



**GREEN FORM KEY CARD (No. 37)  
Effective from 7th of April 2014**

**These notes relate specifically to financial eligibility. For guidance on the scope of the Scheme please refer to Legal Advice & Assistance Regulations (NI) 1981 (SR1981 No 366) or contact the Northern Ireland Legal Services Commission.**

GENERAL NOTES FOR GUIDANCE ON THE DETERMINATION OF FINANCIAL ELIGIBILITY.

1. Under the Legal Advice and Assistance Regulations (NI) 1981 the responsibility for determining Disposable Capital and Disposable Income and accordingly financial eligibility is placed squarely upon the solicitor.
2. The Green Form must be signed and dated by the client at the initial interview with the solicitor as soon as his/her eligibility has been established.
3. An assessment of both Disposable Capital and Disposable Income must be carried out in every case with the exception of advice rendered under PACE either by telephone or rendered under PACE at a police station.
4. The capital and weekly income of both partners, either husband and wife, cohabittees, civil partners, registered civil partners or a client & anyone with whom the client resides as a couple, including a person of the same sex, must be taken into account unless:
  - They have a contrary interest
  - They live separate and apart
  - It is inequitable or impractical to aggregate their means.
5. Where help is sought on behalf of a child under limit of compulsory school age, (at present 16 years of age) the parent, or other person responsible, must provide information as to their own resources and eligibility.
6. A person seeking help on behalf of someone unable to attend personally upon a solicitor must provide information as to that person's resources and eligibility rather than his own.
7. When income is clearly not typical of that usually received during any one week, discretion may be exercised and the client's disposable income determined on the basis of the average weekly income received over a longer period.
8. If the client's contribution exceeds the cost of the advice and assistance the surplus may be refunded to the client

DEFINITIONS

<b>Capital</b>	means total savings of every type including savings, shares, insurance policies and premium bonds.
<b>Income</b>	means the total income from all sources, which the applicant received or became entitled to during or in respect of the seven days up to and including the date of the application. It should be noted that Child Benefit is counted as income.
<b>Dependant</b>	means children or relatives wholly or substantially maintained by the client, even if they are not members of the household.
<b>Passport Benefit</b>	means Income Support, Income Based Job Seeker's Allowance, Guarantee State Pension Credit or Income Related Employment and Support Allowance.

CAPITAL DEDUCTIONS AND ALLOWANCES.

In determining Disposable Capital **disregard**:

- The value of the main or only dwelling house in which the applicant resides.
- The value of the household furniture and effects, articles of personal clothing and tools and implements of the client's trade.
- The subject matter of the advice and assistance.

MAXIMUM DISPOSABLE CAPITAL FOR FINANCIAL ELIGIBILITY

Because different capital limits apply for Advice and Assistance and ABWOR, clients may be eligible for ABWOR when not eligible for Advice and Assistance

<u>ADVICE AND ASSISTANCE(GREEN FORM)</u>		<u>ABWOR</u>	
£1000	Client with no dependants.	£3000	Client with no dependants
£1335	Client with 1 dependant	£3335	Client with 1 dependant
£1535	Client with 2 dependants	£3535	Client with 2 dependants
£1635	Client with 3 dependants		

**Add £100 for each additional dependant.**

NOTES

- Capital must be assessed for Advice and Assistance even if the applicant is in receipt of a Passport Benefit.
- All capital is disregarded for ABWOR if a client is in receipt of Income Support, Income Based Job Seeker's Allowance, Guarantee State Pension Credit or Income Related Employment and Support Allowance.
- A client whose disposable capital exceeds the appropriate amount set out above is not eligible for Advice and Assistance, even if the client is in receipt of a Passport Benefit.

## INCOME DEDUCTIONS AND ALLOWANCES

In determining Disposable Income **disregard**:

- Payments by way of Attendance Allowance
- Payments by way of Disability Living Allowance
- Payments from the Social Fund
- Payments by way of Constant Attendance Allowance when paid as an increase to a disablement pension
- Any part of a client's weekly income if it is the subject matter of any claim upon which the Advice and Assistance is being sought.

In determining Disposable Income **deduct** from the client's income and from the partner's income if there has been aggregation.

- Income Tax
- Contributions paid under the Social Security (NI) Acts 1975-86
- £41.30 in respect of either partner (a partner being anyone with whom the client normally resides as a couple, including a person of the same sex) whether or not their means are aggregated. Where they are separated or divorced, the allowance will be the actual maintenance paid by the applicant in respect of the previous seven days.

## DEPENDANT DEDUCTIONS

£66.33 in the case of each dependent child or dependent relative aged under 20.

## NOTES

- Entitlement is calculated from the first Monday in September following the relevant birthday
- No deduction can be made in respect of a foster child
- If anyone with whom the client normally resides as a couple, including a person of the same sex, is seeking advice in connection with a matter in which there is a contrary interest, the money received for normal household expenses should not be included as part of the clients separate income.
- An applicant will be ineligible for Advice and Assistance if the Disposable Income exceeds £234.

## CLIENT'S CONTRIBUTIONS

<u>Disposable Income not exceeding</u>	<u>Contribution</u>	<u>Disposable Income not exceeding</u>	<u>Contribution</u>
£100 per week	Nil	£170 per week	£70.00
£107 per week	£7.00	£177 per week	£77.00
£114 per week	£14.00	£184 per week	£84.00
£121 per week	£21.00	£191 per week	£91.00
£128 per week	£28.00	£198 per week	£98.00
£135 per week	£35.00	£205 per week	£105.00
£142 per week	£42.00	£212 per week	£112.00
£149 per week	£49.00	£219 per week	£119.00
£156 per week	£56.00	£226 per week	£126.00
£163 per week	£63.00	£234 per week	£134.00

## SUPPORTING EVIDENCE

It is insufficient for a solicitor to accept, without supporting evidence a statement from a client in relation to either income or receipt of benefit. A solicitor must be "satisfied" as to a client's financial eligibility. The most suitable forms of evidence are:

### INCOME

Pay Slips  
Form P60

### PASSPORT BENEFIT

A letter from the Social Security Agency setting out the benefit position

The supporting evidence detailed in respect of passport benefits also applies to all other benefits

A copy of the Court Order is the most suitable form of evidence to justify deductions in respect of maintenance.

The nature of the evidence on which the solicitor has been satisfied should be stated on the Form Rep5. If other evidence is used it must be specified. If the solicitor has been faced with an emergency situation in which less satisfactory evidence has been accepted that should be stated also, together with the nature of the evidence. Having the client sign a form of authority to enable the release of information by the SSA shall not, in itself, be considered as satisfactory evidence.

**Random checks on the benefit status of clients will be carried out. Clients who have misrepresented their position can and will be prosecuted. They will also become liable to repay any costs paid by the Legal Services Commission on their behalf. If no enquiry about the benefit position was made of the client, or if the solicitor was "satisfied" recklessly, or on the basis of inadequate information then the client may also be able to shift that liability to the solicitor. The solicitor's professional position could also be put in question. It is important that the file clearly shows (by a full note or, preferably, a copy of the relevant document) that proper information and evidence was sought and obtained from the client. A checklist question has been included on the Rep5 by way of reminder.**

When financial eligibility has been established, a client should be told of the amount of contribution due and arrangements should be made for collection either by payment of the full sum or by instalments. Although VAT is payable, the client's maximum contribution cannot be increased by levying VAT.