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Authorisations given pursuant to section 6, for the purposes of section 5(2) and section 5(4), of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), in relation to functions of the Lord Chancellor and the Director under the Civil Legal Aid (Merits Criteria) Regulations 2013 (SI 2013/104)

The terms used in this document should be read in accordance with their use in LASPO and any secondary legislation made under that Act. For the avoidance of doubt:

1. “authorised representation” has the same meaning as given to that term in regulation 39(1) of the Civil Legal Aid (Procedure) Regulations 2012; and
2. “the relevant contract” means the applicable contract between the Lord Chancellor and a Provider or Mediator that governs the provision services in relation to which the determination is being made;
3. “the Provider” means a person who has made an arrangement with the Lord Chancellor under section 2(1) of LASPO to provide civil legal services under Part 1 of LASPO or to determine eligibility for such services; and
4. “the Mediator” means a mediator with whom the Lord Chancellor has made an arrangement under section 2(1) of the Act for the mediator to provide family mediation in accordance with a code of practice approved by the Lord Chancellor.

Civil Legal Aid (Merit Criteria) Regulations 2013			
Regulation	Function	Who exercises the function in the Regulations	Who is authorised to exercise the function in practice
4 and 5 (Prospects of success and prospects of success test)	Assessing the “prospects of success”	The Director of Legal Aid Casework	The Legal Aid Agency For authorised representation or legal representation before a tribunal that is provided as Controlled Work – Providers, subject to the terms of the relevant contract



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6 (Public interest)	Deciding whether a case is of “significant wider public interest”	The Director of Legal Aid Casework	The Legal Aid Agency For the purpose of making a determination under regulation 60 on an application for legal representation that is provided as Controlled Work, the Provider, subject to the terms of the relevant contract.
7 (Reasonable private paying individual test)	Deciding the “reasonable private paying individual” test	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract.
8 (Proportionality test)	Deciding the “proportionality test”	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract.
10 (Likely costs)	Contracting with providers under section 2(1) of the Act and setting fees payable	The Lord Chancellor	The Lord Chancellor
11(2) to (4) (Qualifying for civil legal services)	Determining whether an individual qualifies for civil legal services by applying the merits criteria which are appropriate in each case	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract
11(5) (Qualifying for civil legal services)	Considering which form of civil legal services is appropriate	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract
11(6) (Qualifying for civil legal services)	Considering whether conduct of the individual or legal person makes the provision of civil legal services unreasonable	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract.



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11(7) and (8) (Having regard to the demand for civil legal services)	Determining whether, having regard to the present and likely future demands for the provision of civil legal services under Part 1 of the Act, it is reasonable to provide the individual or legal person with civil legal services in all the circumstances of the case	The Director of Legal Aid Casework	The Legal Aid Agency
11(9) (No merits criteria applied in certain cases)	Ensuring that no merits criteria are applied in certain cases	The Director of Legal Aid Casework	Regulation 11(9)(a) – Assessment of family mediation – the Provider, subject to the terms of the relevant contract. Regulation 11(9)(b) – Applications for Legal Help and Family Help (Lower) in respect of EU and international maintenance agreements, and authorised representation – the Provider. Regulation 11(9)(c) – The Legal Aid Agency. Regulation 11(9)(b) – Other applications – The Legal Aid Agency Director.
12 (Form of civil legal services)	Applying the merits criteria	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and the Provider, subject to the terms of the relevant contract
16(2) (Family mediation)	Contracting with providers under section 2(1) of the Act	The Lord Chancellor	The Lord Chancellor
19 (Other legal services)	Making an exceptional case determination under section 10 or a determination about a legal person.	The Director of Legal Aid Casework	The Legal Aid Agency



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20 (Provision of the most appropriate form of civil legal services)	Ensuring that the individual or legal person is provided with the most appropriate form of civil legal services	The Director of Legal Aid Casework	The Legal Aid Agency For legal help, help at court, family help (lower), help with family mediation, and legal representation provided as Controlled Work – the Provider, subject to the terms of the relevant contract
32 (Criteria for determinations for legal help)	Making a determination in relation to an application for legal help	The Director of Legal Aid Casework	The Provider, subject to the terms of the relevant contract
33 (Criteria for determinations for help at court)	Making a determination in relation to an application for help at court	The Director of Legal Aid Casework	The Provider, subject to the terms of the relevant contract
34 (Criteria for determinations for family help)	Making a determination in relation to family help	The Director of Legal Aid Casework	Applications for family help (higher) (Licensed Work) – the Legal Aid Agency. Applications for family help (lower) (Controlled Work) – the Provider, subject to the terms of the relevant contract
35 (Criteria for determinations for family help (lower))	Making a determination in relation to an application for family help (lower)	The Director of Legal Aid Casework	The Provider, subject to the terms of the relevant contract.
36 (Criteria for determinations for family help (higher))	Making a determination in relation to an application for family help (higher)	The Director of Legal Aid Casework	Applications for family help (higher) (Licensed Work) – the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
37 (Criteria for determinations for family mediation)	Making a determination in relation to an application for family mediation	The Director of Legal Aid Casework	The Mediator, subject to the relevant contract



