

FROM THE OFFICE OF THE MINISTER OF JUSTICE



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Your ref:
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22 September 2011

Dea Jennifer

Following my Oral Statement on the Access to Justice Review on Tuesday 13 September, you asked a question about legal advice and representation for children and young people in issues outside of family law. I undertook to check the position and to write to you.

The position in respect of legal advice and assistance is that this is available in respect of any point of Northern Ireland law subject to the applicant meeting two statutory tests, namely that the applicant:

- has met the financial eligibility test for legal aid; and
- has shown reasonable grounds for taking, defending, or being a party to proceedings.

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Legal advice and assistance can be made available to children and young people for issues outside of family law including education and mental health tribunals.

The position in respect of legal representation is different in that cases before the Special Educational Needs & Disability Tribunal do not qualify for legal representation. If there are exceptional circumstances, an application may be made to the Northern Ireland Legal Services Commission for exceptional grant funding. The final report of the Access to Justice Review, which I published on 13 September, recommended a change in respect of this Tribunal, and I will be considering this in the light of representations I receive in response to the current consultation on the Review.

In respect of proceedings before the Mental Health Review Tribunal, legal aid for representation is automatically available. A financial eligibility test is not applied following my decision to waive this requirement in December 2010. I attach a copy of the Authorisation which made this change for your information. Should you require any further information, please do not hesitate to contact me.

Yours
David

DAVID FORD MLA
Minister of Justice

Enc: DoJ Authorisation 7

**Department of Justice Authorisation
Authorisation 7 – Proceedings before the Mental Health
Review Tribunal**

1. This is an Authorisation by the Department of Justice under Article 10A(2)(a) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order"). It relates to applications for:
 - (a) advice and assistance in respect of potential proceedings before a Mental Health Review Tribunal under the Mental Health (Northern Ireland) Order 1986; and
 - (b) approval of assistance by way of representation under regulation 17(3)(b)(i) and (ii) of the Legal Advice and Assistance Regulations (Northern Ireland) 1981;and authorises the Northern Ireland Legal Services Commission ("the Commission") as to how it may fund those applications.
 2. This Authorisation authorises such applications as provided for in this Authorisation to be funded without reference to the financial eligibility criteria prescribed in or under Part II of the 1981 Order and without charge.
 3. Subject to paragraph 2, applications under this Authorisation remain subject to the provisions of Part II of the 1981 Order.
 4. The Commission shall publish this Authorisation as required by Article 10A(9)(b) of the 1981 Order.
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D. J. J.

Minister of Justice
Department of Justice

Dated: 23 December 2010