



**July 2007**

**Key Points:**

- Replaces previous version dated November 2006

## **Getting legal advice**

This factsheet is aimed at people aged 60 and over and provides information about getting legal advice in England and Wales.

***Age Concern England does not provide specialist information on this subject.***

Readers living in Scotland can obtain a similar Factsheet 43s, *Obtaining and paying for legal advice*, available by phoning: 0800 00 99 66 (free call), from the website: [www.ageconcernscotland.org.uk](http://www.ageconcernscotland.org.uk), or by writing to Age Concern FREEPOST (30375), Ashburton, Devon TQ13 7ZZ.

**Contact details for Age Concern Scotland are:**

Causewayside House, 160 Causewayside, Edinburgh EH9 1PR, tel: 0845 125 9732 (lo-call rate);

**Contact details for the national Age Concern offices for Wales and Northern Ireland are:**

**Age Concern Cymru**, Ty John Pathy, Units 13/14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate), website: [www.accymru.org.uk](http://www.accymru.org.uk);

**Age Concern Northern Ireland**, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate) Monday to Friday 10am – 12pm and 2pm – 4pm, website: [www.ageconcernni.org](http://www.ageconcernni.org).

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# **1. Finding legal advice and information**

You may not need to use a solicitor. There are many sources of free legal advice; for example, you may be able to find the information you need through a helpline or on the internet. This factsheet covers obtaining legal advice on civil matters (where you have a dispute with another individual or organisation); it does not cover criminal matters.

## **1.1 The Community Legal Service (CLS)**

The Community Legal Service (CLS) is run by the Legal Services Commission. It sets a Quality Mark standard for all legal advice agencies and legal firms at the levels of information, general help, general help with casework, and specialist help.

The CLS directory lists all Quality Marked organisations; some of these organisations provide free legal advice, some will charge you for their work. 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, clinical negligence, personal injury, actions against the police, education, community care, public law, and crime.

The Legal Services Commission also administers the legal aid system for both civil and criminal law matters. Civil legal aid is now called CLS Funding (although the term legal aid is used in this factsheet), see Section 10 below. The CLS directory includes all organisations which can provide advice under civil legal aid funding.

You can search for organisations which 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.

You can search the directory on the website: [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) or ring Community Legal Advice on 0845 345 4 345 (lo-call rate). Community Legal Advice offers free legal advice on a range of subjects on this line for people who are eligible for legal aid. You can also use the online calculator on the website to see if you are eligible for legal aid.

## 1.2 Legal Information on the internet

There is a lot of information on legal rights available on the internet. You may be able to find the answer to your question without having to seek further advice.

**www.advicenow.org.uk** is an independent, not-for-profit website providing information on legal rights and issues. The website 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.adviceguide.org.uk** is the online Citizens Advice Bureau service. The website provides information on your legal rights, including Frequently Asked Questions and Factsheets which can be downloaded.

**www.communitylegaladvice.org.uk** is the website of the Community Legal Service. It provides free legal information leaflets and links to other sources of information and advice.

**www.direct.gov.uk** is a government website which brings together public service information, including information about your legal rights. There is a section specifically aimed at people over 50.

## 2. Local advice giving organisations

Advice from the agencies described in this section is usually free. Most will give only 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.

### 2.1 Age Concern

There are over 350 Age Concerns around England, and all are independent, registered charities. They are diverse and each one has its own range of services. Some offer activities, some offer information and advice on older people's issues.

All Age Concerns should be able to signpost older people to reliable sources of information and advice, and many Age Concerns have an information and advice service themselves. 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 Concern, ring Age Concern's Information Line on 0800 00 99 66 (free call, daily 8am to 7pm).

## **2.2 Citizens Advice Bureaux (CABx)**

Citizens Advice Bureaux are locally run charities operating in most areas of the country. Their umbrella organisation is Citizens Advice. CABx advise about 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](http://www.citizensadvice.org.uk).

Citizens Advice also has another website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk) which includes information on subjects such as employment, housing, welfare benefits and consumer affairs.

## **2.3 Law Centres**

Law Centres are independent locally based charities which provide free legal advice and representation. 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](http://www.lawcentres.org.uk). Details can also be found in the Community Legal Service (CLS) directory, or in your local phone book.

## **2.4 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 7407 4070 to find a suitable advice provider in your area.

### **3. 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 matters. Although the housing advice services are usually for council tenants, they will sometimes give advice to 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 problems with goods or you have bought, or a dispute with a local tradesman. Contact your local authority for details or go to [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk).

