



# Family Legal Advice Service

Operational Policy for providing early legal advice  
for disputes under the Care of Children Act 2004

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# Introduction

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This document describes the operation of the Family Legal Advice Service, which was established to enable the provision of initial advice and information for eligible parties in dispute over arrangements involving the care of their children. This service is one of a number of family justice reforms introduced in 2014 following a review of the Family Court.

## Family justice system

Reforms to the family justice system are designed to encourage, support and inform less adversarial resolution of Care of Children Act 2004 (CoCA) disputes, helping families resolve issues relating to the care of their children without court intervention, where appropriate.

The key features are:

- Family Legal Advice Service: the provision by a lawyer of a discrete amount of initial advice and information so that parties involved in a CoCA dispute understand their rights, responsibilities and options enabling them to make better decisions regarding their children's welfare. The service includes assistance with the completion of court entry forms, if required
- Parenting Through Separation (PTS)<sup>1</sup>: a free parenting education programme designed to help parents understand the effects of separation on their children
- Family Dispute Resolution (FDR): a mediation service where parties are enabled to work towards and reach care agreements that are in the best interests of their children.
- FDR Preparation for Mediation: a service to which people may be referred to, to help people manage their feelings and focus on the children so they can participate effectively in FDR.

Most CoCA applicants to the Family Court are required<sup>2</sup> to attend Parenting Through Separation and to attempt to resolve their disputes via FDR prior to court entry.

Family Legal Advice, Family Dispute Resolution, and Preparation for Mediation are free of charge for those who meet the income eligibility threshold.

Information on all of these services and how to access them is available from the website <http://justice.govt.nz/family/> or by calling the dedicated contact centre number: 0800 2AGREE (0800 224 733).

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<sup>1</sup> As at January 2014, Parenting Through Separation is the only approved parenting information programme.

<sup>2</sup> PTS is required for parenting order and variation of parenting order applications but not required for disputes between guardians. Applicants may apply to the Court to be exempted from PTS or FDR or an FDR provider may, after carrying out an assessment, decide that the parties are unsuitable to participate effectively in FDR. Family Legal Advice providers cannot exempt parties from participating in PTS or FDR but can assist if a direct application to the Court is required.

# Overview of Family Legal Advice Service

The Family Legal Advice Service is initial advice and information for parties in dispute over arrangements involving care of their children. This funded service is available for people who meet the income eligibility test.

Through the Family Legal Advice Service, clients will be assisted to understand their rights, responsibilities and options at the earliest possible opportunity. Family Legal Advice Service providers will also provide information on the legal implications of available options and guidance on possible outcomes and help clients to complete court entry forms or their notice of response.

The key aspects of the service are that:

- it is available for parties with care of children disputes, who fall within financial eligibility thresholds
- client financial eligibility is determined by a simple income test, with the same test applying to this service, FDR and Preparation for Mediation
- it covers two activities: initial advice and, if the case proceeds to court, assistance with court entry forms or with the notice of response
- eligible clients can access the funded Family Legal Advice Service free of charge once only over a 12 month period
- providers of the service must satisfy experience and competency requirements specified in the Legal Services (Quality Assurance) Regulations 2011, equivalent to those required for Family Legal Aid providers
- it operates as a specified legal service under section 68(2) (b) of the Legal Services Act 2011, and not as legal aid
- payment for the service is by way of fixed fee for each activity.

For providers, the distinctive features of the service include:

- a straight-forward approval process for lawyers with a current lead provider approval for family legal aid
- providers able to determine financial eligibility immediately, using the simple income test. No forms are sent to the Ministry
- an online recording system, which enables simplified administration and lets providers check whether the client's financial eligibility has already been established<sup>3</sup>
- flexibility in how the provider delivers the service, including the extent that tasks can be delegated
- providers not having to invoice for their work, as a completed activity recorded within the online system is sufficient to act as a claim and for payment (and an invoice) to be generated.

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<sup>3</sup> The test should be administered by the provider with whom the client had first contact and so financial eligibility may have already been established. The Family Legal Advice Service provider, an FDR provider, or an FDR supplier organisation may determine eligibility.

## Authority for the Service

The Family Legal Advice Service operates under the authority of the Secretary for Justice as a specified legal service pursuant to section 68(2)(b) of the Legal Services Act 2011. The service is subject to the Legal Aid Quality Assurance Framework set out in Part 3, subpart 2 of the Legal Services Act 2011.

## Approval to provide the Service

The Ministry's Operations and Service Delivery Group is responsible for administering the Family Legal Advice Service.

The criteria for approval as a Family Legal Advice provider are set out in Clause 9A, *Out-of-court legal assistance on matters relating to Care of Children Act 2004*, of the Schedule to the Legal Services (Quality Assurance) Regulations 2011. Further information on applying for approval to provide the Family Legal Advice Service can be found on the Ministry of Justice website.

