



Legal Aid
Agency

Preservation or recovery under the statutory charge and request to postpone enforcement

Your client's details

Our case reference number: _____

Title: _____ First name: _____ Surname: _____

Date of birth: ____ / ____ / ____

Does this claim cover more than one certificate? If so, give the other case reference numbers :

Your details

Account number: Roll number:

Name of firm: _____

Your case reference: _____

Contact name for enquiries: _____

Outcome of case

A client recovers property if their claim succeeds and preserves it if their opponent's claim fails in full or in part. The regional office will use the information on this form to help it decide:

- 4 what property was in issue in the proceedings, or substituted for property in issue;
- 4 of that property, what the client gained or kept,
- 4 what it is worth,
- 4 whether to agree to postpone payment of the charge.

The information on this form may also be used to tell the regional office:

- 4 how the outcome of the case compares with your firm's estimate of its prospects of success,
- 4 whether the cost justified the benefit,
- 4 whether your firm has complied with the regulations to secure the charge, and the information needed to secure the charge by registration.

The regional office may delay paying your claim until it is satisfied that the full amount of the charge has been paid or secured.

Where your client has paid sufficient monies to cover the amount of the charge please submit pages 1-3 only. Where your client requires us to postpone enforcement of the charge the rest of the form must be completed and signed.

What was in issue in the proceedings?

- 4 Please summarise the claim(s) and any counter-claim(s) and/or concession(s) made in the proceedings, including disputes or concessions in the pleadings, affidavits and correspondence.
- 4 List the assets, their value and in whose name(s) held.
- 4 Indicate what each party sought at the outset and at any point in the proceedings. Include whether either party sought an order for sale or possession of land (including a house, flat or business premises). (Continue this section on a separate sheet if necessary).

What was the outcome of the case?

- 4 Please provide a copy of the final order in the proceedings or the record of any agreement concluding the proceedings.
- 4 Give details of how your client has benefited from the proceedings. Include: money; land, including the right to occupy a house, flat or other land as well as the ownership of it; and any other valuable property or right. (Continue this section on a separate sheet if necessary).

What is the value of the property recovered or preserved?

- 4 Please give the value of every item of property recovered or preserved.
 - 4 Please give the title number(s) of any land, house(s) or flat(s) recovered or preserved:
-
- 4 The Legal Aid Agency ('LAA') needs to know the value at the time of recovery or preservation. If the value of a house or flat has been agreed or assumed in proceedings, state that value and the amount due under the mortgage or any charge registered on the property before the recovery or preservation. If the property has been sold, state the sale proceeds. (Continue this section on a separate sheet if necessary).

Exemptions

- 4 Please state why you believe the property may be exempt from the statutory charge and why having regard to regulation 44 CLS (Financial) regulations 2000 (as amended) or regulation 94 Civil Legal Aid (General) regulations 1989 - if the case was started prior to 1st April 2013, or regulations made under section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Solicitor's Certification

I certify that the information provided is correct.

Signed: _____ Date: ____/____/____

(Authorised Litigator. The solicitor or litigator instructed must have a valid practising certificate. The LAA will not pay for any work done during any period in which the solicitor does not have a practising certificate.)

Name: _____

Paying the Charge

- I have already sent a cheque for £ _____ to the LAA to cover the deficiency to the public funds.
- I enclose a cheque for £ _____ being the full amount recovered or preserved.
- I enclose a cheque for £ _____ being the amount recovered so far.
- I enclose a cheque for £ _____ in respect of all costs, including legal advice and assistance fees, incurred or to be incurred against public funds. I undertake that the total costs against public funds will not exceed this sum. I wish to release the balance of the money I am holding to my client.
- The money is to be used to buy a home for my client or dependents. My client has completed and signed the relevant page(s) of this form.
- Non monetary recovery - please give details:

Fill in this page if your client wants us to postpone enforcement

If your client wishes the LAA to secure the Lord Chancellor's charge on the home of a dependent or dependents, rather than his or her home, give details of the arrangement including the address your client will live at.

In ALL cases:

4 Please produce a copy of the Court's Certification that the property is to be used as a home.

Please estimate the amount of the total claim on public funds made or to be made by you or any other solicitor(s) £_____

Does anyone else own this property with your client, or will they in the future?

