CHURCH OF ENGLAND (LEGAL AID) MEASURE 1994

CHURCH OF ENGLAND (LEGAL AID) RULES 1995

# Application for Legal Aid – Notes for Applicants

The notes below contain important information about ecclesiastical legal aid which you should read carefully before completing the application form and should also draw to the attention of any solicitor whom you ask to act for you.

1. Under the legislation relating to ecclesiastical legal aid, the decision whether to grant legal aid in every case is one for the Legal Aid Commission's discretion. No applicant has an automatic right to legal aid, although the conditions under which it is granted vary according to the type of case.
2. If legal aid is granted, it can only cover costs incurred on or after the date when a legal aid certificate is issued by the Commission (or, in very limited circumstances, by the Secretary to the Commission), and the certificate cannot be back-dated. Except where an application has been made to lay a complaint out of time, the Commission cannot entertain any application for legal aid in respect of proceedings under the Clergy Discipline Measure 2003 until a complaint has been laid under section 10 of the Measure, and legal aid will not usually be granted unless and until the preliminary scrutiny under section 11 has been completed and the bishop has not dismissed the complaint at that stage.
3. **To reiterate, legal aid cannot be granted retrospectively, (i.e. for work already carried out). If your solicitor does any work for you before legal aid is granted, you will be personally responsible for his/her charges, such fees will not be met by the Commission in any circumstances.**
4. If the Commission decides to grant legal aid, it is entitled to call upon you to make a contribution to the cost, and it will do so if you are in a financial position to make such a contribution. In assessing your financial position, the Commission is required to take account of the financial resources of your spouse or civil partner as well as your own.
5. All solicitors' and barristers' fees payable out of the Legal Aid Fund must be "assessed" by the Commission before payment – that is, the Commission will decide on the amount properly payable in accordance with the Rules referred to above. Your solicitor should therefore be aware that he and any barrister he instructs (assuming that instruction of a barrister has been authorised by the Commission) will not necessarily receive the full fees which they could charge to a non-legally aided client. In addition, certain items of expenditure cannot be incurred without express authority from the Commission; they include the costs of instructing Queen's Counsel and the Commission will give authority for this only in very exceptional cases.
6. It is in your interest that you ensure that the solicitor you have in mind is experienced in the law relevant to your case. However, the Commission will not necessarily regard work carried out in respect of proceedings under the Clergy Discipline Measure 2003 as being work that requires a particular expertise in ecclesiastical law, and your solicitor should be aware that costs will be assessed in accordance with the principles applying to legally aided cases in the civil courts.

CONFIDENTIAL

CHURCH OF ENGLAND (LEGAL AID) MEASURE 1994

CHURCH OF ENGLAND (LEGAL AID) RULES 1995

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APPLICATION FOR LEGAL AID

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NOTES

All sections of the form should be completed – where appropriate insert 'none'. Where alternatives are marked with an \*, delete the alternative/alternatives which is/are not applicable. Where necessary, continue any answer on a separate sheet of paper.

**DATA PROTECTION NOTICE**

**Your personal data – what is it?**

Personal data relates to a living individual who can be identified from that data. Identification can be by the information alone or in conjunction with any other information in the data controller’s possession or likely to come into such possession. The processing of personal data is governed by the General Data Protection Regulation 2016/679 (the “GDPR”) as supplemented by the Data Protection Act 2018 (the “2018 Act”).

**Who are we and how do we use your personal data?**

The Archbishops’ Council is the data controller. This means it decides how your personal data is processed and for what purposes. The Legal Aid Commission is a committee of the Archbishops’ Council. The Commission processes personal data on behalf of the Archbishops’ Council in order to administer and assess applications for legal aid and connected purposes, including the taxation and/or assessment of costs in connection with legal aid grants, in accordance with the Church of England (Legal Aid) Measure 1994 (as amended) (the “1994 Measure”) and the Church of England (Legal Aid) Rules 1995 (as amended) (the “1995 Rules”).

The Archbishops’ Council complies with its obligations under the GDPR and the 2018 Act by keeping personal data up to date; by storing and destroying it securely; by not collecting or retaining excessive amounts of data; by protecting personal data from loss, misuse, unauthorised access and disclosure and by ensuring that appropriate technical measures are in place to protect personal data.

**What is the legal basis for processing your personal data?**

Your personal data is processed because in order to assess applications and/or assess/tax any costs we must comply with certain legal obligations as are set out in the 1994 Measure and the 1995 Rules.

On occasion the personal data processed may relate to special categories of personal data and/or criminal conviction and offence (including criminal allegation) data. In such circumstances, in addition to the above paragraph, this is processed on the basis of a legitimate activity of a not for profit body because it relates to members or former members or to persons who have regular contact with it in connection with its purposes.

All personal data is only shared on a very restricted basis as detailed below in the paragraph headed “Sharing your personal data”.

**How long do we keep your personal data?**

Once your legal aid application process is at an end, the files are archived for a limited period (up to a maximum of 6 years) in case of any further legal claims.

