

INFORMATION LETTER TO MEMBERS
THE MU LEGAL ADVICE/ASSISTANCE SCHEME (“the Scheme”)

Your Regional Office is your first port of call for all member services including legal advice and/or assistance, but it will depend on the nature of your legal problem or query as to how your matter is then dealt with. It may be a matter that can be dealt with by your Regional Organiser, by the Union’s in-house Solicitor or by one of the Union’s retained firms of specialist solicitors under one of our dedicated legal services such as the Contracts Advisory Service or the Partnership Advisory Service. Or for personal injury claims you may be directed to the Thompsons Accidents Plus service (see Members’ Handbook or MU website for further information on these member services). If advice only is required, then your Regional Organiser or Regional Officer (RO) will generally provide or obtain that advice in consultation with the Legal Department provided that it is within the scope of the Scheme. Even where it is not your RO may be able to direct you to an appropriate source of advice.

This information letter outlines the scope and procedures of the Scheme as it relates to disputes (what lawyers call “contentious” matters) and their resolution through the court system (“litigation”). Where litigation is not the most appropriate method of dealing with a dispute, provided all parties agree it may be referred for mediation.

Union Rules stipulate that legal advice and assistance are provided under such criteria as are established by the Union’s Executive Committee (“the EC”) (Rule I.3.c) and that the grant of legal assistance is made at the EC’s discretion (Rule V.10). The EC has established the following criteria defining the scope of, and qualification for, legal advice and assistance and these are also published in the Members’ Handbook and on the MU website www.theMU.org Members may be ineligible for legal advice and/or assistance if they do not meet all the criteria.

THE CRITERIA FOR LEGAL ADVICE AND ASSISTANCE

Legal Advice

- 1 Must be an MU member and fully paid up at the correct rate of subscription. (A limited company cannot be an MU member)
- 2 Must relate to the member’s music related contracts governed by UK law, the members engagement or employment as a musician under UK law, or the member’s own intellectual property rights governed by UK law.

If the following additional criteria are fulfilled, legal assistance may be provided to a member:

Legal Assistance

- 3 The member has a sound legal case with reasonable prospects of success i.e. not only is the claim strong and cost effective to pursue but the defendant is good for the money. The likelihood of finding that the member has a sound legal case may be increased if:
 - Where an MU contract was available it was used.
 - Where a written contract is in dispute the member took appropriate expert advice (eg from the MU Contracts Advice Service) before signing.
 - Where an alleged verbal contract is in dispute the member confirmed the agreed terms in writing before performing the contract.
- 4 The member is acting in his/her capacity as a musician, not in some other capacity, subject to criterion 9.

- 5 The dispute must have arisen during membership. Under Rule II.7 this means since most recent admission.
- 6 A member who is a contractor has paid the musicians hired before any assistance will be given to the contractor with a claim against the engager.
- 7 Money claims should exceed £50.
- 8 Legal assistance is not available where the member has previously instructed a solicitor and/or previously issued or defended a claim and/or made any application to the court in the same matter.

Disputes between members:

- 9 Legal advice and/or assistance for members in dispute or potential dispute with other members may be authorized or refused at the discretion of the Executive Committee.

About the Criteria

As you will note, the areas of law covered by the Scheme are limited to those areas directly affecting musicians in their work as musicians. It is not intended to be a one-stop all-disciplines law service, but rather a service tailored to the special and specialist legal requirements of musicians.

Legal advice on matters within the scope of the Scheme is generally available to all fully paid up members, but subject to criterion 9 when the dispute or potential dispute is between members. This is because the Union cannot advise or assist both sides in the same dispute.

While your RO may advise you and even write an initial letter attempting to obtain payment in straightforward cases, legal assistance is subject to more extensive criteria. The Scheme is a benefit for members, not non-members. If you are in a band, try and get the others to join the Union. If all the members of your band are MU members you can obtain a free partnership agreement through the Union's Partnership Advisory Service. Without a written partnership agreement we may not be able to assist with a partnership dispute or dissolution. And if your co-claimants or co-defendants are not all MU members we may be unable to assist with any claim by or against your band/partnership.

