



Independent legal advice you can trust

Independent legal advice, or ILA for short, is just that: objective advice from a qualified lawyer who is totally independent of any of the parties involved in a transaction or contract.

Why do you need it?

Signing a personal guarantee or providing security to a bank is a serious legal matter. It is not something to be entered into lightly.

If something goes wrong in the transaction, the bank will hold you personally responsible for repaying the money – which could run into hundreds of thousands, even millions, of pounds. By asking you to obtain ILA, the bank is seeking reassurance that:

- *you are aware of the risks involved in the transaction;*
- *you are taking the decision freely, without being pressured or influenced into signing by anybody else; and*
- *you understand (and are bound by) your legal responsibilities if something goes wrong.*

ILA is necessary to protect both yourself and the bank.

There have been a number of legal cases where people have signed personal guarantees or provided security without fully understanding the obligations they were taking on, or because they felt pressured into signing by a family member or business colleague. ILA gives you an opportunity, before you sign, to consider whether it is the right decision for you.

As well as being a prerequisite for the loan being approved, obtaining ILA is an opportunity for you to receive impartial advice about the transaction and ensure you fully understand all the risks.

Although you may need ILA for a number of reasons, it is standard practice for banks to require you to obtain ILA if you are signing a personal guarantee or providing security for a loan.

The two most common situations are:

1. *When a bank is lending to a company and asks for personal guarantees from the directors. If the company cannot repay the loan, the directors will be liable for the outstanding amount.*
2. *When a bank is lending to person A, but person B is providing security for the loan, perhaps by putting up their house as security. If person A fails to repay the loan, person B will be expected to forfeit their house to repay the outstanding amount.*

By requiring you to seek ILA, the bank is making sure you fully understand the risks you are signing up to in situations like this, and that the security will be legally enforceable.



How does the ILA process work?

1. First, find a suitable lawyer who can provide ILA. At Stephens Scown, we've been providing legal advice to clients across the South West for over 70 years, so we're well placed to advise you.
2. Tell the bank which law firm you are using. The bank will then send a copy of the relevant documents directly to the law firm for them to review and advise you on.
3. You'll need to attend a face-to-face meeting with a lawyer at the firm. The meeting will usually last between 45 and 90 minutes. No one else is allowed to be present during the meeting.
4. Your adviser will make sure you fully understand the documents, the risks involved and the obligations you are taking on by signing. They will explain any technicalities and answer any questions you may have. They will also ensure you are not being unduly influenced into signing.

Who is Stephens Scown?

Stephens Scown is one of the largest law firms in Devon and Cornwall, with over 50 partners and over 270 staff.

We pride ourselves on the quality of our services and our commitment to our clients. The UK's top legal guides consistently rank us highly and we are regarded as a 'regional heavyweight' in the South West.

Whether you need legal advice in your business, financial or family life, at Stephens Scown you're guaranteed friendly, honest and professional help from our team of legal experts who always have your best interests at heart.

What next?

If you'd like us to provide Independent Legal Advice in relation to a personal guarantee or security for a loan, or if you would just like further information on our Independent Legal Advice service, simply call or send us an email.

Contact details



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A Partner and has over 25 years' experience in banking and lending as well as security law. He is also an Associate of the Chartered Institute of Bankers.

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