

## CIVIL AND FAMILY LEGAL AID

### LEGAL AID AGENCY

Set up by LASPO. Cost of criminal and civil legal aid was £1.7 billion in 2021

### SCOPE

Pitched towards the socially excluded. Covers (1) debt (only where the home is at risk); (2) asylum and immigration; (3) education (only for cases of Special Educational Needs); (4) family matters (only for domestic violence or child abuse - but is Family Mediation); (5) clinical negligence (only where a child suffers an injury during pregnancy or birth). **NOTE** LiPs e.g. **BARTON v WRIGHT HASSAL**.

### FINANCIAL ELIGIBILITY

**Can vary, depending on the type of help required**

#### Capital

Valuables (such as jewellery) are included; however, the value of the applicant's home is disregarded providing it is worth less than £100,000 after any mortgage. Then, after making certain allowances for dependants, if a person's capital exceeds a certain amount (for example £8,000 for Legal Help) the applicant is not eligible even if he is eligible on the income side.

#### Income

An applicant on state benefits would automatically qualify. For an applicant in work, he will only qualify if his disposable income is less than £733 per month, after taking account of certain deductions such as rent, income and Council Tax, children and dependants. **IMPORTANT** There is gross income cap of £2,657 per month. **NOTE** LAA waives limits for **domestic violence** or **forced marriage**. However, a **contribution** may be required

### RANGE OF SERVICES & MERITS CRITERIA

LAA will fund certain levels of service in certain types of legal matters, providing that certain criteria laid down by the **The Civil Legal Aid (Merits Criteria) Regulations (2013) SI 104**.

**Legal help** - Permits the financially eligible to consult a solicitor for legal advice and assistance (such as writing letters and so on) on any legal problem. **Merits criteria**: reasonable to be provided with legal help, having regard to any potential sources of funding and likely to be sufficient benefit to justify cost.

**Help at court** - Includes instructing an advocate and advocacy. **Merits criteria**: reasonable to be provided and likely to be sufficient benefit to justify the cost because advocacy is appropriate.

**Family help** - **Merits criteria**: only available if applicant meets the reasonable private paying individual test. **Lower** covers negotiation of family disputes before the issuing of proceedings. **Merits criteria**: would help to avoid the issue of contested proceedings. **Higher** covers matters under Legal Representation but does not include representation at a court. **Merits criteria**: applicant exhausted all reasonable alternatives to bringing proceedings, such as family mediation.

**Family mediation** - Covers matter such as an assessment by a mediator of whether a case is suitable for mediation. **Merits criteria**: mediator must have assessed that the case is suitable for mediation.

**Help with family mediation** - covers actual mediation and the issuing of proceedings to obtain a consent order.

**Legal Representation** - only provided where: (1) no access to other potential sources of funding (other than a conditional fee agreement); (2) case unsuitable for a conditional fee agreement; (3) exhausted all reasonable alternatives to bringing proceedings, including alternative dispute resolution.

**Investigative Representation** - **Merits criteria**: provided where: (1) prospects of success unclear; and (2) substantial investigative work required; and (3) that, once completed, the case will satisfy the criteria for full representation. **Full Representation** - different merits criteria in matters such as family, mental health and immigration proceedings; or claims against public authorities.

**Exceptional funding cases** e.g. those with human rights considerations.

**Ongoing litigation** - **R (PUBLIC LAW PROJECT) v LORD CHANCELLOR** (residence test);

**R (RIGHTS OF WOMEN) v LORD CHANCELLOR** (domestic violence)