



## Higher National Unit specification: general information

**Unit title:** Legal Aid in Scotland

**Unit code:** FW32 35

**Superclass:** EC

**Publication date:** September 2011

**Source:** Scottish Qualifications Authority

**Version:** 01

### Unit purpose

This Unit is designed to provide candidates with knowledge of how legal aid works in Scotland, the work of the Scottish Legal Aid Board, the process of applying for legal aid and preparing legal aid accounts.

On completion of the Unit the candidate should be able to:

- 1 Examine the composition and powers of the Scottish Legal Aid Board.
- 2 Apply the mechanisms for accessing advice and assistance on civil justice related issues in Scotland.
- 3 Apply the mechanisms for accessing advice and assistance on criminal justice related issues in Scotland.
- 4 Prepare an account for rendering to the Scottish Legal Aid Board based on a civil matter.

### Recommended prior knowledge and skills

Access to this Unit is at the discretion of the centre. However, it is recommended that the HN Unit *F1A7 34 Scottish Legal System* has been achieved, as it is important that the candidate has an understanding of the legal system.

### Credit points and level

1 Higher National credit at SCQF level 8: (8 SCQF credit points at SCQF level 8\*)

*\*SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

## **General information (cont)**

### **Core Skills**

Opportunities to develop aspects of Core Skills are highlighted in the Support Notes of this Unit specification.

There is no automatic certification of Core Skills or Core Skill components in this Unit.

### **Context for delivery**

If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

## Higher National Unit specification: statement of standards

**Unit title:** Legal Aid in Scotland

**Unit code:** FW32 35

The sections of the Unit stating the Outcomes, Knowledge and/or Skills, and Evidence Requirements are mandatory.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the Knowledge and/or Skills section must be taught and available for assessment. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

### Outcome 1

Examine the composition and powers of the Scottish Legal Aid Board.

#### Knowledge and/or Skills

- ◆ The history and development of legal aid in Scotland.
- ◆ Different models of legal aid internationally
- ◆ The role of Scottish Ministers and role and structure of a Non-Departmental Public Body (NDPB).
- ◆ The functions of the Scottish Legal Aid Board regarding the administration of the legal aid system, employed solicitors, grant funded projects and in-court advisers.
- ◆ The different sources of legal aid information
- ◆ The core principles of current legislation

### Outcome 2

Apply the mechanisms for accessing advice and assistance on civil justice related issues in Scotland.

#### Knowledge and/or Skills

- ◆ Civil legal assistance scheme and application procedures
- ◆ The mechanisms for providing legal advice and assistance and assistance by way of representation (ABWOR) on civil matters, including financial verification
- ◆ Statutory tests
- ◆ Civil legal aid online applications and accounts – family and non family cases
- ◆ Procedures for dealing with property recovered and preserved.

## Higher National Unit specification: statement of standards (cont)

**Unit title:** Legal Aid in Scotland

### Outcome 3

Apply the mechanisms for accessing advice and assistance on criminal justice related issues in Scotland.

#### Knowledge and/or Skills

- ◆ Criminal legal assistance scheme and application procedures
- ◆ The mechanisms for providing legal advice and assistance and assistance by way of representation (ABWOR) on criminal matters, including financial verification
- ◆ Statutory tests
- ◆ Criminal legal aid online applications and accounts.

#### Evidence Requirements for Outcomes 1–3

For Outcomes 2 and 3, candidates will provide written evidence showing they can apply their knowledge of the civil and criminal legal assistance schemes by completing an advice and assistance and a legal aid form for a civil matter and an advice and assistance and a legal aid form for a criminal matter.

The candidate will produce the appropriate forms in response to a given case study/ies for each action.

For the civil action, the case study/ies will cover either a family or a non family case and should include sufficient details to allow the candidate to complete the appropriate forms accurately, applying the appropriate statutory tests and commenting on the procedure to be followed to verify any financial information given; the candidate should also be required to deal with property recovered and preserved that is subject to clawback.

