



Availability of Legal Aid

Information for children, young people and families

If a parent or young person wants to challenge a decision, for example through a Tribunal appeal or claim for judicial review, legal aid may be available to assist them to do so.

Before someone can be granted legal aid they must pass a financial means assessment. The case must also satisfy a merits test of whether it has a reasonable chance of succeeding. The rules relating to eligibility for legal aid are complex and parents or young people should always contact the Legal Aid Agency or a specialist legal aid solicitors' firm to check the position.

This factsheet is intended to provide a summary of the key eligibility requirements to assist parents, and young people in understanding the availability of legal aid in this area.

Legal aid is available for the following types of work:

- Legal advice and assistance in **preparing** an appeal to the Tribunal (**but not representation at the Tribunal itself**). This form of legal aid is known as "Legal Help".
- Legal advice and assistance in relation to the provision of community care services (including those provided by Clinical Commissioning Groups CCGs/health) – this is known as "Legal Help".
- **Legal Representation** (including Investigative Representation) for judicial review and some other 'public law' matters – for example, some applications to the Court of Protection in relation to the health and welfare of adults who lack capacity to make certain decisions.

A parent or young person seeking access to legal aid for a special educational needs (SEN) case or a disability discrimination case should go to the legal aid checker on the GOV.UK website (insert link) to find out if they are eligible or contact the Civil Legal Advice (CLA) service on 0845 345 4 345.

If a person is eligible, the CLA will put them in touch with a firm of solicitors/specialist service for legal advice to be provided, normally by phone, online or by post unless the specialist advice provider assesses them as unsuitable to receive advice in this way.

The following groups do not have to apply via CLA – they can seek advice directly from a face-to-face provider:

- young people under 18, and
- those assessed by the CLA in the previous 12 months as requiring face-to-face advice, who have a further linked problem, and are seeking further help from the same face-to-face provider.

For advice and assistance in relation to a potential judicial review, parents or young people do not have to phone CLA first and can contact a legal advisor directly for specialist advice. Further details are set out in a separate factsheet - <https://www.sendandyou.org.uk/wp-content/uploads/2021/08/Judicial-review.pdf>



Financial Eligibility Limits

In order to be eligible for Legal Aid, the individual must meet a financial means test.

As at 4 May 2021, the limits for all types of legal aid referred to above were:

Income Limit:

- Gross income limit: £2,657 per month.

£222.00 is added to this for your fifth and each further child if you have more than 4 child dependants.

- Disposable income limit: £733 per month.

- If you are properly directly or indirectly in receipt of the following benefits:

Income Support,

Income-Based

Job Seeker's Allowance (JSA),

Universal Credit (UC),

Guarantee Credit element of Pension Credit (GC),

Income-related Employment and Support Allowance (ESA);

You will be passported through the income test but capital must still be assessed in all cases.

Both your income and that of any partner will be taken into account.

Disposable Capital Limit: £8000.00

You will not be required to make any financial contribution towards the cost of **Legal Help**. If you apply for a **Legal Aid Certificate** for representation in legal proceedings, you may be required to make a financial contribution towards the cost of your certificate if your capital is between £3000-£8000 or your disposable income exceeds £315 per calendar month.

[Check if you can get legal aid - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Whose means should be assessed?

This depends on the type of legal aid provided and the type of case. You should always check the specific circumstances with a legal aid advisor, but broadly:

- For advice and assistance ("Legal Help") in relation to SEN and discrimination matters the Legal Aid Agency will assess the means of whoever has the right of appeal. This will usually be the parents but note that some rights transfer to young people upon them reaching the end of compulsory school age.
- For advice and assistance ("Legal Help") in relation to community care matters for children, the child will be the client and their means will be assessed but the parent's means will also be taken into account. Where the advice or assistance is for a young person over 18, the assessment will be on their means only.



- For Legal Representation for judicial reviews – for example, a challenge to the health and social care element of an EHC Plan – eligibility will be based on the means of the child or young person.

Further sources of help and information

[Apply for legal aid - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Law centres Network: <https://www.lawcentres.org.uk/about-law-centres/law-centres> - provide Independent, free or low cost legal advice and assistance and operate on a not for profit basis.

Equality and Human Rights Commission: <https://www.equalityhumanrights.com> - resources and information

[Equality Advisory and Support Service \(equalityadvisoryservice.com\)](http://equalityadvisoryservice.com) - helpline which advises and assists individuals on issues relating to equality and human rights