

INFORMATION ON APPLYING FOR LEGAL AID

Legal Aid is no longer available to make an application to the court for most financial orders or to apply to the court for most private law children's orders (such as a contact order, residence or specific issue order). These are known as "private law" Children Act cases.

Exceptions to this general rule

You can still apply for Legal Aid to make an application to the court for a non-molestation and/or occupation order or a forced marriage protection order. Legal Aid is also still available for child abduction, unlawful removal within England and Wales and cases where there are "exceptional circumstances."

Legal Aid is also available for "public law" children matters (i.e. child care and supervision, secure accommodation orders and some adoption cases).

Legal Aid is also available for enforcement of international child maintenance.

Eligibility

In order to apply for a private law Children Act case you need to show one of the following:-

- (i) You are at risk of or you have been a victim of domestic violence, or
- (ii) You are seeking to protect a child from risk of abuse

In order to apply for a financial order to the court you need to show that you are at risk or have been a victim of domestic violence.

The evidence that you have to provide is very specific. If you do not provide the relevant evidence it will not be possible to apply for Legal Aid on your behalf.

Evidence

You need to provide the following documentary evidence:-

For domestic violence

- (i) Your opponent has a relevant unspent conviction for a domestic violence offence (see below for the rules on unspent convictions).
- (ii) Your opponent has a police caution for a domestic violence offence that was given within the last two years.
- (iii) Evidence of criminal proceedings against your opponent for a domestic violence offence and those proceedings have not yet concluded.
- (iv) You have an injunction order in force or an injunction order that was granted in the last two years

- (v) Your opponent has given an undertaking as a result of injunction proceedings that you have taken (but only if you did not give a cross undertaking) and the undertaking was given in the last two years.
- (vi) You have a letter from the person appointed to chair a multi-agency risk assessment conference and the letter confirms that:-
 - (a) You were referred to the conference as a high risk victim of domestic violence; and
 - (b) As a result of that conference (which must have taken place in the last two years) a plan was put in place to protect you from risk of harm by your opponent
- (vii) You can produce a copy of the “finding of fact” made by a court in the last two years. The court must have made a finding of domestic violence against you by your opponent.
- (viii) You can produce a letter or report from a health professional (i.e. GP, nurse or midwife) confirming that the professional:-
 - (a) Has examined you within the last two years
 - (b) Upon examination was satisfied that you had injuries or a condition consistent with those of a victim of domestic violence; and
 - (c) The professional has no reason to believe that your injuries or condition were not caused by domestic violence
- (ix) You have a letter from a Social Services department confirming that in the last two years you were assessed as being or at risk of being a victim of domestic violence by your opponent. (Alternatively you can produce a copy of that assessment).
- (x) You have a letter or a report from a domestic violence support organisation in the UK (such as a refuge) confirming:-
 - (a) That within the last two years you were admitted for a period of at least 24 hours to a refuge that provides accommodation for victims or those at risk of domestic violence.
 - (b) The letter must state the dates on which you were admitted and when you left the refuge.
 - (c) The letter must state that you were admitted to the refuge because of allegations of domestic violence.

For child abuse

- (i) An unspent conviction for a child abuse offence by your opponent. (For the rules on unspent convictions see below).
- (ii) A police caution given to your opponent for a child abuse offence within the last two years.
- (iii) Evidence of criminal proceedings for a child abuse offence which have not concluded.
- (iv) An injunction order that is in force or which was granted within two years.
- (v) A copy of a “finding of fact” of abuse of a child by your opponent.
- (vi) A letter from a Social Services department confirming that in the last two years your child was assessed as being, or at risk of being, a victim of child abuse by your opponent (alternatively you can provide a copy of that assessment).
- (vii) A letter from a Social Services department confirming that in the last two years a child protection plan was put in place to protect your child from abuse or at risk of abuse by your opponent.
- (viii) An application for an injunction made together with an application for a prohibited steps order against your opponent which has not been concluded.

Spent convictions

A custodial sentence of 2½ years is never spent. For other sentences a conviction becomes spent after the following periods:-

Sentence	Over 18	Under 18
Prison sentence (including suspended sentence) 6 months to 2.5 years	10 years	5 years
Prison sentence (including suspended sentence) 6 months or less	7 years	3.5 years
Fines, probation, compensation, community service, reparation orders, curfew orders	5 years	2.5 years
Absolute discharge	6 months	6 months

Mediation

Legal Aid is available for advice during mediation and for obtaining a consent order following mediation. However you need to be going through the mediation process before you can sign up to Legal Aid for help with mediation.

We can refer you to a local mediator. Please ask for details.

Financial eligibility

In order to qualify for legal aid your income and capital will be taken into account. The rules for this are complex. If you would like to find out if you might be financially eligible for Legal Aid we recommend that you use the financial eligibility calculator on the Legal Aid Agency's website. The website address is www.justice.gov.uk/legal-aid.