



Guidance – Request for Information for Legal Aid Proceedings (CIVIL)

The Civil Legal Aid (Procedure, Remuneration and Statutory Charge) (Amendment) Regulations 2018

Guidance and information on Request for information for Legal Aid for Family Law Cases;

- 1) What this allows you to request/apply for
- 2) Exclusions and limitations (including who can apply)
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1) What this allows you to request/apply for

This guidance sets out the process of applying to Essex Police for the evidence that they meet the criteria for legal aid being granted. The Legal Aid, Sentencing, Punishment of Offenders Act (LASPO) 2012 contains a framework for the legal aid scheme, which came into force on the 1st April 2013.

Essex Police will provide evidence requested by the applicant to demonstrate whether or not they meet the criteria for the granting of legal aid for family cases involving domestic abuse, child protection and connected financial matters.

Evidence will be provided in the format of a letter confirming the details of any incident that meets the criteria for a legal aid application. A copy of the crime report will not be provided.

The key focus of the scheme is on providing legal aid for the most vulnerable.

You do not have to get evidence before talking to a legal aid solicitor or civil legal Advice (CLA) but they do need to see it before deciding whether you can get legal aid.

2) Exclusions and limitations (including who can apply)

Exclusions

Any person who believes they fit the criteria for legal aid in family law cases can apply. It does not apply to any other form of legal aid application outside of family law cases.

Legal aid may not be available for all circumstances. To check if your circumstances could entitle you to apply for legal aid, please consult the GOV.UK website:

<https://www.gov.uk/check-legal-aid>

Limitations

To qualify for legal aid, in the vast majority of cases for this category, the applicant must demonstrate specific evidence in relation to domestic violence or child protection of children.

This can include an element of financial control (stopped access to joint bank account) - See table below for examples.

- Any victim needs to supply only one piece of evidence as outlined in the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012.
- Essex Police will only provide one piece of evidence in response to your request.
- The evidence must be obtained and provided before the determination for legal aid is made.
- Disclosures are discretionary and each request is considered on its own merit.
- Disclosure is considered against the evidence criteria set out in the LASPO 2012.

Where the criteria for police evidence are not met, you will be advised accordingly.

Alternative evidence could be obtained from other prescribed sources, such as a local authority, housing association, or domestic abuse support service

Any evidence must show, unless otherwise stated, that the individuals were in a family relationship.

The definition of a family relationship is set out in s62 of the Family Law Act 1996 and includes:

- they are or have been married to each other;
- they are or have been civil partners of each other;
- they are cohabitants or former cohabitants;
- 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;
- they are relatives;
- they have agreed to marry one another (whether or not that agreement has been terminated);
- they have or have had an intimate personal relationship with each other which is or was of significant duration;
- 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);
- in relation to any child, they are both [parents or persons with parental responsibility for the child]; or
- they are parties to the same family proceedings (other than proceedings under this Part).

Example of Police Supporting Evidence for Domestic Violence

The evidence does not need to be in respect of the applicant, it can be in respect of another person with whom the suspect is or was in a family relationship with.

Arrest for a relevant domestic violence offence

At the point of submitting your application, the suspect must either be currently under investigation or charged with the offence. Evidence can include that the suspect is currently on bail for the offence.

A relevant police caution for a domestic violence offence

Relevant ongoing criminal proceedings for a domestic violence offence which have not concluded

At the point of submitting your application, the suspect must have been formally charged by police, although the proceedings may not have been listed for hearing yet.

A relevant conviction for a domestic violence offence

Bind overs connected with a domestic violence offence

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.

Domestic Violence Protection Notice (DVPN)

Domestic Abuse Protection Notice (DAPN)

A relevant protective injunction

Example of Police Supporting Evidence for Child Protection

Unless otherwise advised, the evidence does not need to be in respect of the child for whom protection is sought, it can be in respect of any child.

Arrest for a child abuse offence

At the point of submitting your application, the suspect must either be currently under investigation or charged with the offence. Evidence can include that the suspect is currently on bail for the offence.

Relevant police caution for a child abuse offence

Relevant ongoing criminal proceedings for a child abuse offence

At the point of submitting your application, the suspect must have been formally charged by police, although the proceedings may not have been listed for hearing yet.

