HENSCOTT SOLICITORS

FUNDING GUIDE

LEGAL AID

Legal aid is the term used to describe the funding provided for advising, assisting and representing defendants in criminal proceedings.

As a legal aid practice, this is how the majority of our fees will be paid, unless alternative arrangements are made to pay privately. Details of our private funding rates are included later in this guide.

We hold a contract with the Legal Aid Agency who will remunerate us for the work we do under legal aid.

POLICE STATION FUNDING

In England and Wales, when a person is arrested they are always entitled to free legal advice at the police station. This does not apply if you have previously been represented by a different firm of solicitors and seek to transfer your case to a new firm in relation to the same offence, as there is only one fee payable on a case, unless exceptional circumstances apply.

MAGISTRATES' COURT FUNDING

In order to be eligible for free legal aid funding in the magistrates' court, you will have to pass a two-tier eligibility test: merits and means.

Merits

This test is also known as the 'interests of justice' test. The general rule of thumb is that the more serious the charge or consequences of a conviction (i.e. imprisonment), the more likely that the case will pass this test. If your application for legal aid fails to pass this test, you will not be granted legal aid unless you successfully appeal the refusal *and* you pass the means test.

Means

Your income and assets will be assessed. You will automatically pass this test if you:

- are under 18 (youth)
- receive specific state benefits, which are:
    - income support
    - income-based job seeker's allowance
    - guaranteed state pension credit
    - income-related employment and support allowance

If you do not automatically qualify, you will have to provide information and proof of your income and assets, which will be assessed to determine whether they are of a level which will enable you to qualify for legal aid.

If your total gross annual household income is £12,475 or less, then you will pass the test. However, if the total gross annual household income amount is above this, depending on your outgoings and any

other factors, for example, having dependants, you may not qualify for legal aid. Usually, if you are left with £3,398 or less after disposable income of your gross annual household income (£283.17 or less a month), then you will pass the means test.

If you fail to pass the means test, you will not be granted legal aid unless you can demonstrate exceptional hardship.

Can legal aid be withdrawn?

Legal aid may be withdrawn if in completing your application, you give wrong or misleading information or if during proceedings, you fail to co-operate with our reasonable requests causing us to withdraw from acting for you.

Will I still be represented if I do not qualify for legal aid?

If you fail to qualify for legal aid then we can still represent you on a private basis. Should you choose this option, then we will normally charge an agreed fixed fee or in certain cases we may agree an hourly rate, which will take into account your financial circumstances, the complexity of your case, and who will be working on your case.

If you are unable to pay privately, you can either represent yourself or you may qualify for the services of the duty solicitor at court who may be able to represent you for a single hearing at the court where you have not been previously represented.

Money laundering

To comply with statutory and professional requirements, we operate a money laundering reporting procedure. We are required to check the identity of all privately paying clients and will therefore require two forms of identification: photographic identification (for example, passport or driving licence) and evidence of address (for example, utility bill or bank statement).

Are there additional costs I need to be aware of?

Depending on the final outcome of your case, you may be ordered by the court to pay other ancillary costs that are completely separate to our own. For instance, if you are convicted of an offence you may be liable to pay prosecution costs, court fines, compensation orders or victim surcharge costs.

What happens if I win my case?

In the magistrates' court, where you have paid privately for your representation and are acquitted of an offence, the maximum amount that can be reclaimed from the court (Central Funds) is capped at legal aid rates. This means that you will not always receive all of the money you paid for your representation. Central Funds is a separate source of funding from legal aid that is managed by the Ministry of Justice.

CROWN COURT FUNDING

Those appearing in the Crown Court are entitled to representation under the legal aid scheme and thus there is no merits test. However, as in the magistrates' court, eligibility for legal aid is subject to means testing.

In determining whether or not you are eligible for legal aid, the means test will take into account your gross annual income and family circumstances. Your household disposable income must be under £37,500 in order to be granted legal aid. If your annual household disposable income is £37,500 or more, you will not be eligible for legal aid and will be required to pay all of your legal costs privately. If you are eligible for legal aid, then the means test will consider your income and capital assets and you may be liable for contributions towards costs either during the proceedings or at the end of your case.

Please note, the financial eligibility threshold does not apply to appeals or committal for sentence cases.

What happens if I cannot afford to pay?

If you are in this position and believe you are still unable to afford to pay the contribution amount, it is extremely important to contact the Legal Aid Agency (the body which governs the funding for legal aid) to advise them of any hardship that you may be facing as they may be able to review the assessment.

Alternatively, you can talk to us about an alternative private payment arrangement.

What happens if I fail to pay?

If you fail to make any or all of your payments, then the Legal Aid Agency may take action against you, such as charging you interest on monies owed or take a percentage of your earnings and/or enforcement action through other agencies.

What happens if I win my case?

If you are found not guilty at the Crown Court you can apply to the court to have your costs reimbursed. These will be capped at legal aid rates.

PRIVATE FUNDING

How can I pay for my case?