Yes

No

If 'Yes' please give details of the (proposed) arrangement including the name of the other owner(s) and their and your client's respective beneficial interests in the property and unless ordered by the court, why this is considered appropriate. Please confirm that any joint proprietor will agree to the registration of the Lord Chancellor's charge.

Unless you are going to register the Lord Chancellor's charge yourself please give the address, including postcode, and if it is registered land, the title number.

Purchase price of property £_____

Size of prior mortgage(s) £_____

Client's contribution to purchase price £_____

Any other person's contribution to the purchase price £_____

If your client is purchasing a new home, has the transaction been completed? Yes No

Is your firm going to convey a new home to your client, or transfer the present home to his or her sole name? Yes No

If so, the LAA would like you to register the Lord Chancellor's charge at the same time as the transfer. If another firm is doing the conveyancing please give us the contact details.

Date of intended completion: _____ / _____ / _____

If your client has recovered or preserved money to purchase a home rather than the home itself, were the proceedings family proceedings (as defined in Regulation 96 (1) of the Civil Legal Aid (General) Regulations 1989 and Regulation 2(1) Community Legal Service (Financial) Regulations 2000) or regulations made under section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 as appropriate? Yes No

Postponing enforcement - continued

Please supply brief details of your client's annual income:

If applicable, please supply brief details of the annual income of all proprietors/proposed proprietors of the property:

Is your client able to borrow funds from any existing mortgagee or other source in order to repay some or all of his or her statutory charge liability?

Yes

No

If yes, please confirm the total amount that can be borrowed: £ _____

If no, please set out what steps your client has taken to try to borrow funds from an existing mortgagee or other source. Please attach documentary evidence to demonstrate what steps your client has taken.

LEGAL AID AGENCY

PRIVACY NOTICE

Purpose

This privacy notice sets out the standards that you can expect from the Legal Aid Agency when we request or hold personal information ('personal data') about you; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met.

The Legal Aid Agency is an Executive Agency of the Ministry of Justice (MoJ). The MoJ is the data controller for the personal information we hold. The Legal Aid Agency collects and processes personal data for the exercise of its own and associated public functions. Our public function is to provide legal aid.

About personal information

Personal data is information about you as an individual. It can be your name, address or telephone number. It can also include the information that you have provided in a legal aid application such as your financial circumstances and information relating to any current or previous legal proceedings concerning you.

We know how important it is to protect customers' privacy and to comply with data protection laws. We will safeguard your personal data and will only disclose it where it is lawful to do so, or with your consent.

Types of personal data we process

We only process personal data that is relevant for the services we are providing to you. The personal data which you have provided in your legal aid application will only be used for the purposes set out below.

Purpose of processing and the lawful basis for the process

The purpose of the Legal Aid Agency collecting and processing the personal data which you have provided in a legal aid application is for the purposes of providing legal aid. Our lawful basis is 'the performance of a task carried out in the public interest or in the exercise of official authority' as set out in Article 6(1)(e) of UK GDPR. The tasks are those set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Specifically, we will use this personal data in the following ways:

- In deciding whether you are eligible for legal aid, whether you are required to make a contribution towards the costs of this legal aid and to assist the Legal Aid Agency in collecting those contributions, if appropriate.
- In assessing claims from your legal aid Provider(s) for payment from the legal aid fund for the work that they have conducted on your behalf.
- In conducting periodic assurance audits on legal aid files to ensure that decisions have been made correctly and accurately.
- In producing statistics and information on our processes to enable us to improve our processes and to assist us in carrying out our functions.

Were the Legal Aid Agency unable to collect this personal information, we would not be able to conduct the activities above, which would prevent us from providing legal aid.

We collect 'special categories of personal data'. This data is collected where necessary for the purposes set out above. The condition under which we process this data is Article 9(g) of UK GDPR – Reasons of substantial public interest. Our associated Schedule 1 condition is Statutory and Government purposes. We also collect this data for the purposes of monitoring equality, this is a legal requirement for public authorities under the Equality Act 2010. Special categories of personal data will be treated with the strictest confidence and any information published under the Equality Act will not identify you or anyone else associated with your legal aid application.

