



# The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 - Evidence Requirements for Private Family Law Matters

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## Version History

Version	Date	Reason
1	April 2013	Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced
2	October 2013	Operational review
3	22 April 2014	Regulatory review
4	18 June 2014	Updates to reflect new rehabilitation guidance.
5	17 July 2015	Regulatory review
6	21 April 2016	Regulatory review
7	16 May 2016	Regulatory review

8	8 <sup>th</sup> January 2018	Regulatory review
9	9 <sup>th</sup> April 2020	COVID-19 Operational Review - temporary changes to be reviewed again in 3 months
10	15 <sup>th</sup> May 2020	Regulatory review
11	1 <sup>st</sup> March 2023	Regulatory review
12	27 <sup>th</sup> November 2024	Regulatory review – Amending Schedule 1 to include para 6A: Domestic Abuse Protection Notice's (DAPNs) as a form of evidence of Domestic Violence under the Domestic Abuse Protection Notice's and Domestic Abuse Protection Orders pilot.

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## 1. Introduction

- 1.1 The Legal Aid Sentencing and Punishment of Offenders Act 2012 (“LASPO”) has been in force since 1 April 2013 and governs the provision of legal aid across England and Wales. Under LASPO legal aid for most children and finance matters in private family law cases will only be available where a client has specified evidence in relation to domestic violence or child protection.
- 1.2 The evidence that is required for an application for legal aid in these matters is prescribed in the Civil Legal Aid (Procedure) Regulations 2012 (“the Regulations”) as amended.
- 1.3 Regulation 33 deals with evidence requirements relating to domestic violence and Regulation 34 with evidence requirements relating to child protection. The amended Regulations can be found here:  
  
<https://www.legislation.gov.uk/ukxi/2023/150/article/7/made>
- 1.4 Schedule 1 to the Regulations sets out the evidence requirements in relation to domestic violence and Schedule 2 sets out the evidence requirements relating to child protection.
- 1.5 The evidence requirements are prescribed in the Regulations and there is no discretion for the Legal Aid Agency to accept other evidence, (save in limited circumstances in the case of financial abuse), nor for the requirement for evidence to be waived.
- 1.6 Any application for legal aid (Controlled or Licensed work) for the private law children and finance matters set out in paragraphs 12 and 13 of Part 1, Schedule 1 of LASPO must satisfy one of the prescribed evidence requirements.
- 1.7 To make a Controlled Work determination and open a matter start, a client must have one of these prescribed forms of evidence set out in Schedule 1 or 2, as appropriate. The relevant box on the CW1 form will need to be ticked and the original documentation must be retained on file. Where the evidence is in relation to abuse of a financial nature, providers will be able to accept evidence which they are satisfied demonstrates that the client has been a victim of domestic violence in the form of financial abuse – see Schedule 1 (para 21) and this guidance.
- 1.8 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 violence (paragraph 11). 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. Schedule 1 (para 21) of the Regulations (as amended) does not prescribe a specific type of evidence that an individual is required to supply to demonstrate that they are at risk of or have been a victim of financial abuse.

- 1.9 The evidence should be obtained and provided before the determination for legal aid is made. A matter start may not be opened to assist a client in obtaining the prescribed evidence and legal aid is not available to cover any costs of obtaining the evidence. Legal aid is only available for matters that are within scope, therefore it is not available until the point at which prescribed evidence is provided.
- 1.10 To make a Licensed Work determination, a provider must provide the Legal Aid Agency with one of these prescribed forms of evidence as part of the legal aid application. A provider must also indicate which piece of evidence they are providing.
- 1.11 The evidence document must be retained on the file and can be called for at any time and the Legal Aid Agency may take steps to verify that the evidence meets prescribed requirements.
- 1.12 Schedule 1 (para 21) of the Regulations does not prescribe a specific type of evidence that an individual is required to provide to demonstrate that they are or have been a victim of financial abuse. If the Director of Legal Aid Casework (“DLAC”) is satisfied, on the evidence provided, that it is likely that the client is or has been a victim of domestic violence in the form of financial abuse, the DLAC may determine that the evidence criteria are met. The DLAC will consider these applications on a case by case basis. See below for further details as to the types of evidence that demonstrate financial abuse.
- 1.13 Where the applicant is unable to provide documentary evidence of the kind set out in this guidance to support their account of financial abuse, the DLAC may take into account whether there is a compelling reason for this and other evidence, for example, an account of the alleged abuse, that is provided. The DLAC would need to consider whether they are satisfied that the evidence provided demonstrates that they are a victim of domestic violence in the form of financial abuse. The attendance note or application form must set out in full the reason why the provider considered this to be the case.
- 1.14 This guidance provides further details on the information the evidence must contain to satisfy the requirements in the Regulations. This guidance is not, unless otherwise stated, an exhaustive list of all the kinds of evidence that may satisfy the requirements. This guidance is reviewed on a regular basis. The most recent amendments to the guidance have been made in response to individuals being impacted as a result of the COVID-19 pandemic. The LAA will continue to monitor and review this guidance document during this period.
- 1.15 You should read LASPO, the Regulations and this guidance to establish whether the piece of evidence you have would meet prescribed requirements.**
- 1.16 Documentation submitted as evidence can be lengthy for example reports from social services or experts, particularly if there are several reports. You must identify which parts of the report/s you are relying on as evidence to enable the application to be appropriately dealt with.**

**2. Regulation 33 Supporting Documents: Domestic Violence - Where your client is seeking legal aid in respect of one of the proceedings listed in paragraph 12 of Part 1, Schedule 1, LASPO**

- 2.1 If a client provides one of the prescribed forms of evidence set out in this Regulation then legal aid for certain children and finance issues set out in paragraph 12, Part 1, Schedule 1 (including divorce) may be available if the appropriate means and merits criteria are met.
- 2.2 The LASPO definition of domestic violence is any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other.
- 2.3 The evidence must show, unless otherwise stated, that your client was, or is at risk of being a victim of domestic violence from another party to the proceedings (“B”) in the case. For some forms of evidence, the evidence may identify another person with whom B is or was in a family relationship as being or at risk of being a victim of domestic violence from B. The definition of a family relationship is set out in s62 of the Family Law Act 1996 and includes:
- (a) they are or have been married to each other;
  - (aa) they are or have been civil partners of each other;
  - (b) they are cohabitants or former cohabitants;
  - (c) they live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder;
  - (d) they are relatives;
  - (e) they have agreed to marry one another (whether or not that agreement has been terminated);
  - (ea) they have or have had an intimate personal relationship with each other which is or was of significant duration;
  - (eza) they have entered into a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) (whether or not that agreement has been terminated);
  - (f) in relation to any child, they are both [parents or persons with parental responsibility for the child]; or
  - (g) they are parties to the same family proceedings (other than proceedings under this Part).
- 2.4 The table below sets out which pieces of evidence must be in relation to the applicant for legal aid and which pieces of evidence may be in relation to another person with whom B is or was in a family relationship:

