



Legal Aid Agency

Application for Exceptional Case Funding

Usually the answer to this will be 'no'. Applications are only considered 'urgent' if an appeal hearing is scheduled to take place in the next few days.

This form should be supplemented by the appropriate application forms. These include both the [means form](#) and the [merits form](#) or [controlled work application forms](#).

Urgent application? Yes <input type="checkbox"/> No <input type="checkbox"/>
Complete page 6.

If you are applying for exceptional funding for your case please complete pages 1, 2 and 4 to 11. If you are applying for Legal Help to investigate the possibility of a further legal aid application for exceptional funding please complete pages 1 to 3 and 7 to 11 only.

Prior to Completing this application you should refer to the Lord Chancellor's Exceptional Funding Guidance. Applications for Exceptional Case Funding must be sent to the Exceptional Case Funding Team, 7th Floor, 102 Petty France, London, SW1H 9AJ. DX161440 Westminster 8 or submitted by e-mail.

For an exceptional case determination the overarching question to consider is whether the withholding of legal aid would mean that the applicant is unable to present his/her case effectively and without obvious unfairness.

Applicant details

Please complete in Block Capitals

Title: _____ Initials: _____

Surname: _____

First name: _____

Surname at Birth (If different): _____

Date of Birth: _____

Contact Details: _____

Provider details *Not Required for direct applicants.

Name of provider: _____

Account number: (if appropriate) _____

*Solicitors Roll number: (where applicable) _____

*Address: _____

*Town: _____

*County: _____ Postcode: _____

*DX (with exchange): _____

*Telephone number: _____

*Your case reference: _____

*Contact name for enquiries: _____

*Email details: _____

This section is only to be completed if you are an immigration adviser/solicitor with a legal aid immigration contract. Leave it blank if a woman is applying directly to the Legal Aid Agency without an immigration representative.

Type of case

Complete this section if either:

1. You are applying for Controlled Work services.
2. You have not completed type of case details on page 5 of CIVAPP1 or page 3 of CIVAPP3 or
3. The type of case is not listed on CIVAPP1 or CIVAPP3.

What category of law/contract category is relevant to the case?

Immigration/asylum

Providers - Categories of Law for which Legal Aid Contracts are tendered.

Does your office have a contract that allows you to do Legal Aid work in this Category of law at the Form of Service for which you are applying?

N/A – I am a direct applicant

If you are not a contract holder in the required category of law stated above, please explain why it is necessary for the effective administration of justice for you to conduct the matter pursuant to regulation 31(5) (a) -(d) of the Civil Legal Aid (Procedure) Regulations 2012:

N/A – I am a direct applicant

Funding to apply for Legal Help to investigate the possibility of a further legal aid application

1. Briefly set out the basis of the main application for exceptional case funding you anticipate you/your client will make:

You do not need to complete this page/section.

2. What legal work do you think you/your legal aid provider will need to do in order to make this application?

You do not need to complete this page/section.

3. Why do you consider that there is a risk that failure to provide legal aid for this work will breach a convention or enforceable EU right?

You do not need to complete this page/section.

Additional Information

▶ Please provide the following additional information about the case that is not already in the attached legal aid forms.

1. Please provide us with brief details about the case if they are not already in the other forms/documents that you are supplying.

Explain what the survivor is applying for / what she needs Legal Aid for. For example:

Example 1: *'I have no immigration status in the UK. I am the sole carer of a British citizen child (my daughter). I need to apply for leave to remain in the UK based on my British child.'*

Example 2: *'My application for leave to remain based on my British citizen child was refused by the Home Office because I have a debt to the NHS. I have submitted an appeal to the Tribunal and need help to prepare my appeal and to represent me at the Tribunal.'*

2. How important are the issues in the case for you/your client?

Write down what the survivor says in the first person. For example:

Example 1: *'The issues are extremely important to me. If I do not get leave to remain in the UK I will be destitute, with no income, no right to work and no right to rent somewhere to live. My British daughter will be destitute as well. I cannot support her without leave to remain in the UK.'*

Example 2: *'The issues are very important to me. I have lived in the UK for 15 years. I am a victim of domestic abuse and my husband stopped me from renewing my leave to remain. I cannot return to Pakistan as my family have disowned me and I have no support there. I need legal aid to help me to appeal against the Home Office's refusal of my application for leave to remain in the UK as this is my only chance of having a safe place to live and a chance to rebuild my life.'*

3. How complex are the proceedings, the area of law and the facts/evidence in the case?

You are not expected to make an assessment of these, or to compare the relative complexity of the survivor's case to other immigration cases/issues. You should just complete this from the survivor's standpoint. The facts of the case could be relatively simple in legal terms and still incomprehensible to a non-immigration trained person.