Lawyers seeking approval to provide the Family Legal Advice Service should contact the Provider Services team by email: [legalaidprovider@justice.govt.nz](mailto:legalaidprovider@justice.govt.nz).

## Glossary

A glossary of the key terms used in this Family Legal Advice Service Operational Policy can be found in [Appendix 1 – Glossary](#).

# Responsibilities of Family Legal Advice Service Providers

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The purpose of the Family Legal Advice Service is to enable the provision of initial advice and information for parties in dispute over arrangements involving the care of their children. The service is intended to help clients understand their rights, responsibilities and options, to provide guidance on possible outcomes, and to help with the completion of court entry forms, including notices of response, if required.

## Scope of the Service

The service is targeted to provide initial advice and assistance so that individuals can more easily navigate family justice services.

The funded legal advice service is available from the early stages of a dispute up to and including assistance with court entry forms for parenting or guardianship orders (if the case proceeds to Court). The service does not provide funding for representation during FDR mediation sessions, Preparation for Mediation or for representation during PTS.

It provides for a discrete amount of legal assistance allocated across two activities – the first to explain the family justice system so that the client understands their responsibilities and options; and the second to assist with completion of court entry forms for parenting or guardianship orders if the dispute continues to court, or if the parties want to make an agreement enforceable. It does not include filing or serving the court documents or representation in court.

Parties to a dispute may enter the out of court process at different stages. Clients seeking funded legal assistance for just completing court entry forms may access the full Family Legal Advice Service, subject to them meeting financial eligibility requirements.

If an application for a parenting or guardianship order is filed in the Family Court, the service is available to assist the respondent (if eligible) to prepare a notice of response.

More detail as to the specific breakdown of tasks within each activity can be found in [Appendix 5](#).

### **Not included as part of Family Legal Advice Service**

Family Legal Advice Service providers are not required to deliver the following tasks:

- facilitate resolution;
- attend counselling or mediation sessions, including FDR;
- review agreements made during FDR;
- assist their client to complete an application for legal aid;
- undertake work that is covered by a grant of legal aid;
- file court applications or serve documents; or
- represent their client.



Clients may ask their lawyer to assist them to complete court entry forms or notices of response following attendance at FDR, but a lawyer providing the Family Legal Advice Service is not required to provide other activities following the completion of FDR.

### Provider responsibilities

Section 7B of the Care of Children Act 2004 requires that lawyers providing legal advice to a person about arrangements for the guardianship or care of a child must take reasonable steps to ensure that the person is aware of

- the need for the child's welfare and best interests to be the first and paramount consideration; and
- the mechanisms for assisting resolution of family disputes; and
- the steps for commencing the proceeding and subsequently pursuing the proceeding through the court process to obtain a resolution; and
- the types of directions and orders that the court may make.

The specified tasks of Family Legal Advice Service providers are consistent with these obligations.

If the case proceeds to court, clients may choose to have their Family Legal Advice Service provider continue to act for them, either privately or under legal aid, if eligible, but are not required to.

Providers should be alert to the need for some clients to proceed straight to court with a Without Notice application and should direct them appropriately as soon as possible, for example, where domestic violence is identified. In those cases, the client may wish to engage the provider on a legal aid basis, if eligible.

### Letter of engagement

A lawyer providing the Family Legal Advice Service should take care to ensure the finite scope of the service is clearly stated so that the client's expectations are manageable.

Lawyers must provide clients with information about the work they will undertake, who will be responsible for the work completed and the way the service will be provided as per the Rules of Conduct and Client Care. This information is provided as part of a lawyer's letter of engagement to the client. Sample letters prepared by the New Zealand Law Society can be found on the Law Society's website.

As the service is not legal aid, the *Practice Standards for Legal Aid Providers* do not apply.

## Administrative requirements

In delivering the service, providers are also responsible for the following:

- establishing client identity and financial eligibility for the funded service – the provider has authority to approve eligibility if not already established by another provider
- recording information regarding client eligibility, identification and delivery of services through a website portal into an online recording system (Resolution Management System). This record is used to generate payment for services.

These requirements are described more fully in sections below.

## Delegation

The Delegation policy for the Family Legal Advice Service reflects the legal aid *Delegation of Work* policy and will change if the legal aid policy changes.

The assigned Family Legal Advice Service provider is responsible and accountable for the delivery and quality of all aspects of the service. However, many of the tasks may be delegated to other Family Legal Advice Service providers, supervised Family Legal Aid providers or non-lawyers such as legal executives and law clerks.

