



# Legal Aid Agency

## CATEGORY DEFINITIONS 2018

### Introduction

1. These are the Category Definitions 2018 as referred to in the 2018 Standard Civil Contract. Definitions of terms set out in those Contracts also apply to these Category Definitions.
2. In these Category Definitions:
  - (a) References to “Legal Help” include Help at Court and in the Family Category only, Family Help (Lower) and Help with Family Mediation;
  - (b) References to “proceedings in a Category” cover the provision of Legal Representation (including Controlled Legal Representation) in that Category and, in the Family Category only, Family Help (Higher).
3. Services within the Crime Category are automatically excluded from all Civil Categories, except for the specific overlaps between Categories specified at paragraph 18 of this document.

### Legal Aid, Sentencing and Punishment of Offenders Act 2012

4. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (hereafter referred to as “the Act” in this document) sets out the matters for which civil and criminal legal services may be provided.
5. The Category Definitions show into which Category cases will fall but providers will need to satisfy themselves before undertaking work for any individual client that it is within the scope of the Act or that an application for exceptional funding has been approved.
6. Descriptions in this document of matters within scope of Part 1 of Schedule 1 to the Act should be read subject to the full provisions in that Part. For example, services referred to in Part 1 of Schedule 1 to the Act may be subject to exclusions in Parts 2 and 3 of Schedule 1 to the Act.

Where a specific paragraph of Part 1 of Schedule 1 to the Act is referred to in a Category Definition then the services covered by that Category are at most only as wide as described in the given paragraph. For example, paragraph 39(a) of Immigration Category Definition allows the detention matters listed in paragraph 25 of Part 1 of Schedule 1 to fall within Immigration but not damages claims arising from such detention.

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## **Exceptional Funding**

7. Civil legal services that do not fall within the scope of Part 1 of Schedule 1 to the Act will fall to be funded under section 10 if the Director makes either: (i) an exceptional case determination (under section 10(2)(a) of the Act), or (ii) a wider public interest determination (under section 10(4)(b) of the Act).
8. Matters that are funded by virtue of a determination of the Director under section 10 of the Act will fall within the Category to which the primary problem or issue relates or, in the case of matters that are wholly unrelated to in-scope categories will be classed as Miscellaneous Work. The extent to which a Category of Law encompasses services made available under section 10 of the Act is set out within each individual Category Definition.

## **Overlaps between Categories**

9. The Categories are drafted to ensure that the majority of cases clearly fall within one Category or another. However, there will be some cases which genuinely fall within more than one Category. For example, certain work under the Mental Capacity Act 2005 falls under both the Mental Health Category of Law and Community Care.
10. Some cases will arise as the result of a number of different underlying issues, which may either be in scope or the subject of an exceptional funding application, and in those instances classification to a Category will depend upon the overall substance or predominant issue of the case when taken as a whole.
11. The following civil legal services fall into the Category of Law that relates to the underlying substance of the case as referenced by the widest Category Definition:
  - (a) Public law challenges to the acts, omissions or decisions of public bodies by way of judicial review (as described in paragraph 19 of Part 1 of Schedule 1 to the Act). These cases are also covered by the Public Law Category
  - (b) Civil legal services provided in relation to a writ of habeas corpus ad subjiciendum (as described in paragraph 20 of Part 1 of Schedule 1 to the Act). These cases are also covered by the Public Law Category
  - (c) Cases involving a contravention of the Equality Act 2010 or previous discrimination enactment (as described in paragraph 43 of Part 1 of Schedule 1 to the Act). These cases are also covered by the Discrimination category
  - (d) Cross-border disputes where the civil legal services are required to be provided under Council Directive 2003/8/EC (as described in paragraph 44 of Part 1 of Schedule 1 to the Act). If these services do not fall within any Category of Law they are classified as Miscellaneous Work.

12. For the purposes of paragraph 11, the widest Category Definition includes those services that can only be made available via exceptional funding. For example, a judicial review would fall into the Housing Category of Law where the challenge was related to issues described in either paragraph 37 or 38 of the Housing Category Definition.

