



Legal Aid
Agency

Providing access to justice through working with others
to achieve excellence in the delivery of legal aid

National crime applications team: #HelpUsSayYes webinar: Your questions

Getting your crime applications right first time

April 2025



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Income

Q: Why do you use the last monthly figure on a payslip instead of the year-to-date figure?

A: Please refer to the criminal legal aid manual (CLAM) 12.8. If the earnings calculated from the year-to-date figure are significantly higher (more than 10 percent higher), this figure will be used in the assessment. In this case, tax and national insurance deductions will also be calculated from the year-to-date figure.

Q: How should income be calculated for people who work on zero-hour contracts, given that their income varies weekly or monthly?

A: We understand that income can vary for zero-hour contract employees and seasonal workers. Normally, caseworkers look at the applicant's financial situation over the 3 months before the application date. However, for those with variable, seasonal, or erratic earnings, it can be more accurate to provide income evidence for up to 6 pay periods with your initial application.

The LAA will always try to assess the applicant's current income accurately. We ask that you give a detailed explanation of the defendant's circumstances in these cases and provide as much evidence (like wage slips and bank statements) as possible to support the application.

You can find more guidance in the CLAM at section 12.11 on erratic income and seasonal workers.

Q: How should income be calculated for a client who is essentially self-employed but is the director of their own small company with no other employees?

A: The director of a company will be assessed based on the company's profits. As the sole director, they have complete control over how the profits are distributed, along with any salary or remuneration they receive. Therefore, the size of the business and the number of employees does not affect our assessment process.

Q: I often must submit applications that I know will be rejected because the client is over the income limit. I still must do this in case the client is acquitted in the Crown Court. I have provided enough evidence to show they are over the income limit, but sometimes I cannot supply old documents like premium bonds or old accounts that the client can't find anymore. Why do you still insist on having this evidence when it is clear the client is over the financial limit?

A: To allow the LAA to assess an application, it needs to be complete with all the necessary evidence attached. However, for serious cases and trials in the Crown Court, you need to provide enough information to complete a means assessment.

We can complete an initial means assessment without evidence of capital and equity, even if your client has a disposable income over the limit, which would make them ineligible.

If you submit an application in the situation stated in the question, it will be considered incomplete and rejected, rather than being reviewed and refused for legal aid.

The advice here is to explain what evidence is missing and why, including any attempts made to obtain the evidence and why it cannot be provided now or in the future. The caseworker will then review this information and refer the case to see if a decision can be made.

Please note:

- A returned application is called a rejected application.
- An application that has been reviewed and not granted legal aid is called a refusal.

Offences

Q: Why can't the offences be automatically added to the application when you enter the URN?

A: Right now, the system cannot automatically add the offences to the application because we need access and a connection to the HMCTS systems to verify the records and display the information. Currently, the system doesn't support this, but we hope to explore and add this feature in the future.

Contributions

Q: Why do the partners of defendants have to pay contributions for offences their partners committed, even if the offences happened before they were together?

A: For assessment purposes the LAA are bound by regulations:

The Criminal Legal Aid (Financial Resources) Regulations 2013.

Regulation 9: Resources of a partner:

When calculating the disposable income and disposable capital of an individual, the Director must treat the financial resources of that individual's partner as the individual's financial resources unless—

- (a) the individual's partner has a contrary interest in the matter in respect of which the individual is seeking advice and assistance; or
- (b) the director considers that, in all the circumstances of the case, it would be inequitable or impractical to do so.

The Criminal Legal Aid (Contribution Orders) Regulations 2013.

Regulation 4: Resources to be treated as the individual's resources

(1) Where an individual has a partner—

- (a) in calculating the financial resources of the individual, the Director must treat the financial resources of the partner as the individual's financial resources; and
- (b) any reference in these Regulations to the financial resources, financial circumstances, income or capital of the individual includes a reference to the financial resources, financial circumstances, income or capital of the individual's partner, unless the partner has a contrary interest in the proceedings."

Transfer of grant

Q: I applied to transfer a co-defendant even though there was no conflict or issue. I made representations that under regulation 13, we should be allowed to represent co-defendants. However, the judge said that a firm should not represent more than one defendant and approved the transfer. What should I do when courts have a different opinion?

A: According to the regulations on 'Determinations by a Court and Choice of Representative,' if a court decides that a defendant should be represented by a different firm, this decision should be included in the application. The regulation states 'unless the court or the director determines that.'

Therefore, if the court determines that the defendant can be granted legal aid to a different firm, this is enough for the LAA to comply with the regulations.



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