Our Guide to Legal Aid

VENTERS
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By a multi-award winning law firm

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The LEGAL 500
UNITED KINGDOM
LEADING FIRM
2024





The availability of Legal Aid has been reduced significantly in recent years. However, Venters continue to hold a contract to provide publicly funded services and remain committed to clients who are entitled to help with their legal fees.

Legal Aid is a scheme whereby if you are eligible, the government can help you to meet the costs of advice, representation and mediation.

Venters are legal aid solicitors contracted with the Legal Aid Agency in this area for family work, and we can help you complete the forms and get your matter underway.

Unfortunately, Legal Aid support is not available for every type of legal problem and in this guide, we talk you through the areas where you can still receive legal aid funding and how to go about applying for it.

There are certain Family Proceedings that will automatically entitle you to Legal Aid regardless of income, merits, or chances of success. This includes care proceedings, adoption and child abduction proceedings.





We are here to help every step of the way.

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Contents

Legal Aid in Children Law Cases 5

- PLO Meetings 5
- Care Proceedings 5
- Adoption 5
- Discharge of Care Orders or to Get Contact with a Child in Care 5
- Child Abduction 5
- Special Guardianship Orders (SGO) 6
- Children Private Law Proceedings 6

Legal Aid in Family Law Cases 7

- Non-Molestation Order and / or an Occupation Order 7
- Divorce and Breakdown of Relationships 7
- Mediation 8

What is the process of applying for Legal Aid? 9

- Means Assessment and Financial Information Gathering 9
- Merits Assessment 9
- Evidence of domestic/child abuse 10

What documents will you need to supply? ... 10-11

Legal Aid Certificate ... 11

Space for Notes ... 12-13

All facts and figures are correct at the time of production. This document does not constitute legal advice.

Legal Aid in Children Law Cases

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PLO meetings

If the social services have issued you with a 'letter before proceedings' requesting that you attend a pre-proceedings meeting, then you are entitled to free legal advice. You will need to provide us with a copy of the letter and sign a form. We will then be able to attend the PLO meetings with you.

Care Proceedings

If you are a parent or if you have parental responsibility for a child and social services have started care proceedings, or applied for an Emergency Protection Order, then you are automatically entitled to free legal aid.

Adoption

Legal Aid is automatically available for parents and those with parental responsibilities if social services have applied for placement and adoption orders, discharge of care orders or to get contact with a child in care.

Legal Aid may be available for parents and those with parental responsibilities, but it subject to Means and Merits testing.

Discharge of Care Orders or to Get Contact with a Child in Care

Legal Aid may be available for parents and those with parental responsibilities, but it subject to Means and Merits testing.

Child Abduction

If your case is referred to us by ICACU you are entitled to free legal aid. Not all child abduction cases qualify for legal aid. Our solicitors can advise if your case is likely to qualify.

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Special Guardianship Orders (SGO)



In Private Law Children Proceedings:

> Prospective guardians making applications for Special Guardianship Orders (SGOs) in private family law proceedings can apply for legal aid; this is subject to means testing and we will discuss the merits of your case with you. In some instances, social services may agree to fund your legal advice.
>
> Parents, or anyone with parental responsibility when responding to applications for SGOs can apply for legal aid , this is subject to means testing.

In Child Care Proceedings:

> Legal aid is available to prospective guardian's but is subject to means and merits testing. In some instances social services may agree to fund your legal advice.

Children Private Law proceedings

If you are an applicant or respondent in proceedings for private law orders, such as Child Arrangements Orders, Prohibited Steps Order and Specific Issue Orders then you may be entitled to legal aid if you meet certain criteria. Legal Aid is available in these cases to if you can firstly, provide specified evidence of Domestic Abuse or evidence that you are acting to protect a child or children in your care.

We can provide guidance on how to gather the evidence you will need to provide to the Legal Aid Agency when domestic abuse has happened against you or that you are protecting a child in your care.

Secondly, you will need to be financially eligible within a means test and we can guide you through collating the financial documents that the Legal Aid Agency will require.

Thirdly, we will assess the merits of your case for you.

Legal Aid in Family Law Cases

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Non-Molestation Order and/or an Occupation Order

If you require a Non-Molestation Order and /or Occupation Order for protection from abuse or harassment, legal Aid is available.

There is no upper limit on income and capital. This means that legal aid will always be available but there could be a significant contribution to pay, depending on your income and capital. Therefore, we can talk you through your financial eligibility and discuss the merits of your case with you.

Divorce and breakdown of relationships

If you are an applicant or respondent in divorce proceedings, financial remedy proceedings and proceedings involving the breakdown of un-married relationships (TOLATA) then you may be entitled to legal aid if you meet certain criteria.