Type of evidence	Evidence in relation to another person
Schedule 1 (para 1) Arrest for a relevant domestic violence offence	Y
Schedule 1 (para 2) Relevant police caution for a domestic violence offence	Y
Schedule 1 (para 3) Relevant ongoing criminal proceedings	Y
Schedule 1 (para 4) A relevant conviction for a domestic violence offence	Y
Schedule 1 (para 5) Bind overs connected with a domestic violence offence	Y
Schedule 1 (para 6) Domestic Violence Protection Notice	Y
Schedule 1 (para 6A) Domestic Abuse Protection Notice	Y
Schedule 1 (para 7) Relevant protective injunction	Y
Schedule 1 (para 8) Undertaking	Y
Schedule 1 (para 9) Finding of fact	Y
Schedule 1 (para 10) Expert report produced as evidence for court/tribunal	Y
Schedule 1 (para 11) Letter or report from an appropriate health professional	N
Schedule 1 (para 12) An appropriate health professional referral to a domestic violence support service	N
Schedule 1 (para 13) Multi agency risk assessment conference (or other local safeguarding forum)	N
Schedule 1 (para 14) Letter from an independent domestic violence advisor/advocate	N
Schedule 1 (para 15) Letter from an independent sexual violence advisor/advocate	N
Schedule 1 (para 16) Letter from local authority or housing association	Y
Schedule 1 (para 17) Letter from organisation providing domestic violence support services	N
Schedule 1 (para 18) Domestic violence support organisation - refusal of admission to a refuge	Y
Schedule 1 (para 19) Letter from public authority	Y
Schedule 1 (para 20) Leave to remain in the UK as a victim of Domestic Violence	N
Schedule 1 (para 21) Financial abuse	N

2.5 Note the following:

- A Licensed Work application will be rejected if the evidence does not satisfy the requirements prescribed in the regulations, on the basis that the case is out of scope of legal aid.
- A Licensed Work application will be rejected if no evidence prescribed in the regulations is submitted with the application.
- A Controlled Work claim where the evidential requirements were not met will be nil assessed on the basis that the case is out of scope for legal aid.
- A Controlled Work claim will be nil assessed where the evidence was obtained subsequent to the determination being made.

2.6. The DLAC can withdraw legal aid funding under Regulation 42 (k) (i) – (viii) where they are satisfied that the individual was not a victim, or at risk of being a victim of



domestic violence. In these circumstances funding will be removed from the point the decision to remove funding is made. Funding will not be withdrawn where the individual is able to produce another piece of valid evidence that demonstrates that they are, or at risk of being, a victim of domestic violence.

- 2.7. The paragraphs below provide more information on the types of documents that will be accepted as evidence. They state where the list of acceptable forms of evidence is an exhaustive list. Checklists are provided to assist you to ensure you address all the required elements of the evidence.

### **Schedule 1 (para 1) Arrest for a relevant domestic violence offence**

#### ***Schedule 1 (1) "Evidence that B has been arrested for a relevant domestic violence offence."***

- 2.8 The evidence should name the person (B), who must be the other party in the case, as either currently under investigation or charged with the offence at the point of submission of the application and must be in relation to a domestic violence offence. A list of the domestic violence offences can be found here:  
<https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>
- 2.9 The evidence may be that B was arrested for a domestic violence offence against your client or another person with whom B is or was in a family relationship. Evidence that B is on bail for a domestic violence offence will be accepted.
- 2.10 As set out in paragraph 2.6 of this guidance, Regulation 42(k) of the 2012 Civil Legal Aid (Procedure) Regulations has been amended to expand the circumstances in which the DLAC can withdraw legal aid funding. Under Regulation 42 (k) (v) the DLAC may withdraw a determination for civil legal aid where representations are received showing that:
- no charge is brought for the domestic violence offence and the Director is satisfied that no such charge will be brought.
- 2.11 Funding will not be withdrawn where the individual is able to produce another piece of valid evidence that demonstrates that they are or were at risk of being a victim of domestic violence.

#### **Arrest overseas**

- 2.12 If the evidence relates to an arrest outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the arrest occurred. This will usually be on letter headed paper, however, we will accept the evidence via email from the relevant law enforcement agency during the COVID19 pandemic. The Legal Aid Agency may take steps to verify this evidence.
- 2.13 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file.

**Evidence Checklist:**

Document could be one of the following (examples) but must contain all required information below:

- A copy of the bail sheet from the police
- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been arrested for a relevant domestic violence offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.
- Newspaper clippings about the arrest

**Required information:**

- Respondent named as perpetrator
- Name of victim who is or was in a family relationship with the perpetrator
- Relevant domestic violence offence
- Respondent has been arrested for a domestic violence offence

**Schedule 1 (para 2) Police caution*****Schedule 1 (2) “A relevant police caution for a domestic violence offence.”***

- 2.14 The police caution must include the name of the person cautioned (B) who must be the other party in the case. The evidence may be that B was cautioned for a domestic violence offence against your client or another person with whom B is or was in a family relationship.
- 2.15 The evidence must also reflect that B was cautioned for a relevant domestic violence offence. A list of the domestic violence offences can be found here: <https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>. A police report where your client telephoned the police to complain about their ex-partner and the police took no action would not be sufficient to meet the evidence requirements. Some cautions for sexual offences do not specifically name the victim, but for all other offences it should identify the victim of domestic violence.

**Police caution overseas**

- 2.16 If the evidence relates to a police caution received outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the caution was received. This will usually be on letter headed paper, however, we will accept the evidence via email from the relevant law enforcement agency during the COVID-19 pandemic. The Legal Aid Agency may take steps to verify this evidence.
- 2.17 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file.

**Evidence Checklist:**

Document could be one of the following (examples) but must contain all required information below:

- A copy of the caution sheet from the police
- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been cautioned by the police for a relevant domestic violence offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.

**Required information:**

- Name of victim (where named) who is or was in a family relationship with the person cautioned
- Respondent named as the person cautioned
- Relevant domestic violence offence

**Schedule 1 (para 3) Ongoing criminal proceedings*****Schedule 1(3) "Evidence of relevant criminal proceedings for a domestic violence offence which have not concluded."***

- 2.18 The evidence should name the person charged with the offence (B) who must be the other party in the case.
- 2.19 It must also show that B has been charged with a domestic violence offence against your client or another person with whom B is or was in a family relationship. This criterion is not satisfied unless B has been formally charged although the proceedings may not have been listed for hearing.
- 2.20 The proceedings must also be in relation to a relevant domestic offence. A list of the domestic violence offences can be found here:  
<https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>
- 2.21 Some sexual offences do not specifically name the victim, but for all other offences the evidence should identify the victim of domestic violence.
- 2.22 As set out in paragraph 2.6 of this guidance, Regulation 42(k) of the 2012 Civil Legal Aid (Procedure) Regulations has been amended to expand the circumstances in which the DLAC can withdraw legal aid funding. Under Regulation 42 (k) (ii) the DLAC may withdraw a determination for civil legal aid where representations are received showing that:  
  
the criminal proceedings concluded without a conviction.
- 2.23 Funding will not be withdrawn where the individual is able to produce another piece of valid evidence that demonstrates that they are or were at risk of being a victim of domestic violence.

## Ongoing proceedings overseas

- 2.24 If the evidence relates to a criminal proceeding outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the offence is being tried. This will usually be on letter headed paper, however, we will accept the evidence via email from the relevant law enforcement agency during the COVID-19 pandemic. The Legal Aid Agency may take steps to verify this evidence.
- 2.25 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file.

