

**Community Legal Training -
Family Law Update**

delivered by

Wilson's:
Believe in justice for all

Thursday 16th November 2017

**at the Northumberland Park Resource Centre
177 Park Lane, Tottenham, N17 0HJ**

In partnership with:



ABOUT US

In 1989, Andrew Wilson founded Wilson and Co Solicitors from a small office in Tottenham. His aim was to offer excellent legal services to the whole community. We have grown since then, but we still have this goal.

Our clients come first

Our clients are at the heart of everything we do. We have built a reputation for integrity, independence and tenacity, especially with the most challenging cases. We achieve this by keeping things simple. Our solicitors each specialise in one area of law. Their focus gives them extensive knowledge and experience. They are all experts in their fields, so you can be confident that your case is in good hands. Our focus on efficient, well-structured service delivery ensures all clients get great value for money.

Wilson's in the community

At Wilson's we value having a social conscience. We remain committed to our legal aid work and act for some of the most vulnerable and disadvantaged people in society. The partners and staff are active in a whole range of social and campaigning issues related to our core legal work. We give time to support organisations that promote the welfare and rights of immigrants. We are actively involved in fund raising for charities, individually and through the annual London Legal Walk. We support local charities and schools in Tottenham. We very much believe in the goodness of Tottenham as an area and actively promote positive images of our community, not least of all by having a successful law firm employing around 100 staff in the heart of a deprived area. We are keen environmentalists. We recycle our paper and we promote cycling to work. If you visit us by bicycle you are welcome to use our secure cycle parking facilities.

Believe in justice for all



Community Legal Training: Family Law

16th November 2017

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Aysen Soyer
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Aysen Soyer graduated in business law from London Guildhall University in 1990.

Aysen qualified as a solicitor with North London firm, Pegden & Dubow in 1996, and then joined Wilsons in 2000. She was made a partner in 2005 and is head of the Family Department.

Aysen is ranked in the Legal 500 and described *as excellent' and 'able to quickly identify the key point in each case'*.

Aysen specialises in family and childcare law. Her practice covers all aspects of family work, including divorce or civil partnership dissolution, and financial settlement (whether high net worth or middle income families), domestic violence and injunctions, and public and private law Children Act work. She has also dealt with adoption and international child abduction, and has been instructed by the Official Solicitor.

She has experience of drafting pre-nuptial/pre-partnership agreements and is accredited to the Law Society's Advanced Family Law Panel: subject areas; Private Law Children and Financial Remedy. She is also a member of resolution and works hard to adopt a conciliatory approach to resolving family disputes.

Aysen acts in high value financial disputes and is able to give wise advice on merits and strategy.

Languages: Turkish

Interests: Travel, watching tennis, good food and spending time with her family.

Juanita Kareer
Solicitor

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Juanita Kareer studied Law at the London School of Economics and completed the Legal Practice Course at the College of Law.

Juanita joined the firm in 2010 and qualified as a Solicitor in 2013.

Juanita now practises exclusively in Family Law. She has experience in all areas including divorce and financial remedy, private law children matters including contact and residence disputes and public law children matters.

Juanita is an in-house advocate who undertakes advocacy on her own cases as well as cases for other solicitors within the department.