It is expected that a Family Legal Advice Service provider, or a supervised Family Legal Aid provider attending under the supervision of a Family Legal Advice Service provider, will give the client advice on their options, possible outcomes of FDR and the legal implications of such outcomes.

Family Legal Advice Service providers may delegate activities associated with assisting with court entry forms to a supervised Family legal aid provider, legal executive, or law clerk.

Family Legal Advice Service providers may also delegate administrative tasks such as recording and reporting. Recording and reporting tasks include administering the financial eligibility test and entering client information and completed activities into RMS.

## Availability

It is important that eligible persons are able to access legal advice early and easily.

Providers with an approval for this service will be listed on the Ministry's [website](#). Unless requested otherwise, contact details will include an email address for prospective clients to contact.

## Unavailability

We expect that providers who are listed on the website to be reasonably available to provide this service.

If a provider is going to be, or becomes, unavailable to assist any new clients for a period of 15 days or more, they must contact the Ministry at [legalaidprovider@justice.govt.nz](mailto:legalaidprovider@justice.govt.nz). The provider's name will be removed from the website for the duration of the time they are unavailable. The provider's name will re-appear once their period of unavailability is over.

The provider's approval to provide this service will not be affected.

# Client Eligibility

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To be eligible for this service, a client must have a relevant care of children dispute and fall within the financial eligibility threshold.

A Family Legal Advice Service provider has authority to approve eligibility if they assess that the client meets the eligibility requirements below.

## Relevant dispute

A relevant dispute includes those that, if unresolved, may result in applications made under CoCA. This includes most parenting and guardianship matters. It does not include Hague Convention cases.

The service is not intended to support applications made Without Notice as they are exempt from the out of court process.

## Financial eligibility

To determine if the client falls within the financial eligibility threshold, the provider must:

- check whether eligibility has already been established for this client within the online recording system (RMS) AND that the client's financial situation has not changed since the last assessment; or
- undertake the funding assessment.

Financial eligibility is assessed on the client's personal income and the number of their dependants only. The eligibility threshold is aligned to the income and dependants component of eligibility for a grant of family legal aid.

The income of a spouse or partner is not taken into account in assessing eligibility. A spouse or partner may be considered as a dependant if they have no income.

Assets and debts are not considered in the eligibility test. There is no user charge or no repayment required or debt incurred as a result of receiving the funded service.

## Dependants

The maximum thresholds for financial eligibility vary with the size and composition of the applicant's family. This includes the applicant's dependent spouse or partner (if they have no source of income<sup>4</sup>) and their dependent children. Any other dependent relatives are not included.

Dependent children do not have to live in the same home as the rest of the family. However, the applicant or their partner must be making regular payments towards the maintenance of the children, whether formal child support or a private arrangement. The dependent children do not have to be the applicant's children. Children of a partner may be included, provided they are financially dependent on the applicant.

If the child is accessing or eligible to access an income in their own right, such as a student allowance, then they must not be counted as being dependent.

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<sup>4</sup> Income for this purpose is assessed on the same basis as the applicant, as described below.

## Income

Income includes a client's wages and/or salary as well as any benefits, interest or income received from a trust and child support payments.

The table in [Appendix 2](#) sets out the income eligibility thresholds for the Family Legal Advice Service and other out of court services.

# Client Eligibility Testing

Family Legal Advice Service providers must administer the funding assessment test for clients, if eligibility has not already been established within the last 12 months.

Before proceeding with eligibility testing, the Family Legal Advice Service provider must check whether client eligibility for the funded service has already been established by checking within RMS. Family Legal Advice Service providers do not need to re-administer the funding assessment if a client has been assessed as qualifying for this service by an FDR provider or another Family Legal Advice provider in the last 12 months and their financial circumstances have not changed.

## Funding assessment

The funding assessment is based on the client's income for the past three months and the number of their dependants.

Providers use an online funding table available on the family justice [website](#) to determine whether their client is eligible for this service.

Providers must record the funding assessment information against their client profile in RMS – see below. If it is the first time the client has accessed an out of court service, the provider will need to create a client profile. As well as ensuring the client does not have to repeat the test at different contacts, the record also allows for a check that the funding assessment is being applied correctly<sup>5</sup>.

## Funding Declaration Form

Clients must complete and sign a standardised funding eligibility declaration form on the first occasion they seek access to funded out of court services. An example copy of the form is included in [Appendix 3](#).

This form requires the client to acknowledge that the information they have provided is true and correct and that they will inform the Family Justice Service provider if their circumstances change. Clients must also provide evidence to support the information contained in their application – see below.

Providers should help clients complete the Funding Declaration form. The lead provider with the FLAS approval must also sign the form to declare that their client qualified for funding and that they sighted the applicant's identity and eligibility evidence. The funding declaration form cannot be signed by an administrator or other provider.

