



New legal aid rules for family law

On 1 April 2013 important new rules in relation to family law legal aid will be introduced which will affect the women you work with.

Family law legal aid – what's left?

Legal aid for legal advice and representation will continue to be available for the following family law cases:-

- Applications for non-molestation and occupation order
- Applications for restraining orders under the Protection From Harassment Act 1997
- Applications for forced marriage protection orders
- Applications for seek and find orders where children have been abducted in the UK
- Applications for orders in relation to children who have been abducted abroad
- Proceedings brought by the local authority for care orders

Family law legal aid – what's gone?

Legal aid for legal advice and representation will no longer routinely be available in the following cases:-

- Divorce and judicial separation proceedings
- Financial proceedings on divorce or dissolution of civil partnership
- Applications in relation to children about contact, residence, prohibited steps orders or specific issue orders
- Child maintenance and applications under Schedule 1, Children Act 1989

The domestic violence gateway

Legal aid for these cases will, however, still be available in cases where there has been, or is a risk of, domestic violence and where women can provide one of the following pieces of evidence:-

- that their perpetrator has been convicted of a domestic violence offence against them and that conviction is unspent
- that their perpetrator has accepted a caution for a domestic violence offence against them within the past 24 months
- that there are ongoing criminal proceedings in respect of a domestic violence offence against them
- that they have a protective injunction (such as a non-molestation or forced marriage protection order) in force or one had been made within the past 2 years
- that their perpetrator had given an undertaking in respect of domestic violence and the undertaking is still in force or had been made within the past 2 years and where no cross undertaking has been given
- that they have been referred to a Multi Agency Risk Assessment Conference as a high risk victim of domestic violence and a plan is in place within the past 2 years
- that they have a report from a doctor, nurse or midwife confirming they were examined in respect of an injury or condition consistent with domestic violence within the past 2 years

- that they have been assessed by Social Services as experiencing or being at risk of domestic violence within the past 2 years
- that they have a letter from a refuge confirming that they stayed there for a period of more than 24 hours within the past 2 years

For more guidance on how to obtain this evidence see the Ministry of Justice's guidance at <http://www.justice.gov.uk/legal-aid-divorcing-separating-abusive-partner> or contact Rights of Women's helpline on 020 7251 6575.

Important information for refuge providers

The Ministry of Justice, which is now directly responsible for the legal aid scheme, has confirmed that the evidence they require of a woman's admission to a refuge is simply the following:-

- confirmation of the date of admission
- confirmation that your service provides services for women affected by domestic violence

They have also confirmed that this evidence can be provided either on your letterhead or by email.

Financial eligibility

Financial eligibility for legal aid will remain broadly the same as before. To work out if your service user meets the criteria you can use the eligibility calculator on the Ministry of Justice website

<http://legalaidcalculator.justice.gov.uk/calculators/eligCalc;jsessionid=687E027D5F0505AC52DE5289AD866C80?execution=e1s1>

However, for service users on benefits there is a significant change to the criteria. Women in receipt of the following benefits will no longer automatically be eligible for legal aid: Income Support; Income Based Job Seekers' Allowance; Income Based Employment and Support Allowance or Guarantee Credit. They will also now have to meet the capital limit for savings and other capital including equity in property. If they have more than £8000 in capital they will not be eligible for legal aid.

Help us monitor the impact of these changes

Rights of Women, with Women's Aid England and Welsh Women's Aid, will be monitoring the implementation of the changes to legal aid because we are very concerned that many women will not have or be able to obtain the evidence of domestic violence that is required.

We will be running a survey for women to complete about the legal aid changes and would be grateful if you would complete it with the women that you are working with and who are applying for legal aid or make them aware of it. <http://www.surveymonkey.com/s/GSFFLDH>

The results of this survey will be fed back to the Ministry of Justice and used in our ongoing lobbying and campaigning work.

The legal aid regulations are complex and subject to change. We have provided a very basic overview of the eligibility criteria. Please note that the regulations set out in this briefing are as they stood at the date of publication. We strongly advise you to seek legal advice by either telephoning our legal advice line or a solicitor.

Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this briefing. This briefing is designed to give general information only.
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