### **Evidence checklist**

Document could be one of the following (examples) but must contain all required information below:

- A copy of the charge sheet from the police
- A document (including an e-mail) from the court confirming that the case has been listed. The LAA may take steps to verify this evidence.
- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been charged with a relevant domestic violence offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below
- Newspaper clippings about the case

### **Required information**

- Respondent named as perpetrator
- Name of victim (where named) who is or was in a family relationship with the perpetrator
- Relevant domestic violence offence

## **Schedule 1 para (4) A relevant conviction for a domestic violence offence**

### ***Schedule 1(4) "A relevant conviction for a domestic violence offence."***

- 2.26 The evidence should name the person charged (B) with the offence and they must be the other party in the case. The evidence may be that B was convicted for a domestic violence offence against your client or another person with whom B is or was in a family relationship.
- 2.27 If the offence was committed within the United Kingdom, it must also show that a relevant domestic violence offence was committed. A list of the domestic violence offences can be found here:  
<https://www.gov.uk/government/publications/domesticviolence-and-child-abuse-offences>
- 2.28 Some sexual offences do not specifically name the victim; for all other offences, it should identify the victim of domestic violence.

### *Offences committed overseas*

- 2.29 If the evidence relates to an offence outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the offence was tried. This will usually be on letter-headed paper however, we will accept the evidence via email from the relevant law enforcement agency during the COVID19 pandemic. The Legal Aid Agency may take steps to verify this evidence.
- 2.30 The evidence must be in English, and if it needs to be translated both a copy of the original document and the translation needs to be provided and retained on the file.

#### **Evidence checklist**

Document could be one of the following (examples) but must contain all required information below:

- Memorandum of Conviction (Magistrates Court)
- Certificate of Conviction (Crown Court)
- Formal written or email confirmation from the Police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been convicted of a relevant domestic violence offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.
- Newspaper clippings about the case

#### **Required information:**

- Respondent named as the person convicted
- Name of victim (where named) who is or was in a family relationship with the perpetrator
- Relevant domestic violence offence

### **Schedule 1 (para 5) Bind overs**

#### ***Schedule 1 (5) "Evidence of a court order binding over B in connection with a domestic violence offence."***

- 2.31 A bind over is where a court exercises its power to bind a defendant over as an alternative to, or following, a prosecution for, a criminal offence for a domestic violence offence. The evidence should name the person charged (B) with the offence and they must be the other party in the case. The evidence may be that B was bound over for a domestic violence offence against your client or another person with whom B is or was in a family relationship.
- 2.32 If a bind over is accepted by B as an alternative to prosecution then the CPS will not pursue prosecution. The victim should be informed of this outcome and appropriate measures should have been put in place to safeguard the victim and any children.
- 2.33 The bind over will contain details of the offence to which it relates, which must be on the list of domestic violence offences which can be found here: A list of domestic violence offences can be found here:

**Evidence checklist**

Document could be one of the following examples but must contain all required information below:

- Formal document from Court
- Formal written or email confirmation from the Police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address

**Required information:**

- Respondent named as the person bound over
- Name of victim (where named) who is or was in a family relationship with the perpetrator
- Relevant domestic violence offence

**Schedule 1(para 6) Domestic violence protection notice (DVPN)**

***Schedule 1 (6) “A domestic violence protection notice issued under section 24 of the Crime and Security 2010 against B.”***

2.34 A domestic violence protection notice (“DVPN”) is an emergency non-molestation and eviction notice, and issued to the perpetrator by the police and contain a prohibition usually barring the perpetrator from the victim’s home and/or from contacting the victim to protect victims or persons at risk of domestic violence. A DVPN will come into effect from the time the notice is served to the perpetrator (B) who must be the other party to the case. The evidence may be that B was issued with a DVPN in relation to your client or another person with whom B is or was in a family relationship. Where a domestic violence protection order is subsequently made this would be considered a protective injunction and considered under Schedule 1 (para 7).

**Evidence checklist**

Document should be:

- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address
- A copy of the DVPN from the police
- Court document detailing a DVPN

**Required information:**

- Name of the protected party who is or was in a family relationship with the perpetrator
- Respondent named as the person against whom the DVPN was made

## Schedule 1(para 6A) Domestic abuse protection notice (DAPN)

### **Schedule 1 paragraph 6A. “A domestic abuse protection notice given under section 22 of the Domestic Abuse Act 2021 against B.”**

- 2.35 A Domestic Abuse Protection Notice (DAPN) is a notice given by the police under Part 3 of the Domestic Abuse Act 2021 Act prohibiting a perpetrator from being abusive towards a person aged 16 or over to whom they are personally connected. A DAPN is intended to provide immediate protection from all forms of domestic abuse, not just from physical violence or the threat of physical violence. This may include sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, and psychological or emotional abuse. DAPNs may be given by police in forces in England and Wales, the British Transport Police or the Ministry of Defence Police.
- 2.36 It should be noted that DAPNs form part of a pilot initiative that commenced on 27<sup>th</sup> November 2024. This means that these notices will only be given by the police forces in the specified pilot areas (Greater Manchester, the London Boroughs of Bromley, Croydon and Sutton). DAPNs can also be issued by the British Transport Police within those specified pilot areas.

#### **Evidence checklist**

Document should be:

- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address.
- A copy of the DAPN from the police (including those issued by the British Transport Police).
- Court document detailing a DAPN.

#### **Required information:**

- Name of the protected party who is or was in a family relationship with the perpetrator.
- Respondent named as the person against whom the DAPN was made.

## Schedule 1 (para 7) Protective injunctions

### **Schedule 1(7) “A relevant protective injunction”**

- 2.37 This form of evidence must be in relation to a relevant protective injunction and can usually only be satisfied by a Court document detailing the relevant protective injunction. The evidence must name the person against whom the injunction was made (B) who must be the other party in the case and name the protected party who must be your client or another person who is or was in a family relationship B. However, if for, example, the relevant protective injunction is a restraining order obtained following criminal proceedings this evidence might also be satisfied by a document from the police.
- 2.38 A protective injunction means an order made by the court –
- (a) In respect of persons who are in a family relationship with each other containing any of the following provisions –
- (i) Protecting a person from harm, intimidation, threats or harassment;

- (ii) Protecting a person from being forced into a marriage or from any attempt to be forced into a marriage;
- (iii) Prohibiting a person from contacting, or communicating with, another;
- (iv) Concerning entry or access to, or the use or occupation of, property;

(b) For the protection from female genital mutilation under paragraph 1 or 18 of Schedule 2 to the Female Genital Mutilation Act 2003; or

(c) In respect of a violent offender within the meaning of section 98 of the Criminal Justice and Immigration Act 2008

2.39 Where you are making an application for a relevant protective injunction on behalf of your client, then the order must be obtained before you are able to rely on this evidence and are able to assist your client with their children or financial issues although this may be on the same day.

2.40 As set out in paragraph 2.6 of this guidance, Regulation 42(k) of the 2012 Civil Legal Aid (Procedure) Regulations has been amended to expand the circumstances in which the DLAC can withdraw legal aid funding. Under Regulation 42 (k) (iii) the DLAC may withdraw a determination for civil legal aid where representations are received showing that:

- the protective order was obtained without notice to the respondent, and
- the protective order has subsequently been set aside by the court.

