



Irish Criminal
Bar Association
ICBA



Irish Council for
Civil Liberties

A Crash Course on Legal Aid Applications in the District Court

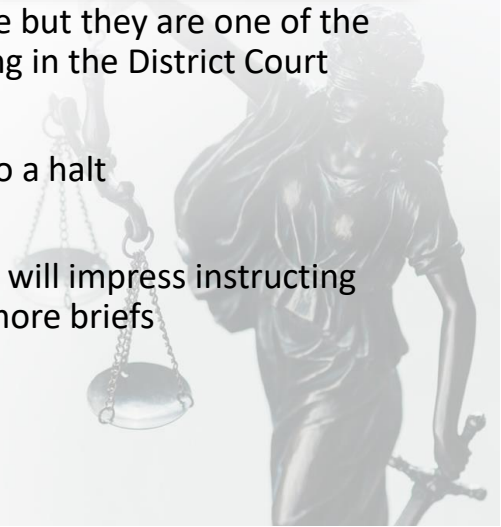
26th April 2023

Fergal Boyle Solicitor – Ferry's
Solicitors



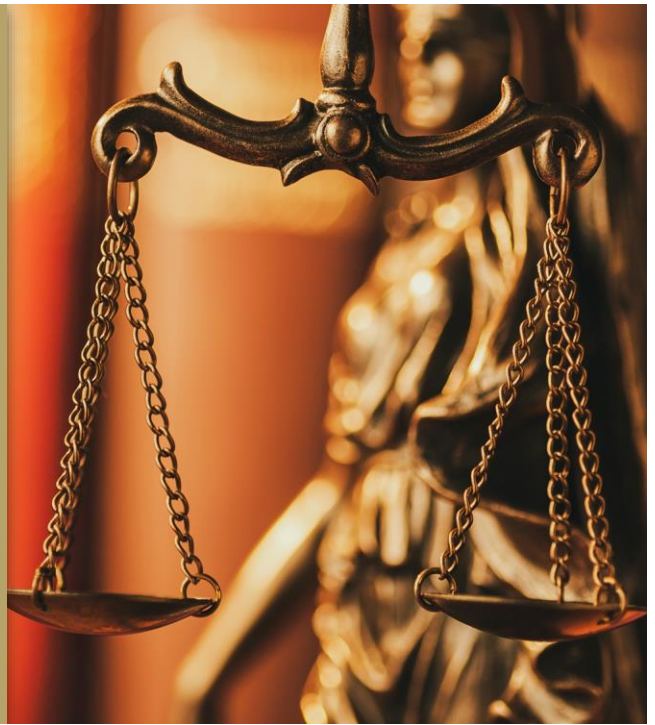
Introduction

- Legal Aid applications may seem very simple but they are one of the most important applications when appearing in the District Court
- Without legal aid the entire system grinds to a halt
- Knowing how to properly apply for legal aid will impress instructing Solicitors which may lead to you receiving more briefs




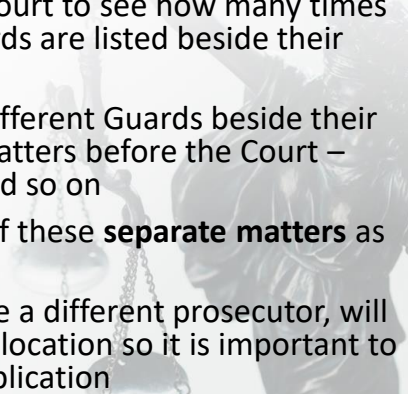
Preparing your Application


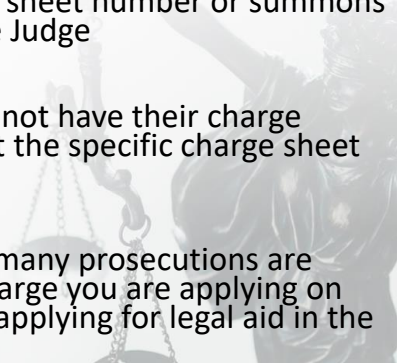
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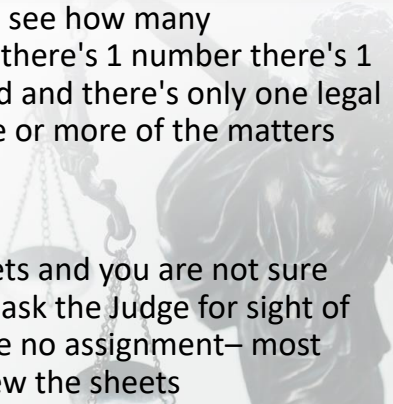