Relevant conviction for a child abuse offence

Relevant protective injunction

The protective injunction must be for the protection of the child who is or would be the subject of the order to which the legal aid application relates

3) Signposting for further advice/support

For further advice/guidance in relation to legal aid, or support available to you, please see below:

- GOV.UK website - www.gov.uk/legal-aid
- Law Centres Network - www.lawcentres.org.uk
- Citizens Advice - www.citizensadvice.org.uk
- AdviceNow - www.advicenow.org.uk
- Women's Aid - www.womensaid.org.uk
- ManKind Initiative - www.mankind.org.uk
- Relate - www.relate.org.uk
- The Law Society - www.lawsociety.org.uk/public/for-public-visitors/using-a-solicitor/getting-free-legal-advice

4) Guidance on how to complete. What you need to do next

- 1 Complete all sections on the A92 form and send to civil.legal.aid@essex.police.uk
The information you provide on this form will be used for processing your request and to ensure the accuracy of Police systems.
- 2 Include proof to help establish your identity. This application must be accompanied by copies of two official documents. If you have legal representation then you will not be required to submit proof of identity as disclosure will be sent direct to the legal representative.

DO NOT SEND ORIGINAL DOCUMENTS AS THESE WILL NOT BE RETURNED. It will assist with processing of your application if one of the documents is a photographic identity document such as your passport or driving licence.

Essex Police reserves the right to request original documentation in some cases. Where original documents are requested, they will be returned by registered post.

- 3 Send the completed form and proof(s) of identity to: civil.legal.aid@essex.police.uk
Or post to:
Operational Data Disclosure, Essex Police Headquarters, PO Box 2, Chelmsford CM2 6DA

Applicants who are unable to comply for whatever reason can attend their local police station with their chosen ID documents. The front office staff can print off an A92, which can be filled in while at the police station. The front office staff will take copies of the applicants ID, at the same time verifying it, then email the application form and copy of documents to the Operational Data Disclosure Team.

What Essex Police will do next

On receipt of the completed form and satisfactory proof of your identity, Essex Police will acknowledge your request and provide you with our unique reference number. Essex Police will search for the information you have requested and respond to you or your legal representative as soon as applicable.

Note: Essex Police will be unable to provide you with information contained on police systems over the telephone or by email prior to completion of your request.

5) Your rights and legislation

You have a right to request evidence from Essex Police that may support your application for legal aid.

Legislation

[Legal Aid, Sentencing and Punishment of Offenders Act \(LASPO\) 2012](#)

[LASPO 2012 - Evidence Requirements for Private Family Law Matters](#)

[Regulation 33 of The Civil Legal Aid \(Procedure\) Regulations 2012](#) as amended by [The Civil Legal Aid \(Procedure\) \(Amendment\) Regulations 2016](#) that sets out the evidence needed to claim legal aid due to domestic abuse or violence.

NOTE: From 8th January 2018 changes to eligibility requirements for Legal Aid in Family Law private disputes have come into effect. There will no longer be a time limit on abuse evidence, which previously stood at five years. Additionally, the range of documents accepted as evidence of abuse has been widened to include statements from domestic violence support organisations and housing support officers.

For general guidance on Legal Aid costs assessment and remuneration:

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

Chief Constable's rights

The provisions of the Data Protection Act 2018 mean that in certain circumstances some personal data will not be provided. For example, you will not be provided with personal data if releasing it to you would be likely to prejudice a criminal investigation. In some cases we may not provide you with information that identifies other individuals unless Essex Police feels it is reasonable to do so.

Your right to complain

If you feel your request has not been properly handled, or you are otherwise dissatisfied with the outcome of your request you have the right to complain.

Complaints should be submitted within 20 working days from the date of the response and should be addressed to the Operational Data Disclosure Manager at the above postal address or by email to: civil.legal.aid@essex.police.uk - Please include any reference you may have in the title of the email.

We will conduct a review to investigate your complaint and endeavour to reply within 20 working days. Please explain which aspect of the response from Essex Police you are not satisfied with.

If you are still dissatisfied following our review, you have the right to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect you to have exhausted the complaints procedures provided by Essex Police.

The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, and Cheshire, SK9 5AF or via <https://ico.org.uk>

6) Alternative disclosure routes

If you require a copy of a crime report, statement etc., please be advised this cannot be provided through the legal aid process.

Individuals seeking access to their own personal information held by Essex Police should submit a Rights of Access request (also known as a Subject Access Request). This route allows individuals to obtain copies of information relating to themselves only, with third-party information redacted. Further information is available on the Essex Police website (www.essex.police.uk) under 'Request information about yourself or someone else'.

Alternatively, where disclosure of police information (including third-party material) is required for use in current or prospective civil court proceedings, a request may be made via the discretionary civil disclosure route, which is a chargeable service. Please contact civil.data.disclosure@essex.police.uk for further information if required.

7) Charges and procedures for payment if applicable.

No charges apply for legal aid applications. Further details regarding Essex Police Charges can be found via <https://www.essex.police.uk/foi-ai/essex-police/other-information/information-rights-schedule-of-fees/>

Please refer to the Essex Police website for details in regards to Fair Processing Notice, Privacy Notice and Retention Policy.