We collect 'personal data relating to criminal convictions and offences or related security measures'. This data is collected where relevant for the purposes set out above. The Legal Aid Agency is an Executive Agency of the MoJ, an Official Authority for the purposes of Article 10 of UK GDPR.

Who the information may be shared with

We sometimes need to share the personal information we process with other organisations. When this is necessary, we will comply with all aspects of the relevant data protection laws. The organisations we may share your personal information include:

- Your instructed legal aid Provider(s), including any advocate instructed by a legal aid solicitor;
- Public authorities such as: HM Courts and Tribunals Service (HMCTS), HM Revenue and Customs (HMRC), Department of Work and Pensions (DWP), Home Office and HM Land Registry;
- Non-public authorities such as: Credit reference agencies Equifax and TransUnion and our debt collection partners Marston Holdings
- If false or inaccurate information is provided or fraud identified, the Legal Aid Agency can lawfully share your personal information with fraud prevention agencies to detect and to prevent fraud and money laundering. We may specifically share data with HMRC and DWP for fraud prevention, investigation and prosecution purposes; and
- Where a debt is owed to the Legal Aid Agency, we may share your data with public authorities such as HMRC and DWP and with debt collection partners such as Marston Holdings for the purposes of tracing, debt collection and enforcement.

You can contact our Data Protection Officer for further information on the organisations we may share your personal information with.

Data Processors

We may contract with third party data processors to provide email, system administration, document management and IT storage services. Any personal data shared with a data processor for this purpose will be governed by model contract clauses under data protection law.

We contract with Marston Holdings as a data processor for the collection and enforcement of criminal legal aid contributions. Any personal data shared with the data processor for this purpose is governed by model contract clauses under data protection law.

Automated decision making

We do not use solely automated decision making within the definition of Article 22(1) of UK GDPR. The overall decision on an application for legal aid or a claim for costs in a legal aid case will always be made by a human decision maker. This could be a member of our staff, or a staff member of a legal aid Provider acting under delegated authority from the Legal Aid Agency.

Details of transfers to third country and safeguards

Personal data may be transferred to locations in the European Economic Area (EEA) where required by our data processors for hosting, storage and secure backup of our IT services. Such transfers are made on the basis of Adequacy decisions between the UK and EEA in accordance with Article 45 of UK GDPR.

In limited and exceptional circumstances, where required for the provision of technical support, personal data stored in our call centre software may be accessed by support staff located in USA, Romania, Philippines, Singapore or Australia. Where transfers for this purpose are made to locations without Adequacy decisions the transfer is made on the basis of exceptions under Article 49 of UK GDPR and is required for the legitimate interests of the Ministry of Justice. The software provider maintains the same standards of IT and personnel security for its services overseas as it does for services in the UK.

Retention period for information collected

Your personal information will not be retained for any longer than is necessary for the lawful purposes for which it has been collected and processed. This is to ensure that your personal information does not become inaccurate, out of date or irrelevant. The Legal Aid Agency have set retention periods for the personal information that we collect, this can be accessed via our website:

<https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

You can also contact our Data Protection Officer for a copy of our retention policies.

While we retain your personal data, we will ensure that it is kept securely and protected from loss, misuse or unauthorised access and disclosure. Once the retention period has been reached, your personal data will be permanently and securely deleted and destroyed.

Access to personal information

You can find out if we hold any personal data about you by making a 'subject access request'. If you wish to make a subject access request please contact:

Disclosure Team - Post point 10.25
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Data.access@justice.gov.uk

When we ask you for personal data

We promise to inform you why we need your personal data and ask only for the personal data we need and not collect information that is irrelevant or excessive.

When we collect your personal data, we have responsibilities, and you have rights, these include:

- That you can withdraw consent at any time, where relevant;
- That you can lodge a complaint with the supervisory authority;
- That we will protect and ensure that no unauthorised person has access to it;
- That your personal data is shared with other organisations only for legitimate purposes;
- That we don't keep it longer than is necessary;
- That we will not make your personal data available for commercial use without your consent; and
- That we will consider your request to correct, stop processing or erase your personal data.

