



Legal Aid  
Agency

# GUIDANCE ON APPLYING FOR LEGAL AID: BORDERLINE PROSPECTS OF SUCCESS

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## Version History

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1	27/01/2014	First release

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## 1. Overview

It is no longer possible to obtain legal aid for cases with borderline prospects of success. The Legal Aid Agency (LAA) will be amending the CIVAPP1, CIVAPP3, and CIVAPP6 to reflect these changes to the legal aid scheme in due course. This guidance is to advise you how to complete the prospects of success sections of these forms in the interim.

## 2. CIVAPP1

- Page 6 of the CIVAPP1 asks for information on the prospects of success of your claim by asking you to tick the relevant box. Boxes D and E are for cases where the prospects are “borderline” and “poor” respectively
- Previously, it was possible in limited circumstances to obtain legal aid for cases where the prospects of success were borderline (e.g. where the case was “of significant wider public interest”)
- To account for these exceptions, the CIVAPP1 currently states: “If you have ticked boxes D or E please include an explanation as to why legal aid should be granted in Statement of Case on page 10”
- This will be amended in due course. In the interim, if you indicate that the prospects of your claim are borderline, you will not be able to rely on the previous reasons to obtain legal aid in these matters (e.g. that the case is “of overwhelming importance to the individual”)

## 3. CIVAPP3

- Page 4 of the CIVAPP3 asks for information on the prospects of success of your claim by asking you to tick the relevant box. Box C is for cases where the prospects are “borderline or uncertain”
- If you tick box C you should clearly indicate whether you have assessed the prospects of success as “borderline” or “unclear” in the Statement of Case on page 10
- If you have indicated that the prospects of success are borderline, you will not be able to rely on the previous reasons to obtain legal aid in these matters (e.g. that “the case is one of significant wider public interest”)
- If you have indicated the prospects are unclear, funding can still be granted for cases to be considered under [Regulation 69\(1\)\(3\)\(b\)](#) of the *Civil Legal Aid (Merits Criteria) Regulations 2013* provided that the relevant criterion is met
- Please note that there are some Family applications submitted on this form where the prospects of success test does not apply. There are no changes to the process for applying for legal aid in these cases.

## 4. CIVAPP6

- Page 3 of the CIVAPP6 asks for information on the prospects of success of your claim by asking you to tick the relevant box. Box D is for cases where the prospects are “borderline”
- Previously, it was possible in limited circumstances to obtain legal aid for cases where the prospects of success were borderline (e.g. where the case was “of significant wider public interest”)
- To account for these exceptions, the CIVAPP6 currently states: “If you have ticked boxes D ... please say what factors lead you to make this assessment and why legal aid should be given”
- This will be amended in due course. In the interim, if you indicate that the prospects of your claim are borderline, you will not be able to rely on the previous reasons to obtain legal aid in these cases (e.g. that “the case is one of significant wider public interest”)

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