How to apply for legal advice/assistance

When you contact your RO s/he will provide you with a form headed "Request for Legal Advice/Assistance". Please complete and sign the form and return it to your RO with a written statement setting out the history of the matter in as much detail as possible, and the nature of the advice or assistance sought. You should also attach copies (retaining the originals yourself in a safe place) of any relevant contracts and/or correspondence. Where the claim is for non-payment of fees or cancellation of bookings, if you have not already done so your RO may ask you to issue an appropriate invoice or send an appropriate letter chasing payment, and provided you meet the criteria for legal advice (criteria 1 and 2 above) may, where appropriate, send an initial letter him/herself chasing payment, although this should not be taken as a decision on whether you meet the criteria for legal assistance. If a claim for non-payment or cancellation is not thereby resolved the In House Solicitor will determine whether you meet the Union's criteria for legal assistance, and, assuming you do, consider your claim in more detail. Assuming legal assistance is granted you should not approach the other party or anyone on their behalf or the media without written Union approval, and if any such person approaches you, you should immediately refer them to the Union without further comment. If legal assistance is refused you will be informed of the reasons.

Simple Procedure/Small Claims

Provided you meet all the criteria for legal assistance in connection with your claim, the Union's In House Solicitor will usually approach the other party to the dispute and endeavour to resolve it. If that is unsuccessful and litigation is considered the only option then, provided the claim is within the Simple Procedure limit in Scotland (currently £5000), or the Small Claims limit of £3000 in Northern Ireland, the Union's In House Solicitor will assist you to prepare and issue your claim, guiding you through the litigation process to the hearing.

Please note that in all cases where proceedings are commenced, it is your claim and you will be expected to attend court when required to do so. If your claim is successful you may also receive assistance with any necessary further proceedings to enforce judgment.

If your Simple Procedure/Small claims action is unsuccessful, or you are granted judgment but despite attempts at enforcement you fail to recover your debt, the Union may reimburse you for court fees which you have paid out.

Please also note that providing legal assistance (as opposed to legal advice only) under the Scheme will involve disclosing your membership of the MU to third parties and that your consent is required for such disclosure under Data Protection legislation. If you withhold such consent on the Request Form this may restrict or preclude the Union's ability to assist you.

Outsourced cases

In more complicated cases, or where the claim is more than the Simple Procedure/Small Claims limit, then subject to EC approval (which may also be granted by the Legal Panel) it may be outsourced to a firm of specialist solicitors. In this event you will be asked to sign a further application form for external legal assistance agreeing to comply with certain conditions, including as to the running of your case and your continuing membership, in return for the Union agreeing to indemnify you in respect of your legal costs. In all cases it is your claim not the Union's, and where outside solicitors are instructed, you are the solicitor's client not the Union. While you are therefore technically responsible for your solicitor's costs (which is necessary in law in order that if you win you can recover 'your' costs from your opponent), the Union's indemnity will mean that in practice the Union will pay your solicitor's invoices provided you comply with the Union's conditions of the indemnity.

Legal Costs

In general you will be expected to pay court fees for your Simple Procedure/Small Claims case, but if successful these are recoverable from your opponent. You may not have to pay court fees if you are on Income Support, income based Job Seekers Allowance, or other benefits, and the Union's In House Solicitor can advise you how to claim any fee exemption to which you may be entitled. At the time of writing (see below) court fees are as follows:-

Northern Ireland

Claim	Fee
Does not exceed £300	£35
Exceeds £300 but not £500	£59
Exceeds £500 but not £1000	£83
Exceeds £1000 but not £3000	£118

Scotland

Claim	Fee
Does not exceed £200	£19
Exceeds £200 but not £5000	£102

Your claim may also involve other expenses such as enquiry agents or a barrister, but in Simple Procedure/Small Claims cases these are not generally recoverable from the other side. Please be aware that even if you obtain judgment against your opponent, there is no guarantee that you will be successful in enforcing that judgment and recovering damages or court fees or expenses.