For the criminal action, the case study/ies could be any example of criminal activity, either by an adult or by a child. There should be enough information in the case study to allow the candidate to complete the necessary forms accurately, applying the appropriate statutory tests and commenting on the procedure to be following to verify any financial information given.

Candidates will be given the case study/ies two weeks prior to the assessment and they will be given the questions at the time of the assessment. The assessment will be conducted in controlled, open-book conditions and will last for a period of two hours. Candidates will be allowed to bring any materials that they see fit (including but not limited to personal notes, printed copies of relevant legislation and the Scottish Legal Aid Board handbook) in to the examination. All forms are required to be completed accurately.

Evidence of knowledge for Outcomes 1-3 which cannot be inferred from the above tasks may be sampled either orally or in writing.

## Higher National Unit specification: statement of standards (cont)

**Unit title:** Legal Aid in Scotland

### Outcome 4

Prepare an account for rendering to the Scottish Legal Aid Board based on a civil matter

#### Knowledge and/or Skills

- ◆ What work is chargeable and what work is not chargeable
- ◆ Precognitions; rate at which precognitions are charged, when it would be reasonable, appropriate and necessary to take a precognition
- ◆ Differing rates between qualified and unqualified attendance
- ◆ Fixed fees/blocked fees
- ◆ Applying for increases in authorised expenditure for advice and assistance matters when necessary
- ◆ How to challenge any applications for increase that has been refused in whole or part
- ◆ Compliance audits

#### Evidence Requirements for Outcome 4

Candidates will provide written evidence by preparing an account based on a mock client file dealing with a civil matter containing information on a client's case.

Candidates should be provided with a mock client file dealing with a civil matter. The file will include details of whether a formal letter or detailed advice letter has been prepared; any precognitions taken; all outlays incurred and whether work has been covered under fixed fees/block fees.

Candidates shall prepare the legal aid account from the information given in the mock file. The legal matter of the mock file can either be chargeable as a block fee or a detailed fee. Where the legal matter is chargeable as a block fee, items should be included that will fall within and out with block fees. This shall allow candidates to demonstrate their knowledge as to what is and what is not chargeable.

The assessment should be carried out under examination conditions. Candidates will be allowed to bring any materials that they see fit (including but not limited to personal notes, printed copies of relevant legislation and the Scottish Legal Aid Board handbook) in to the examination. The examination will last for a period of one hour.

Evidence of knowledge which cannot be inferred from the practical task may be sampled either orally or in writing.

## Higher National Unit specification: support notes

### Unit title: Legal Aid in Scotland

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 40 hours.

### Guidance on the content and context for this Unit

The purpose of this Unit is to develop skills to understand and explain the various legal aid schemes specified in the Unit, together with accurate completion of appropriate forms.

As much use as possible could be made of simulation of real life situations in relation to the completion and submission of the range of legal aid forms covered in the Unit. Use could be made of the forms which are most commonly used in a real life setting. Examples could be civil advice and assistance forms, criminal advice and assistance forms, legal aid forms for matrimonial cases and personal injury claims and criminal legal assistance forms whether in custody or not. It would be helpful for candidates to research the different types of forms available both in civil and criminal legal aid to acquaint themselves with these in preparation for assessment.

There have been numerous changes to the legal aid system, with particular reference to children and criminal cases and these should be pointed out to the candidates to allow them to research these matters.

Outcome 1 deals with the history and development of Legal Aid in Scotland, the composition and powers of the Scottish Legal Aid Board and where to find relevant information. The candidate should also develop a broad knowledge of the different models of legal aid across the world, as this would be interesting and allows comparison with the very broad scheme and uncapped legal aid fund we are fortunate to have in Scotland.

Outcome 2 deals with the mechanisms for accessing advice and assistance on civil justice related issues in Scotland, the civil legal assistance scheme and application procedures, statutory tests, procures for dealing with property recovered and preserved.

