



Legal Aid
Agency

GUIDANCE ON COMPLETING FORM CIVAPP8

April 2013 v1.1

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1. Overview

Please use this guidance alongside form CIVAPP8 to ensure you submit the correct information

If your request is genuinely urgent please clearly mark the front of the form

2. Page 1

- Is the form the current version? The current version of the form is version 16 – April 2013, but you can check for the most up to date version at <http://www.justice.gov.uk/forms/legal-aid-agency/civil-forms/applications>
- Is the client's address (mandatory) the most up to date address you have on your file?
- If the client currently has a certificate for Family Help (Higher) and the application is to amend the certificate to include Legal Representation then the relevant evidence under Regulation 33 or 34 of the Civil Legal Aid (Procedure) Regulations must be provided.

3. Page 2

- The “Family” category box has been omitted from the form. This will be corrected when the form is updated in October, but until then please use “Other proceedings” and write in “Family”
- You must complete the primary proceedings declaration where the original application for legal aid concerned private law family proceedings for which evidence was required under paragraphs 12 or 13 of Part 1 of Schedule 1 to the Legal Aid Sentencing and Punishment of Offenders Act 2012.

4. Page 3

- Please set out what amendment(s) to the certificate you are seeking at the top of page 3.
- A brief summary of the work you have completed to date is required. details of how many hearings have been attended is useful as well as information regarding any disbursements that you have had to incur.
- Please provide dates of any forthcoming hearing(s), the length of time it is listed for and details of any disbursements (expert's reports etc) that have been ordered and the cost of them (if known) along with confirmation as to your client's share of the disbursement.
- Specific breakdown of future costs such as cost of the hearing and preparation work

- If you are applying for an amendment to cover the final hearing, please provide information as to why the final hearing cannot be avoided and what matters within those proceedings specifically remain outstanding.
- If a change of solicitor amendment is being applied for, please provide details of why the change is being requested and whether or not the complaints procedure has been instigated with the firm who currently hold the certificate. If the current solicitors agree to the transfer, please indicate this on page 3.

5. Page 4

- Regulation 42(k) of the Civil Legal Aid (Procedure) Regulations 2012 states that where certain evidence has been provided legal aid may be withdrawn in some circumstances, for example, where the evidence provided is in relation to a conviction for an offence and that conviction has subsequently been quashed. Providers should therefore indicate that any such evidence remains valid for the purposes of satisfying the Procedure Regulations.

6. Page 5

- Exercising delegated functions to amend an emergency certificate should only be done when the substantive certificate has not been considered by the LAA and the work to be carried out is within the first 8 weeks of the initial delegated functions being used. Please remember to include the date the amendment was granted under delegated functions. Delegated functions should not be used on a CIVAPP8 to amend a substantive certificate

7. Page 6

- Please complete the estimate of costs with details of your costs to date and an estimate of your costs between completion of the form and settlement/disposal and/or your costs to trial/final hearing. Please note that the estimated costs to trial must be completed but the cost limitation cannot be amended to that figure until the scope limitation covers the final hearing.

8. Page 7

- The benefit to client section should be completed in family cases where there are financial benefits in issue (e.g. lump sum, property adjustment, maintenance)

9. Page 8

- The ancillary relief – private funding section should be completed if Legal Aid was provided under a certificate following an application made on or before 31st March 2013 and if the amendment relates to the specific examples set out on page 8. Please refer to the Lord Chancellor's Guidance.

10. Page 10

- Please ensure that the prior authority details have been completed, especially the expert's name and type, the maximum authority you are seeking (i.e. what your client is to pay) and the expert's hourly rates for preparation and travel (if any). Remember also to indicate whether the expert is to be jointly instructed.
- Where there are a number of parties to an action e.g. children act applications, but only one of the parties may be legally aided, where there is an order that the costs of an experts report are to be borne under the legal aid certificate, we will require evidence that the court considered the provisions of Section 30(1) Legal Aid Sentencing and Punishment of Offenders Act 2012

11. Page 11

- Make sure that the form is signed and dated within two months of submission to us

12. Notes

To assist with the processing and turnaround time of amendments to legal aid certificates and to reduce the need for rejection, please check the following before submission:

- If a finding of fact hearing has been listed on Section 8 proceedings, please be aware that the Family Help Higher – children limitation covers you to attend this hearing and no amendment to the scope of the certificate is necessary
- Please check your certificate's costs and legal limitations (e.g. are you covered to final hearing and is the certificate live and not subject to show cause?)
- Please submit the CIVAPP8 in good time for the final hearing

13. Merits Criteria

The criteria to be addressed when applying to amend a certificate to cover a final hearing are:

- Prospects of success – Section 43 of the Civil Legal Aid (Merits Criteria) Regulations 2013– Legal Representation will be refused if prospects of success are poor)

- Cost benefit – Section 42 of the Civil Legal Aid (Merits Criteria) Regulations 2013 - Legal representation will be refused unless the likely benefits to be gained from the proceedings for the client justify their likely costs, such that a reasonable private paying client would be prepared to take or defend the proceedings in all the circumstances)

For legal representation to be continued the issues remaining between the parties must satisfy the cost benefit/prospects of success criteria.

Where the prospects of achieving a satisfactory outcome are described on the CIVAPP8 as being borderline, poor or unclear, you are asked to indicate why you have made this assessment and to clarify why, in the light of the assessment,, further funding should be given.

14. Attachments Required

- Copy of the most recent court directions
- Copy of CAFFCASS/s.7/s.37 report if applying for the final hearing in a s.8 Children Act or public law (means/merits tested) case.
- copy of written complaint and solicitors written response when applying for change of solicitor if the client is dissatisfied with their present firm
- A copy of the expert's quote where prior authority is sought

END OF DOCUMENT