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38 (Criteria for determinations for help with family mediation)	Making a determination in relation to an application for help with family mediation	The Director of Legal Aid Casework	The Provider, subject to the terms of the relevant contract
39 (Standard criteria for determinations for legal representation)	Making a determination in relation to an application for legal representation	The Director of Legal Aid Casework	<p>Applications for legal representation (Licensed Work) will be decided by the Legal Aid Agency unless the application is for:</p> <ul style="list-style-type: none">a) legal representation before a tribunal that is provided as Controlled Work, which will be decided by the Provider; orb) authorised representation (Licensed Work), which will be decided by the Provider; and,c) any other determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations, which will be decided by the Provider. <p>The Provider is authorised, subject to the terms of the relevant contract</p>
40 (Criteria for determinations for investigative representation)	Making a determination in relation to an application for investigative representation	The Director of Legal Aid Casework	<p>Applications for investigative representation (Licensed Work) will be decided by the Legal Aid Agency unless the application is for authorised investigative representation (Licensed Work), which will be decided by the Provider.</p> <p>The Provider is authorised, subject to the terms of the relevant contract</p>
41 (Criteria for determinations for full representation)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) -</p> <ul style="list-style-type: none">- the Legal Aid Agency <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>



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42 (Cost benefit criteria for determinations for full representation)	Applying the cost benefit criteria in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
43 (Prospects of success criterion for determinations for full representation)	Applying the prospects of success criterion in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
44 (Multi-party action damages criterion)	Deciding whether a case is of significant wider public interest in relation to an application for full representation	The Director of Legal Aid Casework	The Legal Aid Agency
45 (Criteria for determinations for other legal services)	Considering whether provision of other legal services would be reasonable in all the circumstances of the case	The Director of Legal Aid Casework	The Legal Aid Agency



<p>46 (Criteria for determinations for family help (higher) or legal representation provided as emergency representation)</p>	<p>Making a determination in relation to an application for emergency representation</p>	<p>The Director of Legal Aid Casework</p>	<p>Applications for emergency representation (Licensed Work or special case work) will be decided by the Legal Aid Agency, unless the application is for authorised representation which will be decided by the Provider.</p> <p>Other than the specific exclusions set out below, Providers are permitted to make determinations in relation to an application for emergency representation but only to the extent that:</p> <ol style="list-style-type: none"> 1. The Provider holds a Schedule Authorisation under the relevant contract in the relevant Category of Law or the work to be undertaken is in relation to an anti-social behaviour injunction which fall within the definition of Miscellaneous Work; and, 2. The Provider acts in accordance with the requirements on making determinations for authorised representation in relation to emergency representation that are set out in the table of delegated authorities for the Civil Legal Aid (Procedure) Regulations 2012 at regulation 35. <p>The Provider must not exercise any function under this regulation where:</p> <ol style="list-style-type: none"> 1. The application is for civil legal services in relation to a judicial review, other than in relation to proceedings under: <ol style="list-style-type: none"> i. Part VII Housing Act 1996; ii. Section 21 of the National Assistance Act 1948; iii. Section 20 of the Children Act 1989; iv. Section 47(5) National Health Service and Community Care Act 1990; v. Section 19(3) of the Care Act 2014; or,
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			<p>vi. Section 36 of the Social Services and Well-Being (Wales) Act 2014.</p> <p>2. The determination that the client qualifies for civil legal services is dependent on the case having significant wider public interest; and/or,</p> <p>3. The civil legal services being sought can only be made available as Exceptional Case Funding under section 10 of LASPO.</p> <p>For the avoidance of doubt, emergency representation provided on the basis set out above constitutes “authorised representation” for purposes of regulations and authorisations made under LASPO. Any reference to “authorised representation” in the regulations and authorisations should be taken to include applications for, and the provision of, emergency representation to the extent permitted in this table.</p>
47 (Application of the merits criteria in cases which are described in more than one paragraph of Part 1 of Schedule 1 to the Act)	Applying the most relevant merits criteria in all the circumstances of the case	The Director of Legal Aid Casework	Dependent on who makes the determination – the Legal Aid Agency and Providers, subject to the terms of the relevant contract.
48 (Application of the merits criteria in exceptional inquest cases)	Applying the criteria for determinations relating to other legal services in inquest cases	The Director of Legal Aid Casework	The Legal Aid Agency.
49 (Application of the merits criteria in cases which are exceptional cases excluded from Part 1 of Schedule 1 to the Act)	Applying the merits criteria in exceptional cases	The Director of Legal Aid Casework	The Legal Aid Agency.



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50 (Application of the merits criteria in cases which are exceptional cases other than by virtue of the exclusions in Part 2 or 3 of Schedule 1 to the Act)	Applying the merits criteria in exceptional cases	The Director of Legal Aid Casework	The Legal Aid Agency.
51(2) (Criteria for determinations for full representation in relation to mental health proceedings)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	The Provider, subject to the terms of the relevant contract.
52 (Criteria for determinations for full representation in relation to mental capacity proceedings)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
53 (Standard criteria for determinations for legal representation in relation to public law claims)	Making a determination in relation to an application for legal representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.