Know what charges are before the Court

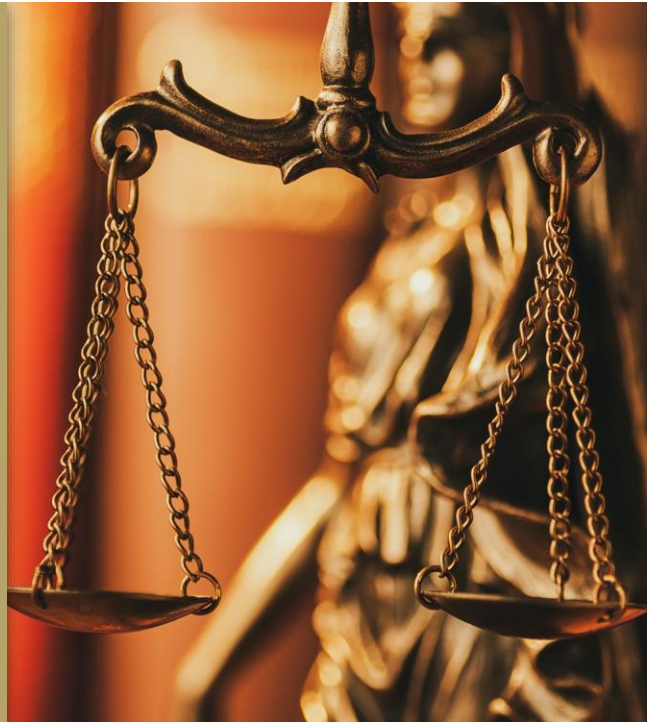
- Know exactly what charges are before the Court as multiple charges may mean multiple legal aid assignments are available
- Basically for every **incident** of alleged criminal conduct you are entitled to apply for a separate legal aid certificate
- There may be a number of different charges (for example public order offences regularly come in 2's or 3's) before the Court but they may stem from the one incident on the same date at same location – you are only entitled to one certificate in these circumstances

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- Ensure to check the Court lists outside of the Court to see how many times your client's name is listed and how many Guards are listed beside their name
 - If your Client appears on the list twice with 2 different Guards beside their name, this is a sign that there are 2 different matters before the Court – similarly if listed 3 times, 3 different matters and so on
 - You are entitled to apply for legal aid on each of these **separate matters** as they are **separate incidents**
 - Generally speaking a separate incident will have a different prosecutor, will be on a different date and will be at a different location so it is important to try and work this out before you make your application

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- It is best practice to identify the specific charge sheet number or summons that you are applying on to make it easy for the Judge
 - For client's appearing on station bail, they may not have their charge sheets with them so you may not be able to get the specific charge sheet numbers
 - However you will see from the Court lists how many prosecutions are before the Court and you can identify which charge you are applying on from the name of the Guard, for example I am applying for legal aid in the name of Fergal Boyle on Garda Smyth
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- Each court has a Legal Aid list – check that list to see how many assignments are recording beside your client. If there's 1 number there's 1 assignment in place. If multiple Guards are listed and there's only one legal aid number on legal aid list that's a clue that one or more of the matters are not assigned
 - If the event that there are a large bundle of sheets and you are not sure what sheets are not assigned, don't be afraid to ask the Judge for sight of the sheets so you can work out what sheets have no assignment– most Judges don't mind being asked permission to view the sheets

Statement of Means



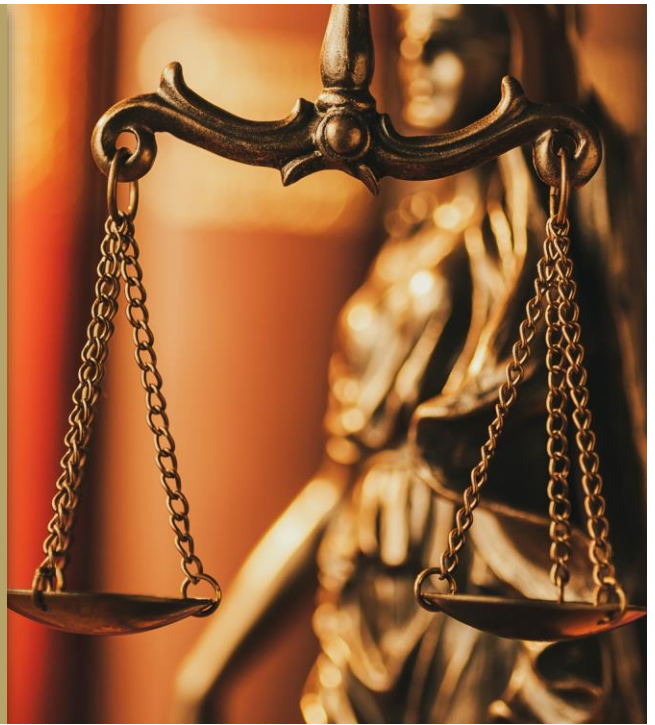
Ensure to carry blank Statement of Means

- Legal aid is applied for by completing a Statement of Means – these can be found online
- It asks for simple details such as name, marital status, number of children, weekly income, rent etc – fill it in and get client to sign - NB there's a clause at the bottom advising of consequences of false declarations being made
- Always carry a number of these with you
- Some Judges do not require statements if you indicate your client's means but always take them with you and have ready just in case

Write the assignments on Statement

- I can't emphasize enough the importance of making it easy for the Judge
- If there are multiple assignments, it is good practice to write them on the bottom of the statement of means and ask the Judge to assign legal aid according to what you have written on the sheet
- Sometimes if the client is working, the Court may require payslips etc – don't worry, ask the Court to note your attendance for that day and you can apply for legal aid to be backdated on the next date

