



KEYCARD 49 – Issued April 2013

GENERAL INFORMATION

This keycard is intended as a quick reference point for making financial determinations for those forms of civil legal services for which the provider has responsibility including Legal Help.

Providers must refer to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 and the Lord Chancellor’s guidance for controlled work and family mediation, for a full list of the relevant forms of civil legal services and detailed guidance for making financial determinations. References in this card are to those regulations and guidance.

Providers must have regard to the general provisions set out in Section 2.1 paragraphs 3-5 and section 12 of the guidance regarding our requirements for evidence of means.

Summary Table – Main eligibility limits from 1 April 2013:

Forms of Civil Legal Services	Income limits	Capital limits	Passporting Benefits
Legal Help; Help at Court; Family Help (lower); Help with Family Mediation; Family Mediation; Legal Representation for proceedings in: (i) the immigration and asylum tribunal of the First-tier tribunal (ii) the immigration and asylum tribunal of the Upper tribunal in relation to an appeal or review from the immigration and asylum tribunal of the First-tier tribunal.	Gross income not to exceed: £2,657 per month* Disposable income not to exceed: £733 per month	Disposable capital not to exceed: £3,000 [Legal Representation in respect of an immigration matter set out in Regulation 8(3)] £ 8,000 [All other forms of civil legal services]	Clients properly in receipt, directly or indirectly, of: <ul style="list-style-type: none"> • Income Support, • Income-Based Job Seeker's Allowance, • Income-Related Employment and Support Allowance, • Guarantee Credit or • Universal Credit are passported through the gross income and disposable income test <u>but capital must be assessed in all cases.</u> For controlled work asylum and immigration matters only described in regulation 6(1) of the Financial Regulations: clients properly in receipt, directly or indirectly, of NASS support are passported through both the income and capital test.
<p>*Note: A higher gross income cap applies to families with more than 4 child dependants. Add £222 to the base gross income cap shown above for the 5th and each subsequent child dependant.</p>			

STEP BY STEP GUIDE for financial determinations

Step One Establish whether or not the client has a partner whose means should be aggregated for the purposes of the financial determination (see Reg.16 and section 4.2 of the guidance).

Step Two Establish whether the client is properly in receipt, directly or indirectly, of a 'passporting' benefit in order to determine whether the client automatically satisfies the gross and disposable income limits, as indicated by the 'passporting' arrangements stated in the summary table. If the client **is** passported go directly to Step Five. If the client is **not** passported go to Step Three.

Step Three For any cases which are not 'passported' calculate the gross income of the client, including the income of any partner, (refer to section 5 of the guidance). Where gross income is above £2,657 per month, then the client is ineligible for all forms of civil legal services covered by this keycard and the application must be refused without any further calculations being performed. Certain sources of income must be disregarded, and a higher gross income cap applies to families with more than 4 child dependants (refer to summary table).

Step Four For those clients whose gross income is not more than £2,657 per month, calculate disposable income. Fixed allowances are made for dependants and employment expenses, and these are set out in the table below. Other deductions can be made for: tax; national insurance; maintenance paid; housing costs; child-care incurred because of work; and criminal legal aid contributions. If the resulting disposable income is above £733 per month then funding must be refused (without any further calculations being necessary).

Fixed rate allowances (per month) from 1 April 2013:		
Employment Expenses (employees only)	£45	
Dependants Allowances:	From 8 April 2013	
Partner	£177.50	£175.76
Child aged 15 or under	£285.13	£282.40
Child aged 16 or over	£285.13	£282.40
Housing cap (for those without dependants)	£545	

Step Five Where a client's disposable income is below the relevant limit or the client is passported on income, then it is necessary to calculate the client's disposable capital (except where client is passported on NASS support in which case go directly to Step Six). See section 7 of the guidance for details of how to calculate capital; this will now include the value of the client's interests in disputed assets to the extent that they exceed the maximum subject matter of dispute disregard of £100,000. If the resulting capital is above the relevant limit (see summary table), then the application must be refused.

Step Six For those clients whose disposable income and disposable capital have been calculated to be below the relevant limits (including those passported through relevant thresholds), the client can be awarded funding. **The forms of civil legal services covered by this keycard are non-contributory.**