

GUERNSEY LEGAL AID SERVICE

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The Legal Aid Schemes are established under The Legal Aid (Bailiwick of Guernsey) Law, 2003, The Legal Aid (Guernsey and Alderney) (Schemes and Miscellaneous Provisions) Ordinance, 2018 and the Legal Aid (Guernsey and Alderney) Rules, 2019.

Guernsey Legal Aid Service (“GLAS”) is the name of the service that administers the Legal Aid Schemes. GLAS is run by the Legal Aid Administrator who is an independent statutory official appointed by the States of Guernsey.

CRIMINAL LEGAL AID INFORMATION SHEET

What is the Bailiwick of Guernsey?

The Bailiwick consists of three main islands, Guernsey, Alderney, and Sark. Some laws are different in each island and their courts work in slightly different ways. Serious criminal matters are dealt with by the Royal Court of Guernsey.

When can a person get legal aid in criminal matters?

Persons arrested and detained by the Police or Customs or attending the Police/Customs as a volunteer can get legal advice. Persons appearing before the Magistrates Court in Guernsey can usually have the services of a Duty Advocate. Persons can also get legal advice and assistance under the Green Form Scheme and they can apply for a legal aid certificate that allows them the services of an Advocate to represent them in Court. Arrangements may be somewhat different in Alderney and Sark because of problems of transport; however a Duty Advocate is usually present at the scheduled Alderney Police Court that sits on the first Thursday of the month.

What happens if I am arrested and detained or volunteer for questioning by the Police or Customs?

The Police and Customs must work within Codes of Practice. Under these Codes, free legal advice is available when a person is detained by the Police or Customs or attends the Police or Customs as a volunteer in respect of a matter for which they could otherwise be arrested. There is a rota of Duty Advocates and arrangements can be made for you to speak to an Advocate by telephone. If necessary, the Advocate can attend the detention area. This service is available at no cost to you and you do not need a means test. If you are already a client of a particular Advocate you can ask to speak with that Advocate. However, that Advocate may not be available or if available will expect to charge you for his services. Only the Duty Advocate will be provided free of charge.

What happens when I am first before the Magistrate’s Court?

Either the Advocate that dealt with you in detention will be available in Court or there will be a Duty Advocate present. That Advocate can guide you through procedures, give advice, and assist with bail applications. If you wish for the matter to be dealt with there and then, the Duty Advocate can also speak on your behalf. Either the Duty Advocate that you met whilst in detention or the Duty

Advocate in court can help you with the next stage. That is applying for advice and assistance under the Green Form Scheme.

What is the Green Form Scheme?

This is a scheme that allows people of limited means to get advice and assistance from an Advocate. The Advocate conducts a simple means test. If you are within limits you can either get free services from an Advocate up to a maximum value, at present, of £334 or you may be required to pay/contribute to part of the costs. You do not have to pay those costs before you see an Advocate. GLAS will collect these costs from you later. An important part of the Green Form Scheme is to allow you to apply for a Legal Aid Certificate. An Advocate must provide a professional opinion to show that you come within certain guidelines. If you are charged with an offence that can be dealt with at a short appearance before the Judge then the Advocate may be able to assist you in Court under the Green Form Scheme. If you are pleading not guilty then you will need a Legal Aid Certificate. You will also need one if a guilty plea is likely to take a long time, maybe because sentencing reports are needed.

What is a Legal Aid Certificate and how do I apply for it?

A Legal Aid Certificate means that the States of Guernsey will pay for some or all of the costs of an Advocate representing you for matters set out on the Certificate. To obtain it, the Administrator of the Guernsey Legal Aid Service must receive from an Advocate a professional opinion that you should receive legal aid because of the seriousness of the offences involved. You must complete Form 1F which is a statement of your financial means and those of your partner. You must also provide evidence of all your and your partner's income, capital, housing costs and any maintenance either of you pay. You can obtain copies of the Form and its Guide Notes from most Advocates, or the offices of the Guernsey Legal Aid Service. When you have completed it, you must send it to the Administrator. It is important that you send all your financial information to the Administrator as soon as possible; otherwise there may be a delay in considering your application. If the Administrator considers that you should receive legal aid, you will be sent an Offer of legal aid. The Certificate will be sent to your Advocate.

Do I have to pay anything?

Depending on your means you may be required to repay the States of Guernsey part of the costs of your legal aid by way of a contribution. You will be told what these will be when you are offered legal aid. The States will collect anything that you owe to the States at the end of the matter.

What are the main differences between Court procedures in England and those in Guernsey?

The three that will most likely affect an accused person are these; Guernsey does not have Solicitors and Barristers; Advocates do the work of both. The Advocate that you see at the start of the case is likely to be the one that will represent you at your trial. The second difference is that committal proceedings are held in closed court and are not reported. The third is that a trial before the Royal Court does not involve a civilian jury. The jury consist of between 7 and 12 Jurats. These are permanent members of the Court. They decide whether a person is guilty or not and they join with the judge in deciding upon the sentence.

Must the Advocate do as I instruct him?

Yes, but only within reason. An Advocate is an Officer of the Court and cannot put forward anything that is untrue or that only serves to waste the time of the Court. Your Advocate will make the final decision as to how to present your case to the Court and, if witnesses are to be called, your Advocate will decide which evidence can be agreed and which witnesses must be called. An Advocate must withdraw from the case if he is required by you to do things that the Advocate considers to be wrong in fact or law.

Can I change my Advocate?

Under Human Rights legislation, where it is justified, the States are required to provide a defence Advocate for a person accused of a crime when that person cannot afford to pay for the services of an Advocate. The States are not obliged to provide an Advocate of your choice. If, however, there is a genuine reason to do so, you may apply to change to a different Advocate.