### **Damages under the Human Rights Act 1998**

13. There are special provisions for claims for damages under the Human Rights Act 1998 (to the extent these are in scope by virtue of paragraphs 21 or 22 of Part 1 of Schedule 1 to the Act). A claim for damages made in reliance on section 7(1)(b) of the 1998 Act within existing proceedings described in Part 1 of Schedule 1 to the Act falls exclusively within the Category of Law that includes the primary proceedings being heard.
14. Except as specified at paragraph 15 below, other claims for damages under the Human Rights Act 1998 fall exclusively within either the Claims Against Public Authorities Category of Law or the Public Law Category (depending on the facts of the claim). This includes damages claims made within proceedings that are not otherwise described in Part 1 of Schedule 1 to the Act except under paragraph 21 or 22, and all freestanding claims for damages under section 7(1)(a) of the 1998 Act.
15. Finally, some cases are included within both the Family Category of Law and the Public Law Category. These are claims for damages brought under the Human Rights Act 1998 where the breach, or alleged breach, of a Convention right relates to an act, decision or omission of a local authority in relation to the care, supervision or protection of a child. Such claims may also fall into the Claims Against Public Authorities Category where the proceedings are described by paragraph 20 to 21 below.

### **Inquests**

16. Civil legal services in relation to an inquest under the Coroners Act 1988 will fall into the Category of Law which relates most closely to the underlying subject matter of the inquest, taking into the specific legal issues that will be raised in the inquiry, the place and manner of the individual's death, and the classification of any separate proceedings that are dependent on the outcome of the inquest.
17. As with paragraphs 10-11 above, the widest definition of each Category should be used to determine classification of the case, including services that can only be provided via exceptional funding. For example, Legal Help for an inquest where the client died in prison will be funded in the Claims Against Public Authorities Category of Law given that this Category includes all matters relating to "death in custody" (see paragraphs 20 to 21 below). Where an inquest does not fall within one of the Categories, it will be classified as Miscellaneous Work.

## **Minor Civil/Criminal Overlaps**

18. Work falling within the Crime Category is generally excluded from any civil Category, but there are some minor exceptions:

- (a) Enforcement proceedings in the magistrates court arising out of the breach of an order of that court made in family proceedings where there is a risk of imprisonment also fall within the Family Category;
- (b) Civil proceedings in the magistrates' court arising out of the breach of a financial order of that court where there is a risk of imprisonment also fall within the Debt Category;
- (c) Proceedings against a child for a Sexual Harm Prevention Order and any associated Parenting Order, and for a Parenting Order made on the conviction of a child where the parent cannot be reasonably represented by the child's solicitor also fall within the Family Category; and,
- (d) Committal applications for civil contempt of court arising out of proceedings described in Part 1 of Schedule 1 also fall under the civil Category of Law covering the underlying proceedings, or where the underlying proceedings do not fall within a Category of Law, are classified as Miscellaneous Work.

19. The exceptions in paragraph 18 can be carried out under the 2018 Standard Civil Contract as well as by criminal practitioners under the 2017 Standard Crime Contract.

## **Claims Against Public Authorities**

20. Legal Help and all proceedings in relation to:

- (a) abuse of a child or a vulnerable adult (as described in paragraph 3 of Part 1 of Schedule 1 to the Act)
- (b) abuse of position or power by a public authority (as described in paragraph 21 of Part 1 of Schedule 1 to the Act)
- (c) significant breach of convention rights by a public authority (as described in paragraph 22 of Part 1 of Schedule 1 to the Act)
- (d) sexual offences (as described in paragraph 39 of Part 1 of Schedule 1 to the Act)

to the extent specified in paragraph 21.

21. A case listed in paragraph 20 will only fall within the Claims Against Public Authorities Category where at least one of the following conditions apply:

(a) The defendant is a public authority with the power to prosecute, detain or imprison and the claim arises out of, or is closely related to, the exercise of such a power; or,

(b) The claim is for personal injury based on allegations of deliberate abuse of a person while in the care of a public authority or other institution, or the failure of such a body to take a person into care.

22. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act) this Category also includes all other Legal Help and related proceedings concerning assault, trespass, false imprisonment, wrongful arrest, interference with goods, malicious prosecution, personal injury, wrongful conviction or death in custody, misfeasance in public office or other abuse of authority or neglect of duty against any body or person, private or public, with the power to detain, imprison or prosecute and the claim arises out of, or is closely related, to the exercise of such a power.

### **Clinical Negligence Category**

23. Legal Help and all proceedings in relation to a claim for damages in respect of clinical negligence which caused a neurological injury to an infant as a result of which they are now severely disabled (as described in paragraph 23(1) of Part 1 of Schedule 1 to the Act).

24. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act) this Category also includes Legal Help and all proceedings in relation to a claim for damages or a complaint to a relevant professional body in respect of an alleged breach of duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services); or a claim for damages in respect of alleged professional negligence in the conduct of such a claim.

### **Community Care**

25. Legal Help and related proceedings in relation to:

(a) the provision of community care services (as described in paragraph 6 of Part 1 of Schedule 1 to the Act);

(b) the provision of facilities for disabled persons (as described in paragraph 7 of Part 1 of Schedule 1 to the Act); and,

(c) the inherent jurisdiction of the High Court in relation to vulnerable adults (as described in paragraph 9 of Part 1 of Schedule 1 to the Act);

(d) the inherent jurisdiction of the High Court in relation to children (as described in paragraph 9 of Part 1 of Schedule 1 to the Act) where the case relates to a decision on medical treatment; and

(e) a person's capacity, their best interests (health and welfare), and deprivation of liberty issues under the Mental Capacity Act 2005 (as described in subparagraph 5(1)(c) of Part 1 of Schedule 1 to the Act).

26. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act), this category also includes all other Legal Help and related proceedings concerning the provision of services or facilities in the community, nursing accommodation or hospital arranged by social services or a public health authority, excluding services falling within the Welfare Benefits or Clinical Negligence Categories. It also covers advocacy in the Court of Protection for matters arising under the Mental Capacity Act 2005 listed at paragraph 25(e) above that are not described by paragraph 4 of Part 3 of Schedule 1.

## **Debt**

27. Legal Help and all proceedings in relation to:

(a) Court orders for sale of an individual's home (as described in 33(1)(a) of Part 1 of Schedule 1 to the Act);

(b) Court orders for possession of an individual's home arising out of failure to make payment due under a mortgage (as described in paragraph 33(1)(a) of Part 1 of Schedule 1 to the Act)<sup>1</sup>; and,

(c) A bankruptcy order against the individual under Part 9 of the Insolvency Act 1986 where the estate includes the individual's home and where the petition for bankruptcy was not presented by the client, including in relation to a statutory demand under Part 9 of that Act (as described in paragraph 33(2) of Part 1 to Schedule 1 to the Act).

28. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act), this category includes Legal Help and all proceedings:

(a) For the payment of monies due or the enforcement of orders in such proceedings (excluding any matter which falls within the Housing Category); and,

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<sup>1</sup> Possession of the home arising out of any matter other than failure to make payments on a mortgage fall within the Housing Category.

- (b) Arising out of personal insolvency, including bankruptcy, administration, Debt Relief representation or IVA proceedings, but excluding representation in proceedings against parties in default of a fine or other order in criminal proceedings in the magistrates' court who are at risk of imprisonment.

## **Discrimination**

29. Legal Help and proceedings in relation to:

- (a) Contravention of the Equality Act 2010 (as described in paragraph 43(1) of Part 1 of Schedule 1 to the Act);
- (b) Contravention of a previous discrimination enactment (as described in paragraph 43(3) of Part 1 of Schedule 1 to the Act), namely;
  - i. The Equal Pay Act 1970;
  - ii. The Sex Discrimination Act 1976;
  - iii. The Race Relations Act 1976;
  - iv. The Disability Discrimination Act 1995;
  - v. The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660);

## **Education**

30. Legal Help and all proceedings in relation to:

- (a) matters arising under Part 4 of the Education Act 1996 (Special Educational Needs) (as described in subparagraph 2(1)(a) of Part 1 of Schedule 1 to the Act);
- (b) matters arising under Part 3 of the Children and Families Act 2014 (as described in subparagraph 2(1)(a) of Part 1 of Schedule 1 to the Act);
- (c) assessments relating to learning difficulties under sections 140 of the Learning and Skills Act 2000 (as described in subparagraph 2(1)(b) of Part 1 of Schedule 1 to the Act); and,
- (d) any other matter within the scope of Part 1 of Schedule 1 to the Act where the primary problem or issue relates to the provision of, or failure to provide, education or funding for education.

31. For the avoidance of doubt, the Education Category includes brief advice and assistance on the social care provision and health care provision that have been included, or ought to be included, in an Education, Health and Care plan prepared under section 37 of the Children and Families Act

2014. However, where substantive advice is required to resolve any dispute concerning such provision this work falls under Community Care.