2.41 Funding will not be withdrawn where the individual is able to produce another piece of valid evidence that demonstrates that they are or were at risk of being a victim of domestic violence.

#### **Evidence checklist**

Document must be:

- Court document detailing a relevant protective injunction
- A document from the Police CPS (or equivalent) or Witness Care Unit showing that a relevant protective injunction has been made

#### **Required information**

- Name of the protected party who is or was in a family relationship with the perpetrator ○ Respondent named as the person against whom the protective injunction was made

#### **Schedule 1 (para 8) Undertaking**

***Schedule 1(8) "An undertaking given in England and Wales under section 46 or 63E of the Family Law Act 1996 (or given in Scotland or Northern Ireland in place of a protective injunction) by B provided that a cross-undertaking relating to domestic violence was not given by A"***

2.42 The undertaking must be given in England and Wales under section 46 or 63E of the Family Law Act 1996 (or given in Scotland or Northern Ireland in place of a protective injunction). The undertaking must be given by B who is the other party to the case. The undertaking may be in relation to your client or another person with whom B is or was in a family relationship.



- 2.43 There must not have been any relevant cross-undertaking related to domestic violence given. Cross undertakings for example in relation to a child's education would not be relevant.

#### **Evidence checklist**

Document could be (examples):

- General Form of Undertaking (currently N117)
- Any other Court document

#### **Required information:**

- Respondent provided the undertaking
- Name of person given the undertaking who is or was in a family relationship with the perpetrator
- Undertaking is under appropriate section/Act- England and Wales under section 46 or 63E of the Family Law Act 1996(1) (or given in Scotland or Northern Ireland in place of a protective injunction).
- A relevant cross undertaking has not been given by your client.

#### **Schedule 1(para 9) Fact finding**

#### ***Schedule 1 (9) "A copy of a finding of fact, made in proceedings in the United Kingdom, that there has been domestic violence by B."***

- 2.44 This evidence will be in the form of a judgement or Court document (including a Tribunal if relevant). The finding of fact may be in relation to your client or to another person with whom B is, or was, in a family relationship.
- 2.45 Paragraph 21 of *Practice Direction 12J – 'Residence and contact orders: domestic violence and harm'* states that the court shall record its findings in writing, and shall serve a copy on the parties. This Practice Direction can be found here:  
[http://www.justice.gov.uk/courts/procedurerules/family/practice\\_directions/pd\\_part\\_12j](http://www.justice.gov.uk/courts/procedurerules/family/practice_directions/pd_part_12j)
- 2.46 There must have been a specific finding of fact made. Where this is the only evidence provided, the finding must have been made prior to the application for legal aid and could have been made at any time prior to the application. However, findings made after the application for legal aid will be accepted as additional proof of domestic violence where this may be required.
- 2.47 Allegations that are made within an undefended divorce petition, even if not refuted or where a decree nisi is granted based on unreasonable behaviour, would not meet the evidential requirements as there has been no formal finding of fact.

#### **Evidence checklist**

Document must be (exhaustive):

- Court document

#### **Required information:**

- Name of victim who is or was in a family relationship with the perpetrator
- Respondent named as perpetrator

## Schedule 1 (para 10) Expert report produced as evidence for court or tribunal

***Schedule 1 (10) “An expert report produced as evidence in proceedings in the United Kingdom for the benefit of a court or tribunal confirming that a person with whom B is or was in a family relationship, was assessed as being, or at risk of being, a victim of domestic violence by B.”***

- 2.48 This evidence must be in the form of an expert report produced as evidence for the court or tribunal proceedings in the United Kingdom, confirming that your client or another person with whom B is or was in a family relationship has been assessed as being, or at risk of being a victim of domestic violence by B.
- 2.49 As specified in Schedule 1(22), an “expert report” means a report by a person qualified to give expert advice on all or most of the matters that are subject of the report. This will include a report from Children and Family Court Advisory and Support Service (Cafcass or Cafcass Cymru).
- 2.50 For the purposes of this evidence requirement the expert report may include:
- Statement / facts given to the expert to help them form their opinion in the report;
  - Summary of the expert’s findings; and
  - Declaration by the expert.

### **Evidence checklist**

Document must be (exhaustive):

- An expert report produced as evidence in proceedings in the United Kingdom for the benefit of a court or tribunal confirming that an individual who is or was in a family relationship with the perpetrator, was assessed as being, or at risk of being, a victim of domestic violence

### **Required information:**

- The name of the perpetrator
- Name of the victim who is or was in a family relationship with the perpetrator
- Name of expert and relevant experience and qualifications
- Confirmation that individual is or was at risk of being a victim of domestic violence.

## Schedule 1 (para 11) Letter or report from an Appropriate Health Professional

***Schedule 1 (11) “A letter or report from an appropriate health professional confirming that that professional, or another appropriate health professional – (a) has examined A in person, by telephone or by video conferencing; and (b) in the reasonable professional judgement of the author or the appropriate examining health professional A has, or has had, injuries or a condition consistent with being a victim of domestic violence.”***

- 2.51 Schedule 1(22) sets out the definition of an ‘appropriate health professional’. The table below sets out which professionals will meet this definition.

<b>Appropriate Health Professional</b>	<b>Registered Body</b>	
A medical practitioner	Licensed to practise by the General Medical Council	<a href="http://www.gmc-uk.org/doctors/register/LRMP.asp">http://www.gmc-uk.org/doctors/register/LRMP.asp</a>
A nurse including public health nurses, health visitors (HV), school nurses (SN), occupational health nurses, family nurses, substance misuse nurses, mental health nurses	Registered to practise in the United Kingdom by the Nursing and Midwifery Council	<a href="http://www.nmc-uk.org/Search-the-register/">http://www.nmc-uk.org/Search-the-register/</a>
A midwife		
A dentist including clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists, and orthodontic therapists.	Registered to practise by the General Dental Council	<a href="https://www.gdc-uk.org/">https://www.gdc-uk.org/</a>
A paramedic	Registered to practise in the United Kingdom by the Health and Care Professions Council	<a href="http://www.hpc-uk.org/check/">http://www.hpc-uk.org/check/</a>
A Practitioner psychologist		
A Radiographer		
A Social Worker		

- 2.52 A medical practitioner will include all doctors, for example, a General Practitioner (GP), a doctor working in the Accident and Emergency department of a hospital or a psychiatrist.
- 2.53 The appropriate health professional(s) providing the evidence must have been registered when they undertook the examination and when they provided the written confirmation. The Legal Aid Agency may take steps to verify registration was in place at the relevant time(s).
- 2.54 The letter must confirm that an appropriate health professional has examined the client in person and that either that professional, or the appropriate health professional providing the written confirmation (if different), was satisfied that the client had injuries or a condition identified during that examination consistent with those of a victim of domestic violence. A different health professional may provide the written confirmation if they have access to the client's medical records and the health professional who undertook the written examination is unavailable. A client may also be examined over the telephone or be seen by video conference.

