**Private Practitioner Scheme for the Circuit Court Terms and Conditions**

[**Introduction**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_1)

1. The Civil Legal Aid Act, 1995 (“the Act”) provides that the Legal Aid Board (“the Board”) may establish and maintain a panel of solicitors who are willing to provide legal aid and advice to persons who are in receipt of legal services. The Board has now decided to establish and maintain a panel of solicitors who are willing to provide services to persons who have been granted a legal aid certificate by the Board for certain family law matters in the Circuit Court, to be known as the Private Practitioner Circuit Court Panel (“the Panel”).

[**Panel of Solicitors**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_2)

1. Any solicitor/firm wishing to be considered, in accordance with the provisions of these terms and conditions, to have his, her or their name placed on the Panel must apply in writing to the Board. The Board will select from among the applicants, those that, in the opinion of the Board, are best suited to be engaged by the Board to provide legal services on its behalf. In the event that the solicitor/firm is accepted on the Panel, the solicitor/firm must give an [undertaking](https://www.legalaidboard.ie/en/Lawyers-and-Experts/Legal-professionals-in-civil-cases/Judicial-separation-and-divorce-in-the-Circuit-Court/Terms-and-Conditions/Circuit-Court-PP-Scheme-Undertaking.pdf), to comply with these terms and conditions and the provisions of the Act when providing legal aid and/or advice.
2. Any solicitor/firm wishing to apply to be placed on the Panel must hold a current practising certificate from the Law Society of Ireland and must have professional indemnity insurance which is adequate for the purposes of the Scheme. The current figure is €2 million in any one case, but this may be revised from time to time by the Board.
3. Solicitors/Firms on the Panel must comply with the tax clearance procedures specified in the Department of Finance Circular 22/95 entitled ‘Tax clearance Procedures-Public Sector Contracts’ or any such circular amending or replacing that circular.
4. The Panel shall be in place for a period of three years from the 1st October 2006 or such other date or period as the Board may determine. The Board will consider applications to be included on the Panel at such times as the Board, from time to time, may determine.
5. Solicitors/firms on the Panel must have access to e-mail facilities and must have IT software that is compatible with Microsoft Office software in order to ensure the effective and efficient administration of the Scheme.

[**Anti Money Laundering**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_3)

1. The Board shall identify clients in accordance with the terms of the anti money laundering legislation and the Law Society’s Guidance Notes prior to the referral of a case to a solicitor/firm on the Panel. Copies of the identification documents shall be furnished to the solicitor/firm. It shall be a matter for the solicitor/firm to ensure that the remaining obligations on foot of the legislation are complied with.

[**Quality Service**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_4)

1. Solicitors/firms are expected to act in a fiduciary manner in relation to all legally aided clients and to provide a service in keeping with the Family Law in Ireland – Code of Practice issued by the Family Law and Legal Aid Committee of the Law Society of Ireland and with the Guides to Professional Conduct that are issued from time to time by the Law Society of Ireland.
2. The Board is committed to the provision of a quality legal service to its clients and will from time to time provide solicitors/firms on the Panel with guidelines on the approach to be adopted in dealing with family law matters. The Board has issued [Guidelines](https://www.legalaidboard.ie/en/Lawyers-and-Experts/Legal-professionals-in-civil-cases/Judicial-separation-and-divorce-in-the-Circuit-Court/Best-Practice-Guidelines/) on the conduct of separation and divorce cases and in relation to file management. Solicitors/firms on the Panel are expected to broadly comply with the Guidelines.

[**Monitoring**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_5)

1. A solicitor/firm on the Panel shall provide the Board with any information relating to a person in receipt of legal aid, which is required by the Board for the purpose of enabling the Board to discharge its functions under the Act. Such information shall be furnished within fourteen days of any such request. Solicitors/firms shall retain files of legally aided persons for a period of six years from the date of completion of the services authorised on foot of the legal aid certificate.
2. A solicitor/firm on the Panel shall provide progress updates every four months in relation to any assigned cases in a format determined by the Board.
3. As part of its commitment to ensuring that its clients receive a quality service, the Board will review a number of files of legally aided clients so as to satisfy itself that the solicitor/firm on the Panel is providing an appropriate level of service. In the event that that review identifies issues of concern in relation to the provision of an appropriate level of service, the Board will inspect any or all legally aided client files assigned to that solicitor/firm.