32. To the extent that exceptional funding is granted (in accordance with section 10 of the Act) this category includes all other Legal Help and proceedings in relation to any matter where the primary problem or issue relates to the provision of or failure to provide education or funding for education.

## **Family**

33. Legal Help and all proceedings in relation to:

- (a) orders under section 25 of the Children Act 1989 (as described in subparagraph 1(1)(a) of Part 1 of Schedule 1 to the Act);
- (b) orders under Part 4 and Part 5 of the Children Act 1989 Act (as described in subparagraphs 1(1)(b) and 1(1)(c) of Part 1 of Schedule 1 to the Act);
- (c) approval by a court under paragraph 19 of Schedule 2 to the Children Act 1989 Act (as described in subparagraphs 1(1)(d) of Part 1 of Schedule 1 to the Act);
- (d) parenting orders under sections 8 of the Crime and Disorder Act 1998 (as described in subparagraphs 1(1)(e) of Part 1 of Schedule 1 to the Act);
- (e) child safety orders under section 11 of the Crime and Disorder Act 1998 (as described in subparagraphs 1(1)(f) of Part 1 of Schedule 1 to the Act);
- (f) applications under the Adoption and Children Act 2002 (as described in subparagraphs 1(1)(g) to 1(1)(j) of Part 1 of Schedule 1 to the Act);
- (g) orders under an enactment made as an alternative to an order mentioned in subparagraphs (a) to (f) above (as described in subparagraph 1(2) of Part 1 of Schedule 1 to the Act);
- (h) orders under an enactment made in proceedings heard together with proceedings relating to an order mentioned in subparagraphs (a) to (f) above (as described in subparagraph 1(2) of Part 1 of Schedule 1 to the Act);
- (i) the inherent jurisdiction of the High Court in relation to children (as described in paragraph 9 of Part 1 of Schedule 1 to the Act);
- (j) the orders and requirements listed in subparagraph 10(1) of Part 1 of Schedule 1 to the Act in relation to unlawful removal or potential unlawful removal of children from the United Kingdom;



- (k) the orders and applications listed in subparagraph 10(2) of Part 1 of Schedule 1 to the Act in relation to the return of children unlawfully removed to a place in the United Kingdom;
- (l) home rights, occupation orders and non-molestation orders under Part 4 of the Family Law Act 1996 (as described in paragraph 11(1) of Part 1 of Schedule 1 to the Act);
- (m) injunctions following assault, battery and false imprisonment in circumstances arising out of a family relationship (as described in paragraph 11(2)(a) of Part 1 of Schedule 1 to the Act);
- (n) the protection of an adult in proceedings under the inherent jurisdiction of the High Court in circumstances arising out of a family relationship (as described in paragraph 11(2)(b) of Part 1 of Schedule 1 to the Act);
- (o) the mediation of family disputes (as described in subparagraph 14(2) of Part 1 of Schedule 1 to the Act);
- (p) services provided to a child under paragraph 15 of Part 1 of Schedule 1 to the Act in relation to family proceedings where the child:
  - i. is, or proposes to be, the applicant or respondent;
  - ii. is made a party to the proceedings by a court under rule 16.2 of the Family Procedure Rules; or
  - iii. is a party to the proceedings and is conducting, or proposing to conduct, the proceedings themselves in accordance with rule 16.6 of the Family Procedure Rules;
- (q) female genital mutilation protection orders under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003 (as described in paragraph 15A of Part 1 of Schedule 1 to the Act);
- (r) forced marriage protection orders under Part 4A of the Family Law Act 1996 (as described in paragraph 16 of Part 1 of Schedule 1 to the Act);
- (s) the following EU and international agreements concerning children (as described in paragraph 17 of Part 1 of Schedule 1 to the Act):
  - i. an application made to the Lord Chancellor 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;
  - ii. an application made to the Lord Chancellor under the 1980 Hague Convention in respect of a child who is, or is believed to be, in England and Wales;
  - iii. the recognition or enforcement of a judgment in England and Wales in accordance with Article 21, 28, 41, 42 or 48 of the 2003 Brussels Regulation.