### **4. National and Specialist agencies**

There are many organisations which 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 which may help you. The list below is not a comprehensive one, but shows 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).

#### **4.1 Consumer issues**

A range of consumer watchdogs exist, for example for gas, electricity, water and telecommunications. See Age Concern's Information Sheet IS/11, *Consumer advice – where to get it*.

#### **4.2 Disability**

The Equality and Human Rights Commission (EHRC) has responsibility for promoting and enforcing the law on disability discrimination (this role is taken over from the Disability Rights Commission). See section 4.4 below.

The EHRC runs a helpline specialising in disability issues. Call 08457 622 633 or write to them at FREEPOST MIDO2164, Stratford Upon Avon, CV37 9BR.

DIAL UK is a national organisation of 160 local Disability Information and Advice Line Services, run by and for disabled people. Members of this organisation can provide information and advice on any aspect of disability. Legal representation is not available. DIAL UK, St Catherine's, Tickhill Road, Doncaster, South Yorkshire DN4 8QN, tel: 01302 310123 (national call rate), textphone: 01302 310123, website: [www.dialuk.info](http://www.dialuk.info).

### **4.3 Employment**

Trade unions or 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 TUC runs the Worksmart website ([www.worksmart.org.uk](http://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 the TUC on 0870 600 4 882 (national call rate).

ACAS (Advisory Conciliation and Arbitration Service) is a publicly funded, independent organisation to improve employment relations. Their website [www.acas.org.uk](http://www.acas.org.uk) gives useful information on employment rights. ACAS also runs a helpline giving advice and information on employment questions, 08457 474747 (lo-call rate), textphone: 08456 061600 (lo-call rate).

### **4.4 Equality and Human Rights**

The Equality and Human Rights Commission (EHRC) is the new body which has replaced the Equal Opportunities Commission, The Commission for Racial Equality, and the Disability Rights Commission. It has responsibility for promoting and enforcing the 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 the further information section for contact details.

## **4.5 Health and social care**

Your local PALS (Patient Advice and Liaison Service) provides information advice and support in relation to complaints related to the National Health Service (NHS) – to find your nearest one, contact NHS Direct on 0845 46 47 (lo-call rate), or phone your local hospital, clinic or GP surgery.

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 the local ICAS service. See Age Concern's Factsheet 44, *NHS services* for more information about making a complaint about the NHS.

For complaints about social services, your local authority will have a complaints procedure and local advice agencies may be able to help with advice about how to challenge decisions.

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 Commission for Social Care Inspection (CSCI).

CSCI is the body responsible for regulating a wide range of social care services. Contact CSCI on 0845 015 0120 (lo-call rate) for details of your local office. CSCI, St Nicholas Buildings, St Nicholas St, Newcastle-Upon-Tyne, NE1 1NB, website: [www.csci.org.uk](http://www.csci.org.uk).

Counsel and Care gives advice on issues around care homes. Their address is Twyman House, 16 Bonny Street, London NW1 9PG, tel: 0845 300 7585 (lo-call rate), website: [www.counselandcare.org.uk](http://www.counselandcare.org.uk).

## **4.6 Housing**

Shelter gives advice on housing issues, such as homelessness, tenants' rights, and poor housing conditions. Their address is 88 Old St, London EC1V 9HU, tel: 0808 800 4444 (free call), website: [www.shelter.org.uk](http://www.shelter.org.uk).

The Elderly Accommodation Counsel gives information on accommodation issues for older people, and signposts to relevant advice organisations. EAC, 3rd Floor, 89 Albert Embankment, London SE1 7TP, tel: 020 7820 1343 (national call rate), website: [www.housingcare.org](http://www.housingcare.org).

AIMS (Advice Information Mediation Service), part of Age Concern England, provides specialist impartial advice to those who live in rented sheltered and private retirement housing. AIMS provides detailed casework with a full mediation service available. AIMS, Astral House, 1268 London Road, London, SW16 4ER, tel. 020 8765 7465, or 0845 600 2001 (lo-call rate), website: [www.ageconcern.org.uk/aims](http://www.ageconcern.org.uk/aims).

#### **4.7 Human rights**

The Equality and Human Rights Commission has responsibility for promoting human rights and encouraging compliance with the Human Rights Act. See section 4.4 above.

Liberty, 21 Tabard St, London SE1 4LA, tel: 0845 123 2307 (lo-call rate), website: [www.yourrights.org.uk](http://www.yourrights.org.uk). It is an independent organisation which gives advice and help about the *Human Rights Act 1998* in various areas of law, but it focuses on test cases only in terms of representation.