Examples:

- I do not know how complicated the case is, because I do not understand immigration law. It seems very complicated to me.
- I do not understand the application process or what I need to do.
- I do not understand the appeal process.
- I do not understand how to prepare papers for an appeal. The tribunal has asked me to prepare a 'bundle'. I do not know what this is.
- I have been told that immigration law is very complicated and changes a lot, but I do not know how this applies to my case because I do not understand the law.

List any 'complicating factors', for example:

- My application was refused because I have a debt to the NHS, I do not have money to pay this debt and I don't know how it will affect my appeal.
- I am a victim of domestic abuse. My husband reported me to the police for assault. This was not true, but now I have a caution I need help to explain this in my application so that the Home Office understand that I am not a criminal or an abusive person. I am afraid of applying to the Home Office without a solicitor to explain my situation.
- I overstayed my last visa because my abusive ex-partner prevented me from renewing my visa. Now I have been told that I have to apply for leave to remain 'outside the immigration rules'. I don't know what this means. I don't know how to apply.

Additional Information continued

4. For **direct applicants** - How capable are you of representing your case effectively?

~~For **Providers** - How capable is your client of representing his/her case effectively?~~

- ▶ Please provide information on what you/your client must do to present the case. You may also include information about your/your client's education or relevant skills/experience and any relevant disability or capacity issues (attaching a copy of any incapacity certificate where available).

Again, scribe for the survivor, writing down her words in the first person. Examples of things survivors may wish to mention here are:

- I cannot complete this application myself/ represent myself at appeal because:
 - I do not speak very much English
 - I do not read/write in English
 - I do not have any immigration training/legal training. I do not understand the law or what I need to do/I do not understand the process.
 - I do not understand what evidence I need.
 - I do not know how to prepare the appeal papers.
 - I am a victim of domestic violence and am currently in refuge accommodation. I have had to flee my home and change my children's school. Everything in my life has changed. I am feeling overwhelmed and am not in a position to apply for leave to remain on my own.
 - I suffer from mental health issues (explain what and how these affect you - stress, anxiety, lack of concentration or motivation, depression, feelings of despair, PTSD, insomnia, exhaustion, etc.)
 - I suffer from physical health issues (explain what these are and how they affect you)
 - I suffer from addiction issues (explain what these are and how they affect you)

5. Any additional information that is relevant to the determination:

Add anything that you/the survivor feels may be relevant to her case. Some examples of additional information could be:

- There is no free/pro-bono immigration advice available in my area
- I have no friends or family who can pay for legal advice from me
- I am unable to afford to pay for legal advice privately
- I am not allowed to work/cannot work because of childcare issues/lost my job when I moved out of the area into refuge accommodation and so cannot afford to pay for legal advice.
- I am a victim of domestic violence
- I am currently living in refuge accommodation
- I have children who live with me
- I have children in the UK who I have contact with
- My children are British or EEA nationals
- The police are investigating the abuse I suffered
- The CPS are prosecuting my perpetrator
- My perpetrator is remanded in custody
- My children's father has obtained a prohibited steps order preventing me from taking my children outside the UK
- I have an ongoing family court case about child contact/custody
- I have an injunction against my perpetrator

Urgent Case Details

► Please complete this section if there is urgency in the case. We will use this section to prioritise exceptional case funding applications. We will tell you the timescale for the decision.

1. Is there an imminent date for:

a) an injunction or other emergency proceedings? Yes No

If yes, enter date of hearing / /

b) a hearing in existing proceedings? Yes No

If yes, enter date of hearing / /

c) a limitation period that is about to expire? Yes No

If yes, enter date of hearing / /

2. Would a delay cause risk to the life, liberty, or physical safety of you/your client or family, or the roof over their heads or cause unreasonable hardship or irretrievable problems in handling the case? Yes No

Please provide any further relevant information as to how the urgent situation has arisen that is not evident from the other information provided and why you consider that exceptional funding is necessary to deal with the urgent work.