- (t) the following EU and international agreements in relation to an application for the recognition or enforcement in England and Wales of a maintenance order (as described in paragraph 18 of Part 1 of Schedule 1 to the Act):
  - i. the 1968 Brussels Convention;
  - ii. the 1973 Hague Convention;
  - iii. the 1989 Lugano Convention;
  - iv. the 2000 Brussels Regulation;
  - v. the 2007 Lugano Convention;
  - vi. the EU Maintenance Regulation;
  - vii. the 2007 Hague Convention;
  
- (u) Proceedings under section 3, 3A, 5 or 5A of the Protection from Harassment Act 1997 (as described in paragraph 37 of Part 1 of Schedule 1 to the Act) arising out of a family relationship.

34. Legal Help and all proceedings in relation to matters arising out of a family relationship where the client has been, or is at risk of being, a victim domestic violence (as described by paragraph 12 of Part 1 of Schedule 1 of Part 1 to the Act), including matters under the following enactments:

- (a) section 17 of the Married Women's Property Act 1882;
- (b) the Maintenance Orders (Facilities for Enforcement) Act 1920;
- (c) the Maintenance Orders Act 1950;
- (d) the Maintenance Orders Act 1958;
- (e) the Maintenance Orders (Reciprocal Enforcement) Act 1972;
- (f) Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (staying of matrimonial proceedings) and corresponding provision in relation to civil partnerships made by rules of court under section 223 of the Civil Partnership Act 2004;
- (g) the Matrimonial Causes Act 1973;
- (h) the Inheritance (Provision for Family Dependents) Act 1975;
- (i) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (j) Part 3 of the Matrimonial and Family Proceedings Act 1984;
- (k) Parts 1 and 3 of the Family Law Act 1986;

- (l) Parts 1 and 2 of the Children Act 1989;
- (m) section 53 of, and Schedule 7 to, the Family Law Act 1996;
- (n) Chapters 2 and 3 of Part 2 of the Civil Partnership Act 2004;
- (o) section 54 of the Human Fertilisation and Embryology Act 2008
- (p) section 51A of the Adoption and Children Act 2002
- (q) applications for an order under section 14 of the Trusts of Land and Appointment of Trustees Act 1996 arising out of a family relationship

35. Legal Help and all proceedings in relation to the following orders and procedures where the child involved is at risk of abuse (as described in paragraph 13 of Part of Schedule 1 to the Act):

- (a) orders under section 4(2A) of the Children Act 1989 (removal of father's parental responsibility);
- (b) orders under section 6(7) of the Children Act 1989 (termination of appointment of guardian);
- (c) orders mentioned in section 8(1) of the Children Act 1989 (child arrangement orders and other orders);
- (d) special guardianship orders under Part 2 of the Children Act 1989;
- (e) orders under section 33 of the Family Law Act 1986 (disclosure of child's whereabouts);
- (f) orders under section 34 of the Family Law Act 1986 (return of child)
- (g) orders under section 51A of the Adoption and Children Act 2002 (post-adoption contact)

36. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act) this Category also includes all other Legal Help and related proceedings arising out of family relationships, including proceedings in which the welfare of children is to be determined

## Housing

37. Legal Help and proceedings in relation to:

- (a) Possession of an individual's home (other than mortgage possession) (as described in subparagraph 33(1)(a) of Part 1 of Schedule 1 to the Act)<sup>2</sup>;
- (b) Eviction from an individual's home of the individual or others, including unlawful eviction and planning eviction matters and closure orders not arising out of criminal conduct (as described in subparagraph 33(1)(b) of Part 1 of Schedule 1);
- (c) The provision of accommodation and assistance under Parts 6 and 7 of the Housing Act 1996 for an individual who is homeless or threatened with homelessness (as described in paragraph 34 of Part 1 of Schedule 1 to the Act)<sup>3</sup>;
- (d) The provision of accommodation by way of community care services as specified in paragraph 6 of Part 1 of Schedule 1 to the Act, in relation to an individual who is homeless or threatened with homelessness;
- (e) Housing disrepair matters described in paragraph 35 of Part 1 of Schedule 1 to the Act, namely removing or reducing a serious risk of harm to the health or safety of the individual or relevant family member where the risk arises from a deficiency in the individual's rented or leased home and the legal services are provided with a view to securing that the landlord makes arrangements to remove or reduce the risk. This includes Legal Help for applications under section 82 of the Environmental Protection Act 1990 for a statutory nuisance, where the application falls within the terms of paragraph 35 of Part 1 of Schedule 1;
- (f) Applications to vary or discharge an injunction under section 153A of the Housing Act 1996;
- (g) Injunctions under the Protection from Harassment Act 1997 arising from matters within paragraphs 37 and 38 of these Category Definitions (paragraph 37 of Part 1 of Schedule 1 to the Act); and,
- (h) The powers of the Secretary of State to provide or arrange to provide accommodation under section 4 or 95 of the Immigration and Asylum Act 1999 and section 17 of the Nationality, Immigration and Asylum Act 2002 (as described by paragraph 31 of Part of Schedule 1 to the Act).