We charge our private rates on either a fixed rate or hourly basis, depending on which one has been subject to agreement with the Firm.

Fixed fee rates

We most commonly charge a fixed fee. The amount of this fee varies depending on the seniority of the person handling your case as well as the seriousness and complexity of your case.

Straightforward one-off hearings in the magistrates' court might typically cost from £800 plus VAT. This cost will rise if the number of hearings increases. Representation at trial in the Magistrates' Court might

typically cost from £2000 plus VAT. Other factors which could affect the fee include the number of defendants and witnesses involved as well as the volume of papers.

Our fees in the Crown Court vary depending on the complexity of the case. There are a number of factors which affect these rates, including offence category, evidential page count, type of hearing and length of proceedings.

One of our Directors will be happy to discuss fee rates with you personally should you have any queries.

Hourly charging rates

Our hourly charges are calculated on a time cost basis. This means that all time spent on your case is charged at an hourly rate.

The hourly rate will range from £200 to £350 plus VAT depending on the seniority and experience of the lawyer appointed as well as the seriousness and complexity of your case.

Wherever possible we will endeavour to give you an estimate of the likely cost of your case and we will always be happy to tell you the costs you have incurred to date.

If it is likely that you have to incur a particularly large item of expenditure then of course we will let you know in advance. We ask that clients make a payment on account of our costs. Alternatively, you may wish to make regular monthly payments to ensure that you do not run up a large bill. We will be happy to discuss the position with you in order to establish which method would be best for you.

Letters and telephone calls

These are charged at a rate of £15 per telephone call made or received and £30 for each letter drafted.

Other disbursements

Any photocopies required will be charged at a rate of 20 pence per sheet.

Any travel expense incurred will be reimbursed as follows:

- By public transport – fares paid
- By private transport (car) – 45 pence a mile plus parking fares and congestion charge paid

Will I have to pay for anything else?

In addition to our charges it may sometimes be necessary to incur disbursements on your behalf. These are payments to third parties, for example, court fees or expert's fees. You should note that these payments do not form part of our fees.

HENSCOTT SOLICITORS

CASE MANAGEMENT

What we will do once funding is in place

- We will inform you who the solicitor with conduct of your case is and who the overall supervisor is.
- We will inform you of how to make a complainant.
- We will maintain contact with you in writing and update you on your case regularly.
- We will act in your best interests and protect your interests at all times, subject to the proper administration of justice.
- We will maintain confidentiality with you about your case unless you ask us to disclose information to third parties.
- We will give you a copy of your case papers upon request.
- We will advise you throughout your case.
- We will provide a service that is competent, delivered in a timely manner and takes account of your needs.
- We will treat you fairly.
- We will ensure that evidence relating to sensitive issues is not misused.
- We will comply with the law and the Code of Conduct.

What we will not do once funding is in place

- We will not offer you advice and assistance unless we have funding in place.
- We will not mislead the court for you.
- We will not discriminate unlawfully, or victimise or harass anyone in the course of our professional dealings.
- We will not make payments or offer payments to you or your witnesses dependent upon their evidence or the outcome of the case.
- If we represent you at the police station, we will not undertake any work outside the confines of the police station advice and assistance.

What will be expected of you once funding is in place

- We expect you to maintain regular contact with us and attend appointments which are given to you.
- We expect you to give us instructions in relation to your case so that we may assist and advise you accordingly.
- We expect you to keep to any financial plan to maintain funding otherwise the representation may be withdrawn.

All the outlined charges are exclusive of VAT

Privacy Policy

Henscott Solicitors

This Privacy Notice explains the types of personal data we may collect about you when you interact with us. It also explains how we will store and handle that data and keep it safe.

We know that there is a lot of information here, but we want you to be fully informed about your rights, and how Henscott Solicitors uses your data. We hope the following sections will answer any questions you have but if not, please do get in touch with us.

Conditions for Processing Data

We are only entitled to hold and process your data where the law allows us to. The current law on data protection sets out several different reasons for which a law firm may collect and process your personal data. These include:

Contractual obligations

The main purpose for us holding your data is to provide you with legal services under the agreement we have with you. This agreement is a contract between us and the law allows us to process your data for the purposes of performing a contract (or for the steps necessary to enter into a contract). We may also need to process your data to meet our contractual obligations to the Legal Aid Agency where you receive legal aid to fund your case or advice.

Legitimate Interests

In specific situations, we require your data to pursue our legitimate interests in a way which might reasonably be expected as part of running our business and which does not materially impact your rights, freedom or interests. This may include to satisfy our external quality auditors or our Regulators.

Legal compliance

If the law requires us to, we may need to collect and process your data. For example, we can pass on details of people involved in fraud or other criminal activity.

Consent

In some situations, we can collect and process your data with your consent. For example, when you tick a box to receive email newsletters. When collecting your personal data, we'll always make clear to you when we believe your consent is necessary and you will be able to choose whether to give that consent.

When do we collect your data?

