

## Scope of Family Proceedings Under LASPO

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

For family law, the general position 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 violence or child abuse and specific evidence fulfilling the requirements of regulation 33 or 34 of the 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;</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>

Public Law Proceedings		
Orders Under Section 25 of the Children Act 1989	<ul style="list-style-type: none"> <li>Secure Accommodation Orders</li> </ul>	<ul style="list-style-type: none"> <li>Non means/merits tested for the child who is the subject of the order</li> </ul>
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>	<ul style="list-style-type: none"> <li>Non means/merits for the child who is the subject of the order and parents of/parties with parental responsibility for the subject child</li> </ul>
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 a Care/Supervision Order</li> <li>Removal and accommodation of children by police in cases of emergency.</li> </ul>	<ul style="list-style-type: none"> <li>Means and merits tested for all parties</li> </ul>

	<ul style="list-style-type: none"> <li>• Appeals in public law cases (including appeals against final orders made in Special Children Act Proceedings)</li> </ul>	
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>	<ul style="list-style-type: none"> <li>• Means and merits tested for all parties</li> </ul>
Orders under the Inherent Jurisdiction of the High Court in relation to children	<ul style="list-style-type: none"> <li>• Wardship</li> </ul>	<ul style="list-style-type: none"> <li>• Means and merits tested for all parties</li> </ul>
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>	<ul style="list-style-type: none"> <li>• Non means/non merits tested where “related” to Special Children Act proceedings</li> </ul>

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 unlawfully removed from the UK	<ul style="list-style-type: none"> <li>• Prohibited steps orders 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 that Act for the child’s return</li> <li>• A requirement under section 37 of that act 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 orders 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 that Act for the child’s return</li> <li>• Applications under section 27 of that Act for registration of an order relating to that child</li> </ul>
Orders in relation to family homes and domestic violence under Part 4 of the Family Law Act 1996.	<ul style="list-style-type: none"> <li>• Occupation orders</li> <li>• Non-molestation orders</li> <li>• Forced marriage protection orders</li> </ul>
International agreements concerning children	<ul style="list-style-type: none"> <li>• Applications under the 1980 European Convention on Child Custody for the recognition</li> </ul>

	<p>or enforcement in England and Wales of a decision relating to the custody of a child;</p> <ul style="list-style-type: none"> <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>
International agreements concerning maintenance	<ul style="list-style-type: none"> <li>• Applications for recognition or enforcement in England or Wales of a maintenance orders under the 2007 Hague Convention on Maintenance.</li> </ul>

### **Proceedings for which evidence is required**

The following proceedings will only be within the scope of legal aid where evidence pertaining to domestic violence or child abuse, as specified in the Procedure Regulations, is provided in support of the application.

<b>Private Law Proceedings</b>	
Family proceedings where the client has provided evidence of domestic violence in accordance with regulation 33 of the Procedure 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>• Special guardianship orders</li> <li>• Prohibited steps orders</li> <li>• Specific issue orders</li> <li>• Orders under section 33 &amp; 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>
Family proceedings where the client provides evidence of child abuse in accordance with regulation 34 of the Procedure 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>• Special guardianship orders</li> <li>• Specific issue orders</li> <li>• Prohibited steps orders</li> <li>• Orders under section 33 &amp; 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>

### **Further Guidance**

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.

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:

- <https://www.gov.uk/work-out-who-qualifies-for-civil-legal-aid>

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

- <https://www.gov.uk/funding-and-costs-assessment-for-civil-and-crime-matters>