**Your rights and your personal data**

Unless subject to an exemption under the GDPR or the Data Protection Act 2018, you have the following rights with respect to your personal data:-

* The right to request a copy of your personal data which the Archbishops’ Council holds about you;
* The right to request that the Archbishops’ Council corrects any personal data if it is found to be inaccurate or out of date;
* The right to request your personal data is erased where it is no longer necessary for the Archbishops’ Council to retain such data;
* The right, where there is a dispute in relation to the accuracy or processing of your personal data, to request a restriction is placed on further processing; and
* The right to lodge a complaint about how your personal data is processed with the Information Commissioners Office.

To exercise any of your rights, queries or complaints please contact the Data Protection Officer at Church House, Great Smith Street, London. SW1P 3AZ or email gdpr@churchofengland.org. You can contact the Information Commissioners Office on 0303 123 1113 or via email <https://ico.org.uk/global/contact-us/email/> or at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

**Sharing your personal data**

Your completed application form and any supplementary papers will be treated as strictly confidential, and will be shared only with the Chair; the members of the Legal Aid Commission, and the Secretary to the Legal Aid Commission for the purposes set out above. When a matter is completed it will be archived for the limited period set out above and the file shared with a strictly limited number of other staff at Church House for archiving purposes, although the content will not be viewed.

**Further processing**

If we wish to use your personal data for a new purpose, not covered by this Data Protection Notice, then we will provide you with a new notice explaining this new use prior to commencing the processing and setting out the relevant purposes and processing conditions. Where and whenever necessary, we will seek your prior consent to the new processing.

**Contact details of the Secretary to the Legal Aid Commission**

Stephen York

Secretary to the Legal Aid Commission

The Legal Office

Church House

Great Smith Street

London SW1P 3AZ

Tel: 020 7898 1703

Email: stephen.york@churchofengland.org

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1. DETAILS OF APPLICANT, SPOUSE OR CIVIL PARTNER AND DEPENDANTS
2. Name (give your full name)

**Name** (Give your full name)

**Address** (Give your full home address, including postcode)

3.

**Telephone number/Email address**: (Give your home number and (if different) a number on which you can be contacted during working hours and if possible an email address)

Home: Daytime:

Email Address:

4.

Are you married? \*Yes/No

If you are not married, do you have a civil partner ? \*Yes/No

Have you any dependent children? \*Yes/No

If so, give sex and age of each dependent child.

5.

6.

Have you any other dependants? \*Yes/No

If so, state

* the relationship of each dependant to you;
* the reason why he or she is dependant on you; and
* whether he or she is living in the same household with you.

1. FINANCIAL POSITION

7.

**Income**: Please give full details of annual income from all sources of yourself and your spouse or civil partner. Describe each source of income and give the relevant gross annual figure

|  |  |  |
| --- | --- | --- |
| **Source of income** | **Self** | **Spouse/civil partner** |
| Earned income |  |  |
| National Insurance and Social Security Benefits (please include details of all taxable (e.g. state pension, statutory sick pay) and non-taxable (e.g. child benefit, child tax credit) social security benefits) |  |  |
| Other pensions |  |  |
| Investment income (including bank, building society etc. interest, income from property lettings, income from stocks and shares) |  |  |
| Other (please specify) |  |  |
| **Total** |  |  |

8.

**Capital:** Please give full details of all capital assets belonging to yourself or your spouse or civil partner, giving a description of the asset and its value. Where you hold an asset jointly with your spouse or civil partner, or with another person, enter details under ‘self’ and give particulars of the joint ownership

|  |  |  |
| --- | --- | --- |
| **Description of asset** | **Self** | **Spouse/civil partner** |
| House, land etc. (do not deduct mortgage – see question 10) |  |  |
| Bank, building society etc. accounts |  |  |
| Stocks, shares etc |  |  |
| Other (please specify) |  |  |
| **Total** |  |  |

9.

**Outgoings:** Please give full details of all outgoings of yourself and your spouse or civil partner, including tax and national insurance, and mortgage and other interest. Give a description of each outgoing and the annual amount. Where outgoings are shared jointly by yourself and your spouse or civil partner, enter under ‘self’ and state ‘jointly with spouse, civil partner.

|  |  |  |
| --- | --- | --- |
| **Description of outgoing** | **Self** | **Spouse/Civil Partner** |
| Tax |  |  |
| National Insurance |  |  |
| Mortgage interest |  |  |
| Other (please specify) |  |  |
| **Total** |  |  |

**Sums owed** (other than outgoings under question 9): Please give full details and amount owed. Where a mortgage or other loan or debt is held jointly by yourself and your spouse or civil partner, enter under ‘self’ and give details of joint liability

10.

|  |  |  |
| --- | --- | --- |
| **Description of sum owed** | **Self** | **Spouse/civil partner** |
| Mortgage |  |  |
| Other (please specify) |  |  |
| **Total** |  |  |

11.