[**Exclusion, removal and withdrawal from the panel**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_6)

1. The Board may suspend or remove a solicitor/firm from the Panel if it considers that:-
   1. the solicitor/firm’s conduct when providing or selected to provide legal services or his/her/their professional conduct generally render him, her or them unsuitable, in the opinion of the Board, to provide such services; or
   2. the solicitor/firm has failed to comply with these Terms and Conditions; or
   3. the solicitor/firm has not participated in the Scheme to a satisfactory level, including but not confined to his/her refusal on a regular basis to accept a legally aided person as a client or to give a client appropriate legal advice or aid; or
   4. the solicitor has a medical condition that would render him or her unfit to provide the required service. The Board reserves the right to require medical evidence from a solicitor or to refer a solicitor to a medical practitioner in order to confirm their fitness in this respect.
2. If the Board decides to suspend or remove a solicitor/firm from the Panel, the solicitor/firm will be notified in writing of the grounds for the decision. The solicitor/firm may, within a period of one month from the date of such notification, appeal in writing the decision to the Chief Executive of the Board, setting out the grounds of appeal in full. The Chief Executive may restore the solicitor/firm, if satisfied that a case for restoration to the Panel is made out. Any appeal does not operate to delay or negate the suspension or removal of the solicitor from the Panel, unless the Chief Executive determines otherwise.
3. Solicitors/firms who wish to withdraw from the Panel must inform the Board, in writing, of their intention to withdraw. Solicitors/firms shall give one month’s notice of intention to withdraw from the Panel. Solicitors/firms who withdraw from the Panel must complete all outstanding cases that have been referred to them.

[**Maintaining the panel**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_7)

1. The Panel shall be maintained in alphabetical order on a national basis and shall comprise the names of all solicitors/firms whose applications for placement have been accepted by the Board. For ease of reference the Panel may be distributed to applicants who have been granted Legal Aid Certificates in the form of a separate list of solicitors/firms on the Panel who are willing to provide the services authorised on foot of the Certificate in the Circuit Court area/County in which the legally aided person resides.
2. Every solicitor who has been accepted for membership of the Panel will be allocated a number, to be known as a PP Number, which must be quoted on all correspondence.

[**Scope of the Scheme**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_8)

1. The Scheme will apply only in relation to persons who have been granted legal aid certificates issued by the Board for family law proceedings in the Circuit Court regarding:-
2. Divorce

(ii) Judicial Separation

1. Legally aided persons who were represented in the Circuit Court on foot of a legal aid certificate issued under the Scheme and who, subsequent to the determination of a case by that court, wish to appeal, or defend an appeal, to the High Court may apply to a law centre for legal aid in relation to the appeal. Legal aid will not be granted on foot of the Scheme in relation to any proceedings in the High Court.
2. Legally aided persons who conclude separation agreements, or who are the subject of judicial separation or divorce orders and who require conveyancing services on foot of Agreements or Orders, may be entitled to have those services provided on a legally aided basis.  The service does not fall within the scope of the Scheme and [is provided by the Board’s in-house solicitors](https://www.legalaidboard.ie/en/Lawyers-and-Experts/Legal-professionals-in-civil-cases/Judicial-separation-and-divorce-in-the-Circuit-Court/Terms-and-Conditions/Extent-of-Conveyancing-services-provided-by-the-Board.html). A solicitor/firm on the Panel shall inform the client of the availability of this legally aided service, where appropriate, and shall advise the client to contact a law centre or the Board’s Private Practitioner Service for the purpose of having the service provided by the Board.

[**Operation of the Scheme**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_9)

1. Persons seeking legal aid services make their applications at law centres. In the event that an applicant is granted a legal aid certificate in respect of any of the proceedings listed at paragraph 18 above(Scope of the Scheme), the Board may refer the person to the Panel to select a solicitor/firm from the Panel to act on their behalf. The Board or the legally aided person shall notify the solicitor and shall furnish them with:
   1. Part III and Part IV of the legal aid certificate which will indicate the legally aided person’s name, the nature of the proceedings authorised and the steps authorised on foot of those proceedings, in terms of the expenditure on witnesses that may be incurred; and
   2. a Claim Form on which the legal aid certificate number should be entered. The certificate shall be the solicitor’s authority to provide legal aid to the client under this Scheme. Part III of the certificate should be retained by the solicitor / firm on the client file. Part IV of the certificate should be attached to the Claim Form for payment of the fee and any outlay, when the case is concluded.

