**Chapter 2: Funding**

Chapter 2 has seen updates to key card amounts and removal of mortgage/charge limit of £100,000 when assessing eligibility for legal aid.

2.4.1.4 Income

Table 2.1 Changes to Dependants’ Allowances

|  |  |
| --- | --- |
| Work-related expenses for those receiving a wage or salary | £45 |
| Partner | £185.54 |
| Child aged 15 or under | £298.08 |
| Child aged 16 or over | £298.08 |
| Housing cap (for those without dependants) | £545.00 |

Example:

Mary is a single parent with a total gross income of £1,800 per month. She pays £750 in tax, NI, and housing costs. Mary has two children aged less than 15 years old and so will have 2 × £298.08 dependants’ allowances.

Mary has less than £733 disposable income per month and so will be financially eligible for legal help. A higher gross income gap applies with more than four child dependants.

2.4.1.5 Capital

Under the regulations the value of the subject matter of any claim in respect of which a person is seeking funding is required to be left out of account in computing the capital of that person. This situation only applies to capital assets. It is a very important rule in the context of family/matrimonial cases, as often disputed assets are the only assets that the client owns. It means that assets that are being fought over in relation to the dispute for which funding is required, the client’s interest in those assets must not be taken into account when assessing capital.

There used to be a limit of £100,000, however The Civil Legal Aid (Financial Resources and Payment for Services) (Amendment) Regulations 2020, SI 2020/1584 amend the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, SI 2013/480. SI 2020/1584, reg 2(4) amends SI 2013/480, reg 37 to omit the limit of £100,000. The explanatory memorandum to SI 2020/1584 states (at para 2.4) that ‘This will mean that all debt secured on the property will be deducted from the total value of the land when assessing a person’s capital, so that only the equity in the land (main dwelling and other properties) will be assessed as capital in the means test. The purpose of this amendment is to provide a more accurate assessment of a person’s means when assessing eligibility for civil legal aid’.

Where a client’s main or only dwelling in which he resides is the subject matter of dispute:

1. the property should be valued at the amount for which it could be sold on the open market;
2. the amount of any mortgage or charge registered on the property must be deducted and there is no maximum amount that can be deducted for such a mortgage or charge; and
3. the first £100,000 of the value of the client’s interest after making the above mortgage deduction must be disregarded (known as the ‘equity disregard’).

Example:

The applicant has a home worth £305,000 and the mortgage is £200,000.

|  |  |
| --- | --- |
| Value of home: | £305,000 |
| Deduct mortgage: | £200,000 |
| Deduct equity disregard: | £100,000 |
| Amount to be taken into account in assessing financial eligibility: | £5,000 |
| In this example the client is eligible. |  |

(Example based on the Funding Code)