## Financial support for dependants

For each of the dependants entered under questions 5 and 6, please state

* the extent to which the dependant requires financial support; and
* the extent to which you provide this.

1. THE PROCEEDINGS

Is legal aid being sought in relation to a complaint under the Clergy Discipline Measure 2003? \*Yes/No

If yes, please go to question 13. If no, please go to question 14.

12.

13.

**Proceedings under the Clergy Discipline Measure 2003**

Please give details of the following:

* the name and address of the complainant;
* the name and address of the respondent (if not yourself);
* the date the complaint was made.

Please give a summary of the nature of the complaint and supply a copy of it with any supporting evidence.

Please give a summary of the grounds of the respondent’s answer or proposed answer (If you are not the respondent and you have not yet been notified of the grounds of any answer, state ‘not known’).

Please supply copies of all relevant documents available to yourself or your solicitor.

14.

## Other proceedings

If you are seeking legal aid in relation to proceedings other than a complaint under the Clergy Discipline Measure 2003, please give details of the following:

* the Measure under which the proceedings have been commenced or are proposed to be commenced (the table at the end of this application form gives details of the types of proceedings for which legal aid may be sought);
* the names and addresses of the parties to the proceedings or proposed proceedings;
* the date when the proceedings were commenced (if applicable).

Please give a summary of the grounds of the proceedings and supply copies of all relevant documentation available to you or your solicitor.

Please give a summary of the grounds of answer or defence (if you are not the defendant in the proceedings and you have not yet been notified of the grounds of any answer or defence, state ‘not known’. Again, please supply copies of all relevant documentation.

## Other financial support

Is there any person or fund or source (apart from the legal aid fund maintained under the Church of England (Legal Aid) Measure 1994) from which you are entitled or eligible to receive financial assistance towards the costs of the proceedings?

\*Yes/No

If the answer given above is yes, please supply full details, including the name and address of the person responsible for administering any relevant fund.

15.

1. APPLICANT’S SOLICITOR

Please give details of the solicitor who will be acting for you in the proceedings.

Name:

Firm:

Address (including postcode) :

Telephone Number:

e-mail address:

16.

## Other relevant information

Is there any other information of which you are aware which may be relevant to your application for legal aid?

\*Yes/No

If the answer given above is yes, please give full details.

17.

**Please now sign the Application, Declaration and Undertaking on the next page**

1. APPLICATION, DECLARATION AND UNDERTAKING

To: The Secretary,

Legal Aid Commission,

Church House,

Great Smith Street,

London SW1P 3NZ

1. I hereby apply under the Church of England (Legal Aid) Measure 1994 ("the Measure") and the Church of England (Legal Aid) Rules 1995 ("the Rules") for financial assistance in respect of costs incurred in connection with the proceedings described in section C above.
2. I declare that the information given in this form is true and complete to the best of my knowledge, information and belief and includes all material facts of which I am aware in relation to my application.

(NOTE: If the Legal Aid Commission is satisfied that an applicant has wilfully made a false statement or representation in connection with his/her application, or if it is satisfied that the applicant has failed to disclose a material fact in connection with the application and he/she cannot show he/she used due care and diligence to avoid that failure, then (apart from any possible criminal proceedings) any legal aid certificate may be discharged or revoked.)

1. I undertake to comply with the provisions of the Measure which relate to legal aid and with the Rules.
2. I have read and understand the Data Protection Notice attached to this form

Signed: Date:

**CHURCH OF ENGLAND (LEGAL AID) MEASURE 1994**

**Proceedings for which Legal Aid may be given**

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Description of proceedings Description of applicants

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1. Proceedings in any ecclesiastical Any accused person.

court or before any disciplinary tribunal,

commission, committee, bishop or

examiner in respect of an offence

under the Ecclesiastical Jurisdiction

Measure 1963 or of misconduct

under the Clergy Discipline Measure 2003

2. Proceedings on an enquiry under The incumbent concerned in the

Part I of the Incumbents (Vacation proceedings.

of Benefices) Measure 1977

conducted by a provincial tribunal.

3. Proceedings under Schedule 4 to Any person having a right to

the Pastoral Measure 1983 compensation conferred by paragraphs

(including any interview by a 1, 2, 3 or 4 of the said Schedule 4.

pastoral committee and including also

that Schedule as applied by section 41

of the Clergy Discipline Measure 2003).

4. Proceedings on an appeal under any The appellant.

Canon made in pursuance of section

7 of the Church of England (Legal

Aid and Miscellaneous Provisions)

Measure1988 against revocation of a

licence granted to a minister,

deaconess, lay worker or stipendiary

reader.

5. Proceedings on an appeal under The appellant.

section 50 of the Ecclesiastical

Jurisdiction Measure 1963 against

an intended deposition of a priest or

deacon from Holy Orders.

6. Proceedings on an appeal under section The appellant

36(6) or by virtue of section 37(6) of the

Clergy Discipline Measure 2003 against

a suspension made in reliance on section

36(1)(e) or 37(1)(e) of that Measure.