Outcome 3 deals with applying the mechanisms for accessing advice and assistance on criminal justice related issues in Scotland, criminal legal assistance scheme and application procedures, statutory tests, criminal legal aid online applications and accounts.

Within Outcomes 2 and 3 candidates could also cover post grant work, such as stage reporting, employing counsel or instructing experts.

Outcome 4 deals with the applicable fees and rates for legal aid work, preparing and submitting accounts to the Scottish Legal Aid Board, compliance audits, applying for increases and challenging any applications for increase that has been refused in whole or part.

Before an account can be entered/rendered online a solicitor/paralegal will need to know what is and what is not chargeable work, and the rate(s) of charge.

## Higher National Unit specification: support notes (cont)

### Unit title: Legal Aid in Scotland

Use should be made of the Scottish Legal Aid Board website as all materials are available from this site and information relating to the Legal Aid Board is freely available.

Use should be made of relevant case studies which relate to events which require completion of application forms for use as practical exercises.

Candidates should be provided with computer templates or hard copies of styles of Legal Aid Forms from the Scottish Legal Aid Board website - <http://www.slab.org.uk/>

### Guidance on the delivery of this Unit

This is a mandatory Unit within the Professional Development Awards (PDAs) in Family Law and Law and Practice Relating to Adults with Incapacity and an optional Unit within the HNC/HND Legal Services. Whilst it is anticipated that the Unit will be offered as part of the Group Award it could be also delivered as a stand-alone Unit for those who have an interest in acquiring legal aid skills.

Teaching should concentrate on discussing the various sources and resources with candidates and demonstrating how to use these, with candidates being given opportunity to practice their skills by retrieving data from the Scottish Legal Aid Board website to enable completion of the appropriate forms and explanation of the procedures.

Centres could make use of the Scottish Legal Aid Board Online Legal Aid system through the E-learning Pack. The learning pack is not password restricted and can be accessed by anyone via their website - [http://www.slab.org.uk/profession/legalaidonline/new%20site%20August%2009/Get\\_started.htm](http://www.slab.org.uk/profession/legalaidonline/new%20site%20August%2009/Get_started.htm)

### Guidance on the assessment of this Unit

This Unit should be assessed using three assessments covering all four Outcomes. The first assessment shall take the form of a series of restricted response questions which will sample the knowledge required from all four Outcomes. In the second assessment the candidate will be presented with a case study/ies relating to a criminal and a civil matter. The candidate will be provided with enough information to prepare the necessary advice and assistance form and legal aid form. In the third assessment the candidate will be presented with a mock file. The candidate will prepare an account for rendering to the Scottish Legal Aid Board. If facilities allow the account may be rendered online.

## Higher National Unit specification: support notes (cont)

**Unit title:** Legal Aid in Scotland

### Assessment Guidelines

#### Outcomes 1 - 3

Knowledge evidence could be gathered by a series of restricted response questions, sampling the knowledge which cannot be inferred from the completion of the appropriate documentation.

The practical task for the civil action could be a case study or case studies that ask the solicitor or paralegal, for example, for advice on whether the applicant has grounds for divorce. This could be followed through by completion of the legal aid form to raise an action of divorce. The explanations required here would incorporate matters such as probable cause and whether the applicant's income exceeds the financial limits.

Centres could access the Legal Aid Online Learning Pack from the Scottish Legal Aid Board Website -

[http://www.slab.org.uk/profession/legalaidonline/new%20site%20August%2009/Get\\_started.htm](http://www.slab.org.uk/profession/legalaidonline/new%20site%20August%2009/Get_started.htm)

Although applications should now be made using the Legal Aid Online system, 'paper' copies can be 'generated' from the on-line learning pack.

Candidates could also work through the modules on the Legal Aid Online Learning Pack.

#### Outcome 4

Knowledge evidence could be gathered by a series of restricted response questions, sampling the knowledge which cannot be inferred from the completion of the appropriate documentation.