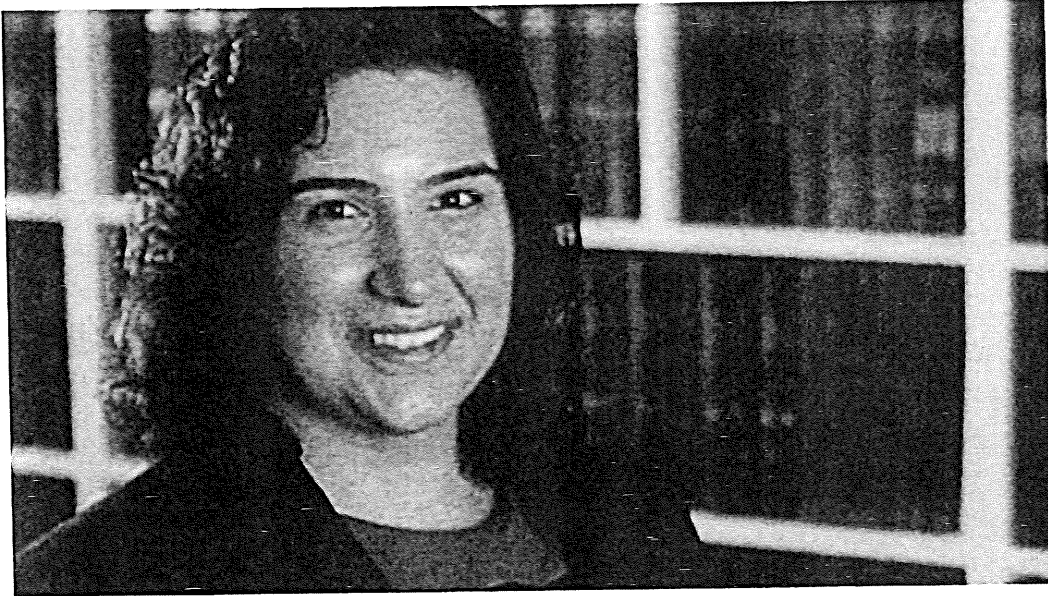
Juanita has experience in acting for clients with mental health issues and learning difficulties. She also has an interest in representing victims of domestic violence. Juanita also receives referrals from FPWP Hibiscus at HMP Holloway to assist women with issues regarding contact and social services involvement.

Interests: Music, fashion, travel and football

Lucia Johnson
Solicitor

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Lucia Johnson read law at Queen Mary University of London and graduated in 2010. She completed the LPC in 2011 before joining Wilsons as a caseworker in the same year.

Lucia qualified as a solicitor in 2015 having trained predominantly in the family law department, where she now practices exclusively.

Lucia continues to enjoy working on a very broad range of family law issues. She has experience in the following areas: divorce and financial remedy matters, public and private law children cases, child abduction cases, injunctions and financial solutions for unmarried couples, namely TOLATA and schedule 1 matters.

Lucia is an assertive in-house advocate with a strong sense of empathy and commitment to her clients.

Lucia appears on London Greek Radio on the first Tuesday of the month to speak about family law and legal aid issues.

Prior to joining the firm, Lucia gained experience as an outdoor clerk for the family department of another London-based firm dealing mainly with children matters. Whilst studying she was an active pro bono volunteer at The Queen Mary Legal Advice Centre (QMUL LAC).

Languages: Greek and conversational Spanish

Interests: Theatre, Traditional Greek dancing, Art and History

Michelle Flynn
Partner

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Michelle Flynn graduated in law from Anglia Polytechnic University.

Michelle trained at Kenneth Elliott & Rowe and qualified as a solicitor in 2002. Upon qualification she joined the Childcare team at IBB Solicitors in Uxbridge.

Michelle joined us in 2009 and has been a member of the Law Society's Children Panel since 2007.

Michelle was made a partner in our firm in 2013.

Michelle is an experienced childcare specialist and advises on all areas of Children law, including private law disputes between parents, public law care proceedings, placement order proceedings and special guardianship and adoption matters. She is a popular and effective advocate.

She regularly represents children and their Guardians in care proceedings. Michelle represents clients at all levels of the family court system and has experience of representing clients with mental health and learning difficulties and has dealt with cases where she has been instructed by the Official Solicitor. Michelle has experience of complex non-accidental injury cases and sexual abuse cases.

Michelle is a member of the Association of Lawyers for Children and NAGALRO

In 2015 Michelle was the co-author of the legal chapter in the book "Capacity to Change – understanding and assessing a parent's capacity to change within the timescales of the child"

Michelle was recognised in Chambers and partners 2018 edition:

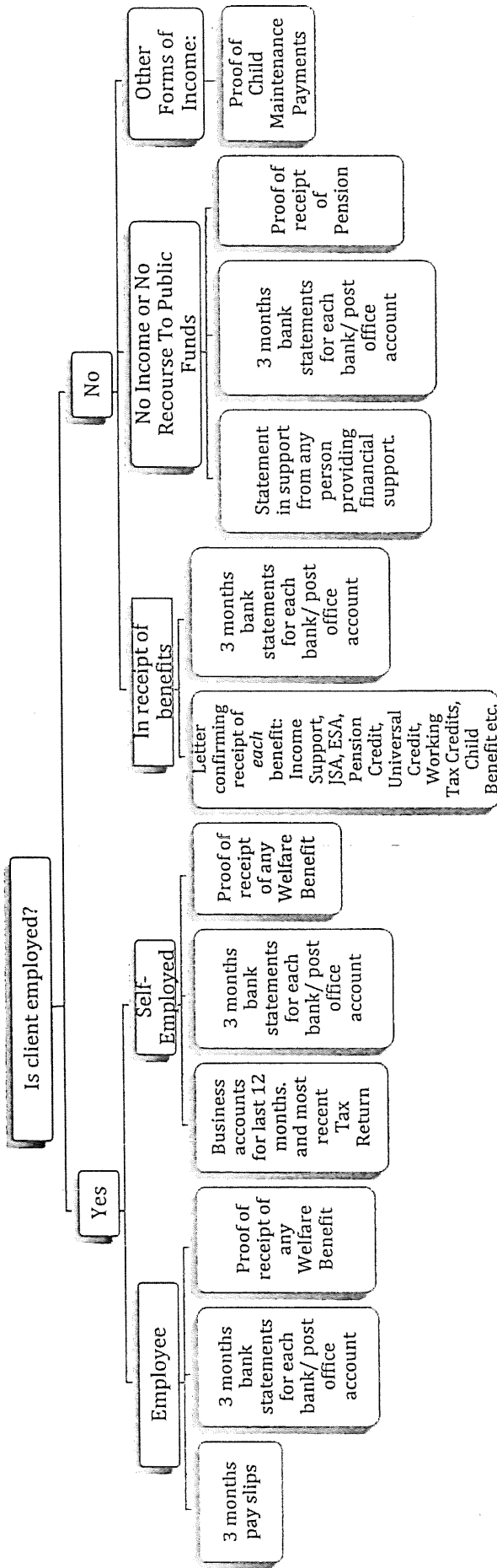
"Michelle is recognised for her experience in public law children matters, which forms part of her broader children law practice. One source states: "She provides an exceptional level of representation to her clients. When I work with her, I know the party involved will be well represented."

Interests: Love for running and is a Run Director at her local junior parkrun. She has obtained her Run England coaching badge and completed the London Marathon in 2016 and the Brighton Marathon in 2017.

Means Assessment: What do we need?

a) Proof of Income:

Income Limits: i) Gross: £2657* per month. ii) Disposable Income: £733* per month

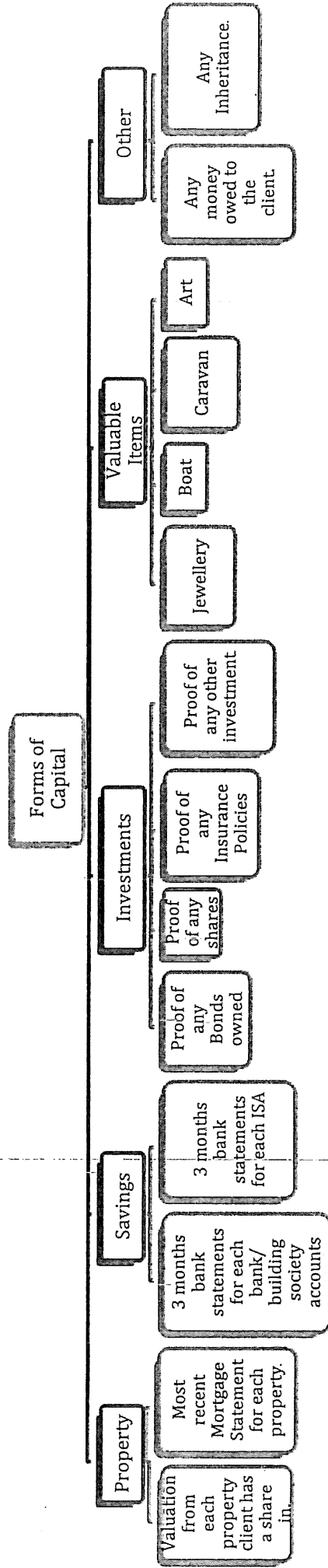


Deductions to Income:	Proof Required:
Rental Payments	Tenancy Agreement, Proof of receipt of Housing Benefit and amount.
Mortgage Payments	Updating Mortgage Statement
Child Care Costs	Letter from Nursery, Childminder etc, Nursery receipts
Dependent's Allowance: i) £181.91 [Partner] ii) £291.49 [Children aged 15 or under] iii) Child aged 16 or over: £291.49*	N/A
Employment Expenses: £45 [employees only]*	N/A
Tax and National Insurance	Pay slips

