

Older People's Eligibility: the Pensioner Capital Disregard (CLS Support Contracting email bulletin no. 52)

1 Introduction

- 1.1 We have produced this email bulletin in response to enquiries to our consultancy line and made by participants on our "Eligibility: Principles and Practice" training course. Our experience indicates that not all advisers are aware of all of the recent changes to eligibility. In particular, it seems that not everyone is familiar with the new 'Pensioner Capital Disregard'.
- 1.2 Advisers will be aware that the Legal Service Commission (LSC) eligibility rules changed in April 2005. CLS Support produced email bulletins on these changes: *Summary of the Eligibility Changes* (no. 41, April 2005) and *Further Guidance on Eligibility* (no. 45, June 2005).
- 1.3 This bulletin is an amended excerpt from the forthcoming CLS Support briefing *Eligibility: Principles and Practice*, and covers eligibility for the following levels of service:
 - Legal Help;
 - Help at Court;
 - Controlled Legal Representation (CLR).

2 The Pensioner Capital Disregard

- 2.1 From April 2005, there are special rules for assessing disposable capital if the client or their partner is aged 60 or over. These provide additional capital disregards for those on low incomes.
- 2.2 If your client or their partner whose means are to be aggregated is age 60 or over, and is not receiving a passporting benefit, then you should assess whether the pensioner capital disregard applies. Capital to be disregarded may include the value of property as well as savings, shares, etc.
- 2.3 Before you can apply the pensioner capital disregard, you first have to calculate the client's disposable income in the normal way. You then calculate disposable capital in the usual way. The forthcoming *Eligibility* briefing contains detailed guidance on calculating both disposable income and disposable capital.
- 2.4 If the client's disposable income is over £272 per month, there are no additional disregards.
- 2.5 If client's disposable income is £272 per month or less, then they benefit from additional capital disregards. These are on a sliding scale depending on the client's monthly disposable income, using the figures in the following table:

Monthly disposable Income (£)	Amount of capital disregard
0 – 25	£100,000
26 – 50	£90,000
51 – 75	£80,000
76 – 100	£70,000
101 – 125	£60,000
126 – 150	£50,000
151 – 175	£40,000
176 – 200	£30,000
201 – 225	£20,000
226 – 272	£10,000
Over 272	Nil

2.6 Example

Your client is 60 years old, and is not receiving a passporting benefit. You calculate his disposable income as £110 per month. You calculate his disposable capital (savings and equity in home) as £45,000. The relevant pensioner capital disregard in this case is £60,000. The client is therefore eligible.

3 Passporting

3.1 Remember that from April, if a client (of any age) is directly or indirectly receiving a passporting benefit then they will automatically be eligible and you will not need to assess their capital.

3.2 The 'passporting benefits' are currently

- Income Support;
- Income Based Job Seekers' Allowance (JSA);
- Guarantee State Pension Credit.

3.3 Example

Your client 73 years old and is receiving Guarantee State Pension Credit. He owns his own home valued at £150,000 and has savings of £15,000. Because he is receiving a passporting benefit, he is eligible regardless of the value of his home or any other capital.

3.4 Example

Your client lives with her husband, who is receiving Guarantee State Pension Credit. Your client will be passported to eligibility, regardless of any savings or other capital.