How legal aid is paid in practice



Multiple charges mean multiple legal aid

- If your client has a number of new charges before the Court – lets say 2 matters – and both are assigned in the same Solicitor name that Solicitor will only receive one payment as the matters are for the same client on the same day
- However, if that Solicitor has a second Solicitor on the legal aid panel in the firm, you can maximise the legal aid by assigning each prosecution in a different Solicitor's name from the same firm
- For example Joe Bloggs has new matters for Garda Smyth and Garda Murphy -if both are assigned to Fergal Boyle on the same day one payment will be received only
- But if Fergal Boyle is assigned on Garda Smyth and Tony Collier on Garda Murphy then 2 payments will be received, one for each prosecution

Working for Larger Firms

- This only really applies to firms who have more than one Solicitor on the legal aid panel – I will deal with sole practitioners later
- If there are 3 separate matters before the Court the same rule applies – 1 Solicitor on all 3 = 1 payment, a different Solicitor on each = 3 payments and so on
- Practical Example – Joe Bloggs has 2 live bench warrants and is arrested for a new theft charge. He is brought before the Court charged with Section 13 FTA x 2 for his 2 warrants and 1 new theft charge. These are 3 separate matters and would attract 3 legal aid certificates – assign these in 3 different names to maximize payments
- When client's appear in custody always try and get their charge sheets so you can identify the charge sheet numbers you are applying on – this is not always possible as sometimes sheets are left in cells etc

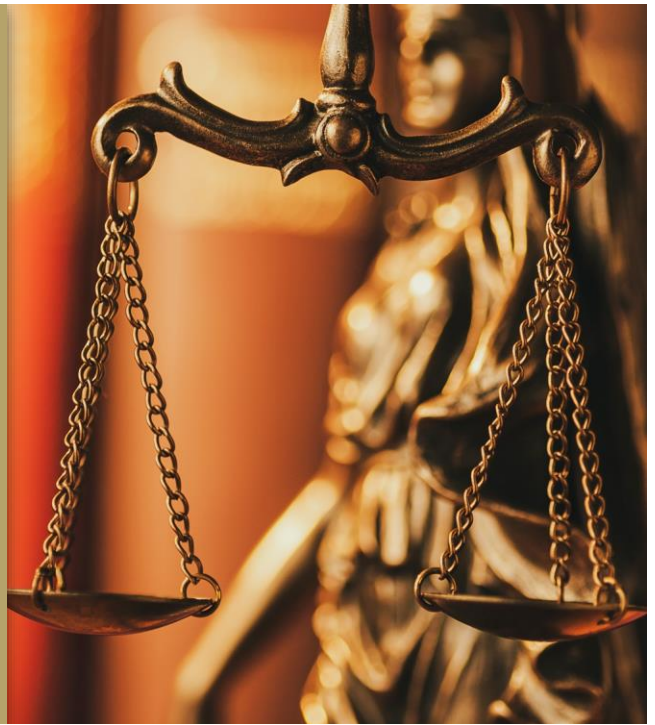
Make Life Easy for the Judge

- In order to apply properly, make it easy for the Judge
- If there are multiple assignments, write them out on the bottom of the Statement of Means
- Familiarise yourself with the Solicitors that work in your instructing Solicitors office so that you know what Solicitor names are available – sometimes the Judge wants to move quickly and you may be caught on the hop
- You should receive instructions from the office who to assign – if you do not receive the instructions, seek clarification from your Solicitor's office

Working for Sole Practitioners

- You will sometimes receive instructions from Sole Practitioners to appear
- These offices may not have another Solicitor to assign legal aid to
- So if there are multiple assignments available, only nominate one sheet for legal aid to be assigned for that application because if you assign more than one in same Solicitor name only one payment is received – your Solicitor will not be best pleased!
- They would then apply for another separate matter on the next date

Applications under Reg 7(4) of
the Criminal Justice (Legal
Aid) Regulations 1965



Reg 7(4) of the Criminal Justice (Legal Aid) Regulations 1965

- Reg 7(4) of the Criminal Justice (Legal Aid) Regulations 1965
- (4) Where two or more certificates for free legal aid are granted to a person and the cases in relation to which they are granted are heard together or in immediate succession, one certificate only shall **(unless the Court, being satisfied that there is good reason for so doing, otherwise directs)** be deemed, for the purposes of these Regulations, to have been granted to the person.
- The bold is the important bit

Reg 7(4) of the Criminal Justice (Legal Aid) Regulations 1965

- This is a regulation more designed in my view for sole practitioners
- It is an application under Reg 7(4) asking the Court to certify for separate payments for cases that are assigned in the same Solicitors name
- This would occur if there is maybe a complicated file that requires more time than usual so that one legal aid certificate does not cover the amount of work involved
- You just simply indicate that you are making an application under Reg 7(4) for the Court to authorise separate payments and you should then explain the reasons why

The End

This is literally just a crash course – I really would need an hour to cover this alone!

Feel free to email me with queries at fergal@ferrysolicitors.com

THANK YOU