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](http://www.bih.org.uk). The British Institute of Human Rights does not give advice to individuals.

#### **4.8 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. National Debtline, Tricorn House, 21-53 Hagley Road, Edgbaston, Birmingham, B16 8TP, tel: 0808 808 4000 (free call), website: [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk).

The Consumer Credit Counselling Service is a charity with ten regional offices who give counselling sessions in person or by phone. This may lead to a repayment plan being drawn up and proposed to creditors. Consumer Credit Counselling Service, 9th floor, Wade House, Merrion Centre, Leeds LS2 8NG, tel: 0800 138 1111 (free call), website: [www.cccs.co.uk](http://www.cccs.co.uk).

See Age Concern's Information Sheet 23, *Dealing with debt* for more information and advice.

## **4.9 Immigration, nationality and asylum**

Free legal advice is available from the following organisations:

The Joint Council for the Welfare of Immigrants (JCWI) offers free advice to professionals and individuals – tel: 020 7251 8706, website: [www.jcwi.org.uk](http://www.jcwi.org.uk).

The Immigration Advisory Service: for central London telephone 020 7967 1200 (answerphone and call back), website: [www.iasuk.org](http://www.iasuk.org) gives details of regional services.

The Refugee Legal Centre in London, tel: 020 7780 3200, website: [www.refugee-legal-centre.org.uk](http://www.refugee-legal-centre.org.uk).

## **4.10 Lesbian, gay and bisexual issues**

The Equality and Human Rights Commission has responsibility for enforcing legislation on sexual orientation discrimination. See section 4.4 above.

Stonewall's website gives information on your rights, and where to get legal advice, as well as a list of solicitors - website: [www.stonewall.org.uk](http://www.stonewall.org.uk). Or call Stonewall on 020 7593 1850.

## **5. 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 finding common ground and agreeing 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) whilst others do 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 tribunal (for example with employment tribunals), you should get independent advice before arranging a mediation to ensure that an important time limit is not missed.

### **Providers of mediation services**

Private retirement or sheltered housing: If you are a resident of private retirement or sheltered housing, AIMS (part of Age Concern England) may be able to help you resolve a dispute with your landlord or with other residents. See Section 4.6 above. AIMS, Astral House, 1268 London Road, London, SW16 4ER, helpline: 0845 600 2001 (lo-call rate), website: [www.ageconcern.org.uk/aims](http://www.ageconcern.org.uk/aims).

Community/neighbour disputes: Community mediation services are usually offered free to local residents. To find if a mediation service is available in your area, search the Directory of UK Mediation on the website: [www.intermedial.org.uk](http://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 UK College of Family Mediators, the national umbrella body for family mediation or the Law Society. UK College of Family Mediators, Alexander House, Telephone Avenue, Bristol BS1 4BS, tel: 0117 904 7223, website: [www.ukcfm.co.uk](http://www.ukcfm.co.uk).

Other types of legal dispute: A National Mediation Helpline was launched in March 2005 which can arrange mediation for people with various types of disputes including personal injury, small claims, business and consumer disputes, tel: 0845 6030 809 (lo-call rate), website: [www.nationalmediationhelpline.com](http://www.nationalmediationhelpline.com). A charge is made for mediation services.

## **6. Private non-solicitor organisations**

A growing number of private non-solicitor organisations offer legal services such as will-writing and/or advice on management of assets. These organisations are not governed by any regulatory body and therefore are not subject to the same degree of regulation as solicitors' firms, or charitable and publicly funded organisations which are subject to public scrutiny.

There is a new regulation regime for companies and individuals offering claims management services. These are non-solicitor organisations which act as intermediaries for people claiming compensation. They often advertise themselves as acting on a 'no win, no fee' basis. Organisations providing these services will 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](http://www.claimsregulation.gov.uk), or phone 0845 450 6858 (lo-call rate).

## **7. Ombudsman schemes**

Some legal problems can be resolved by taking a complaint to the relevant ombudsman. Ombudsmen consider complaints from citizens and consumers and are often 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 need 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 when making a complaint. Contact the British and Irish Ombudsman Association, PO Box 308, Twickenham, TW1 9BE, tel: 020 8894 9272, website: [www.bioa.org.uk](http://www.bioa.org.uk) for details of independent ombudsman schemes.

## **8. 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 of law.

### **8.1 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 1.1 above). You can use the online search facility at [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk), or call 0845 345 4345 (lo-call rate).

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. There is an online search facility at [www.sra.org.uk](http://www.sra.org.uk), or call them on 0870 606 2555 (national call rate).