It is rare that you will be making an 'urgent' application. This is because the Legal Aid Agency only consider emergency situations to be urgent.

For example:

- If the person has an 'imminent date' for an Immigration Tribunal hearing (imminent usually means less than a week away).
- The person's current, valid leave to remain is due to expire 'imminently' and they need to re-apply for leave before their current leave expires.
- The delay in providing legal aid would cause risk to the life, liberty, or physical safety of the person applying or someone in their family.
- The delay in providing legal aid would cause risk to the roof over the person's head or other 'unreasonable hardship' – this could be used if someone has current leave to remain and needs to renew it urgently, because if they do not apply for further leave to remain before their current leave to remain expires they will become an over-stayer and lose their right to rent, right to work, etc.
- The delay in providing legal aid would cause irretrievable problems in the handling of the case – this would be very hard for you to judge if you are not an immigration adviser, so you are unlikely to make this argument.

If the Legal Aid Agency agree that the case is 'urgent', then they will deal with the case ahead of non-urgent applications and within 5 working days.

The Legal Aid Agency aim to determine all cases within 20 working days from the date of receipt of the fully completed application. However they do guarantee that applications (even urgent applications) will be determined before a hearing day or before specified urgent work is needed.

LEGAL AID AGENCY

PRIVACY NOTICE

PURPOSE

This privacy notice sets out the standards that you can expect from the Legal Aid Agency when we request or hold personal information ('personal data') about you; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met.

The Legal Aid Agency is an Executive Agency of the Ministry of Justice (MoJ). The MoJ is the data controller for the personal information we hold. The Legal Aid Agency collects and processes personal data for the exercise of its own and associated public functions. Our public function is to provide legal aid.

Sometimes the Legal Aid Agency uses contact information to ask customers if they would like to complete a customer service survey to measure customer satisfaction with our services and to inform areas for improvement.

About personal information

Personal data is information about you as an individual. It can be your name, address or telephone number. It can also include the information that you have provided in this form such as your financial circumstances and information relating to any current or previous legal proceedings concerning you.

We know how important it is to protect customers' privacy and to comply with data protection laws. We will safeguard your personal data and will only disclose it where it is lawful to do so, or with your consent.

Types of personal data we process

We only process personal data that is relevant for the services we are providing to you. The personal data which you have provided on this form will be used for the purposes set out below.

Purpose of processing and the lawful basis for the process

The purpose of the Legal Aid Agency collecting and processing the personal data which you have provided on this form is for the purposes of providing legal aid. Specifically, we will use this personal data in the following ways:

- In processing your application for legal aid, deciding whether you are eligible for legal aid, whether you are required to make a contribution towards the costs of this legal aid and to assist the Legal Aid Agency in collecting those contributions, if appropriate;
- In assessing claims from your legal representative(s) for payment from the legal aid fund for the work that they have conducted on your behalf;
- In conducting periodic assurance audits on legal aid files to ensure that decisions have been made correctly and accurately; and

- In producing statistics and information on our processes to enable us to improve our processes and to assist us in carrying out our functions.

Were the Legal Aid Agency unable to collect this personal information, we would not be able to conduct the activities above, which would prevent us from providing legal aid. The lawful basis for the Legal Aid Agency collecting and processing your personal data is the result of the powers contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

We also collect 'special categories of personal data' for the purposes of monitoring equality, this is a legal requirement for public authorities under the Equality Act 2010. Special categories of personal data obtained for equality monitoring will be treated with the strictest confidence and any information published will not identify you or anyone else associated with your legal aid application.

Who the information may be shared with

We sometimes need to share the personal information we process with other organisations. When this is necessary, we will comply with all aspects of the relevant data protection laws. The organisations we may share your personal information include:

- Public authorities such as: HM Courts and Tribunals Service (HMCTS), HM Revenue and Customs (HMRC), Department of Work and Pensions (DWP) and HM Land Registry;
- Non-public organisations such as: Credit reference agencies and our debt collection partners, Rossendales;
- If false or inaccurate information is provided or fraud identified, the Legal Aid Agency can lawfully share your personal information with fraud prevention agencies to detect and to prevent fraud and money laundering; and
- Amazon Web Services, Inc.

