

GUERNSEY LEGAL AID SERVICE
Basement Office, 8 Lefebvre Street St Peter Port Guernsey GY1 2PE
Telephone (01481) 727934 Fax (01481) 727988 e-mail legalaid@gov.gg

GUIDE FOR APPLICANTS FOR A LEGAL AID CERTIFICATE

HOW TO COMPLETE FORM 1F

Throughout this Guide and Form 1F, the words “**You**” and “**Your**” have special meanings. “**You**” does not always mean the person who is completing Form 1F. It means the person who is hoping to be granted a Legal Aid Certificate. In the same way “**Your**” refers to “**You**” and not necessarily the person who is filling in Form 1F. “**We**” and “**us**” refer to the Guernsey Legal Aid Service. The “**Administrator**” means the person responsible for the administration of the Guernsey Legal Aid Service.

Page 1

The outline of **Your** case can be very brief. It is there to make sure that **Your** Form is matched up with the right Opinion from **Your** Advocate. All **You** need to put is something like “**Divorce**”: “**Medical negligence claim against Dr. Bodgewell**”; “**Claim against former employer, Trickwell Limited**”; “**Royal Court trial for theft**”, etc.

This must show the name of the person applying for legal aid, generally the person who is filling in the Form, and then show the name of the Advocate who has agreed to act for **You** together with the name of that Advocate’s Firm. Please also include any previous surname. This is to help us to know that we are dealing with the right person. It also helps us to match up **Your** Form with the Opinion on **Your** case that **Your** advocate will be sending to us.

Page 2

ONLY fill in the part headed “**Applying for somebody else**” if you are making the application on behalf of somebody else. The “**somebody else**” could be an elderly relative, a child of yours or a person of whom you are a guardian or a person for whom you wish to be appointed guardian. You cannot, however, fill in a form for somebody else simply because they do not want to do it, but of course you can help them.

SECTION 1 (pages 3 & 4)

This Page **MUST** be filled in. The name to go on it is that of the person applying for legal aid. If **You** are applying for legal aid it will be **Your** name. If you are applying for somebody else, and have filled in Page 2, then you must give the name of the person applying for legal aid.

‘**Partner**’ means the person to whom **You** are married or living with as a couple. That person will usually be of the opposite sex to **You**, but can be a person of the same sex.

If you are living apart from **Your** partner due to, for example, illness, imprisonment or working away (but not because the relationship has broken down) then **You** must give details of both **You** and **Your** partner.

If **Your** dispute is with **Your Partner** then **You** need not provide details of **Your Partner’s** income or expenditure unless we specially ask for these.

Please provide the name and address of the person You wish to take proceedings against.

SECTION 2 (pages 4 & 5)

The purpose of this Page is to obtain full details of **Your** employment and that of **Your Partner**. Please remember that we may wish to check on this information.

NB If **You** are in prison, The Administrator still needs to receive wage slips from any employment you have undertaken during the 13 weeks prior to **Your** application for legal aid.

If **You** or **Your Partner** employ a childminder in order to work this must be a genuine arrangement. It is not enough to say “I pay my friend £50 a week to look after the children”. **You** may be asked to produce evidence of a proper agreement with a Registered Childminder.

“Benefit in kind,” mean anything that **You** receive from **Your** employer that is not cash in hand. This can mean use of a company vehicle, health insurance, low cost loans, free meals and so on. If in doubt tell us about it. It is better to do this and have the Administrator say that he will not take it into account rather than have the Administrator find out later and possibly cancel the legal aid.

SECTION 3 (page 6)

You must give details of all benefits received by **You** and **Your Partner** from any government or public authority. For persons living in Guernsey this does not mean only any benefits that **You** receive from the States of Guernsey, but anything that **You** and **Your Partner** receive from another government, such as a United Kingdom pension. Please remember that we may make enquiries. You will need to attach to this form, a copy of your Benefits award letter or the slip attached to your most recent Benefit voucher.

SECTION 4 (page 7)

This deals with persons who are self-employed or who do not get their income as a result of a contract of employment. If **You** or **Your Partner** receive any funds from working on your own then **You** must say so. If **You** or **Your Partner** do any part time work in the evenings or at weekends and get money or other benefits then **You** must say so. For example, if **You** or **Your Partner** do work for somebody each weekend and in return get use of their car or are given meals, then **You** must say so.