Agencies such as Citizens Advice Bureaux or Age Concerns may be able to give you 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). This is a referral scheme endorsed by the Law Society.

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

### **8.2 Checklist of questions to ask the 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 and what experience and qualifications do they have?
- what are the next steps?

## **9. 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 of the options is most suitable for you. Solicitors have a duty to let you know if you are eligible for legal aid.

### **9.1 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. Usually any fixed fee excludes any additional expenditure which 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.

### **9.2 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 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 s/he will not know how long the case will take. S/he should state their hourly rate and an estimate of how much the costs will be 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 eg, for local authority searches, Land Registry fees, a fee for a medical report etc will be charged on top.

## **9.3 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 already 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.

#### **9.4 Conditional Fee Agreements ('No win, No fee')**

In 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, your opponent may not be ordered 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.

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 up front.

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.

For more information on Conditional Fee Agreements, see the Community Legal Service's leaflet *No Win No Fee Actions*. This is available on the website: [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk), or you can order a free copy on 0845 3000 343 (lo-call rate).

## **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 lose 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.

## **10. Legal Aid**

Legal Aid is now called Community Legal Service Funding. 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*, available by calling 0845 3000 343 (lo-call rate).

This factsheet explains the two main types of Legal Aid; Legal Help and Legal Representation. There are other types available 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.

### **10.1 Eligibility**

The 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.

You may find that even though you do not qualify financially for help under the Legal Help scheme you may be eligible for some other funding. The Community Legal Advice website, [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.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, the 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 to you how these apply to your case.

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

## **10.2 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, that is a member of the Law Society approved panel or someone who has a franchise with the Legal Services Commission.

The Legal Help scheme does not normally cover making a will. However a person aged 70 or over or a person who is disabled (within the meaning of the *Disability Discrimination Act*) can get advice and assistance for drawing up a will under the scheme.

### **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 to get Legal Help or Help at court?**

To qualify your income and capital must be below certain levels. If you have more than £8,000 disposable capital (see Section 10.3) below, or your gross income is more than £2,435 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 Job Seeker's Allowance.

### **10.3 Legal representation**

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

To apply for a funding certificate you will need to consult a solicitor who will advise you about whether you are likely to qualify for funding and send off 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.

#### **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 s/he 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 £672 or less.

The capital limit for eligibility is £8000. 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.

There are detailed rules about calculation of disposable income and for calculation of capital, ask your adviser about these. 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 redetermining your eligibility on financial grounds if your circumstances change. Ask your adviser about these matters.

### **Over 60s and funding for legal representation**

If you or your partner are over 60 and on a low income you may still qualify for funding 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 2006-2007, 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 £279 per month, capital disregards apply as follows:

<b>Monthly disposable income</b>	<b>Amount of capital disregarded</b>
£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 – 289	£10,000
Over £289	nil

#### **10.4 Paying back the Legal Services Commission (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.

The Legal Services Commission is then likely to ask you to use part or all of your compensation to pay the rest of your legal costs back to the Legal Services Commission. This is known as the statutory charge.

The same principle 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 have won a case about who owned your house. In that instance it may not always be possible for you to pay back the costs straight away. The Legal Services Commission may 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 and state benefits and tax credits are exempt from the statutory charge. So for example, if you win a case on eligibility for benefits, you would not have to pay back the LSC out of those benefits.

If you are receiving legal aid, ask your solicitor about the implications of the statutory charge.

## **11. Complaints about your solicitor or adviser/advice agency**

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. This is an independent part of the Law Society, responsible for handling complaints against solicitors. There is no charge for using the Legal Complaints Service. You should contact them within six months of the date of your solicitor's final response to your complaint.

The Legal Complaints Service can order the solicitor to reduce your bill, pay you compensation, or correct a mistake.

You can contact the Legal Complaints Service by calling 0845 608 6565 (lo-call rate), by email to [enquiries@legalcomplaints.org.uk](mailto:enquiries@legalcomplaints.org.uk) or by post to Legal Complaints Service, Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire, CV32 5AE.

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

### **11.1 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.

#### **Remuneration certificates**

If you think you have been charged too much you have a right under the *Solicitors Act 1974* to challenge your solicitor's bill. This is in addition to any rights you may have under the contract you have made with your solicitor to undertake work for you.

In some cases you can ask your solicitor to apply for a remuneration certificate from the Legal Complaints Service. This is only for cases where court proceedings have not been started. You must do this within one month of the date when your solicitor informs you of your right to apply for a remuneration certificate; or if they do not inform you of this, within three months of the date you receive the bill.

