

# **ILPA** information sheet

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## **Legal Aid 2 I: Myth-busting**

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### **True or False?**

#### **1. Legal aid lawyers work for the government - FALSE**

The money to pay legal aid lawyers is given out by the Legal Aid Agency, a part of the Ministry of Justice, a Government Ministry. But legal aid lawyers do not work for the government. They are all independent, including lawyers you meet in detention. A legal aid lawyer does not tell the Home Office anything you tell them unless you give permission and lawyer has the same duties to fight for your rights and stand up to the Home Office as any other lawyer.

#### **2. If I pay the lawyer I will get a better service - FALSE**

A good lawyer will give exactly the same service to clients that pay and clients that are on legal aid. Your case will not move any faster or have a better chance of winning just because you pay.

Many lawyers do both private and legal aid work. Indeed these days many lawyers who only want to work in legal aid (to be able to provide legal services to the clients most in need) are under pressure to do at least some private work to ensure they stay in business. Most legal aid lawyers in the area of immigration are working extremely hard in a very difficult economic climate. If your lawyer's firm has a contract to do legal aid work, this means that they have been assessed as meriting a contract to your type of case (immigration, asylum, housing family). If you do not feel a lawyer has given you the service you deserve, you are entitled to complain. Complaints procedures require you first to complain to your lawyer, then if you do not get a satisfactory answer, to complain to the Solicitor's Regulation Authority or to the Legal Ombudsman. See <http://www.lawsociety.org.uk/for-the-public/faqs/complaining-about-a-solicitor/> You can complain about your barrister to the Legal Ombudsman, see <https://www.barstandardsboard.org.uk/complaints-and-professional-conduct/concerns-about-a-barrister/>

#### **3. Legal aid lawyers never work more than a set number of hours on a case - FALSE**

Legal aid lawyers are paid quite low fixed fees for most cases. The fee lawyers get for cases at initial application stage is £413 (asylum) and £234 (for domestic violence and trafficking

cases). This represents a nominal number of hours. If the lawyer does three times this work on the case, they will be paid at an hourly rate. So it is true that legal aid lawyers are under pressure when they have worked more than the time represented by the fixed fee and less than three times the time represented by the fixed fee. They cannot afford to waste money, but good lawyers will not skimp on work that needs to be done on a case. Legal aid lawyers do have to show what they do is reasonable. They must be responsible in the way they use public money. For example, it would not be reasonable to write to the Home Office every week if you are waiting for a decision and want them to keep chasing it. Legal aid lawyers do not get paid for judicial review cases that go to court unless you get permission to carry on with the case by a judge. Then and for cases in the Upper Tribunal and the courts, cases are paid at hourly rate from the outset.

**4. *Legal aid lawyers can pay for my travel to their office - TRUE***

If you are on asylum support, or are an unaccompanied asylum seeker under 18 years of age and supported by the local authority, your lawyer can use legal aid to pay for your travel expenses for appointments to see them. This is only on the cheapest public transport, and if you are seeing a lawyer working in your local area. You will not be able to claim transport money to go to a lawyer further away.

**5. *If I am refused legal aid for an appeal there is nothing I can do - FALSE***

You have a right to appeal a decision to refuse you legal aid on the grounds that your case is not strong enough. For example if your lawyer says your case is not strong enough for legal aid to pay for your appeal, they should explain why and help you fill in a form to send the Legal Aid Agency to challenge their decision. Ask them to help you send the form and explain with an interpreter if you don't understand. The Legal Aid Agency will consider all appeals and if their refusal is unreasonable or unfair there is an option to challenge them further in Court.

**6. *Legal aid lawyers ask lots of questions about my personal finances - TRUE***

They aren't being nosy. As well as having to have a case is strong enough to qualify for legal aid, you have to have a sufficiently low income and small amount of savings to qualify for legal aid and the lawyer has to find out that you qualify. They need to know your income in the month before you come to them and see proof of income and savings. They cannot do work for you without this. The information is not given to the Home Office and is only shared with the Legal Aid Agency.

**Further Information**

There is information on getting legal aid at <https://www.gov.uk/check-if-civil-legal-advice-can-help-you> or see ILPA's website at <http://www.ilpa.org.uk/search-directory.php> and tick to check for free advice /legal aid. If you cannot get legal aid or find a legal aid lawyer tell your MP. You can find your MP's contact details [here](#). If you have any questions about what legal aid lawyers can or can't do, or are aware of another myth that needs busting, you can get in touch with us at: [info@ilpa.org.uk](mailto:info@ilpa.org.uk)