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54 (Standard criteria for determinations for investigative representation in relation to public law claims)	Making a determination in relation to an application for investigative representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
55 (Criteria for determinations for investigative representation in relation to public law claims)	Making a determination in relation to an application for investigative representation	The Director of Legal Aid Casework	Applications for full representation and investigative representation (Licensed Work) – the Legal Aid Agency Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
56 (Criteria for determinations for full representation in relation to public law claims)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
56A (Criteria for determinations in relation to Dublin III claims)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) will be decided by the Legal Aid Agency



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57 (Criteria for determinations for investigative representation in relation to claims against public authorities)	Making a determination in relation to an application for investigative representation	The Director of Legal Aid Casework	Applications for full representation and investigative representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
58 (Criteria for determinations for full representation in relation to claims against public authorities)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	Applications for full representation (Licensed Work) - the Legal Aid Agency. Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.
59 (Criteria for determinations for full representation in relation to claims against public authorities: multi party action damages criterion)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	The Legal Aid Agency



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60 (Criteria for determinations for full representation in relation to immigration)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p> <p>For legal representation provided as Controlled Work, the Provider, subject to the terms of the relevant contract</p>
61 (Criteria for determinations for full representation in relation to court orders for possession)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation and investigative representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>
62 (Criteria for determinations for full representation in relation to other housing matters to which specific merits criteria apply)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation and investigative representation (Licensed Work) - the Legal Aid Agency</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>



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63 (Criteria for determinations for investigative representation in unlawful eviction cases)	Making a determination in relation to an application for investigative representation	The Director of Legal Aid Casework	<p>Applications for full representation and investigative representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>
64 (Criteria for determinations for full representation in relation to certain family disputes)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>



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65 (Criteria for determinations for full representation in relation to special Children Act 1989 cases and certain cases relating to EU and international agreements)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p> <p>The Provider is authorised to make determinations under this regulation that an individual qualifies for full representation in special Children Act cases (as defined by regulation 2), and any related proceedings (as defined by paragraph 7.46 of the Family Category Specific Rules to the Standard Civil Contract 2018) subject to the terms of the relevant contract and any other requirements on the determinations for “authorised representation”.</p>
66 (Criteria for determinations for full representation in relation to public law children cases)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>
67 (Criteria for determinations for full representation in relation to domestic violence cases)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>(Applications for full representation Licensed Work) - the Legal Aid Agency</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>



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68 (Criteria for determinations for full representation in relation to private law children cases and certain cases relating to EU and international agreements)	Making a determination in relation to an application for full representation.	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p> <p>The Provider is authorised to make determinations under this regulation that an individual qualifies for Family Help (Higher) for private law children proceedings where the Provider has decided that the client qualifies for emergency representation to obtain a protective injunction and the proceedings are heard at the same time.</p>
69 (Criteria for determinations for full representation in relation to other family cases to which specific merits criteria apply)	Making a determination in relation to an application for full representation	The Director of Legal Aid Casework	<p>Applications for full representation (Licensed Work) - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>
70 (Criteria for determinations in relation to the EU Maintenance Regulation maintenance)	Determining whether an individual qualifies for civil legal services	The Director of Legal Aid Casework	<p>Applications for Controlled Work will be decided by the Provider, subject to the terms of the relevant contract</p> <p>Applications for full representation – the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure)</p>



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			Regulations – the Provider, subject to the terms of the relevant contract.
71 (Criteria for determinations in relation to the 2007 Hague Convention)	Determining whether an individual qualifies for civil legal services	The Director of Legal Aid Casework	<p>Applications for Controlled Work will be decided by the Provider.</p> <p>Applications for full representation - the Legal Aid Agency.</p> <p>Applications for authorised representation and determinations the Provider has been authorised to make under regulation 35(1) of the Civil Legal Aid (Procedure) Regulations – the Provider, subject to the terms of the relevant contract.</p>
72 (Criteria for determinations in relation to cross- border disputes)	Determining whether an individual qualifies for civil legal services	The Director of Legal Aid Casework	<p>Applications for legal representation (Licensed Work) will be decided by the Legal Aid Agency.</p> <p>Applications for legal help (Controlled Work) will be decided by the Provider, subject to the terms of the relevant contract</p>
73 (Determinations in relation to legal persons)	Determining whether a legal person qualifies for legal help or legal representation	The Director of Legal Aid Casework	The Legal Aid Agency
74 (Standard criteria for legal help and legal representation in relation to legal persons)	Making a determination in relation to an application for legal help and legal representation	The Director of Legal Aid Casework	The Legal Aid Agency
75 (Criteria for determinations for legal representation in relation to legal persons)	Making a determination in relation to an application for legal representation	The Director of Legal Aid Casework	The Legal Aid Agency