Remember that **Your business** partner may be a different person from the **Partner** with whom **You** live.

SECTION 5 (pages 8& 9))

“Maintenance payments” can either be voluntary or by way of a Court Order. If **You** actually receive money through a genuine arrangement then **You** must give details. Remember, we may make further enquiries.

The remainder of the questions on this page are a reminder that You and Your Partner must declare income and benefits from every source.

SECTION 6 (pages 9 & 10)

This Page starts the section that deals with **You** and **Your** household and the income that **You** or **Your Partner** receive.

You must give the names and other details of all the people living in **Your** household. This means all those sharing the same roof and who can, if they want to, use the facilities of the household. This does not include a person, such as an elderly relative, who lives independently in a separate part of the house. If in doubt, include details.

The details concerning a dependent child above the age of 16 refer to a child still in education rather than working or attempting to find work. The costs of maintaining such a child may be offset against your income.

If **You** are resident in a place where a child's compulsory education ends at a different age from 16 then **You** should note that on the Form and change your answer accordingly.

Payment of maintenance will be offset against **Your** income if it is under a Court Order or by a genuine voluntary arrangement. Remember, we may require further details and may make enquiries.

SECTION 7 (pages 10 & 11)

This concerns **Your** home. **You** must give **full details** as requested. Remember that in Guernsey, Alderney, and Sark, the price paid for any property is a matter of public record. Loans secured against any property are also a matter of public record. This means that anybody can see these details.

If **Your** home is outside the Bailiwick of Guernsey or **You** or **Your Partner** own property outside the Bailiwick, including timeshare properties, **You** must remember that we may make enquiries.

You must give the present estimated value of **Your** property. Remember that enquiries may be made.

If **You** live in rented accommodation then **You** must give the details requested. **You** may be asked by us to produce **Your** rent book or a copy of the lease.

You must give full details of any property that **You** or **Your Partner** own or have an interest in other than the one where you live. For example, if you own some fields, or have a life interest in a property, **You** must declare such things, even if they are not bringing in any money. This requirement includes any property outside Guernsey including a holiday home or a timeshare.

SECTION 8 (pages 11 to 15)

These Pages deal with **Your** savings and investments and those of **Your Partner**. They must be completed in full.

This section also asks whether **You** have disposed of any of your assets since **You** became aware that these proceedings were likely to take place. This includes repaying a mortgage, charge or loan or part of it. Remember we may make enquiries.

SECTION 9 (page 15)

This section deals with whether **You** have any insurance policies e.g. house, motor or professional indemnity insurance or whether **You** are a member of a Trade Union or other body, which might provide cover for Legal Proceedings. Please check any policies **You** may have.

SECTION 10 (pages 16 & 17) A grant of legal aid in civil matters is based on what You and Your Partner earned over the past 13 weeks. However, the Administrator needs to be told of any changes in the future of which You may be aware at the time of the application. This is because many civil matters take a long time to come to a conclusion.

For this reason **You** should give details of any expected change in **Your** and **Your Partner's** circumstances over the next 12 months. If **You** are granted legal aid a condition will be that **You** and also **Your** Advocate will be obliged to give details of any changes in **Your** financial circumstances. This could be to **Your** advantage, for example if **You** are paying part of the legal aid costs this requirement may cease if **Your** circumstances change. It could be to **Your** disadvantage, but **You** have a duty to declare changes that might lower the cost to the taxpayers in providing **You** with legal aid.

You must also declare any large spending that **You** or **Your Partner** have made since **You** became aware that legal action might be needed. For example, if you knew that somebody was likely to sue **You** for a sum of money and then **You** decided to have an expensive holiday and ran down **Your** or **Your Partner's** savings in the process **You** might not get legal aid. Remember, enquiries may be made.

SECTION 11 (page 17)

Your Partner must sign this Page to say that he or she agrees with the details given on the Form 1F. This is not necessary if **You** are in dispute with **Your Partner** and details have not been provided.

(If you have completed this Form on behalf of someone else then the person's partner must sign).

SECTION 12 (pages 18 & 19)

If **You** are applying for legal aid for **You** then **You** must sign declaration A. Please read it carefully before **You** sign it and if necessary discuss it with somebody who can help **You**.

If you have filled in Form on behalf of somebody else you must sign Part B. Please read it carefully before you sign it.