Legal services cannot be provided under the Scheme without a valid legal aid certificate.

[**Amending of Legal Aid Certificates**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_10)

1. If a solicitor/firm considers that further steps that will incur expenditure are required to process the client’s claim, over and above those authorised on the certificate, for example, that a professional report should be obtained or that professional or other witnesses are required, application must be made in writing to the Board seeking an amendment to the certificate to incur such expenditure. Such application should provide sufficient information, particularly in relation to how the additional expenditure is likely to benefit the client’s case, to allow a decision to be made and to enable the terms of the Act to be complied with by the Board when considering the application.
2. If it is decided to approve an application, an amending certificate will be issued by the Board. A solicitor may not seek reports, engage witnesses or otherwise incur costs or expenses save as authorised on foot of a Certificate or an amending certificate. The Board will be responsible only for costs or expenses incurred where these have been approved in writing in advance.
3. Decisions by the Board to refuse applications for professional or expert witnesses shall be subject to the relevant review and appeal procedures contained and the Civil Legal Aid Regulations 1996 (Regulation 12).

[**Fees**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_11)

1. The Claim Form shall be the document whereby the solicitor shall be entitled to claim the appropriate fee and any authorised outlay. The appropriate fee is inclusive of any fee that might be paid to a barrister and no additional fee will be paid by the Board to or for any barrister retained. Instructions for the completion of the Form are printed on the reverse of the Form. Care should be taken in completing the Form as incomplete or improperly completed claim forms will be returned without payment.
2. The completed Claim Form, together with Part IV of the Certificate, should be returned to the Private Practitioner Service, Legal Aid Board, currently located at Quay Street, Cahirsiveen, Co. Kerry when the services specified in the certificate have been provided and the case has been determined.
3. A case will be deemed to have been determined where: (a) the parties have entered into a comprehensive and binding Separation Agreement and any consequential issues arising from the Agreement, other than conveyancing issues, have been attended to; or (b) Court proceedings have been settled or the Court has made an Order(s) and any consequential issues arising from the Court settlement/Orders, other than conveyancing, have been attended to; or (c) the client has withdrawn his or her instructions.
4. Legally aided persons must not be charged any fees and must not be asked to discharge any fees, expenses, costs or outlay, except in accordance with such specific instructions as may be issued from time to time by the Board. Furthermore, legally aided persons must not be asked to sign undertakings to pay for additional services and the charging of additional fees, expenses, costs or outlay or the seeking of undertakings to pay for additional services will be grounds for immediately removing a solicitor/firm from the Panel.

[**Monies Recovered / Costs**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_12)

1. Section 33(7) of the Act provides that any monies recovered or preserved for a legally aided client shall be lodged to the Legal Aid Board’s Fund. In the event of such a recovery, the solicitor/firm shall immediately notify the Board of the recovery and of the circumstances giving rise to the settlement/recovery. The Board shall deduct its costs, subject to certain provisions, and shall forward the balance directly to the client. In the event that the solicitor/firm is of the view that the circumstances are such that the legally aided person is entitled to a waiver of those costs in accordance with the Board’s Circular in relation to the waiving of costs the solicitor/firm shall so inform the Board giving specific reasons why, in the solicitor/firm’s view, the legally aided person comes within the terms of the Circular.
2. In the event that an order for costs is obtained against the other party, the solicitor/firm shall notify the Board of the making of the order and the Board may take appropriate action for the recovery of such costs which shall be paid over to the Board.
3. For the purpose of enabling the Board to determine the amount to be recovered in costs from a legally aided person, the solicitor/firm should retain such records as it considers necessary in order to advise the Board as to the number of hours that have been expended on the case. The costs to be recovered will be determined by the Board on the basis of the Board’s hourly fee rate. This rate will be notified to practitioners on the Panel each year and will apply in respect of services provided in cases referred to a practitioner during that year. The Board will advise clients of the arrangements for the recovery of costs.

