

FAMILY LEGAL AID AVAILABILITY FROM APRIL 2013

Since the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force on 1 April 2013, legal aid funding in family matters is now only available in certain, quite restricted, circumstances.

Sparlings are able to offer all family legal aid that is still available (save for family mediation). To assist prospective clients in understanding whether legal aid funding may be available in their particular circumstances, this guidance is designed to provide general information about the terms of the remaining funding.

The following areas of work remain in scope for legal aid funding:-

- Public law children proceedings (those proceedings where the Local Authority - usually through Social Services - are taking action concerning a child).
- Protective Injunctions in circumstances of domestic violence or forced marriage.
- Proceedings concerning the unlawful removal of a child, whether from or within the UK.

If your case concerns one of these areas of law then legal aid may still be available. It is important to note that other than in public law children proceedings, legal aid funding is also subject to tests in respect of the legal merits of the particular case and your eligibility on your means.

Other family proceedings (such as divorce, disputes between parents about arrangements for children, and financial settlements) are not normally any longer within scope for legal aid, although exceptions can be made in the following circumstances:-

- Where you have been a victim of, or are at risk of, domestic violence.
- Where a child, who is the subject of the proposed proceedings, is at risk of abuse from the other person.

If you believe that you might have eligibility based on either of these criteria you are required by the Legal Aid Agency to provide supporting evidence. It is very important to note that we will not be able to start work for you (or probably even see you) before you are able to provide the necessary supporting evidence. It is for you to obtain and provide this

evidence. We will not be able to assist you in obtaining such evidence without making a charge for our time in doing so.

If you have suffered domestic violence the supporting evidence required is one (and only one) of the following:-

- Documentary evidence that the other person involved has an unspent conviction for a domestic violence offence.
- Documentary evidence that the other person has received a police caution for a domestic violence offence within the last 24 months.
- Documentary evidence of current criminal proceedings against the other party for a domestic violence offence against you which have not concluded.
- A copy of a protective Injunction, which is currently in force, or which was granted to you against the other person within the last 24 months.
- A written undertaking that is still current given at Court by the other person in your favour with equivalent effect to a protective Injunction.
- A letter from the Chair of a multi-agency risk assessment conference confirming that you were referred as a high-risk victim of domestic violence by the other person, and that the conference took place within the last 24 months.
- A copy of a finding of fact of domestic violence against you by the other person made in other Court proceedings in the UK within the last 24 months.
- A letter or report from a health professional (for example, your GP) that they have examined you within the last 24 months, and that you had injuries or a condition consistent with those of a victim of domestic violence by the other person, and that they have no reason to believe that they were not caused by domestic violence.
- A letter from a Social Services department confirming that within the last 24 months, you have been assessed as being, or at risk of being, a victim of domestic violence by the other person.
- Documentary confirmation that you were admitted to a domestic violence support organisation (such as a women's refuge) for a period of at least 24 hours within the last 24 months.

If the dispute is between you and another person concerning the arrangements for a child (for example, residence and/or contact), where you consider the child is at risk of abuse from the other person, the evidence required is one (and only one) of the following:-

- Documentary evidence of an unspent conviction of the other person for a child abuse offence.
- Documentary evidence of a police caution for a child abuse offence by the other person within the last 24 months.
- Documentary evidence of pending criminal proceedings against the other person for a child abuse offence which have not concluded.
- A protective Injunction concerning a child, which is currently in force, or which was granted within the last 24 months.
- A copy of a finding of fact made in other Court proceedings in the UK within the last 24 months of abuse of a child by the other person.
- A letter from Social Services confirming that within the last 24 months the child concerned has been assessed as being, or at risk of being, a victim of child abuse by the other person.
- A letter from Social Services confirming that within the last 24 months a Child Protection Plan was put in place to protect the child concerned from abuse or from risk of abuse by the other person, or a copy of the Plan.
- A copy of an application for an Order for a protective Injunction for the child against the other person made within an application for a Prohibited Steps Order which has not yet been decided by the Court.

If your case does not fall into any of the criteria set out in this guidance or, if it does, your circumstances do not meet the relevant merits and means tests then you will personally have to meet the cost of any family legal advice/representation.

More detailed information about Legal Aid can be found on the government's own websites at www.gov.uk/legal-aid and www.justice.gov.uk/legal-aid