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<sup>5</sup> The Ministry may check client information provided in RMS against the information provided in relation to an application for legal aid in order to satisfy audit requirements.

## Evidence of identity

Providers must satisfy themselves that the individual is who they say they are.

Preferred forms of identification include:

- NZ or overseas passport
- NZ Firearms licence
- NZ driver's licence
- NZ 18+ card

If the person cannot provide one of these forms of photo identification but can provide satisfactory identification in some other form, the provider may accept that as proof of the person's identity.

Upon approval of funding, a copy of this proof of identity will need to be retained for audit requirements.

To comply with principle 12(4) of the Privacy Act 1993, providers should ensure that:

- The person understands a copy of their identification has been taken for audit purposes (this information is included on the Funding Declaration Form)
- Any unique identifier on the proof of identity document is removed on the copy retained by the provider.

## Evidence of eligibility

Clients may provide the following information as evidence that their income does not exceed the maximum income level.

- letter from their employer or payslip;
- bank statements for the past 3 months;
- letter from NZ Work and Income;
- a copy of their most recent tax return;
- proof of a grant of civil or family legal aid in the previous 12 months;
- a separate statutory declaration stating that they have had no income, the number of their dependants, and explaining how they have supported themselves while they have had no income.

A declaration may also be used for clients whose financial situation has changed suddenly as a result of separation and/or for whom proof of income from the previous 3 months is not valid. For example, they may be in the process of applying for a benefit, or may have left work to care for children.

Another form of evidence not listed above may be used to prove eligibility for funding if in the provider's professional opinion, this evidence is sufficient proof for the purposes of the funding test. In all cases, providers must satisfy themselves that the client is financially eligible to receive the service.

A copy of the declaration form and evidence used in support of the funding approval will need to be retained for audit requirements.

While the test is based on the civil legal aid income thresholds, it does not include assets, liabilities, or partner's income and does not guarantee eligibility for legal aid, should the client proceed to court.

## Audit and compliance requirements

Providers may be subject to periodic audits in which case they will be required to provide copies of completed funding declaration forms including copies of evidence used in support of the funding

assessment. Providers are required to retain a hard copy of the completed Funding Declaration form, as well as copies of evidence used in support of the funding assessment, for at least 7 years.

## Service entitlements

Once established, eligibility continues for 12 months, unless there is a change to the client's circumstances that affects their eligibility. However, an eligible client can only access the full Family Legal Advice Service (initial advice and assistance with court forms) once per dispute every 12 months. A single dispute is described as involving the same parties and the same child or children although there may be more than one instance of disagreement.

If a client has accessed funded Family Legal Advice for first court applications, they will not be able to access further funded Family Legal Advice<sup>6</sup> for:

- cross-applications;
- applications for leave to apply because of changed circumstances; or
- applications to file consent memoranda.

The Family Legal Advice Service is not available for parties once the matter under dispute is before the court, including if the court refers the matter back to FDR. However, the client may access the service if they have a different CoCA matter that is not before the court, if they are otherwise eligible.

The Family Legal Advice Service is not available for parties who are eligible for legal aid funding for the same dispute – see Relationship with Legal Aid.

Providers should note that FDR, while subject to the same financial eligibility criteria, has different service entitlements. For example, it may be accessed more than once over a twelve month period.

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<sup>6</sup> It is expected that clients who have benefitted from legal advice and assistance in their first application to the court should be able to complete further applications unassisted. If they wish, they may engage a lawyer privately.

# Online Recording System

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Family Legal Advice Service providers are required to use RMS, the online recording and reporting system which enables the Ministry to track customer progress through family justice services.

The system has been introduced to enable a seamless record and transfer of clients between services by reducing the need for clients to repeat the same information and for different providers to collect the same information.

RMS allows providers to quickly check whether a client has already been tested for eligibility and what other services they have accessed. Court Registrars, relevant Ministry staff, FDR providers, PTS providers and Family Legal Advice Service providers have access to different areas of the system, depending on the service they are providing.

The use of an integrated online system means that administrative requirements are considerably reduced – providers do not need to upload or send documents, nor do they need to invoice for their work. Claims are created as a result of the provider recording completion of an activity in the system. This claim is sufficient to trigger payment by the Ministry. The resulting buyer-created invoice will be provided to Family Legal Advice Service providers in their remittance advice (see below).

RMS is not a case management system and providers should not use it for case notes or any private information regarding a client's dispute.