- 2.55 There are two parts to this evidence and both parts must be met for the evidence to be satisfied. It is not necessary for the specific form of words to be used but the meaning must be clear from the letter or report.
- 2.56 The evidence does not need to name the perpetrator.
- 2.57 You may find it useful to use the template letters which can be found on the [www.gov.uk](https://www.gov.uk) website here:  
<https://www.gov.uk/government/collections/sampleletters-to-get-evidence-of-domestic-violence>

#### **Evidence checklist**

Document must be (exhaustive):

- A letter from an appropriate health professional; or
- An email; including either:
  - General Medical Council (GMC) reference number; or
  - Nursing and Midwifery Council (NMC) Pin number
  - A Dentist General Council (DGC) registration number
  - Health and Care Professions Council registration number

#### **Required information:**

- Your client is named as victim and was examined either in person, via telephone or video conference.
- The injuries or condition were consistent with those of a victim of domestic violence

#### **Schedule 1 (para 12) An Appropriate Health Professional referral to a domestic violence support service**

***Schedule 1 (12) "A letter or report from-  
 (a) the appropriate health professional who made the referral described below;  
 (b) an appropriate health professional who has access to the medical records of A; or  
 (c) the person to whom the referral described below was made;  
 confirming that there was a referral by an appropriate health professional of A to a person who provides specialist support or assistance for victims of, or those at risk of domestic violence."***

- 2.58 The victim must be referred to a domestic violence support service by an appropriate health professional. The meaning of appropriate health professional is the same as set out in paragraph 2.51 above.
- 2.59 The letter or report must be provided by the appropriate health professional that made the referral, the person to whom the referral was made (e.g. the domestic violence support organisation) or a health professional that has access to the medical records of the client.
- 2.60 The evidence must demonstrate that the referral was made to an organisation that provides specialist domestic violence support and assistance for victims of, or those at risk of, domestic violence.

### **Evidence checklist**

Document must be:

- Letter or report from domestic violence support service; or
- Email from domestic violence support service, identifying which domestic violence support service it is from; or
- Letter or report from an appropriate health professional on letterhead; or
- Email from an appropriate health professional identifying which organisation it is from

### **Required information:**

- Your client is named as victim
- Referral is from an appropriate health professional
- Referral is to organisation that provides specialist support or assistance for victims of, or those at risk of, domestic violence

### **Schedule 1 (para 13) Multi agency risk assessment conference (or other suitable local safeguarding forum)**

***Schedule 1 (13) "A letter from any person who is a member of a multi- agency risk assessment conference (or other suitable local safeguarding forum) confirming that A, or a person with whom A is in a family relationship, is or has been at risk of harm from domestic violence by B."***

2.61 This evidence must be from any person who is either a member of a multi-agency risk assessment conference (MARAC) or another suitable local safeguarding forum. There is no specific definition of a local safeguarding forum but it should consist of more than one agency/organisation. The evidence must set out that your client or a person with whom your client is in a family relationship such as their child is or has been at risk of domestic violence from B who must be the other party in the case.

2.62 Examples of bodies that might be part of other suitable local safeguarding forums and from which a letter would be accepted are:

- Police
- Probation Service
- Prison Service
- Health
- Housing
- Education
- Social Services
- Domestic abuse adviser/advocate such as an independent domestic violence advocate/advisor, a domestic abuse prevention advocate or domestic abuse children's advocate
- Women support service
- Victim support service
- Male support service
- Drug and alcohol services
- Cafcass or Cafcass Cymru

Please note that this is not an exhaustive list.

**Evidence checklist**

Document must be:

- Letter from any person who is either a member of MARAC or other suitable local safeguarding forum or
- Report from any person who is either a member of MARAC or other suitable local safeguarding forum or
- Email from any person who is a member of MARAC or other suitable local safeguarding forum identifying which organisation it is from
- Minutes of MARAC or other suitable local safeguarding forum

**Required information:**

- Name of victim who must be your client or a person with whom your client is in a family relationship
- Respondent named as perpetrator

**Schedule 1 (para 14) Letter from an independent domestic violence advisor**

***Schedule 1 (14) "A letter from an independent domestic violence advisor confirming that they are providing or have provided support to A."***

- 2.63 This evidence must be from an individual who is an independent domestic violence advisor/advocate (IDVA) and must confirm that they are providing or have provided support to your client. The letter must name your client as the victim.

**Evidence checklist**

Document must be:

- Confirmation from an IDVA that they are providing or have provided support to A.  
Email from an IDVA that they have or are providing support to your client.

**Required information:**

- Your client is named as victim

**Schedule 1 (para 15) Letter from an independent sexual violence advisor**

***Schedule 1 (15) "A letter from an independent sexual violence advisor confirming that they are providing or have provided support to A relating to sexual violence by B."***

- 2.64 This evidence must be from an individual who is an independent sexual violence advisor/advocate (ISVA) and must confirm that they are providing or have provided support to your client relating to sexual violence by B. Where possible, the letter must name your client as the victim.

### **Evidence checklist**

Document must be:

- Confirmation from an ISVA that they have or are providing or have provided support to your client A relating to sexual violence by B.
- Email from an ISVA that they have or are providing support to your client.

### **Required information:**

- Your client is named as victim (where possible)
- Respondent named as perpetrator

## **Schedule 1 (para 16) Letter from a local authority or housing association**

***Schedule 1) (16) “A letter from an officer employed by a local authority or housing association (or their equivalent in Scotland or Northern Ireland) for the purpose of supporting tenants containing-***

- (1) a statement to the effect that, in their reasonable professional judgement, a person with whom B is or has been in a family relationship is, or is at risk of being, a victim of domestic violence by B;***
- (2) a description of the specific matters relied upon to support that judgement; and***
- (3) a description of the support they provided to the victim of domestic violence or the person at risk of domestic violence by B.”***

- 2.64 This evidence must be in the form of a letter from an officer employed by either a local authority or a housing association in England or Wales (or their equivalent on Scotland and Northern Ireland) as defined in Schedule 1(para 22).
- 2.65 The evidence must include a statement from the officer confirming that in their reasonable professional judgement your client or an individual with whom B is or was in a family relationship, is or has been at risk of being a victim of domestic violence by B.
- 2.66 The letter must also include a description of:
- the specific matters the officer has relied upon to support their judgement; and
  - the support that they have provided to the individual who is, or is at risk of being a victim of domestic violence.
- 2.67 The letter must be from the relevant local authority or housing association as defined in Schedule 1 (para 22) or from an official email address. The support that is provided may be a decision reached, for example, to allocate the individual as priority need for social housing because they were or are at risk of domestic violence or to exempt them from local connection rules.