You can contact our Data Protection Officer for further information on the organisations we may share your personal information with.

Details of transfers to third country and safeguards

It may sometimes be necessary to transfer personal information overseas. When this is needed, information may be transferred to:

- United States of America

Any transfers made will be in full compliance with all aspects of the data protection law.

Retention period for information collected

Your personal information will not be retained for any longer than is necessary for the lawful purposes for which it has been collected and processed. This is to ensure that your personal information does not become inaccurate, out of date or irrelevant. The Legal Aid Agency have set retention periods for the personal information that we collect, this can be accessed via our website

<https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

You can also contact our Data Protection Officer for a copy of our retention policies.

While we retain your personal data, we will ensure that it is kept securely and protected from loss, misuse or unauthorised access and disclosure. Once the retention period has been reached, your personal data will be permanently and securely deleted and destroyed.

Access to personal information

You can find out if we hold any personal data about you by making a 'subject access request'. If you wish to make a subject access request please contact:

Disclosure Team
Post point 10.38
102 Petty France
London
SW1H 9AJ

When we ask you for personal data

We promise to inform you why we need your personal data and ask only for the personal data we need and not collect information that is irrelevant or excessive.

When we collect your personal data, we have responsibilities, and you have rights, these include:

- That you can withdraw consent at any time, where relevant;
- That you can lodge a complaint with the supervisory authority;
- That we will protect and ensure that no unauthorised person has access to it;
- That your personal data is shared with other organisations only for legitimate purposes;
- That we don't keep it longer than is necessary;
- That we will not make your personal data available for commercial use without your consent; and
- That we will consider your request to correct, stop processing or erase your personal data.

You can get more details on:

- Agreements we have with other organisations for sharing information;
- Circumstances where we can pass on personal information without telling you, for example, to help with the prevention or detection of crime or to produce anonymised statistics;

- Our instructions to staff on how to collect, use or delete your personal information;
- How we check that the information we hold is accurate and up-to-date; and
- How to make a complaint.

For more information about the above issues, please contact the MoJ Data Protection Officer;

Post point 10.38
102 Petty France

London

SW1H 9AJ

data.compliance@justice.gov.uk

For more information on how and why your information is processed, please see the information provided when you accessed our services or were contacted by us.

Complaints

When we ask you for information, we will comply with the law. If you consider that your information has been handled incorrectly, you can contact the Information Commissioner for independent advice about data protection. You can contact the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Tel: 0303 123

www.ico.org.uk

Declaration to be signed by the applicant

To the best of my information, knowledge or belief, all the information I have given is true and I have not withheld any relevant information.

My solicitor has explained that if I am assessed as eligible for funding with a condition that I make a financial contribution towards the cost of my case I will be required to make payment of the contribution within 14 days or there is a risk that the certificate will be revoked and I will become liable to pay all the costs that have been incurred from the date of funding.

I understand that if I give false information or withhold any relevant information the services provided to me may be cancelled at which point I will become liable to pay all the costs that have been incurred from the effective date of the funding and I may be prosecuted.

Signed: _____ Date: ____ / ____ / ____

This declaration must be signed by the applicant

Certification

I certify that:

- ▶ I have explained to the client their obligations and the meaning of their declaration.
- ▶ I have provided as accurately as possible all the information requested on this form.
- ▶ I am able to act in this matter under the competence standards set out in my firm's Legal Aid contract; and my firm is currently trading and no Law Society intervention or other sanction prohibits me from acting in this matter. (Applies to Controlled Work services Only).
- ▶ I have taken all reasonable steps to ensure my client has completed the Financial Eligibility questions on the accompanying Controlled Work Form fully and accurately. I have applied the Financial Eligibility regulations to the information supplied by my client and assessed my client as being eligible for Legal Aid in this matter (Applies to Controlled Work services Only).

Signed: _____ Date: ____ / ____ / ____

authorised litigator

Name: _____

Only complete this section if you are an immigration practitioner with a Legal Aid contract