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<sup>2</sup> Possession arising from mortgage arrears and court orders for sale of the home fall within the Debt Category.

<sup>3</sup> References to Part 7 of the Housing Act 1996 (or to provisions within Part 7 of the Housing Act 1996) include reference to Part 2 of the Housing (Wales) Act 2014 (or equivalent provisions within Part 2 of the Housing (Wales) Act 2014

38. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act) this category also includes all other Legal Help and related proceedings in relation to matters which concern the possession, status, terms of occupation, repair, improvement, eviction from, quiet enjoyment of, or payment of rent or other charges for premises (including vehicles and sites they occupy) which are occupied as a residence, including the rights of leaseholders under the terms of their lease or under any statutory provision (including enfranchisement). Cases including allocation, transfers and the provision of sites for occupation are also included.

### **Immigration and Asylum**

39. Legal Help on matters and all proceedings in relation to:

- (a) Immigration-related detention powers referred to in paragraph 25(1) of Part 1 of Schedule 1 to the Act;
- (b) Conditions of immigration bail under provisions referred to in paragraph 26(1) or 27(1) of Part 1 of Schedule 1 to the Act;
- (c) Conditions imposed on an individual under the provisions referred to in paragraph 27A(1) of Part 1 of Schedule 1 to the Act;
- (d) An application for indefinite leave by a victim of domestic violence (as described in paragraph 28 of Part 1 of Schedule 1 to the Act);
- (e) A residence card application by a victim of domestic violence (as described in paragraph 29 of Part 1 of Schedule 1 to the Act);
- (f) Rights to enter and to remain in the United Kingdom under the provisions referred to in paragraph 30(1) of Part 1 of Schedule 1 to the Act;
- (g) An application by a victim of human trafficking for leave to enter or remain in the United Kingdom (as described in subparagraph 32(1) of Part 1 of Schedule 1 to the Act);
- (h) A Terrorism Prevention and Investigation Measure notice (as described in paragraph 45 of Part 1 of Schedule 1 to the Act);
- (i) An application by a victim of slavery, servitude or forced or compulsory labour for leave to enter or remain in the United Kingdom (as described in subparagraph 32A(1) of Part 1 of Schedule 1 to the Act); and
- (j) A claim for damages arising from any of the powers listed in (a)-(c) of this paragraph 39 (as described in paragraphs 3, 21, 22, of 39) of Part 1 of Schedule 1 to the Act).

40. Legal help and all proceedings before the Special Immigration Appeals Commission (as described in paragraph 24 of Part 1 of Schedule 1 to the Act).
41. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act) this category includes all other Legal Help and proceedings in relation to any matter where the primary problem or issue is an immigration or asylum matter.

### **Mental Health Category**

42. Legal Help and all proceedings in relation to:
- (a) cases under the Mental Health Act 1983, the Mental Capacity Act 2005, and paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984 (as described in paragraph 5 of Part 1 of Schedule 1 to the Act);
  - (b) the inherent jurisdiction of the High Court in relation to vulnerable adults (as described in paragraph 9 of Part 1 of Schedule 1 to the Act);
  - (c) the inherent jurisdiction of the High Court in relation to children (as described in paragraph 9 of Part 1 of Schedule 1 to the Act) where the case relates to a decision on medical treatment; and
43. For the avoidance of doubt, except as permitted by paragraph 13 above the Mental Health Category does not include any civil legal services made available under paragraphs 21 or 22 of Part 1 of Schedule 1 to the Act, including, but not limited to, matters arising from an individual's detention under the Mental Health Act 1983 or the Mental Capacity Act 2005. Nor does it include services under the Mental Health Act 1983 that are required to be made available under sections 13, 15 and 16 of the Act (criminal legal aid).
44. To the extent that any relevant grant of exceptional funding is made (in accordance with section 10 of the Act), this category also includes advocacy for matters arising under the Mental Capacity Act 2005 (as described in paragraph 5 of Part 1 of Schedule 1 to the Act) that are not listed in paragraph 4 of Part 3 of Schedule 1 to the Act.

