

# Hannays Solicitors and Advocates Solicitors and Advocates

## Eligibility for Family Legal Aid from 8<sup>th</sup> January 2018.

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### Eligibility for Family Legal Aid

The domestic violence gateway was introduced as part of LASPOA on April 1<sup>st</sup> 2013 and effectively removed legal aid for private family law matters, save where individuals could prove that they were victims of domestic abuse or there was evidence of child abuse. Since then the availability of legal aid for family disputes has been severely restricted and it is not available for the majority of cases.

Changes to LASPOA were introduced on 25<sup>th</sup> April 2016 that eased the situation with acceptance of evidence of eligibility going back a longer period of time. It was still restrictive and often impossible to secure qualifying evidence so that nearly 50 per cent of victims of abuse were unable to obtain legal aid to deal with family law matters. Following a successful judicial review, the Ministry of Justice agreed to review the regulations and has worked closely with the Law Society, LAPG, Resolution and Rights of Women to ensure that the evidence required was more appropriate from 8<sup>th</sup> January 2018.

Key changes include:

- the removal of the time limit on evidence;
- the recognition of evidence from organisations providing domestic abuse support services
- evidence from housing officers, and
- evidence of violence towards a previous partner as risk of abuse.

### Legal aid is available in these circumstances only:

- 1) Where Care Proceedings have been issued by the Local Authority or if Social Services have provided you with a Pre-Proceedings letter in relation to concerns over the welfare of your child, then as a parent or a person with Parental Responsibility for that child, legal aid is available without a financial assessment or domestic abuse element.
- 2) Social Services involvement with your family in relation to your children where no Care Proceedings have been issued nor a Pre-Proceedings letter have been received you will still be entitled to legal aid, however this will be subject to a financial means assessment. You are not required to evidence domestic abuse in this situation,
- 3) You have attended mediation and require legal assistance in relation to finalising a financial agreement in relation to children residence and contact arrangements reached during mediation. You must also pass a means test and have received a completed form from the mediator confirming your attendance.
- 4) You are a victim of or at risk of being a victim of **domestic abuse** or your children have been or at risk of being victims of domestic abuse and can provide evidence. You may also be able to get free legal advice if **financial abuse** can be evidenced. **You must also pass a financial means test.**

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### What counts as domestic abuse for legal aid?

- A) You or your children (child abuse) must have been victims of or be at risk of being victims of domestic abuse or violence

**Domestic abuse/violence is defined as:** *'any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other'*

- B) Financial Control, e.g. stopped you from accessing a joint bank account

### What counts as evidence under the new schedules?

You'll usually need to show that you or your children were at risk of harm from an ex-partner (who must be named in the evidence you provide). You can ask for evidence from:

- the courts (if a relevant cross undertaking has not been given by you)
- the police
- a multi-agency risk assessment conference (MARAC)
- social services
- a health professional, e.g. a doctor, nurse, midwife, psychologist or health visitor
- an independent domestic violence advisor
- a housing officer employed by a local authority or housing association
- a refuge manager a Public Authority
- the Secretary for State for the Home Department ( for immigration related matters)
- a domestic violence support service
- a person qualified to provide an expert report
- your bank, e.g. credit card accounts, loan documents and statements
- your employer, or education or training provider
- the provider of any benefits you've received

Under the new rules, you may be able to show that you or a relevant child are at risk of domestic abuse as a result of previous behaviour of an individual. In this instance the evidence can include documents that name a person who was in a previous relationship with the person. That evidence is however more limited and you must be able to provide evidence of:

- an arrest for a relevant domestic violence offence
- a 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

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- domestic violence protection notices
- a relevant protective injunction
- an undertaking
- finding of fact or an expert report produced as evidence for a court or tribunal
- a letter from a Local Authority or housing association
- a domestic violence support organisation – refusal of admission to a refuge

### **IF YOU CANNOT SATISFY THE ABOVE CRITERIA YOU ARE UNLIKELY TO QUALIFY FOR LEGAL AID.**

If you are not eligible for Legal Aid we have a range of options available which may assist you in funding your case depending upon your circumstances.

We are not authorised to offer credit facilities and cannot accept Credit Card payments after 13<sup>th</sup> January 2018.

**Contact us for further advice on  
0191 4974630 or 0191 4555361.**