## Privacy guidelines and requirements

Rules of conduct and guidelines are necessary to protect the privacy of information collected and stored in RMS regarding client details. They include:

- When entering a client into RMS, providers are required to advise the client of the information being collected and the purpose for which it is collected<sup>7</sup>
- Users are required to acknowledge each time they log on that they are using the system for proper purposes
- A privacy statement reminder is visible on each screen in RMS
- Providers may use the system only for recording or checking information about their own client and for linking a client to a dispute<sup>8</sup>
- Providers have no right to another party's information and must not use RMS to gather contact information regarding another party
- The system keeps a record of what information users have accessed so that improper use can be identified and followed up.

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<sup>7</sup> Providers should draw clients' attention to the privacy statement in section 8 of the Funding Declaration Form (see Appendix 3 for example of form).

<sup>8</sup> RMS will require you to confirm the client whose information you are seeking to access is your client.

## Using RMS

The provider or their delegate needs to access and record information in RMS. RMS is used in the following ways:

- To search for information:
  - Whether the client is already entered within the system, and if so, whether for this dispute and service
  - Whether the funding eligibility test has been completed and whether eligibility is still current
- To record information, for example:
  - The client's contact details, including any updates, and validation of the client's identity
  - The funding eligibility test outcome
  - The provider's association with the client for the delivery of this service
  - The completion of an activity, which triggers payment.

[Appendix 4](#) contains an outline of the stages of the service and the associated use of RMS.

## Users of RMS

Family Legal Advice Service providers are required to provide a list of all staff within their service who need access to RMS and to identify whether they are using RMS in an administrative or provider role. Each person accessing RMS needs a unique email address as their user name.

The provider must advise of any changes, for example, when a staff member leaves, so that the user database can be updated and the integrity and security of RMS maintained.

## Timeframes for recording

Timely recording of the outcome of the funding eligibility test within RMS is important as the test also establishes access to funded FDR, including Preparation for Mediation. It therefore benefits the client and providers to record the information in RMS immediately.

Providers will be expected to enter their client's details and any services they have provided into RMS within 48 hours of undertaking the activity. This timeframe ensures:

- Basic client identity information is available to other providers so that clients do not need to repeat the same information;
- FDR providers or other Family Legal Advice Service providers do not need to administer the funding assessment when it has already been carried out; and
- The client is linked with a particular Family Legal Advice Service provider so that they cannot access the service again from a different provider.



# Payment

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Providers will be entitled to claim a fixed fee for providing this service.

This service begins once a provider has been formally engaged by a client i.e. once eligibility has been confirmed and the client has accepted the provider's terms of engagement.

## Fee schedule

The fee schedule is attached as [Appendix 5](#). It is made up of the two key activities (as outlined earlier) and associated tasks.

Providers may not necessarily complete all of the tasks in each activity but they must take reasonable steps to agree with their clients the tasks they will undertake.

The rate of payment was calculated to be consistent with that for a litigation experience level 2 family lawyer for legal aid work in the Family Court when the case is not being managed under fixed fees. An allowance has been built in for office disbursements.

There is no ability to amend the amounts claimable but disbursements such as travel, interpreters, etc are payable on an actual and reasonable basis as outlined in the [Legal Aid Grants Handbook](#).

### Change of lawyers

It is expected that in some circumstances, a client may need to change lawyers. The split of the fee schedule into two activities allows clients to change lawyers between the two activities (which may occur up to 12 months apart). For this reason, it is important that Family Legal Advice Service providers check and record if their clients have accessed this service, either in part or in full, as soon as possible. This will help ensure that clients are not accessing services they have already received and providers are fairly compensated for the work they carry out.

## Disbursements

An allowance has been included in the fixed fees payable to cover the office disbursement costs such as photocopying and phone calls incurred by the provider in providing the Family Legal Advice Service. The larger amount included in the second activity fee reflects the photocopying associated with completion of court entry forms.

### Travel

Because the Family Legal Advice Service is restricted in scope and extent, it is not expected that providers will need to undertake non-local travel. 'Local' is described as the city centre where the provider's normal place of work and travel destination is located. Distances less than 25 kilometres and/or travel time less than 30 minutes are considered 'local'.

If some factor makes non-local travel necessary, the Ministry will reimburse actual and reasonable travel costs. Mileage will be paid at the rate set by the Commissioner of Inland Revenue for expenditure incurred for the business use of a motor vehicle. The provider may also claim for time spent travelling from their normal place of work to the destination and back. For further details, see the [Legal Aid Grants Handbook](#).

### Interpreters/translators

The Ministry will reimburse the actual and reasonable cost for the use of interpreters or translators required to provide the Family Legal Advice Service.

The Family Legal Advice Service is intended for parties who can take an active role in resolving their dispute. Where there are significant language barriers, clients may be exempt from taking part in FDR and will then be referred directly to the Family Court for resolution. While Family Legal Advice Service providers cannot exempt a client from taking part in FDR, providers should consider whether clients with significant language barriers should be referred to an FDR provider or the court for possible exemption prior to delivery of the Family Legal Advice Service.