### **Evidence checklist**

Document must be:

- A letter or from an official email address from either an officer employed by a local authority or a housing association in England and Wales as defined in (or their equivalent in Scotland and Northern Ireland). The Legal Aid Agency may

### **Required information:**

- Name of victim who is or was in a family relationship with the perpetrator
- Respondent named as perpetrator
- Name of officer and their department
- A statement from the officer that in their reasonable professional judgement the individual named as the victim, is or is at risk of being a victim of domestic violence
- A description of specific matters the officer relied on to support their judgement
- A description of the support or the decision reached that the officer provided to the individual named as the victim

### **Schedule 1 (para 17) Letter from organisation providing domestic violence support services**

#### **Schedule 1(17)**

**(1) A letter from an organisation providing domestic violence support services.**

**(2) The letter must confirm that it –**

**(a) is situated in the United Kingdom;**

**(b) that the organisation has been operating for an uninterrupted period of six months or more; and**

**(c) provided A with support in relation to A's needs as a victim, or person at risk, of domestic violence**

**(3) The letter must contain –**

**(a) a statement to the effect that, in the reasonable professional judgement of the author the letter, A is, or is at risk of being, a victim of domestic violence;**

**(b) a description of specific matters relied upon to support that judgement;**

**(c) a description of the support provided to A; and**

**(d) a statement of the reasons why A needed that support.**

- 2.69 The regulations set out several requirements that the letter must meet to be accepted as evidence. If all the requirements are not met then the application will be refused. These requirements also cover a letter from a Refuge that a client has been admitted for the purposes of providing accommodation to a victim of domestic violence.
- 2.70 The letter must be from an organisation providing domestic violence support services situated in the United Kingdom, and must have been in operation for an uninterrupted period of 6 months or more. It is the organisation that must have been in operation for 6 months or more, not the individual support service as an organisation may offer a range of different services at different times.
- 2.71 The evidence must include a statement from the author confirming that in their reasonable professional judgement, your client was, or is at risk of being a victim of domestic violence. It must also include:



- a description of both the specific matters the author has relied upon to support their judgement; and
- the support that they have provided to the individual who either is, or is at risk of being a victim of domestic violence and;
- a statement of reasons as to why your client needed the support from organisation or charity.

2.72 The letter must include the name of the victim. You may find it useful to use the template letters which can be found on the [www.gov.uk](https://www.gov.uk) website here:

<https://www.gov.uk/government/collections/sample-letters-to-get-evidence-of-domestic-violence>

#### **Evidence checklist**

Document must be:

- A letter or an e-mail from an organisation that provides domestic violence support services confirming that they have provided support to your client and that they are, or are at risk of domestic violence. The e-mail must be from the organisations official e-mail address. NB. We have removed the need for this evidence to be on letterhead during the COVID-19 pandemic.

#### **Required information:**

- Your client is named as victim
- Name of organisation
- A statement from the author of the letter confirming that in their reasonable professional judgement the individual named as the victim, is or is at risk of being a victim of domestic violence.
- A description of specific matters the author relied on to support their judgement
- A description of the support that the author provided to the individual named as the victim

### **Schedule 1 (para 18) Domestic violence support organisation refusal of admission to a refuge**

***Schedule 1 (18) “A letter or report from an organisation providing domestic violence support services in the United Kingdom confirming that-***

- (1) a person with whom B is or was in a family relationship was refused admission to a refuge;***
- (2) the date on which they were refused admission to the refuge; and***
- (3) they sought admission to the refuge because of allegations of domestic violence by B.”***

2.73 The evidence must clearly identify the name and details of the domestic violence support organisation. There is no requirement under this regulation to meet the criteria set out in Schedule 1(para 17) in relation to the domestic violence support organisation. The Legal Aid Agency may take steps to verify the validity of the domestic violence support organisation.

2.74 A refuge is defined for the purposes of the regulations and this guidance as:

- (a) a refuge established for the purpose of providing accommodation for victims of, or those at risk of, domestic violence; or

(b) a residential home established and maintained by a public body for any other purpose that also provides accommodation to the victims of, or those at risk of, domestic violence.

- 2.75 The evidence must state the date that either your client, or another individual who is or was in a family relationship with B who must be the other party to the case, sought refuge but was refused entry.
- 2.76 The evidence must state that either your client or an individual who is or was in a family relationship with B sought admission to a refuge because of allegations of domestic violence by B.
- 2.77 There are many different reasons why a person may have been refused admission such as their immigration status, or they have complex mental health needs that cannot be met by the refuge or the refuge is situated too close to the perpetrator's work address.

#### **Evidence checklist**

Document must be:

- A letter or report from refuge or domestic violence support organisation. NB. We have removed the need for this evidence to be on letterhead during the COVID-19 pandemic.
- Email from refuge or domestic violence support organisation, identifying which domestic violence support organisation it is from.

#### **Required information:**

- Name of perpetrator
- Name of victim who is or was in a family relationship with the perpetrator
- The individual sought admission to the refuge due to allegations of domestic violence by the perpetrator
- The date admission to the refuge refused

#### **Schedule 1 (para 19) Letter from a public authority**

***Schedule 1 (19) "A letter from a public authority confirming that a person with whom B is or was in a family relationship, was assessed as being, or at risk of being, a victim of domestic violence by B (or a copy of that assessment)".***

- 2.78 The letter or email evidence must clearly identify the name and details of the public authority. It should confirm that either your client or an individual who was or is in a family relationship with the perpetrator was assessed as being or at risk of being a victim of domestic violence.
- 2.79 The evidence should also include the name of the individual who is, or at risk of being a victim of domestic violence and the name of the perpetrator.
- 2.80 A copy of the assessment by the public authority will be sufficient evidence such as a child and family assessment completed by children's services. It may not be a formal assessment, for example it could be a pre-proceedings letter before care proceedings are instituted. For the purposes of this Regulation a public authority is given the same

meaning as that in section 6 of the Human Rights Act 1998<sup>1</sup> (see Schedule 1 (para 22)).

#### **Evidence checklist**

Document must be:

- A letter or, an email, or a copy of a report from a public authority confirming that an individual who is or was in a family relationship with the perpetrator was assessed as being, or at risk of being a victim of domestic violence by the perpetrator. NB. We have removed the need for this evidence to be on letterhead during the COVID-19 pandemic.

#### **Required information:**

- Victim was in a family relationship with the perpetrator
- Respondent named as perpetrator
- Name of public authority

### **Schedule 1 (para 20) Leave to remain in the UK as a victim of domestic violence**

***Schedule 1 (20) “A letter from the Secretary of State for the Home Department confirming that A has been granted leave to remain in the United Kingdom as a victim of domestic violence.”***

- 2.81 This evidence must be a letter from the Home Office and specify that the individual (who is your client) has been granted leave to remain in the United Kingdom as a victim of domestic violence, on or prior to the date the application for legal aid was made.

#### **Evidence checklist**

Document must be:

- A letter from the Secretary of State for the Home Department confirming that the individual has been granted leave to remain in the United Kingdom as a victim of domestic violence. NB. We have removed the need for this evidence to be on letterhead during the COVID-19 pandemic.

#### **Required information:**

- Your client is named as victim.
- The individual was granted leave to remain in the United Kingdom as a victim of domestic violence on or prior to the date the application for legal aid was made.

### **Schedule 1 (para 21) Financial Abuse**

***Schedule 1 (21) “Evidence which the Director is satisfied demonstrates that A has been, or is at risk of being, the victim of domestic Violence by B in the form of abuse which relates to financial matters.”***

- 2.82 The DLAC may grant applications for civil legal aid where evidence is provided by the client, which the DLAC is satisfied demonstrates that the individual has been, or is at

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1998/42/section/6>

risk of, being the victim of domestic violence in the form of abuse which relates to financial matters (as set out in Schedule 1 (21) of the Regulations).