*NB: These figures are subject to change, when reviewed by Legal Aid Agency

b) Proof of Capital:

Capital Limit: Disposable capital not to exceed £8000



Deductions to Capital	Proof Required:
Outstanding Mortgage [Capped at £100,000]	Most recent Mortgage Statement
In Financial Remedy cases, £100,000 for primary property which is subject matter of dispute. Only applicable on one property.	N/A

*NB: These figures are subject to change, when reviewed by Legal Aid Agency

What is domestic abuse?

Domestic violence is the term regularly used in circumstances where you have been abused by a partner, ex-partner or family member. However, it is important to note that domestic violence is just one aspect of domestic abuse.

The definition of domestic abuse has been extended to encompass the following:

- Physical abuse
- Psychological/emotional abuse
- Sexual abuse
- Financial abuse

The abuse is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse.

What is an Injunction?

This is the popular term used for an order to prevent someone from contacting another person or harming them. However, an injunction is the general word for the orders which are as follows:

1. Non-Molestation Order – the ‘typical’ injunction which protects you from being harmed or threatened by the person who has abused you. It can also prevent that person from instructing or encouraging anyone else to harm or threaten you. Provisions within the order can also prohibit that person from contacting you.
2. Occupation Order – this order can prevent the person who has abused you from remaining in your home or entering the surrounding area.

Non Molestation Order

You can apply for an order against a spouse, civil partner, fiancé, former fiancé and boyfriend/girlfriend (if been in a relationship for more than 6 months). You can also apply for an order against a family member such as a parent, brother, sister, aunt or uncle.

Without notice/ ex parte – this is when an application for a non molestation order is heard by the Court without the other person being present. An application is made without notice if there is a concern that the person who abused you may subject you to further abuse if they found out you are making an application and if the last incident of abuse was very recent. Before the Court is prepared to make an Order, it will need to know if the police have taken any action. For instance, if there are bail conditions in place, the need for a Non Molestation Order is reduced whilst other protective measures are in place.

If the Court makes an order on a without notice basis, it will list a hearing known as a ‘return date’ hearing to give the other person an opportunity to contest the application. If

contested, a final hearing will be listed and evidence can be presented to the Court at the hearing for a final determination to be made.

A Non Molestation Order must be served on the other person in order for it to be effective and enforceable in the event of any breaches. If an Order is made without notice, it will need to be personally served on the other person and this is usually done using a process server.

Any breach of the Order, once served, is an arrestable offence. Therefore, the police must be notified of any breaches. The matter does not need to return to Court to deal with the breach as it is a criminal offence and the police should deal with it appropriately.

Non Molestation Orders are usually granted for periods of 6 or 12 months. If you wish to extend the duration of an Order, it will be necessary to apply to the Court and provide further evidence to justify the extension such as any breaches of the non molestation order or threats via third parties instructed by the other person.

Occupation Order

You can apply for this order:

- If you own/rent the home and it is, was, or was intended to be shared with a spouse, civil partner, cohabitant, fiancé, family member or parent of your child.
- If you do not own/rent the home but you're married or in a civil partnership with the owner and you're living in the home (matrimonial home rights'.
- If your former partner is the owner/tenant and the home is, was, or was intended to be your shared home.

Whilst you can make the application for this order together with the application for a Non Molestation Order on a without notice basis, the Court is reluctant to grant these orders in the absence of the other person as it could effectively leave them homeless.

In considering whether to make an Occupation Order, the Court will take into account the allegations made against the other person, the harm or risk of harm to you or any children and each party's alternative housing options. The Court is reluctant to make an order of excluding a person from their home would make them homeless. However, when children are also involved, the Court will consider the needs of the children and in particular, their housing needs.

Practical Points

An application for either of these orders are made using one form – FL401. There is no fee for the application.

Mortgage companies or landlords must be given notice of an application for an Occupation Order in the event that they wish to intervene or make representations to the Court.