## Payment arrangements

An activity recorded in RMS leads to the generation of a claim which results in the production of a 'buyer-created' tax invoice<sup>9</sup>. Claims will be generated and payments made as they occur. The Ministry will use this buyer-created tax invoice to support a claim for the GST paid. A copy of the buyer-created invoice will be sent to the provider as confirmation of services provided. Both the provider and the Ministry are required to keep a copy of the invoice.

The Inland Revenue Department requires both parties to agree to use 'buyer-created' tax invoices. Because of this, providers will be asked to agree to the use of buyer-created invoices when they apply for approval to provide this service.

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<sup>9</sup> A 'buyer-created invoice is one created by the buyer (the Ministry) rather than the supplier (the Family Legal Advice Service provider). For more information about buyer-created invoices, see <http://www.ird.govt.nz/gst/work-out/work-out-records/records-tax/tax-special/#buyercreated>.

# Relationship with Legal Aid

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The Family Legal Advice Service is not legal aid. Financial eligibility for this service is based on a simple test and does not indicate whether legal aid will be granted if the matter proceeds to court.

## Court entry

Clients receiving the Family Legal Advice Service may choose to engage the same lawyer to represent them if the case proceeds to court, but are not required to do so. If the client is granted legal aid, the provider must hold a current lead provider approval for Family legal aid in order to be assigned the case.

## Concurrent legal aid cases

Clients may access the Family Legal Advice Service at the same time as receiving a grant of family legal aid for other matters. Clients may not concurrently access both the Family Legal Advice Service and legal aid for CoCA for the same dispute – for example, when legal aid has been granted for a qualifying CoCA dispute and the case is referred back to family dispute resolution.

## Without Notice applications

The Family Legal Advice Service is intended to assist parties to resolve their disputes in most cases without court intervention. If the court accepts an application without notice, the client will go directly to court. Legal aid is available for Without Notice applications for those who are eligible.

Providers who, after meeting with a client and completing the eligibility assessment, identify the client as unable to participate effectively in out of court services and therefore likely to be eligible to proceed straight to court, may still claim the initial activity fee. Reasons for possible exemption from FDR and PTS include domestic violence or power imbalance, communication barriers, mental health issues.

# Appendix 1 – Glossary

Term	Definition
Activity	A defined set of tasks for which a fixed fee is payable – as set out in the Family Legal Advice Service fee schedule.
Buyer-created invoice	An invoice created by the buyer (Ministry of Justice) as a result of the provider recording details of an activity in the online recording system (Resolution Management System).
Child	Defined according to the Care of Children Act 2004. A child is a person under the age of 18 years.  Parenting orders can only be made for children up to the age of 16. Guardianship applies up to the age of 18.
Event Record	The record of a specific out of court event the Party has been involved in. This will be input by the Provider that conducted the specific event.
Exempted	Indicates that a Party is not required to attend PTS or FDR. Parties may be exempt because of urgency, language barriers, mental health issues, power imbalance or domestic violence. Parties may apply to the court to be exempted from PTS or FDR or a Family Dispute Resolution Provider may, after carrying out an assessment, deem the parties unsuitable to participate effectively in FDR.
Family Dispute	A dispute that will require an Application under the Care of Children Act 2004 if a Party to the dispute wants a court to resolve it. Excludes Hague convention applications (applications under Part 2, subpart 4 of CoCA 2004).
Family Dispute Resolution (FDR)	An out of court service provided by a Family Dispute Resolution Provider for the purpose of assisting parties to a Family Dispute to resolve the dispute without having to pursue court proceedings.  FDR is mandatory before making an application to the court under section 46R or section 48 of CoCA 2004, unless the application falls into one of the categories specified in section 46E(4) of CoCA 2004.
Family Justice System (FJS)	The full spectrum of Family Court and Out of Court services.
Family Legal Advice Service	Initial advice and information concerning a CoCA matter so that a client understands their options and possible outcomes; and help with completing court application forms, if required.
Funding Declaration form	Form completed by Party to determine eligibility for specified free family justice services. Information on this form is used to conduct the Funding Eligibility Test.
Funding Eligibility Test	An income-based test conducted by FDR Providers, FDR Suppliers and Family Legal Advice Service Providers to determine whether a Party qualifies for specified free family justice services.