- 2.83 Financial abuse will usually occur in conjunction with physical or psychological abuse but it may also be a stand-alone form of abuse. Financial abuse usually involves a pattern of behaviour although a single incident may be sufficient to amount to financial abuse. Financial abuse is different, both in purpose and effect, from the steps that may be taken within a partnership to set a reasonable limit on expenditure or when there is a dispute between parties about finances following or during relationship breakdown.
- 2.84 The evidence provided should reflect that the behaviour referred to constitutes domestic abuse i.e. it should be done with the intention to gain power and control over the victim.
- 2.85 The regulations do not prescribe a specific type of evidence that an individual must provide to demonstrate that they are a victim of financial abuse. The statutory guidance framework, "Controlling or Coercive Behaviour in an Intimate or Family Relationship (December 2015)" published by the Home Office sets out examples of evidence which could potentially demonstrate that a person has been a victim of financial abuse including bank statements and text messages.
- 2.86 A single piece of evidence on its own may, or may not be sufficient, however different pieces of evidence taken together could be sufficient to lead to the conclusion of financial abuse.
- 2.87 In some cases of financial abuse, a victim may not have access to any corroborating forms of documentary evidence. Where there is limited or no corroborating evidence available then your client should provide a narrative statement that sets out the instances when the financial abuse commenced, the nature of the financial abuse, the duration of the financial abuse, the impact on the client and an explanation as to why no other documentary evidence is available. This will need to satisfy the DLAC that the applicant has been a victim of financial abuse.

#### **Evidence checklist**

There is not an exhaustive list of evidence that an individual might provide to demonstrate financial abuse. Types of evidence, if available, could be in one or more of the following forms:

- Copies of the victims and perpetrator's bank statements and/or cancelled cheques, relevant letters from banks;
- Credit card accounts, loan documents and statements;
- Business financial statements, employee benefit records including insurance, stock options and bonuses;
- Letter from a domestic violence support organisation;
- Money order receipts;
- Documentation about any public assistance received;
- Emails, text messages, diary kept by the victim; and
- Letter from employers or an education or training institute. Benefits or welfare history
- Application for Universal Credit Split Payment
- Evidence from foodbank
- Exemption from child maintenance service fees

### 3. Schedule 2 - Supporting Documents: Protection of Children- Where your client is seeking legal aid in respect of one of the proceedings listed in paragraph 13 of Part 1, Schedule 1 of LASPO

- 3.1 If a client provides one of the prescribed forms of evidence set out in this Regulation then legal aid for certain children issues (relating to the protection of a child from another party) for orders which are set out in paragraph 13, Part 1, Schedule 1 of LASPO may be available if the appropriate means and merits criteria are met. Anyone with the care of a child may seek to protect them, for example a grandmother with care of a child who seeks to prevent the child's father from having contact.
- 3.2 The LASPO definition of "abuse" means physical or mental abuse, including sexual abuse, and abuse in the form of violence, neglect, maltreatment and exploitation.
- 3.3 Matters are only in scope under para 13 where the services sought are specifically for the purpose of protecting the child.
- 3.4 It is very important that you note the following:
- A Licensed Work application will be rejected if the evidence does not satisfy the requirements prescribed in the regulations, on the basis that the case is out of scope of legal aid.
  - A Licensed Work application will be rejected if no evidence prescribed in the regulations is submitted with the application.
  - A Controlled Work claim where the evidential requirements were not met will be nil assessed on the basis that the case is out of scope for legal aid.
  - A Controlled Work claim will be nil assessed where it is clear that the evidence was obtained subsequent to the determination being made.
- 3.5 The paragraphs below provide more information on the types of documents that will be accepted as evidence. They state where the list of acceptable forms of evidence is an exhaustive list.

#### **Schedule 2 (para 1) Arrest for a child abuse offence**

##### ***Schedule 2 (1) "evidence that B has been arrested for a child abuse offence"***

- 3.6 The evidence must name the person either currently under investigation or charged with the offence at the point of submission of the application (who is identified as the risk to the child), see Schedule 2 (para 10) (a). The arrest does not need to be in respect of the child for whom protection is sought, it can be in respect of any child.
- 3.7 This must be in relation to a child abuse offence. A list of the applicable child abuse offences can be found here: <https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>

#### Arrest overseas

- 3.8 If the evidence relates to an arrest outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the arrest occurred. This will usually be on letter headed paper, however, we will accept the

evidence via email from the relevant law enforcement agency during the COVID19 pandemic. The Legal Aid Agency may take steps to verify this evidence.

- 3.9 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file.

#### **Evidence checklist**

Document could be one of the following (examples) but must contain all required information below:

- A copy of the charge sheet from the police
- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address. The Legal Aid Agency may take steps to verify this evidence.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been arrested for a relevant child abuse offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below. ○

#### **Required information:**

- The perpetrator is named
- Child abuse offence

### **Schedule 2 (para 2) A police caution**

#### ***Schedule 2 (2) “a relevant police caution for a child abuse offence”***

3.10 The caution does not need to be in respect of the child for whom protection is sought, it can be in respect of any child. The evidence must set out the name of the person cautioned in relation to the child abuse offence (B) who must be the person identified as the risk to the child

3.11 It must also reflect that the perpetrator was cautioned for an applicable offence. A police report where your client telephoned the police to complain about their ex-partner and the police took no action would not be sufficient to meet the evidence requirements A list of relevant offences can be found here:

<https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>

#### Police caution overseas

3.12 If the evidence relates to a police caution outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the arrest occurred. This will usually be on letter headed paper, however, we will accept the evidence via email from the relevant law enforcement agency during the COVID-19 pandemic. The Legal Aid Agency may take steps to verify this evidence.

3.13 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file.

### **Evidence Checklist**

Document could be one of the following (examples) but must contain all required information below:

- Formal caution
- Formal written or email confirmation from the police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address. The Legal Aid Agency may take steps to verify this evidence.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been cautioned by the police for a relevant child abuse offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.

#### **Required information:**

- Perpetrator named as the person cautioned
- Child abuse offence

### **Schedule 2 (para 3) Ongoing criminal proceedings**

#### ***Schedule 2 (3) “evidence of relevant criminal proceedings for a child abuse offence which have not concluded;”***

- 3.14 The offence does not need to be in respect of the child for whom protection is sought, it can be in respect of any child. The evidence must name the alleged perpetrator (B) who must be the person identified as the risk to the child.
- 3.15 The evidence must show the perpetrator has been charged with a child abuse offence, although the proceedings may not have been listed for hearing.
- 3.16 The proceedings must also be in relation to an applicable child abuse offence. A list of relevant offences can be found here:  
<https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>

#### *Ongoing proceedings overseas*

- 3.17 If the evidence relates to a criminal proceeding outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the offence is being tried. This will usually be on letter headed paper however, we will accept the evidence via email confirmation from the relevant law enforcement agency during the COVID-19 pandemic. The Legal Aid Agency may take steps to verify this.
- 3.18 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file/submitted with the application.

