NB there is a waiver of eligibility limits in proceedings relating to domestic violence, female genital mutilation protection orders and forced marriage (See Reg. 12 and section 2.6 of the guidance for details of all eligibility waivers).**

### STEP BY STEP GUIDE for licensed work

**Step One** Establish whether or not the client has a partner whose means should be aggregated for the purposes of the financial determination (see Reg.16 and section 3.1 of the guidance).

**Step Two** Establish whether the client is properly in receipt, directly or indirectly, of a 'passporting' benefit and therefore automatically satisfies the income test, (refer to the 'passporting' arrangements stated in summary table 2 on page 3). If the client **is** passported go directly to Step Five. If the client is **not** passported go to Step Three.

**Step Three** For any cases which are not 'passported' calculate the gross income of the client, including the income of their partner (where applicable). Where gross income is above £2,657 per month, then the client is ineligible unless a waiver applies (such as the domestic violence waiver). Certain sources of income must be disregarded, and a higher gross income cap applies to families with more than 4 child dependants (refer to summary table 2).

**Step Four** For those clients whose gross income is not more than £2,657 per month (or where a waiver applies), calculate disposable income. Fixed allowances are made for dependants and employment expenses, and these are set out in the table below. Other deductions can be made for: tax; national insurance; maintenance paid; housing costs; child-care costs incurred because of remunerative work or a course of study outside of the home (where the individual receives study-related income); and criminal legal aid contributions. If the resulting disposable income is above £733 per month then the client is ineligible (unless a waiver applies) and funding must be refused.

<b>Fixed rate allowances (per month) from 10 April 2023:</b>	
Employment Expenses (employees only)	£45
<b>Dependants Allowances:</b>	
Partner	£211.32
Child aged 15 or under	£338.90
Child aged 16 or over	£338.90
<b>Housing cap</b> (for those without dependants)	£545

**Step Five** Where a client's disposable income is assessed below the relevant limit (or a waiver applies) or the client is passported on income, it is still necessary to calculate the client's disposable capital. See sections 6 and 7 of the guidance for details of how to calculate capital (and section 9 for business capital); this will include the value of the client's interests in disputed assets to the extent that they exceed the maximum subject matter of dispute disregard of £100,000. If the resulting capital is above the relevant limit (see summary table 2), then the application must be refused unless a waiver applies.

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**Step Six** Contributions may be payable as a condition of the substantive grant of funding as set out in the table below:

<b>Band</b>	<b>Monthly disposable income</b>	<b>Monthly contribution</b>
A	£316 to £465	35% of income in excess of £311
B	£466 to £616	£53.90 + 45% of income in excess of £465
C	£617 and above	£121.85 + 70% of income in excess of £616