We normally collect your data when you provide it to us or when it is provided to us by others (your opponent's solicitors, for example) during your case. You may give us your data by email, through an online web form, over the telephone, face to face, or by post.

What sort of data do we collect?

We collect your name and contact details. This may include asking for and keeping a copy of your passport / driving licence and proof of address.

We may gather details of your age, ethnicity, gender etc., if required to do so by the Legal Aid Agency where you are in receipt of Legal Aid. Where you have Legal Aid, we may also gather financial information from you.

We also collect and hold information about your case or legal problem and about your finances and financial circumstances.

How do we use your data?

We only use your data for the purposes dealing with your enquiries and / or for providing you with legal services (legal advice, assistance and where appropriate, representation) and for purposes directly associated with those services (i.e. providing information to quality auditors, the Legal Aid Agency, etc.).

We may use your data to notify you of our other services but only where we have your consent to do so or the law allows us to contact you without consent.

How do we protect your data?

We take protecting your data very seriously. The data you give us may be subject to Legal Professional Privilege and is often extremely sensitive and confidential.

We will treat your data with the utmost care and take all appropriate steps to protect it. We have clear data protection and information security policies and procedures in place (along with Regulatory and other legal obligations to keep your data safe) and these are regularly assessed as part of our Quality Standards and compliance processes.

We protect our IT system from cyber-attack. Access to your personal data is password-protected, and sensitive data is secured by encryption.

We regularly monitor our system for possible vulnerabilities and attacks, and we carry out penetration testing to identify ways to further strengthen security.

How long will we keep your data?

We only keep your data for as long as is necessary for the purpose(s) for which it was provided.

In most cases this will be for up to 6 years after your case or matter ends (or where you are under 18 when the matter or case ends, for up to 6 years after your 18th birthday). We keep your data for this period either because we are required to keep the files for that long by our Regulator or Insurer (and, where you have received legal aid, the Legal Aid Agency) or because keeping the files for this long protects you should you need access to your file or for where you may be unhappy with our services and want to complain after your case / matter ends.

For some cases we may decide that it is proper and appropriate to keep data for longer than that the periods set out above, but we will notify you if we believe that your case falls into this category.

Who do we share your personal data with?

We sometimes share your personal data with trusted third parties. We only do this where it is necessary for providing you legal services or for the effective operation of our legal practice.

For example, we may share your data with barristers, experts, solicitor agents, police station representatives, translators, interpreters, secure file storage and destruction companies, auditors, the company that securely hosts our off-site cloud storage servers, etc.

Here is the policy we apply to those organisations to keep your data safe and protect your privacy:

- We provide only the information they need to provide their specific services;
- They may only use your data for the exact purposes we specify in our contract with them;
- We work closely with them to ensure that your privacy is always respected and protected;
- If we stop using their services, any of your data held by them will either be deleted or rendered anonymous.

Where is your data processed?

Your data is stored and processed within the European Economic Area (EEA). If we ever must share your personal data with third parties and suppliers outside the EEA we will ensure that it is sent and stored securely and, where appropriate, we will seek your specific consent to do so.

The EEA includes all EU Member countries as well as Iceland, Liechtenstein and Norway.

What are your rights?

You have the right to request:

- Access to the personal data we hold about you, free of charge in most cases.
- The correction of your personal data when incorrect, out of date or incomplete.
- The deletion of your personal data, for example, when you withdraw consent, or object and we have no legitimate overriding interest, or once the purpose for which we hold the data has come to an end – though we are not required to delete your data where data where we are required to hold it for complying with our own legal obligations.
- That we stop any consent-based processing of your personal data after you withdraw that consent.

To ask for your information, please contact solicitor@henscott.co.uk.

If we choose not to action your request, we will explain to you the reasons for our refusal.

Your right to withdraw consent

Whenever you have given us your consent to use your personal data, you have the right to change your mind at any time and withdraw that consent. However, we do not rely on your consent for processing your data where you are a client or former client.

Where we rely on our legitimate interest

In cases where we are processing your personal data based on our legitimate interest, you can ask us to stop for reasons connected to your individual situation. We must then do so unless we believe we have a legitimate overriding reason to continue processing your personal data.

The Regulator

If you feel that your data has not been handled correctly, or you are unhappy with our response to any requests you have made to us regarding the use of your personal data, you have the right to lodge a complaint with the **Information Commissioner's Office**. You can contact them by calling **0303 123 1113**, or go online to **www.ico.org.uk.**

Cookies

A cookie is a small file which asks permission to be placed on your computer's hard drive. Once you agree, the file is added, and the cookie helps analyse web traffic or lets you know when you visit a particular site.

We use traffic log cookies to identify which pages are being used. This helps us analyse data about web page traffic and improve our website to tailor it to customer needs. We only use this information for statistical analysis purposes and then the data is removed from the system.

You can choose to accept or decline cookies. Most web browsers automatically accept cookies, but you can usually modify your browser setting to decline cookies, if you prefer. This may prevent you from taking full advantage of the website.