Private law proceedings

This talk covers the types of orders which can be applied for in respect of children of the family.

As with every family, all circumstances are different and there is no substitute for specific advice but these notes serve as a starting point. The best advice which can be given to anyone considering making such an application is to first seek advice from a solicitor or a pro bono service. Some barristers also accept instructions directly (this is called direct access).

An application can be made by a parent or person who wishes to:

- spend time with a child/children of the family;
- obtain an order confirming that the child/children reside with them;
- prevent another from removing a child from their care and control; and/or
- seek an order from the court on a specific issue such as changing a child's school or surname.

These applications are made on a form C100 (accompanied by a form C1A if there are any concerns that the child is at risk of harm). There is a fee of £215.00 which can be partially reduced or waived by the court on completion of a form EX160 which is considered on application by the court. Cheques should be made payable to 'HMCTS'.

These forms are all readily available online with guidance notes to assist. The court counter can also provide paper copies.

Applications should be issued at the court nearest to where the child resides.

If a person holds parental responsibility for a child then the application can be made without the permission of the court. If an applicant does not have parental responsibility, usually the case with grandparents for example, then the permission of the court will need to be sought to make the application.

Parental responsibility

Parental Responsibility is defined by the Children Act 1989 as "all the rights, duties, powers, responsibilities and authority which by law the parent of a child has in relation to the child and his property". S.2 of the Act specifies persons who automatically have parental responsibility for a child. Where a child's father and mother were married to each other at the time of his birth, they each have Parental Responsibility for the child. Where the child's father and mother were not so married, only the mother will automatically have Parental Responsibility for the child and the father will not unless the child's birth was registered after the 1st December 2003 and he is named on the child's birth certificate, he acquires it with the consent of the mother by formal agreement, or by Court Order.

Legal aid

To recap, in order to be eligible for legal aid in private law proceedings, not only do you need to satisfy the means and merits test but you also need to show gateway evidence e.g. prescribed proof of domestic abuse or social services involvement.

There is provision for exceptional case funding but this is rare. In its first year, only around 12 exceptional funding applications were granted so the legal aid agency would need to be persuaded to grant funding under this category.

Types of orders (s.8 Children Act 1989)

Child arrangements orders (CAO)

This is an Order settling the arrangements to be made as to the person with whom a child is to live. A child cannot be the subject of more than one Child Arrangement Order at any one time. An Order may be made in favour of two or more persons who do not themselves live together. In such circumstances, the Order may specify the periods during which the child is to live in the different household. Despite the power conferred upon the Courts, shared Child Arrangement Orders will clearly only suit certain specific cases. Where a Child Arrangement Order is in force, no one may remove a child from the United Kingdom without either the written consent of every person who has Parental Responsibility for the child or permission of the Court. However, this does not prevent the removal of the child for a period of less than one month by the person in whose favour the Child Arrangement Order is made. Where a Child Arrangement Order is in force, no person may cause a child to be known by a new surname without either the written consent of every person who has Parental Responsibility for the child or permission of the Court.

These determine with whom a child should live and spend time.

A CAO conveys parental responsibility on the person with whom the order states that the child shall live, even if they are not a parent.

Specific issue orders

These are Orders giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child. Specific issues include matters of education, religion and medical treatment.

Prohibited Steps Order (PSO)

These are Orders which state that certain steps cannot be taken without the consent of the Court. The step to be prohibited must be specific and relate to an Act which falls within Parental Responsibility.

These are commonly used to prevent someone with parental responsibility taking a child abroad but to do there needs to be strong evidence that the child would be at risk or harm or at risk of not being returned to this jurisdiction.

These orders can be made without notice to a respondent if necessary so it is important that urgent advice is sought based on the facts of the case.

Disclosure of a child's whereabouts

If the applicant does not know where the respondent(s) reside an application can also be made for the disclosure of the child's whereabouts. The court will make orders accordingly for bodies such as the DWP to disclose the respondent's address to the court. These applications should be sent to the Central Family Court with the C100, (C1A if applicable) and the issue fee or EX160.

Due to time constraints, these notes focus on CAOs but we are happy to discuss other types of applications, including Special Guardianship applications and wardship proceedings on a case by case basis.

