

## Scope of Family Proceedings Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012

Following the introduction of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 on 1 April 2013, the scope of services funded as part of civil legal aid has changed.

The general position for Family law is that public law proceedings and the representation of children remain in scope under Part 1, Schedule 1 of LASPO. However, most private family law cases involving children or finance remain in scope only where there are issues concerning domestic abuse or child abuse and specific evidence fulfilling the requirements of Schedule 1 (Regulation 33 of the 2012 Civil Legal Aid (Procedure) Regulations) and Schedule 2 (Regulation 34 of the 2012 Civil Legal Aid (Procedure) Regulations) of the 2012 Civil Legal Aid (Procedure) Regulations is provided in support of this.

The tables below summarise those legal aid matters that are in scope. Where a matter is in scope this will apply to both pre-proceedings work under Legal Help and Family Help (Lower) and certificated work. This is intended to be a guide only and Part 1, Schedule 1 of LASPO should always be consulted in the first instance.

### Proceedings generally in scope

Public and Private Law Proceedings		
Representation of a child in family proceedings	Representation of an individual under the age of 18 who: <ul style="list-style-type: none"><li>Proposes to be, the applicant or respondent in family proceedings; or</li><li>is made a party to family proceedings by the court including cases where the child is conducting, or proposes to conduct, the proceedings without a children's guardian or litigation friend.</li></ul>	Non means tested for Controlled Work and Legal Representation, but a light touch merits test applies.

Where proceedings are within the scope of Legal Aid funding for individuals (save for in Special Children Act Cases) will generally be subject to both a means and merits test.

Public Law Proceedings		
Orders Under Section 25 of the Children Act 1989	<ul style="list-style-type: none"> <li>Secure Accommodation Orders</li> </ul>	Non means/merits tested for the child who is the subject of the order
Special Children Act Proceedings under Parts 4 and 5 of the Children Act 1989	<ul style="list-style-type: none"> <li>Care Orders</li> <li>Supervision Orders</li> <li>Child Assessment Orders</li> <li>Emergency Protection Orders (including orders in relation to the duration of EPOS)</li> </ul>	Non means/merits for the child who is the subject of the order and parents of/parties with parental responsibility for the subject child
Other Orders Under Parts 4 and 5 of the Children Act 1989	<ul style="list-style-type: none"> <li>Contact with/end contact with a child in care;</li> <li>Discharge/Variation of Care/ Supervision Order</li> <li>Removal and accommodation of children by police in cases of emergency</li> <li>Appeals in public law cases (including appeals against final orders made in Special Children Act Proceedings)</li> </ul>	Means and merits tested for all parties
Orders in relation to Part 2 of the Children Act 1989	<ul style="list-style-type: none"> <li>Applications relating to orders under section 14A of the Children Act 1989</li> </ul>	<p>For Controlled Work Means and Merits criteria is applicable for all parties.</p> <p>For Legal Representation parents and those with Parental Responsibility who oppose the application are not subject to the Means test and are only required to meet the Merits Criteria set out at Regulation 66(3) of the Civil Legal Aid (Merits) Criteria 2013.</p>

		Legal Representation work undertaken for applications relating to all other parties are subject to Means and Merits test.
Orders under Chapter 3 of Part 1 of the Adoption and Children Act 2002	<ul style="list-style-type: none"> <li>• Placement orders</li> <li>• Recovery orders</li> <li>• Adoption</li> </ul>	<p>Non means tested for applications relating to Adoption or Placement orders where parents/those with parental responsibility wish to oppose the order.</p> <p>These applications are still subject to the merits criteria as set out in Regulation 66(3) of the Civil Legal Aid (Means) Criteria 2013.</p> <p>Means and merits tested for all parties for Recovery orders.</p>
Orders under the Inherent Jurisdiction of the High Court in relation to children	<ul style="list-style-type: none"> <li>• Wardship</li> </ul>	Means and merits tested for all parties
Related Proceedings	<p>Civil legal services provided in relation to an order made</p> <ul style="list-style-type: none"> <li>• As an alternative to an order specified above; or</li> <li>• In proceedings heard together with proceedings relating to an order as specified above</li> </ul>	Non means/non merits tested where “related” to Special Children Act proceedings

#### Private Law Proceedings

Orders relating to the unlawful removal of children- Applications to prevent the unlawful removal of a related child from the UK or to secure the return of a related child who has been	<ul style="list-style-type: none"> <li>• Prohibited steps orders</li> <li>• Orders under section 33 of the Family Law Act 1986 for the disclosure of the child’s whereabouts</li> <li>• Orders under section 34 of the Family Law</li> </ul>	Means and merits tested for both Controlled Work (Legal Help) and Legal Representation
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unlawfully removed from the UK	<p>Act 1986 for the child's return</p> <ul style="list-style-type: none"> <li>• A requirement under section 37 of Family Law Act 1986 to surrender the passport of issued to or containing the particulars of the child</li> </ul>	
Orders relating to the unlawful removal of children- Applications to secure the return of a related child who has been unlawfully removed to a place within the UK	<ul style="list-style-type: none"> <li>• Prohibited steps order or specific issue orders</li> <li>• Orders under section 33 of the Family Law Act 1986 for disclosure of the child's whereabouts</li> <li>• Orders under section 34 of the Family Law Act 1986 for the child's return</li> <li>• Applications under section 27 of the Family Law Act 1986 for registration of an order relating to that child</li> </ul>	Means and merits tested for both Controlled Work (Legal Help) and Legal Representation
Orders in relation to Part 2 of the Children Act 1989	<ul style="list-style-type: none"> <li>• Applications relating to orders under section 14A of the Children Act 1989</li> </ul>	<p>For Controlled Work Means and Merits criteria is applicable for all parties.</p> <p>For Legal Representation parents and those with Parental Responsibility who oppose the application are not subject to the Means test and are only required to meet the Merits Criteria set out at Regulation 66(3) of the Civil Legal Aid (Merits) Criteria 2013.</p> <p>Legal Representation work undertaken for applications relating to all other parties are</p>