You can get more details on:

- Agreements we have with other organisations for sharing information;
- Circumstances where we can pass on personal information without telling you, for example, to help with the prevention or detection of crime or to produce anonymised statistics;
- Our instructions to staff on how to collect, use or delete your personal information;
- How we check that the information we hold is accurate and up-to-date; and
- How to make a complaint.

For more information about the above issues, please contact the;

The Data Protection Officer
Ministry of Justice
102 Petty France
London
SW1H 9AJ

dataprotection@justice.gov.uk

Complaints

When we ask you for information, we will comply with the law. If you consider that your information has been handled incorrectly, you can contact the Information Commissioner for independent advice about data protection. You can contact the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113
www.ico.org.uk

Client's declaration - postponement cases only

All the information I have given on this form is correct.

I agree to the Lord Chancellor having a charge on the property described above.

I agree that the Lord Chancellor will charge me simple interest on the amount I owe at the rate set out in the regulations. I understand that the rate of interest may change from time to time.

I agree not to do anything, and not to let anyone else do anything, that will reduce the value of the property.

I understand that I can make payments to reduce the amount I owe. The LAA will use any payments I make to pay off the interest I owe. If there is any money left over, the LAA will use it to reduce the principal sum.

Signed: _____ Date: ____ / ____ / ____

Name (in block capitals) _____ Case ref no _____

Contractual charge - registered land Charge of whole to the Lord Chancellor

H M Land Registry Land Registration Act 2002

This page should be completed if you have recovered money which you wish to use to buy a home, or if you would like the Lord Chancellor's charge to be transferred to a new property, or if you are transferring the property subject to the charge into joint names; and the property is REGISTERED land. If you complete this page of the form it must be signed and witnessed at the bottom.

You do not need to use this form if the property on which the charge is to be registered was itself recovered or preserved in the proceedings and the legally aided client is the sole owner.

Property

Title number of property _____ Date: ____ / ____ / ____
Address of Property _____
_____ Postcode: _____

Definitions

The Chargor/s _____
(Please enter the full names and addresses of all the registered proprietors of the land) _____

(Please enter the full names and addresses of all the registered proprietors of the land) _____

The LAA The LAA means the Legal Aid Agency. The Legal Aid Agency is the Executive Agency of the Ministry of Justice through which the Lord Chancellor carries out his functions under Part 1 of the Legal Aid Sentencing and Punishment of Offenders Act 2012, and which he has authorised to administer the statutory charge on his behalf.

The Principal sum The sums secured by the statutory charge, arising under section 16(6) of the Legal Aid Act 1988, section 10(7) Access to Justice Act 1999 or section 25(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in relation to the account of _____
(Please enter your full name here)
with legal aid under case _____
reference number(s) _____
(Please enter your case reference number(s))

The Regulations The Civil Legal Aid (General) Regulations 1989 and any amendment thereto (whether before or after the date of this charge) and any other regulations which may, after the date of this charge, directly or indirectly replace it, with or without amendment, including but not limited to the Community Legal Service (Financial) Regulations 2000 and the Civil Legal Aid (Statutory Charge) Regulations 2013 as appropriate.

1. The Chargor/s with full title guarantee charges by way of legal mortgage the above title number with payment to the Lord Chancellor of:
 - (a) the principal sum;
 - (b) simple interest on the principal sum, at the rate prescribed by, and calculated and payable in accordance with, the Regulations.
2. The sum secured by this Charge shall become repayable on the happening of any of the following:
 - (a) any event which would cause the same to become repayable if this Charge were a charge postponed under regulation 97(3) of the Civil Legal Aid (General) Regulations 1989; regulation 52 of the Community Legal Service (Financial) Regulations 2000; or regulation 22(1) of the Civil Legal Aid (Statutory Charge) Regulations 2013.
 - (b) upon the Chargor/s (or his/their successors in title) exercising any of his/their powers under section 23 of the Land Registration Act 2002.

Signatures

4 This charge must be signed by all of the registered proprietors of the land and each signature witnessed

Signed as a deed by

Enter the name of the Chargor(s) in block capitals

Signature(s) of the Chargor(s)

In the presence of

Enter the names of the witnesses in block capitals

Signatures of the witnesses

Addresses of witnesses _____

_____ Post code _____

_____ Post code _____