Your solicitor will have to send the file of papers to the Legal Complaints Service for a ruling about whether the costs are 'fair and reasonable' having regard to 'all the circumstances of the case'.

Your solicitor can require you to pay 50% of their charges and the total VAT and disbursements they have billed, before they apply for a remuneration certificate on your behalf.

If you have agreed a fixed fee in writing it will be difficult to challenge the amount payable, unless you are disputing that the work was done at all or assert that it was not to the required standard.

### **Assessment of solicitor's bill of costs**

In any dispute about a solicitor's bill, you can also 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.

## **12. Further Information**

**(all numbers are national call rate(s) unless stated)**

**Citizens Advice**, Myddleton House, 115-123 Pentonville Road, London N1 9LZ, tel: 020 7833 2181 (advice is not available on this number), website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

**Community Legal Advice**, tel: 0845 345 4 345 (lo-call rate), website: [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk). Offers a range of leaflets as well as the directory for legal advice.

**DIAL UK**, St Catherine's, Tickhill Road, Doncaster, South Yorkshire DN4 8QN, tel and textphone: 01302 310123, website: [www.DIALUK.org.uk](http://www.DIALUK.org.uk).

**Directory of UK Mediation**, website: [www.intermedial.org.uk](http://www.intermedial.org.uk). A new on-line service set up to provide a database of community mediation services in the UK.

**Equality and Human Rights Commission**, Helpline, Freepost RRLG-GHUX-CTRX, Arndale House, Arndale Centre, Manchester M4 3EQ, tel: 0845 604 6610 (lo-call rate). If your enquiry is about disability discrimination, contact the EHRC disability helpline at Freepost MID02164, Stratford-upon-Avon, CV37 9BR, tel: 08457 622 633. An independent public body responsible for enforcing discrimination and human rights legislation, including giving information on your rights.

**Law Centres Federation**, Duchess House, 18-19 Warren Street, London W1T 5LR, tel: 020 7387 8570, website: [www.lawcentres.org.uk](http://www.lawcentres.org.uk). Website offers a directory to find your nearest law centre.

**Legal Complaints Service**, Victoria Court, 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE, tel: 0845 608 6565 (lo-call rate).

**Legal Services Commission**, (Head Office), 85 Grays Inn Road, London WC1X 8TX, tel: 020 7759 0000, website: [www.legalservices.gov.uk](http://www.legalservices.gov.uk). Regional offices around England and Wales.

**Legal Services Ombudsman**, 3rd Floor, Sunlight House, Quay Street, Manchester M3 3JZ, tel: 0845 601 0794 (lo-call rate), website: [www.olso.org](http://www.olso.org).

**Liberty**, 21 Tabard Street, London, SE1 4LA, tel 0845 123 2307 (lo-call rate), website: [www.yourrights.org.uk](http://www.yourrights.org.uk).

**Shelter**, 88 Old St, London EC1V 9HU, tel: 0808 800 4444 (free call), website: [www.shelter.org.uk](http://www.shelter.org.uk).

**Solicitors Regulation Authority**, (previously the Law Society Regulation Board), Ipsley Court, Berrington Close, Redditch, B98 0TD, tel: 0871 606 2555 (national call rate), website: [www.sra.org.uk](http://www.sra.org.uk). Can provide details of solicitors in your area.

**Stonewall**, Tower Building, York Road, London SE1 7NX, tel: 020 7593 1850, minicom: 020 7633 0759, website: [www.stonewall.org.uk](http://www.stonewall.org.uk).

**UK College of Family Mediators**, Alexander House, Telephone Avenue, Bristol BS1 4BS, tel: 0117 904 7223, website: [www.ukcfm.co.uk](http://www.ukcfm.co.uk).

The following factsheet's/information sheet may be of use:

Factsheet 44     *NHS services*  
Factsheet 4     *Your rights at work*  
Info Sheet IS/11   *Consumer advice - where to get it*

If you would like:

- to find your nearest Age Concern
- any additional factsheets mentioned (up to a maximum of 5 will be sent free of charge)
- a full list of factsheets and/or a book catalogue
- to receive this information in large print

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB30375), Ashburton, Devon TQ13 7ZZ. For people with hearing loss who have access to a textphone, calls can be made by Typetalk, which relays conversations between text and voice via an operator.

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No factsheet can ever be a complete guide to the law, which also changes from time to time. Therefore please ensure that you have an up to date factsheet and that it clearly applies to your situation.

Legal advice should always be taken if you are in doubt. (*Age Concern England does not give legal or financial advice*).

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