

For what kind of case is legal aid available?

The following areas of law fall within "scope":

- Community care
- Debt and housing (where there is a threat of homelessness)
- Family (public)
- Mental health
- Asylum
- Actions against the police
- Discrimination
- Public

Judicial review can fall within any of these areas of law; for example, judicial review proceedings against a failure by a local authority to provide community care services.

Note: exceptional funding.

In April 2013, most matters in the following areas of law were removed from scope under the Legal Aid, Sentencing & Punishment of Offenders Act 2012:

- Welfare benefits
- Divorce
- Other housing (disrepair, L&T)
- Other debt
- Consumer law
- Employment
- Education (non special needs)
- Immigration (non detention)
- Wills
- Personal injury
- Clinical negligence (non CP)

Who qualifies for legal aid?

A client has to satisfy 2 means tests to qualify for legal aid.

1) The income test:

- A person receiving a "passported benefit" (Income Support, Income Related Employment and Support Allowance, Income Based Jobseeker's Allowance, Guarantee Credit, Pension Credit, Universal Credit) automatically passes the income test
- A person whose income (combined with their partner's income) is over £2,657 gross per month, is ineligible for legal aid
- A person whose disposable income is over £733 monthly is ineligible
- A person whose disposable income is over £315 monthly will have to make a contribution

2) The capital test:

- A person's capital includes their home, minus the mortgage up to £100k. The first £100k of equity is disregarded
- Note: pensioner's disregard
- A person left with more than £8k in capital does not qualify
- A person left with £3-8k will have to make a contribution
- A person left with less than £3k qualifies

For example, a single mother who has no savings, works part-time for minimum wage and rents her home will probably qualify for legal aid.

Are there any other hurdles?

The case must pass the "merits test" to qualify for legal aid. This means the solicitor running the case must believe the case has reasonable prospects of success.

If a client qualifies for legal aid, what does this mean?

The client will:

- Have their costs paid by the LAA
- Benefit from costs protection

The solicitor:

- Has an ongoing duty to the client and the LAA

What future changes are proposed?

The coalition is planning further cuts to legal aid. Judicial review is particularly under attack.

The "Transforming Legal Aid" proposals:

- Create a new residence test for all cases
- Remove prison law treatment cases from scope
- Remove funding for cases where the prospects of success are borderline
- Cut fees for lawyers and experts

The "Judicial Review: Proposals for Reform":

- Restrict the test for standing
- Make it harder to bring judicial review on the basis of procedural impropriety
- Create a separate system for PSED cases
- Transfer the financial risk of issuing cases onto lawyers

Judicial review consultation responses are due on 1 November 2013.

Take action to save legal aid! To respond, go to: consult.justice.gov.uk/digital-communications/judicial-review

To see the Young Legal Aid Lawyers' response: www.younglegalaidlawyers.org/JR_Con_2