Term	Definition
Funding Eligibility Table	A table on the Family Justice website that helps applicants and Providers to determine if the Party qualifies for free services
Out of Court	Information, services and activities occurring within the FJS framework but with no court involvement.
Parenting through Separation (PTS)	An educational course developed by the Ministry of Justice to help parents understand the effects of separation on their children, specified as a parenting information programme in legislation.
Party Record	A record of the Party's personal details, including name, contact details and demographic information, created by the first Provider to have contact with the Party.
Preparation for Mediation	An out of court service to ensure that the Party is sufficiently prepared to attempt Family Dispute Resolution sessions.
Provider	A person who provides out of court family justice services such as PTS, FDR or Family Legal Advice.
Resolution Management System	An on-line system to record and store basic information about the Provider, the Party and the services accessed by the Party. Used to transfer and cross-check client identity and create invoices.
Supplier	An organisation contracted by the Ministry to provide Family Justice services which are carried out by individual Providers.
Task	Specific tasks required of lawyers to complete an overall activity for which a fixed fee is paid as set out in the Family Legal Advice Service Fee Schedule.

# Appendix 2 – Financial Eligibility Thresholds

The following maximum before tax income levels, based on civil legal aid income thresholds, apply for the Family Legal Advice Service:

Dependants	Maximum Income level before tax
Single applicant	\$23,820
Applicant with: a dependent spouse or partner with no income; or 1 dependent child	\$37,722
Applicant with: a dependent spouse or partner and 1 dependent child; or 2 dependent children	\$54,245
Applicant with: a spouse or partner and 2 dependent children; or 3 dependent children	\$61,642
Applicant with: a spouse or partner and 3 dependent children; or 4 dependent children	\$68,882
Applicant with: a spouse or partner and 4 dependent children; or 5 dependent children	\$77,002

If an applicant has more than 5 dependent children, or has a dependent spouse or partner and more than 4 dependent children, the maximum level of income for that applicant is calculated by adding a further \$7,124 for each additional child.

# Appendix 3 – Funding Declaration Form Example

The Funding Declaration Form is accessed from RMS. This example is current for July 2018 but may look slightly different to the form generated in RMS.



**Please note:** This form does not need to be completed if you have had funding approved for Family Dispute Resolution or the Family Legal Advice Service in the last 12 months, and your financial situation has not changed. For more information see [www.justice.govt.nz/family-justice](http://www.justice.govt.nz/family-justice) or call 0800 2AGREE (0800 224 733)

## 1. Applicant Personal Details

\* Compulsory Questions

Title :  Dr  Mr  Mrs  Ms  Miss  
 \* First name(s): ..... \* Surname: .....  
 Gender  Male  Female  Gender diverse \* Date of birth: .....

Home address: .....  
 .....  
 .....

Email address: .....

Contact phone number(s): .....

\* Do you have a dependent spouse, civil union or de facto partner who has no source of income?  No  Yes

\* Do you have any dependent children?  No  Yes \* How many? .....

## 2. Applicant Eligibility Details

What is your estimated annual income (before tax and other deductions)? \$-.....

Please tick one of the following:

- I have received a grant of civil or family legal aid within the past 12 months and my financial circumstances have not changed since I was approved for this grant of legal aid.
- My estimated annual income before tax and other deductions is below the funding income threshold (see Section 3 for details)
- My income has changed in the past 3 months, and is below the funding income threshold

Please attach proof of eligibility (see Section 6 for examples of proof required)

Please tell us how your income has changed in the past 3 months


## 3. Income Thresholds

This table will help you to determine your eligibility for services

Number of Dependents	Annual Income before tax and other deductions
0 - Applicant only	\$23,820
1 - Spouse/Partner or Child	\$37,722
2 - Spouse/Partner and/or Children	\$54,245
3 - Spouse/Partner and/or Children	\$61,642
4 - Spouse/Partner and/or Children	\$68,882
5 - Spouse/Partner and/or Children	\$77,002
6 or more	Plus \$7,124 per additional

Note: Spouse or partner in this instance must have no income to be taken into account

## 4. Privacy Statement for Applicant

The information you provide in this form is being collected to assess your eligibility for funded out of court family justice services. Your information may be used by

- the Ministry of Justice (including judges and court staff)
- your out of court family justice service provider
- the organisation that employs or engages your out of court family justice service provider

to determine your eligibility for funding, provide and/or manage out of court family justice services, or to validate the accuracy of information provided.

The information you provide may also be disclosed to third parties when we believe in good faith that we are required to do so by law.