[**Fees Payable**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_13)

1. There shall be a standard scale of fees payable per case to solicitors/firms on the Panel for the provision of services. Where an additional payment is being sought in accordance with paragraph (f) or (g) of Schedule 1, it shall be a matter for the solicitor/firm to establish an entitlement to that payment and the Board may require sight of a Court Order or other documentation to satisfy itself that the payment is due. Additional payments shall not be made for interim applications save applications made on foot of Section 35 of the Family Law Act 1995 / Section 37 of the Family Law (Divorce) Act 1996 and where those applications are successful. In this event an additional fee equal to the additional amount payable where a case goes into a second day of evidence, shall be paid.
2. Travel and subsistence expenses shall be payable in accordance with Civil Service rates.
3. Solicitors on the Panel shall be responsible for the outlay of any necessary viaticums to secure the attendance of witnesses, but shall be entitled to a refund of any outlay authorised on foot of the Certificate or amendment thereof. If it becomes necessary to pay a fee for professional services that has been authorised by the Certificate or an amendment thereof, in advance of the determination of a case, an Interim Claim form together with the original fee note may be submitted to the Board. The fee shall be paid by the Board directly to the relevant person or body and the solicitor will be advised when payment has been made.
4. Solicitors may claim Commissioner’s fees as outlay on the claim form.

[**Complaints**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_14)

1. Section 31(4) of the Act provides that: “ Where a person to whom the Board has decided to grant legal aid or advice has - (a) accepted the nomination of a solicitor or selected a solicitor from the solicitors’ panel pursuant to subsection (1) or been granted the services of a solicitor pursuant to an application under subsection (3), or (b) accepted the nomination of a barrister pursuant to subsection (2) or been granted the services of a barrister pursuant to an application under subsection (3), the person may apply to the Board to have the services of that solicitor or barrister dispensed with and the services of another solicitor of the Board or solicitor from the solicitors’ panel or, as may be appropriate, barrister from the barristers’ panel obtained in the matter and where the Board considers it reasonable in all the circumstances, it may consent to the application. If a client makes a complaint to a solicitor/firm about his, her or their performance and it is not possible to address the complaint to the client’s satisfaction, the client should be requested to put the complaint in writing and the complaint should be forwarded to the Board. If the Board receives a complaint from a client or if a performance issue is identified by the Board, a copy of the complaint or a note of the performance issue shall be forwarded to the solicitor/firm for his/her/their observations. The Board shall consider the complaint/performance issue in accordance with its “[Customer Care and Complaints Procedure](https://www.legalaidboard.ie/en/About-the-Board/Customer-Charter/)”, and also in accordance with the terms and conditions contained herein, including the appendices attached hereto.

[**General**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_15)

37. Nothing in these Terms and Conditions shall give rise to, or be construed as giving rise to, a relationship of employer and employee between the Board and any solicitor on the Panel.

[**Schedule of Fees**](https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/judicial-separation-and-divorce-in-the-circuit-court/terms-and-conditions/#collapse_16)

**Schedule 1**

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| **Fees for separation and divorce cases (inclusive of any payments made to counsel and exclusive of VAT)** | **Fee** |
| a) Judicial separation and divorce cases where a Notice of Trial has been served and to include as appropriate but not limited to, consultations, drafting or settling of pleadings, preparatory work, settlement negotiations and /or court appearances, including any interim applications. | €3386 |
| b) Cases where matters have been resolved by a Separation Agreement rather than Judicial Separation proceedings. | €2539 |
| c) Judicial Separation and Divorce cases where proceedings have been instituted but the matter does not proceed to service of a Notice of Trial and to include as appropriate but not limited to, consultations, drafting or settling of pleadings, preparatory work, settlement negotiations and / or interim court applications. | €1693 |
| d) Separation and divorce cases where the legally aided person has given instructions to the solicitor/firm but either fails to give further instructions or chooses not to proceed with the matter. | €423 |
| e) Separation and divorce cases where the legally aided person fails to give any instructions. | Nil payment |
| f) Additional fee where a judicial separation or divorce case requires more than one day of evidence. | €592 |
| g) Additional fee for taking judgement where a case is heard and judgement is reserved and delivered on a different day. | €296 |