### **Evidence checklist**

Document could be one of the following (examples) but must contain all required information below:

- A copy of the charge sheet from the police
- A document from the court confirming that the case has been listed
- Formal written or email confirmation from police or CPS (or equivalent) or Witness Care Unit or from a pnn.police.uk email address.
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been charged with a relevant child abuse offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.
- Newspaper clippings regarding the case

**Required information:**

- perpetrator named
- Child abuse offence

**Schedule 2 (para 4) A relevant conviction for a child abuse offence**

***Schedule 2(4) “a relevant conviction for a child abuse offence;”***

- 3.19 The offence does not need to be in respect of the child for whom protection is sought: it can be in respect of any child. The evidence must name the person convicted of a relevant child abuse offence (B) who must be the person identified as the risk to the child.
- 3.20 It must also state that an applicable offence was committed. A list of relevant child abuse offences can be found here:  
<https://www.gov.uk/government/publications/domestic-violence-and-child-abuseoffences>

*Offences committed overseas*

- 3.21 If the evidence relates to an offence outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the offence was tried. This will usually be on letter headed paper, however, we will accept the evidence via email confirmation from the relevant law enforcement agency during the COVID-19 pandemic. The Legal Aid Agency may take steps to verify this.
- 3.22 The evidence must be in English and if it needs to be translated both a copy of the original document and the translation need to be provided and retained on the file/submitted with the application.



### **Evidence Checklist**

Document could be one of the following (examples) but must contain all required information below:

- Memorandum of Conviction (Magistrates Court)
- Certificate of Conviction (Crown Court)
- Formal written or email confirmation from a police or CPS (or equivalent) or Witness Care Unit email address
- An email from a legal aid provider stating that they have spoken to the police and received confirmation that B has been convicted of a relevant child abuse offence. The email should include the name of the police station and the name of the individual, as well as the required information set out below.
- Newspaper clippings regarding the case

### **Required information:**

- Perpetrator named as person convicted
- Child abuse offence

## **Schedule 2 (para 5) Protective injunction**

### ***Schedule 2 (5) “a relevant protective injunction”***

- 3.23 This form of evidence can only be satisfied by a Court document detailing the relevant protective injunction. This includes where an ex-parte order is granted.
- 3.24 The protective injunction must be for the protection of the child who is or would be the subject of the order to which the application relates – see Schedule 2 para 10 (b) (ii). The evidence must also name the person against whom the injunction was made, who must be the person identified as the risk to the child (and must not be your client) – Schedule 2 para 10 (b) (i).
- 3.25 Where you are making an application for a protective order on behalf of your client then, to satisfy this requirement, the order must be obtained before you are able to assist your client with children issues, this may be on the same day.

### **Evidence checklist**

Document must be (exhaustive):

- Court document detailing a relevant protective injunction

### **Required information**

- Child named as party your client is seeking to protect (where named)
- Respondent named as the person against whom the injunction was made

## **Schedule 2 (para 6) Finding of fact**

### ***Schedule 2 (6) “a copy of a finding of fact, made in proceedings in the United Kingdom of abuse of a child by B;”***

- 3.26 This evidence will be in the form of a judgement or court document (including a tribunal if relevant) that a child was abused by B, who must be the person identified as the risk

to the child and not your client. The finding of fact does not need to be in respect of the child for whom protection is sought, it can be in respect of any child.

3.27 Paragraph 21 of *Practice Direction 12J – ‘Residence and contact orders: domestic violence and harm’* states that the court shall record its findings in writing, and shall serve a copy on the parties. This Practice Direction can be found here:  
[http://www.justice.gov.uk/courts/procedure/rules/family/practice\\_directions/pd\\_part\\_12j](http://www.justice.gov.uk/courts/procedure/rules/family/practice_directions/pd_part_12j)

3.28 There must have been a specific finding of fact by a court made prior to the date the application for legal aid was made although the incident to which the finding relates may have occurred at any stage.

#### **Evidence checklist**

Document must be (exhaustive):

- Court document

#### **Required information**

- perpetrator named

#### **Schedule 2 (para 7) Social services letter**

***Schedule 2 (7) “a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that the child was assessed as being, or at risk of being, a victim of child abuse by B (or a copy of that assessment);”***

3.29 This evidence must be from:

- a Social Services Department in England or Wales;
- a Local Authority in Scotland; or
- a Health and Social Care Trust in Northern Ireland

and must be in the form of a letter an email from a Social Services (or equivalent in Scotland or Northern Ireland) email address or be a copy of the assessment.

3.30 The evidence must confirm there has been an assessment that the child was or is at risk of being a victim of child abuse by B who must be the the person identified as the risk to the child.

**The documentation from social services can be lengthy, particularly if there are several reports; you must identify which part you are relying on as evidence to enable the application to be appropriately dealt with.**

### **Evidence checklist**

Documents must be:

- A letter from a Social Services Department (or equivalent); or
- An assessment report from a Social Services Department (or equivalent); or
- An email from a Social Services Department (or equivalent) email address e.g. gov.uk or hscni.net

### **Required information:**

- Child named as party your client is seeking to protect
- perpetrator named
- Child was assessed as being, or at risk of being a victim of child abuse

## **Schedule 2 (para 8) Social services child protection plan**

***Schedule 2 (8) “a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that a child protection plan was put in place to protect the child from abuse or a risk of abuse by B (or a copy of that plan)”***

3.31 This evidence must be from:

- a Social Services Department in England or Wales;
- a Local Authority in Scotland; or
- a Health and Social Care Trust in Northern Ireland

3.33 The form of evidence could be a copy of the child protection plan or a letter mail from the Local Authority stating that there was such a plan in place. A letter or email must be from a Social Services (or equivalent in Scotland or Northern Ireland) address or email address.

3.34 The evidence must confirm that protection plan was put in place to protect the child, who is the subject of the application, from abuse or risk of abuse by B who must be the person identified as the risk to the child.

**The documentation from social services can be lengthy, particularly if there are several reports; you must identify which part you are relying on as evidence to enable the application to be appropriately dealt with.**

### **Evidence checklist**

Documents must be (exhaustive):

- A copy of a Child Protection Plan from a Social Services Department (or equivalent)
- A letter from a Social Services Department (or equivalent) confirming a plan was in place
- An email from a Social Services Department (or equivalent) email address e.g. gov.uk or hscni.net confirming a plan was in place.

### **Required information:**

- Child named as party your client is seeking to protect
- perpetrator named

## **Schedule 2 (para 9) Application for a protective injunction with an application for a prohibited steps order**

***Schedule 2 (9) “an application for an injunction described in paragraph (5) of this Schedule made with an application for a prohibited steps order against B under section 8 of the Children Act 1989(a) which has not, at the date of the application for civil legal services, been decided by the court”***

3.35 This form of evidence requires two documents:

- a copy of the application for a protective injunction **AND**
- a copy of the application for a prohibited steps order under section 8 of the Children Act 1989.

3.36 Both applications must be made and must be seeking to protect the child from the other party (i.e. not your client). Both applications must remain undetermined by the Court on the date that the legal aid application is made.

### *Protective injunction evidence*

3.37 The evidence must name the child who your client must be seeking to protect. The evidence must also name the person against whom the injunction is requested and who must be the other party in the case (and must not be your client). The protective injunction must be to protect the child from the respondent.

### **Evidence checklist**

#### **1. Protective injunction application**

Document must be (exhaustive):

- Application made for relevant Order
- Child named as the party your client is seeking to protect
- Respondent named as the person against whom the injunction is requested

**AND**

#### **2. Prohibited steps order (PSO) application**

Document must be (exhaustive):

- Application made for Prohibited steps order
- Respondent named as the person against whom the PSO application is made