4 Calculating older people's eligibility

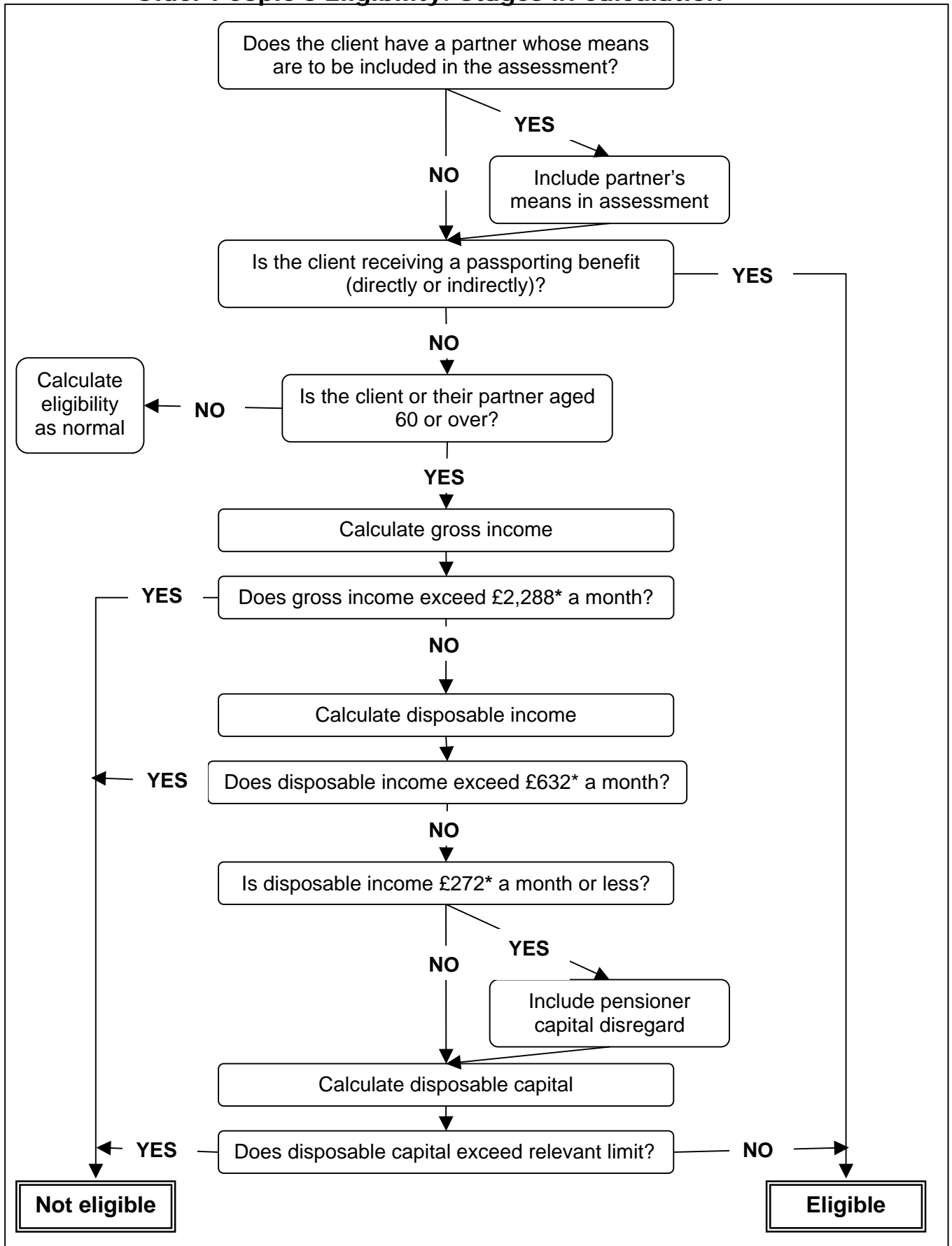
4.1 If your client or their partner are aged 60 or over, then you will need to carry out the following steps to calculate their eligibility:

- **Does the client have a partner whose means should be included in the assessment?** - If they do, include partner's income and capital in the rest of the assessment;
 - **Is the client receiving a passporting benefit?** – If they are (or in most cases, if their partner is), client is automatically eligible and you do not need to go through the rest of the steps;
 - **Is the client or their partner aged 60 or over?**
 - **Calculate client's gross income** - if it exceeds the gross income cap, client is not eligible;
 - **Calculate disposable income** - if it exceeds relevant limit, client is not eligible;
 - **Is disposable income £272 per month or less?** – If it is, apply the Pensioner Capital Disregard when calculating disposable capital;
 - **Calculate disposable capital** – if it exceeds relevant limit (after applying all relevant disregards), client is not eligible.
- 4.2 These are shown as a flowchart at the end of this bulletin. *This flowchart should be used in conjunction with the forthcoming CLS Support briefing "Eligibility: Principles & Practice" and with current eligibility rates.*

5 Further help and guidance

- 5.1 The forthcoming CLS Support briefing *Eligibility: Principles and Practice* (to be published in October 2005) will provide details of all aspects of calculating eligibility.
- 5.2 The LSC published details of the April 2005 eligibility changes in [Focus 47](#). The current eligibility rates (from 11/04/05) are given in [Keycard 41](#).
- 5.3 If you require guidance on any of the issues covered in this email bulletin, or have any other eligibility queries, please contact the CLS Support consultancy service on **0870 7700 447 Monday to Friday 1pm–4pm** or email cls.support@asauk.org.uk any time.

Older People's Eligibility: Stages in Calculation



* These figures are correct at time of writing (September 2005) but may change.