Recovery of legal costs and expenses in Simple Procedure/Small Claims cases is extremely limited by law, and your opponent's ability to pay is a major consideration in all litigation.

If your claim is dealt with by an outside solicitor under external legal assistance, the Union will indemnify you as explained above (see "Outsourced Cases"), but you should not do anything which could limit or preclude recovery of costs from your opponent if you are successful. Even if successful the costs recoverable from your opponent may not be as much as the costs payable to your solicitor. If unsuccessful, the Union not only indemnifies you in respect of your own solicitors' costs, but also in respect of any costs awarded against you in favour of your opponent. However please note the Union does not indemnify you against any damages or compensation you may be ordered to pay in respect of any claim or counter-claim made against you.

Settlement of your dispute

The Union expects you to consider any reasonable settlement proposal put forward if it is to continue assisting with, and particularly financing, your litigation. Pursuing a claim through to trial can become disproportionately expensive compared to the value of the claim and extremely demanding of Officials' or indeed solicitors' time. The aim of the Scheme is to conduct litigation on a cost-effective basis with a view to early resolution of the dispute in line with the Civil Procedure Rules 1998, and hopefully, in line with your reasonable expectations.

Appeals against refusal of legal assistance

The EC's discretion under Rule V.10 allows it to consider appeals from members where legal assistance is refused, although it will generally only waive its own criteria in exceptional circumstances. If you wish to appeal a decision to refuse you legal assistance you should set out your grounds for appeal in writing on the Appeal Form (obtainable from your RO if not attached to this letter) specifying why you consider each of the relevant criteria should be waived in your case, and return it to your RO who will submit it to the Legal Panel and subsequently advise you of the outcome of your appeal.

The EC has authorized the Union's Legal Panel (comprising the General Secretary and the Assistant General Secretaries) to consider appeals, and generally it will be the Legal Panel that considers your appeal unless it decides to refer the matter for consideration at the next EC meeting. Please note the EC has also given instructions (under Rule V.3) that the Legal Panel should only waive established criteria in exceptional circumstances.

Your file

You should not send original documents to The Union unless specifically asked to do so. Unless you request in writing that your file is sent to you, it will normally be held in storage by the Union for six years after conclusion of the matter and closure of the file, following which it will be destroyed without further notice.

Insurance

The Union's external solicitors are subject to compulsory insurance against professional negligence under the Solicitors' Indemnity Insurance Rules, as are all solicitors in private practice. As employed solicitors, the Union's In-house Solicitor is not subject to compulsory insurance under these Rules, but all the Union's Officials who provide advice and assistance, including the Union's In-house, are insured by the Union against negligence.

Complaints

If your claim is being dealt with by an external solicitor they will provide you with details of their firm's complaints procedure. If you are unhappy with the service provided by the Union, please take the matter up, in writing, with your Regional Organiser in the first instance, and if you remain

unsatisfied, you may write to the General Secretary at National Office. If the matter still cannot be resolved it may be referred for independent third party mediation and/or arbitration.



To: My Regional Organiser

From: Name _____
Address _____

Appeal Against Refusal of MU Legal Advice/Assistance

I understand my request for MU legal advice/assistance has been refused because I do not meet criterion _____ *insert number(s) of criterion (see note 1 below)*

I wish to appeal this decision on the grounds that _____

(See note 2 below)

Please submit my appeal to the Union's Legal Panel for consideration. I understand that where they consider it appropriate the Legal Panel may refer my appeal to the Union's Executive Committee for a decision.

Yours sincerely

Signed _____

Name in capitals _____

Membership No. _____

Date _____

Notes:

- 1) Please address each criterion you have been informed you do not meet and indicate why you think that decision is wrong or why that criterion should be waived in your case. The full list of criteria is published in the LAAS Information Letter to Members, in the Members' Handbook and on the MU website www.musiciansunion.org.uk
- 2) Please continue on a separate sheet if necessary.