### **Public Law Category**

45. Legal Help and related proceedings in relation to:
- (a) public law challenges to the acts, omissions or decisions of public bodies by way of judicial review or habeas corpus (as described in paragraphs 19 and 20 of Part 1 of Schedule 1); and

- (b) any claim described in paragraph 21 or 22 of Part 1 of Schedule 1 to the Act concerning the human rights of the client or a dependant of the client other than matters that fall within the definition of another Category<sup>4</sup>.

### **Welfare Benefits**

46. Legal Help in relation to appeals on a point of law in the Upper Tribunal, Court of Appeal and Supreme Court for all welfare benefits (including housing benefit, war pensions, state pensions and other similar benefits under a social security enactment, the Vaccine Damage Payments Act 1979 or Part 4 of the Child Maintenance and Other Payments Act 2008) (as described in paragraph 8 of Part 1 of Schedule 1 to the Act)
47. Legal Help in relation to appeal on a point of law relating to a council tax reduction scheme from the Valuation Tribunal England and the Valuation Tribunal Wales to the High Court, Court of Appeal and Supreme Court (as described in paragraph 8A of Part 1 of Schedule 1 to the Act)
48. .Legal representation for appeals to the Court of Appeal and the Supreme Court on a point of law in relation to all welfare benefits (including housing benefit, war pensions, state pensions and other similar benefits under a social security enactment, the Vaccine Damage Payments Act 1979 and Part 4 of the Child Maintenance and Other Payments Act 2008) and appeals on a point of law relating to a council tax reduction scheme to the Court of Appeal and Supreme Court (as described in paragraphs 8 and 8A of Part 1 of Schedule 1 to the Act).
49. To the extent that any grant of exceptional funding is made this category includes Legal Help in relation to all welfare benefits (including council tax reduction scheme appeals, housing benefit, war pensions, state pensions and vaccine damage payments or similar payments), and in relation to proceedings before any welfare benefit review or appeal body any subsequent or related proceedings before a court.

### **Miscellaneous Work**

50. Civil legal services that are not included within any Category of Law are classified as “Miscellaneous Work”. For ease of reference, the following matters or proceedings that are described in Part 1 of Schedule 1 to the Act are likely to fall outside all Civil Categories and thus be classified as Miscellaneous Work.

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<sup>4</sup> However, see paragraph 15 above for services under the Human Rights Act 1998 in relation to damages claims that fall within Public Law notwithstanding the overlap with the Family and Claims Against Public Authorities Categories.

### ***Working with children and vulnerable adults***

51. Legal Help and all proceedings in relation to:

- (a) The inclusion of a person in a barred list or the removal of a person from a barred list (as described in paragraph 4(1)(a) of Part 1 of Schedule 1 to the Act);
- (b) A disqualification order under section 28, 29, or 29A of the Criminal Justice and Court Services Act 2000 (disqualification from working with children) (as described in paragraph 4(1)(b) of Part 1 of Schedule 1 to the Act);
- (c) A direction under section 142 of the Education Act 2002 (prohibition from teaching etc) (as described in paragraph 4(1)(c) of Part 1 of Schedule 1 to the Act).

### ***Protection from Harassment***

52. Legal Help and all proceedings in relation to:

- (a) An injunction under section 3 or 3A of the Protection from Harassment Act 1997 (as described in paragraph 37(1)(a) of Part 1 of Schedule 1 to the Act);
- (b) The variation or discharge of a restraining order under section 5 or 5A of that Act (as described in paragraph 37(1)(b) of Part 1 of Schedule 1 to the Act),  
  
(other than where they are included in the Family or Housing Categories of Law by virtue of paragraphs 33(u) and 37(g) of the Category Definitions respectively. ).

