

Notes on how to fill in the forms

CDS14: Application for Legal Aid in Criminal Proceedings

General

You must answer all questions on the form and provide evidence where necessary. If you do not, it may delay your legal aid and you may not receive free legal help from your solicitor.

We can only grant legal aid if you pass both the Interests of Justice and financial eligibility tests.

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.

If your case will be heard in the Crown Court, you must fill in this form and court Form B only.

More detailed guidance can be found in 'Criminal Legal Aid Application Guide' at www.hmcourts-service.gov.uk

Part A - About you

Note 1 Do I need to provide my National Insurance number (in question 4 on page 1)?

The question is only compulsory if you receive a benefit named in question 11. If you or your partner cannot provide your National Insurance number and you receive a benefit in question 11 you must provide recent evidence instead, which must not be more than 3 months old e.g. a benefit book or notice of entitlement or a letter from Job Centre Plus setting out the benefits you receive.

Note 2 Why do you need to know my age (question 9) and benefit status (question 11)?

If you tick 'yes' to either question 9 or question 11, you are automatically financially eligible for legal aid. But if you tick 'no', you must also fill in form CDS15 and submit it with this form.

Note 3 What happens if I confirm that my partner is involved in the case as a victim, prosecution witness or co-defendant with a conflict (question 12)?

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

Note 4 What should I do if my partner is unable to sign the declaration?

If your partner is abroad or in hospital or otherwise unable to sign, for your application to be accepted you must set out the reasons why they are unable to sign and their current contact details in question 18 in Part A.

Note 5 What is the Further Information section for?

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

Note 6 What is the Disability and Equal Opportunities Monitoring part for?

You may fill in this part, but it isn't compulsory. Your personal information will be held confidentially and would help us with our statistical monitoring and research.

Part B - Interests of Justice

Note 7 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.

Note 8 I don't understand the reasons for wanting representation given in question 4a.

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 remands in 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). 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 and its conditions.

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 9 My partner is unable to sign the declaration.

If your partner is unable to sign, please refer to note 4 and question 19 in Part A, please also note, by signing your declaration on this form you are giving the Legal Services Commission your 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.

We need to determine whether you are financially eligible. Full information must be given about your own means, and if relevant, your partner's means. Your application will be accepted if your partner is abroad, in hospital or otherwise unable to sign, but you must provide evidence of this.

If you do not provide supporting evidence where we ask, your application will be returned as incomplete.

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

Part A

Note 10 How will you know how much I earn and how much tax and National Insurance I pay?

We will look at the evidence you provide (e.g. your payslip) to see how much you earn and how much you pay for tax and National Insurance.

Note 11 Which sections do I fill in if I am self-employed?

If you are self-employed you must fill in all sections including **PART B**.

Note 12 What kind of evidence do I provide to prove my income in question 1?

You must provide your most recent available pay slip or slips (no more than 3 months old). If you are employed and in custody but are unable to provide a pay slip, you must fill in Form CDS17: Statement of Truth. You will still need to provide evidence of your income if you work cash in hand.

Note 13 Why do I need to indicate the frequency of my income?

If your wages are irregular or sporadic we will need to look at your cumulative earnings for the tax year to date in order to calculate an estimation.

Note 14 What evidence should I provide if I receive 'benefits-in-kind' for question 1b?

You must provide your last P11 form.

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

We will ask you to tell us how much your housing costs are after deducting housing benefit, so you do not need to declare how much you receive here.

Note 16 What kind of evidence do I provide to prove any income I receive from a private pension in question 3?

If your pension is £1000 or more you must provide a recent bank statement to show the amount you receive from a private pension.

Note 17 What should I consider when completing question 7?

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

Note 18 How do I prove that my housing or childcare costs are particularly high?

If your housing costs are more than £500 each month, you must provide a copy of your tenancy or rental agreement or mortgage statement. 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 5?

The 'Further Information' box on page 5 can be used to clarify any information you have provided elsewhere on the form.

Part B

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?

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 your 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 1s 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.

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**.

Note 21**What evidence should I provide for question 1s if I have filled in a self-assessment tax return?**

You must provide the most recent copy of your completed financial accounts and full self-assessment tax return form (SA100).

Note 22**What should I do if my partner is unable to sign the declaration at the end of the form?**

If your partner is abroad, in hospital or otherwise unable to sign, please set out the reasons they are unable to sign and their contact details in question 19 on Form CDS14. By signing the declaration in this form you are giving the Legal Services Commission your consent to approach and check the information where your partner is contactable.

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 either together with or after the initial application. The CDS16 can only be submitted in addition to the CDS14 and CDS15. Further guidance on the CDS16 Hardship Review and evidence required can be found at:

http://www.legalservices.gov.uk/criminal/getting_legal_aid/hardship_unit.asp

CDS17 Statement of Truth

General

If you are an employed applicant in custody and are unable to obtain documentary evidence of your salary or wage, you must complete the CDS17 together with the CDS15. A CDS17 cannot be submitted unless accompanied by the CDS15

The CDS17 cannot be completed by **self-employed, unemployed or applicants in receipt of benefits**.

Should I give details of my income before or after tax and national insurance?

Applicants must indicate, using the tick box-provided, whether or not the income stated is before or after tax and national insurance.