Once Form 1F is signed please send it or deliver it to the Administrator at the address given at the start of this Guide and tell the Advocate that it has been delivered.

PERSONS APPLYING FOR LEGAL AID FROM OUTSIDE THE BAILIWICK OF GUERNSEY

Persons living outside the Bailiwick who wish to apply for legal aid in connection with proceedings in Guernsey, Alderney, or Sark must do so on a special form available only from the Administrator. The questions are the same, but there is an additional section. This requires a person to swear on oath that their answers to the questions are true.

CONFIDENTIALITY and DATA PROTECTION

All communications between an applicant for legal aid and the Guernsey Legal Aid Service are confidential and will not be disclosed to other persons except as follows:

- to persons within the Guernsey Legal Aid Service;
- to the applicant's Advocate in connection with the grant or refusal of any legal aid application
- to any person with the authority of the applicant;
- to any person in matters concerning the **Partner** of the applicant with the authority of the **Partner**;
- to any person if the Administrator is ordered by a competent Court;
- to the Administrator's legal advisers for the purpose of the Administrator obtaining legal advice;
- to the Law Officers if the Administrator has reasonable grounds for suspecting that an applicant has provided false information for the purposes of obtaining legal aid.
- The Administrator may inform a Court, an advocate acting for an opponent, or an opponent directly if that person is unrepresented, that legal aid has been granted.
- The Administrator will comply with the provisions of the Data Protection (Bailiwick of Guernsey) Law 2001, However, by completing the form the Applicant and the partner consents to the disclosure of personal data in so far as it is necessary to comply with the requirements of the Legal Aid Service and in particular to verify any information supplied in support of the application.

ADDITIONAL NOTES FOR ADVOCATES

Completion of the Form.

This is the responsibility of the Applicant. Clients should be handed Guide 1F along with the Form. The Legal Aid office is willing to assist in answering queries from Applicants. It is not intended that an Advocate or staff should assist in the completion of the form. If assistance is given it must be on a pro bono basis.

Essentials.

It should be stressed to the Applicant that the form should be fully completed and any failure to do so may likely result in the form being returned for completion. This may cause delay to the application or be prejudicial. In particular we require proof of earnings of Applicant and their partner or alternatively proof that they are in receipt of Supplementary Benefit. For earnings, proof will be in the form of wage slips or similar (which show both gross and net figures). For benefits, a copy of the Benefit award letter from SSD or the slip attached to the Applicant's most recent Benefit voucher should be provided. It is also helpful to have copies of the rent book, or proof of housing costs such as mortgage repayments, and other outgoings that the Administrator is asked to take into account.

Confidentiality and Data Protection

It is intended that the completed Form 1F is sent by the Applicant directly to the Administrator. It will be considered once the 1LM has been received from the Advocate. If the Administrator requires additional information this will be dealt with directly with the Applicant. The form authorises the Administrator to disclose the form to the Advocate and the Administrator will do so where it is considered appropriate. The offer or notification will be sent to the Applicant via the Advocate.

Any reasons for the refusal of legal aid will be disclosed to the Advocate.

Applicants should be advised that personal data will be disclosed in the course of verification or other enquiries and that Form 1F provides authority and consent for that disclosure. Any specific refusal for the disclosure of personal data must be notified to the Administrator at the time of the submission of Form 1F. However, if permission is refused this may mean that the Administrator will be unable to verify information and could lead to a refusal of legal aid.

Form 1F and subsequent proceedings.

In proceedings where a litigant's assets are in issue, such as in family proceedings, the Applicant must be advised that the opponent may seek discovery of the Form. Further, if a Statement of Means or affidavit is filed with the Court or disclosed to the other party then a copy of it must be supplied at the same time to the Administrator. The Administrator may compare it with the details supplied on Form 1F.

Overseas Applicants.

The Legal Aid Service will deal with overseas applicants. Once the Administrator is satisfied that there is reason to seek legal aid in the Bailiwick then we will send a Form 1F OVERSEAS directly to the Applicant together with its Guide. The overseas version is similar to Form 1F, but it has an additional section for notarisation. Once an Advocate is selected then we will provide an endorsed Green Form so as to allow an Opinion to be prepared.

The reason for channelling such applications through this office is to prevent delay. This is also to avoid any repetition of the circumstances that led up to the *Faulkner* case.

GUIDE 1F (incorporating Guide 1FX)
1st January 2011