

# Our Services

## Crime and Defence Representation

### Funding Options

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#### 1. Police Station Advice Scheme

Under this scheme, where a person is suspected of having committed an offence, the suspect receives free advice from a Solicitor (or his/her representative). The advice can be given face to face or over the telephone. There is no means test, and no form to complete. This system only applies whilst the suspect is at a Police Station.

#### 2. Legal Advice and Assistance Scheme

Under this scheme a person suspected of an offence and before being charged for an offence can be advised and assisted by a Solicitor at the office or on the telephone. This however depends on a person's financial circumstances. An individual with no income or in receipt of certain benefits will automatically qualify for this advice. Those on lower incomes would also generally be entitled to this advice. We will be able to advise you fully on this at the commencement of your case. The scheme does not cover representation at a court hearing. We can carry out 2 hours work on your behalf under this scheme.

#### 3. Representation Order

- a) A Representation Order (formerly known as a Legal Aid Order) will be granted if a Magistrates Court Clerk is satisfied that it is in the interests of justice (merits test) and that an individual is financially eligible (means test).

#### Merits Test

In deciding whether it is in the interests of justice to grant a Representation Order, a clerk will consider such factors as the risk of imprisonment; the loss of livelihood on conviction; damage to reputation; complex areas of law; whether witnesses need to be traced; the cross examination at trial of any witnesses and whether an individual suffers from any disability, amongst other matters.

#### Means Test

An individual will be financially eligible for Legal Aid if their gross annual income, adjusted to take account of any partner or children is less than the lower financial threshold. The gross annual income must include any income of a partner, and does not take into account deductions such as tax and national insurance contributions.

Where the gross annual income falls between the lower and upper financial threshold, a calculation will be made of the individual's annual disposable income, deducting income tax, National Insurance, Council Tax, housing expenses, child care costs, maintenance and living expenses from the actual income.

The individual may then be financially eligible for Legal Aid. It is only in exceptional circumstances e.g., where an individual has particularly high and unusual outgoings, or because their defence costs are likely to be unusually expensive, that an individual with a gross annual income over the upper financial threshold will be granted a Representation Order. This will be referred to as a 'hardship review'. The lower and upper financial threshold may be subject to change by the Legal Services Commission.

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Individuals who receive Income Support; income based Job Seeker's Allowance; guaranteed Pension Credit; or individuals under the age of 16, or under 18 and in full time education, will automatically qualify for a Representation Order under the Means Test.

- b) If a Representation Order is issued it would cover only the costs incurred on your behalf. It would not cover any costs which might be ordered against you. If you plead guilty or are found guilty, the court may order you to contribute towards the legal costs of the prosecution, quite apart from any other financial penalty that the court might order.
- c) A Representational Order granted in the Magistrates Court will normally be extended to the Crown Court for the purposes of committal for trial or sentence. A Representation Order granted in the Crown Court will cover your representation by Counsel or a Higher Court Advocate.
- d) In order to present an application for a Representation Order to the Court Clerk, a number of supporting evidence will be required, including such items as the most recent wage slip (either weekly or monthly); National Insurance number or evidence of benefits received; bank statements; child care costs; housing costs; or accounts/tax returns. It is vital that you supply this information to us promptly so as to ensure any application for a Representation Order can be made as soon as possible.
- e) If your case has proceeded to the Crown Court, you will be required to fill in a statement which sets out your means for the Crown Court. You will not be asked to pay a contribution during the currency of your case in the Crown Court, but may at the conclusion of the case, if you are convicted after a trial, or lose an appeal against conviction, be ordered to contribute towards both the costs of the prosecution and also the costs of your defence. A Judge will calculate whether or not a Recovery of Defence Costs Order should be made against you, based on your ability to pay, and the financial information set out in the Means Form.

This short guide is intended to provide you with the basic framework applicable to Representation Orders. It is obviously an important area, if you need more information, please do not hesitate to ask. We will provide you with all the necessary forms to present for a Representation Order.

#### 4. Early Cover Scheme

Should the clerk determine that an individual (that is ineligible under the Means Test) satisfies the Merits Test, the Legal Services Commission will pay a standard fee of £75.00 for any work undertaken in any case. This is likely to cover the total costs of one court hearing. However, in the event that the case is adjourned beyond the first hearing, we will need to discuss with you how best to proceed.

In order for this payment to be made, an application for a Representation Order must be made within 2 working days of an individual being charged with any offence.

#### 5. Pre-Order Cover

Should any individual be refused a Representation Order under the Merits and/or Means Test, the Legal Services Commission will pay for up to one hour's preparation in your case. Should a Representation Order be refused and you would wish for more than one hour's advice or preparation, we will discuss with you how best to proceed.

#### 6. Funding in the Crown Court

If your case has proceeded to the Crown Court, you will be required to fill in a statement which sets out your means for the Crown Court. You will not be asked to pay a contribution during the currency of your case in the Crown Court, but may, at the conclusion of the case, if you are convicted after trial, or lose an appeal against conviction, be ordered to contribute towards both the costs of the prosecution and also the costs of your defence. A Judge will calculate whether or not he should make a Recovery of Defence Costs Order against you, based on your ability to pay, and the financial information set out in the Means Form.

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