		subject to Means and Merits test.
Orders in relation to family homes and domestic abuse under Part 4 of the Family Law Act 1996	<ul style="list-style-type: none"> <li>• Occupation orders</li> <li>• Non-molestation order</li> <li>• Forced marriage protection orders</li> </ul>	<p>Means and merits for both</p> <p>(NB the Domestic Abuse upper eligibility waiver (Reg 12 of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations) applies to these applications.</p>
Orders in relation to Part 3 of the Domestic Abuse Act 2021 <sup>1</sup>	<ul style="list-style-type: none"> <li>• Domestic Abuse Protection Orders</li> </ul>	<p>Means and Merits tested for Controlled Work and Legal Representation</p> <p>(NB the Domestic Abuse upper eligibility waiver (Reg 12 of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations) applies to these applications.</p>
International agreements concerning children	<ul style="list-style-type: none"> <li>• Applications under the 1980 European Convention on Child Custody for the recognition or enforcement in England and Wales of a decision relating to the custody of a child;</li> <li>• Applications under the 1980 Hague Convention in respect of a child who is, or is believed to be, in England and Wales</li> </ul>	<p>Applications under the 1980 Hague Convention are non means and non merits tested.</p> <p>However, applications under the 1980 European Convention on Child Custody are not means tested but must meet the merits criteria.</p>
International agreements concerning maintenance	<ul style="list-style-type: none"> <li>• Applications for recognition or</li> </ul>	Non- means and non merits tested.

<sup>1</sup>These orders are being rolled out as part of a joint pilot between the Home Office and the Ministry of Justice. The pilot commenced on 27<sup>th</sup> November 2024 in the following Areas: Greater Manchester, Bromley, Croydon, Sutton, Cleveland and North Wales.

	enforcement in England or Wales of a maintenance orders under the 2007 Hague Convention on Maintenance	
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#### Proceedings for which evidence is required

The following proceedings will only be within the scope of legal aid where evidence pertaining to domestic abuse or child abuse, as specified in the 2012 Civil Legal Aid (Procedure) Regulations ("the Regulations"), is provided in support of the application.

<b>Private Law Proceedings</b>		
Family proceedings where the client has provided evidence of domestic abuse in accordance with Schedule 1, Regulation 33 of the Regulations.	<ul style="list-style-type: none"> <li>• Maintenance or other financial arrangement orders</li> <li>• Ancillary Relief</li> <li>• Transfer of tenancy</li> <li>• Divorce/dissolution/nullity</li> <li>• Child arrangement orders- who the child(ren) will spend time with/where the child(ren) will live</li> <li>• Declaration of parentage</li> <li>• Parental responsibility orders</li> <li>• Orders under section 33 and 34 of the Family Law Act 1986 for disclosure of the child's whereabouts or return of a child (where not in relation to the unlawful removal of a child)</li> </ul>	Means and Merits test applies to all of these proceedings
Family proceedings where the client has provided evidence of child abuse in accordance with Schedule 2, Regulation 34 of the Regulations.	<ul style="list-style-type: none"> <li>• Child arrangement orders- who the child(ren) will spend time with/where the child(ren) will live</li> <li>• Orders under section 4(2)(A) of the Children Act 1989, removal of father's parental responsibility</li> <li>• Specific Issue Orders</li> <li>• Prohibited Steps Orders</li> <li>• Orders under section 33 and 34 of the Family Law Act</li> </ul>	Means and Merits test applies to all of these proceedings

	1986 for disclosure of the child's whereabouts or return of a child (where not in relation to the unlawful removal of a child)	
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NB. Where the client's initial instructions concern issues falling within both paragraph 11 and paragraph 12 or 13 of Part 1, Schedule 1 of LASPO, evidence is not required to open a matter start dealing with issues of domestic abuse (paragraph 11<sup>2</sup>). However Controlled Work may not be provided in relation to issues under paragraph 12 or 13 as part of that matter unless and until the prescribed evidence has been obtained, and claims will be assessed accordingly.

Further guidance on scope, means, and merits including links to the full text of LASPO, the Lord Chancellor's Guidance, the Merits Regulations, the Financial Regulations and the LAA's guidance on financial eligibility can be found on the following page:

[Work out who qualifies for civil legal aid - GOV.UK](#)

Further guidance on the evidence requirements for private family law cases can be found on the following page:

[Legal aid guidance - GOV.UK](#)

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<sup>2</sup> Family homes and domestic violence.