If you seek advice and assistance or help at Court you will only be able to obtain legal aid if you can firstly provide specified evidence that domestic abuse has happened against you and secondly you will need to be financially eligible within a means test.

Thirdly, we will assess the merits of your case for you.



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We can provide guidance on how to gather the evidence you will need to provide to the Legal Aid Agency when domestic abuse has happened against you and we can guide you through collating the financial documents that the Legal Aid Agency will require.

Mediation

Legal aid is much more widely available to those who are willing to use the mediation process to finalise a divorce or separation.

The government is encouraging couples to access this alternative means of resolving financial disputes and arrangements for children by offering a £500 voucher to individuals who would not be eligible if they were to use the court process. We have a team of family mediators at Venters who can guide you through this process.



What is the process of applying for Legal Aid?

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We will be able to give you an indication as to whether you may be eligible for legal aid during your initial appointment. We will ask you to bring various documents with you to the appointment to speed up the process.

1. Means Assessment and Financial Information Gathering

There is a strict financial eligibility test to determine entitlement to legal aid we can help you to check to see if you qualify. You can also take a look on the Government website to see if you qualify https://www.gov.uk/check-legal-aid

If you receive Universal credit you will usually automatically satisfy this test on an income basis, but your capital will still be assessed. This also applies to Income Support, Income related ESA, Income Related JSA and Guaranteed Credit element of Pension Credit.

If you are working and not in receipt of the benefits listed above, then your disposable income must be less than £733 per month to qualify and your capital will also be assessed. If you are working you may also be expected to pay a lump sum or a monthly contribution to your legal aid, which will be calculated during the application.

If you recover or preserve any money or property at the conclusion of proceedings then you will become liable for the costs incurred under your Legal Aid Certificate If you own property, you may be still eligible depending on if you satisfy the means and merits test. The Legal Aid Agency will allow up to £8,000 of assets but you may be expected to pay a contribution or a lump sum. However, a charge may be placed on your property, this means once your property is sold a proportion of the equity will be paid to the Legal Aid Agency in the sum of the legal fees you have incurred in the proceedings. This can be deferred but it attracts interest.

2. Merits Assessment

Some cases are merits tested, and therefore when required we assess whether there are legal merits to your case and your prospects of success. For example, the Legal Aid Agency will be unlikely to fund a case where there are no reasonable prospects of success.

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3. ## Evidence of domestic/child abuse

In addition to the means and merits test above, there are some types of cases where to qualify for legal aid 'gateway evidence' is needed showing that domestic abuse has been perpetrated against you by the other party to the proceedings or that you are protecting a child.

You will need to provide documentary evidence from an independent professional such as a Doctor, Support Worker, or Social Worker. The letter must follow a certain format and the Legal Aid Agency will only accept this evidence in this format. Sample letters that are acceptable to the Legal Aid Agency can be found here: https://www.gov.uk/government/collections/sample-letters-to-get-evidence-of-domestic-violence

What documents will you need to supply?

The types of documents that may be accepted by the Legal Aid Agency, as evidence domestic abuse has been perpetrated against you by the other party to the proceedings is below:

- Arrest for a relevant domestic violence offence
- A relevant police caution for a domestic violence offence
- Relevant ongoing criminal proceedings
- A relevant conviction for a domestic violence offence
- Bind overs connected with a domestic violence offence
- Domestic violence protection notice
- A relevant protective injunction
- Undertaking
- Finding of fact
- Expert report produced as evidence for court/tribunal
- Letter or report from an appropriate health professional
- An appropriate health professional referral to a domestic violence support service
- Multi-agency risk assessment conference (or other local safeguarding forum)
- Letter from an independent domestic violence advisor/advocate
- Letter from an independent sexual violence advisor/advocate
- Letter from local authority or housing association
- Letter from organisation providing domestic violence support services
- Letter from organisation providing domestic violence support services - refusal of admission to a refuge
- Letter from public authority
- Leave to remain in the UK as a victim of domestic violence
- Financial abuse

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The types of documents that may be accepted by the Legal Aid Agency, as evidence that you are protecting a child from abuse by the other party in the proceedings are below:

- Arrest for a child abuse offence
- Relevant police caution for a child abuse offence
- Relevant ongoing criminal proceedings for a child abuse offence
- Relevant conviction for a child abuse offence
- Relevant protective injunction
- Finding of Fact
- Social services letter
- Child protection plan
- Application for a protective injunction together with an application for a prohibited steps order

Legal Aid Certificate

Once granted, a legal aid certificate will cover legal costs including your solicitor's fees, barrister's fees and disbursements such as court fees and any expert reports. A legal aid certificate does have limitations on it, usually limited to the type of work that is covered and a costs limit. At Venters Solicitors, we will keep everything on track.

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