Criminal legal aid accounts tend to be simpler, and therefore the Outcome covers a civil matter so that a civil legal aid account can be prepared.

### Online and Distance Learning

This Unit could be suitable for online or distance learning methods however additional learning resources would be required and candidates would need to access the institutions resources on at least one occasion. Further additional resources would be required for assessment and quality assurance.



## Higher National Unit specification: support notes (cont)

**Unit title:** Legal Aid in Scotland

### Opportunities for developing Core Skills

All elements of the Core Skill of Problem Solving, critical thinking, planning, organising, reviewing and evaluating will be naturally developed and enhanced as candidates apply knowledge of civil or criminal legal assistance schemes in completing appropriate documentation. Skills in accessing and presenting complex information will be developed as candidates evaluate the currency and relevance of sources and manage practical tasks. The ability to write accurately and coherently, with attention to detail, will be integral to achievement.

Analytical evaluation of civil justice related issues in Scotland will be part of learning. Although candidates must independently complete and present evidence, discussions centred on case studies and exemplar materials would offer opportunities to enhance interpersonal skills.

As candidates learn about verification of financial eligibility for advice and assistance and consider statutory tests and post grant work in relation to criminal legal aid there are opportunities for developing skills in Numeracy as a tool to be applied efficiently in a practical working context. Effective calculation and presentation of relevant data could be enhanced by access to appropriate software.

### Disabled candidates and/or those with additional support needs

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering whether any reasonable adjustments may be required. Further advice can be found on our website [www.sqa.org.uk/assessmentarrangements](http://www.sqa.org.uk/assessmentarrangements)

## History of changes to Unit

Version	Description of change	Date

© Scottish Qualifications Authority 2011

This publication may be reproduced in whole or in part for educational purposes provided that no profit is derived from reproduction and that, if reproduced in part, the source is acknowledged.

Additional copies of this Unit specification can be purchased from the Scottish Qualifications Authority. Please contact the Business Development and Customer Support team, telephone 0303 333 0330.

## General information for candidates

**Unit title:** Legal Aid in Scotland

### What this Unit is about

This Unit is about the knowledge you need to understand how legal aid works in Scotland, the work of the Scottish Legal Aid Board and the process of applying for legal aid and preparing legal aid accounts.

This Unit will have three assessments. The first assessment may take the form of a series of restricted response questions which will sample the knowledge required over the entire Unit. In the second assessment you will be presented with a case study/ies relating to a criminal and a civil matter and provided with enough information to allow preparation of the necessary forms. In the third assessment you will be presented with a mock file, to prepare an account for rendering to the Scottish Legal Aid Board.

### You will learn:

- ◆ the history of legal aid in Scotland
- ◆ the development of legal aid in Scotland
- ◆ different models of legal aid internationally
- ◆ the role of Scottish Ministers in a Non-Departmental Public Body (NDPB)
- ◆ the role and structure of a NDPB, such as Chairman, Board
- ◆ the functions of the Scottish Legal Aid Board regarding the administration of the legal aid system (grants of legal aid, paying accounts, compliance audits, quality assurance), employed solicitors (Public Defender Solicitors' Office, Civil Legal Assistance Offices), grant funded projects and in-Court advisers
- ◆ the different sources of legal aid information.
- ◆ the core principles of current legislation such as The Legal Aid (Scotland) Act 1986
- ◆ the mechanisms for providing legal advice and assistance and assistance by way of representation (ABWOR) on civil and criminal matters, including consideration of guidance on verification of financial eligibility for advice and assistance
- ◆ statutory tests and post grant work in relation to civil and criminal legal aid eg applying the 'reasonableness' test; the 'Interest of Justice' test
- ◆ provide key items of information to complete a civil and a summary criminal legal aid application using Legal Aid Online (family and non-family cases have different application forms)
- ◆ how to deal with property recovered and preserved
- ◆ how to prepare an account for rendering to the Scottish Legal Aid Board