You have the right to ask for a copy of any personal information we hold about you, and to request correction of that information if you think it is wrong. To request a copy of your information, or to have it corrected, contact us at:

Address: Provider and Community Services, Ministry of Justice, SX10088, Wellington  
 Email: [RMS.Family@justice.govt.nz](mailto:RMS.Family@justice.govt.nz)

# Appendix 4 – Family Legal Advice Service (FLAS) Stages

Stage	Description	Use of RMS
1	<p><b>Client approaches lawyer for FLAS</b></p> <p>During this stage:</p> <ul style="list-style-type: none"> <li>the client may be referred to FLAS by using the 0800 phone line, searching the internet or by a community organisation; and</li> <li>the FLAS provider or support staff make arrangements to meet client.</li> </ul> <p>FLAS providers may choose to send background information about the service for the client to read before their first meeting.</p> <p>FLAS may be the first point of contact for the client. FLAS will need to make an initial assessment about whether the client should receive this service or their applications should be placed on the Without Notice track.</p> <p>If financial eligibility has not already been established, the client will be reminded to provide the required evidence so the assessment can be finalised.</p>	<p>At this stage RMS can be used to:</p> <ul style="list-style-type: none"> <li>check whether a party record for the client has already been created. <i>Create client's party record if it does not already exist.</i></li> <li>check whether the client's financial eligibility has already been established and whether eligibility is still current.</li> <li>check whether funded legal advice has already been delivered to the client within the past 12 months for that dispute – check disputes linked with party record and associated services already delivered.</li> <li>check whether dispute record for client has been established. <i>Create dispute record if it does not already exist and associate you as the provider.</i></li> <li>create event record of the service that is being delivered and associate you as the provider.</li> </ul>
2	<p><b>Client and lawyer have initial meeting(s)</b></p> <p>During this stage, the FLAS provider:</p> <ul style="list-style-type: none"> <li>conducts or confirms financial eligibility test, including validation of identity, completes funding declaration form</li> <li>gives client letter of engagement and relevant information about service.</li> </ul> <p>If the client is eligible for this service and has accepted the lawyer's terms of engagement, FLAS providers can provide most or all of the first activity of FLAS during the same meeting.</p> <p>If initial contact is for assistance with court entry forms, the full service may be delivered at this stage.</p>	<p>At this stage, RMS is used to:</p> <ul style="list-style-type: none"> <li>update client's party record to record outcome of the funding eligibility test and validation of client's identity.</li> <li>print funding declaration form.</li> <li>record service delivered in order to generate payment<sup>10</sup></li> </ul> <p><b>Note: Any of the RMS tasks performed above can be completed at this stage if not already done so.</b></p>

<sup>10</sup> The activity has provision to claim for disbursements (other than standard office ones) associated with it.



Stage	Description	Use of RMS
3	<p><b>Client accesses other out of court family justice services</b></p> <p>During this stage, the FLAS client may attend Parenting through Separation, Family Dispute Resolution Preparation for Mediation, and Family Dispute Resolution (unless exempt).</p> <p>This may occur at the same time, before, or after the client is accessing the FLAS.</p>	
4	<p><b>Client and lawyer have subsequent meeting(s)</b></p> <p>During this stage:</p> <ul style="list-style-type: none"> <li>• the client and FLAS provider discuss the dispute (whether any agreements have been reached); and what next; and</li> <li>• the FLAS provider helps the client complete court entry forms or notice of response, if required.</li> </ul> <p>Clients may not need to access this stage of FLAS if they are able to resolve the dispute at an earlier stage. For example, clients may reach agreement in FDR.</p>	<p>At this stage, RMS can be used to:</p> <ul style="list-style-type: none"> <li>• view any FDR forms (if client has already been to Family Dispute Resolution if appropriate)</li> <li>• check whether funded legal advice activity has already been delivered to the client within the past 12 months for that dispute.</li> </ul> <p>At this stage, RMS is used to:</p> <ul style="list-style-type: none"> <li>• record service delivered in order to generate payment<sup>11</sup></li> </ul> <p><b>Note: Any of the RMS tasks performed above can be completed at this stage if not already done so</b></p>

Clients may resolve their dispute at any time during these stages. Clients have 12 months to access all stages. If they do not access all stages within 12 months, they will need to undergo another financial eligibility assessment, but may be able to re-access services they have already received.

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<sup>11</sup> The activity has provision to claim for disbursements (other than standard office ones) associated with it.

# Appendix 5 – Family Legal Advice Service Fee Schedule

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Activity	Tasks	Fee (excl GST)
Initial advice	Taking instructions, attending the client Administering funding eligibility test Identifying legal and factual issues Explaining the Family Justice System process, including Family Dispute Resolution, so that the client understands their legal rights, responsibilities and options	\$245  incl \$5 for office disbursements
Assistance with completion of court entry forms or notice of response	Gathering updated information including any outstanding issues Assisting the client to complete court entry forms or notice of response as relevant	\$265 incl \$25 for office disbursements
Disbursements	Office Travel Interpreter	Included in fee \$Actual/reason \$Actual/reason

**Notes:**

- (i) Administration of funding test includes timely entering of clients into RMS and updating record when services are delivered.
- (ii) Activity fees are not repeatable and may be claimed only once per case within a 12 month period.



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