### ***Proceeds of Crime***

53. Legal Help and proceedings in relation to:

- (a) Restraint orders under section 41 of the Proceeds of Crime Act 2002 (POCA) including orders under section 41(7) of POCA (orders for ensuring that restraint order is effective) (as described in paragraph 40(1)(a) of Part 1 of Schedule 1 to the Act);
- (b) Orders under section 47M of POCA (detention of property) (as described in paragraph 40(1)(b) of Part 1 of Schedule 1 to the Act);
- (c) Directions under section 54(3) of POCA (distribution of funds in the hands of a receiver) (as described in paragraph 40(1)(c) of Part 1 of Schedule 1 to the Act);
- (d) Directions under section 62 of POCA (action to be taken by receiver) (as described in paragraph 40(1)(d) of Part 1 of Schedule 1 to the Act);



- (e) Orders under section 67A of POCA (realising property), including directions under section 67D of POCA (distribution of proceeds of realisation) (as described in paragraph 40(1)(e) of Part 1 of Schedule 1 to the Act);
- (f) Orders under section 72 or 73 of POCA (compensation) (as described in paragraph 40(1)(f) of Part 1 of Schedule 1 to the Act);
- (g) Applications under section 351 of POCA (discharge or variation of a production order or order to grant entry) (as described in paragraph 40(1)(g) of Part 1 of Schedule 1 to the Act);
- (h) Applications under section 362 of POCA (discharge or variation of disclosure order) (as described in paragraph 40(1)(h) of Part 1 of Schedule 1 to the Act);
- (i) Applications under section 369 of POCA (discharge or variation of customer information order) (as described in paragraph 40(1)(i) of Part 1 of Schedule 1 to the Act);
- (j) Applications under section 375 of POCA (discharge or variation of account monitoring orders) (as described in paragraph 40(1)(j) of Part 1 of Schedule 1 to the Act).

54. Note that where a confiscation order has been made against a defendant under Part 2 of POCA, civil legal services provided to the defendant in relation to directions under section 54(3) or section 67D of POCA that relate to property recovered pursuant to the order are not within scope of Part 1 of Schedule 1 to the Act.

55. Note that where a confiscation order has been made under Part 2 of POCA against a defendant and varied under section 29 of POCA, civil legal services provided in relation to an application by the defendant under section 73 of POCA are not within scope of Part 1 of Schedule 1 to the Act.

### ***Environmental Pollution***

56. Legal Help and all proceedings in relation to injunctions in respect of nuisance arising from pollution of the environment (as described in paragraph 42(1) of Part 1 of Schedule 1 to the Act).

### ***Sexual offences***

57. Legal help and all proceedings in relation to a sexual offence where the client is the victim of the offence, including incitement to commit a sexual offence, encouraging or assisting a sexual offence which the person intended or believed would be committed, conspiracy to commit a sexual offence, and an attempt to commit a sexual offence (as described in paragraph 39 of Part 1 of Schedule 1 to the Act) other than where these matters are included in the Claims Against Public Authorities Category.

### ***Victims of trafficking in human beings or modern slavery***

58. Legal Help and all proceedings in connection with:

- (a) a claim for damages arising in connection with the trafficking or exploitation of an individual who is a victim of human trafficking (as described in subparagraph 32(3) of Part 1 of Schedule 1 to the Act);
- (b) claims under employment law arising in connection with the exploitation of an individual who is a victim of human trafficking (as described in subparagraph 32(2) of Part 1 of Schedule 1 to the Act);
- (c) a claim under employment law arising in connection with the conduct by virtue of which an individual who is a victim of slavery, servitude or forced or compulsory labour is such a victim (as described in subparagraph 32A(2) of Part 1 of Schedule 1 to the Act); and,
- (d) a claim for damages arising in connection with the conduct by virtue of which an individual who is a victim of slavery, servitude or forced or compulsory labour is such a victim (as described in subparagraph 32A(2) of Part 1 of Schedule 1 to the Act)

### ***Injunctions to prevent gang-related violence***

59. Legal Help and all proceedings in relation to injunctions to prevent gang-related violence under Part 4 of the Policing and Crime Act 2009 (as described in subparagraph 38(1) of Part 1 of Schedule 1 to the Act).

### ***Abuse of child or vulnerable adult***

60. Legal Help and all proceedings in relation to abuse of an individual that took place at a time when the individual was a child or vulnerable adult (as described in paragraph 3(1) of Part 1 of Schedule 1 to the Act other than where these matters are included in the Claims Against Public Authorities Category.

### ***Anti-social behaviour injunctions***

61. Legal Help and proceedings in relation to an injunction in respect of anti-social behaviour or alleged anti-social behaviour under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 and related parenting orders (as described in paragraph 36(1) of Part 1 of Schedule 1 and paragraph 1(1)(e) of Part 1 of Schedule 1.)