

Eligibility for Family Legal Aid

The domestic violence gateway was introduced as part of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (also known as LASPO) on 1st April 2013, and largely removed Legal Aid for private family law matters. Since then, the availability of Legal Aid for family disputes has been severely restricted and it is not available for most cases.

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 or in relation to child arrangements. You must also pass a financial 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 must pass a financial means test.

What counts as domestic abuse for Legal Aid?

The Domestic Abuse Act 2021 has recently updated the definition of domestic abuse to include controlling and coercive behaviour.

The term "Abusive" shall now consist of any of the following:-

- (a) physical or sexual abuse;
- (b) violent or threatening behaviour;
- (c) controlling or coercive behaviour;

(d) economic abuse;

(e) psychological, emotional or other abuse;

It does not matter whether the behaviour consists of a single incident or a course of conduct.

What counts as evidence?

You will 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 this evidence from:

- The Courts
- The Police
- A Multi-Agency Risk Assessment Conference (MARAC)
- Social Services
- A Housing Association
- A health professional, for example a Doctor, Nurse, Midwife, Psychologist or Health Visitor
- A Refuge Manager
- A Domestic Violence Support Service
- Your bank, for example credit card accounts, loan documents and statements
- Your employer, or education or training provider
- The provider of any benefits you have received

Under the rules, you may be able to show that you or a relevant child are at risk of domestic abuse because 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
- Domestic violence protection notice or order
- A relevant protective injunction
- An undertaking
- A copy of a Finding of Fact of domestic violence

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 in funding your case depending upon your circumstances.

Contact Hannays Solicitors and Advocates for further advice on 0191 4555361.