Mediation

Before proceedings are issued the court expect the parties to make an effort to mediate. In fact, unless one of the express exceptions are applicable, the court will not issue an application unless it is demonstrated that mediation was unsuccessful.

If mediation is successful a consent order can be sent to the court to be sealed.

If one or both parties do not wish to see each other some mediators can offer "shuttle mediation". Here the parties sit in separate rooms and the mediator passes between them in an effort to find common ground.

The process

Once the application is issued:

- The respondent(s) will be served with notice of the hearing and the application (it is therefore important that a C8 is filed if the applicant wants to keep their address confidential);
- the court will appoint a CAFCASS officer;
- the case will be listed for a hearing.

CAFCASS

The CAFCASS officer is very important. They initially speak to the parents and report to the court on background checks with the police and social services. The CAFCASS officer also makes recommendations to the court at or before the first hearing. The courts tend to place emphasis on the recommendations of CAFCASS so it is important that the parties engage with the CAFCASS officer.

If children are around the age of 6 or over, the CAFCASS officer may do some age appropriate work with them to ascertain their wishes and feelings.

Court hearings/evidence

At the first hearing the court will consider whether the parties are able to reach any agreement and will try to narrow the issues.

If agreement cannot be reached, the court usually directs CAFCASS (or social services if they are already involved or the circumstances warrant their involvement) to prepare a report. This report usually covers the relevant points of the law from s.1 Children Act 1989. This includes the age of the children, their ascertainable wishes and feelings and their needs (physical, emotional and psychological). The welfare of the child is the court's paramount consideration.

Once the report has been prepared the parties are usually asked to respond by way of a position statement so that the court can see whether any further agreement can be reached.

If there is a dispute about allegations such as drug use or domestic abuse, the court is likely to seek further evidence such as statements, hair strand testing, medical notes and/or an expert report. This can be costly and time consuming.

The court may consider listing the case for a fact finding hearing to determine the facts on which the court will work to finalise the case. At these hearings parties are likely to be expected to give evidence to support their respective positions.

Parties can be directed to engage in various programmes to address concerns such as Separated Parents Information Programmes, parenting courses, domestic violence intervention work and others.

The court might also direct assessments of children where necessary.

Safety first

If the court considers that it is unsafe for a child to spend time unsupervised with a person due to concerns raised, it can make an order for other forms of contact including supervised or indirect contact. The National Association of Child Contact Centres is a useful resource for identifying local centres and finding out fees etc.

Most supervised contact centres charge a fee and produce notes of the session. The contact notes can be useful in proceedings to demonstrate any areas of concern or highlight positive interaction which be used to show the court how contact should progress.

After the final order

If problems arise, applications can be made to enforce or vary a final order. Again, individual advice should be sought.

Timescales and costs

These are hard to predict generally. A solicitor should keep their client apprised at regular intervals.

If the parties reach a swift agreement the case can conclude within approximately 3 months and efforts can be taken to reduce costs such as drafting consent orders before hearings to save on barrister's costs at court.

Heavily contested applications usually exceed 6 months.

Privately funded applications can vary in costs from around £1000. Very heavily contested applications can reach or even exceed £25,000 + VAT.

Families' legal rights if a Local Authority tries to take their children into care:

Funding

Any parent with parental responsibility for a child where the Local Authority issue care proceedings is entitled to Legal Aid, which is non-means and non-merits tested. This means if the Local Authority seek a Care Order or Supervision Order in respect of a child, their parents (or anyone with parental responsibility for them) can get free, independent legal advice from a solicitor.

Care Proceedings

The Local Authority may apply to Court for a Care Order or Supervision Order. This would mean that the Local Authority ask the Court to grant them overriding parental responsibility for a child. Parental responsibility is all the rights, duties, powers, responsibilities and authority in relation to a child. If a Care Order is made, you will still have parental responsibility in respect of your children; however, the Local Authority will also have parental responsibility and will make overriding decisions about their day to day care, where the children should live and who can have contact with them. The Local Authority should, if at all possible consult or inform you about decisions regarding the children's education, religious upbringing and medical treatment. Care Orders remain in force until a child's 18th birthday, although applications to discharge a Care Order can be made six months after the original order was made or at any time after that.

The Court can also make a Supervision Order, if such an order is made the Local Authority does not share parental responsibility, but the children are placed under the supervision of a designated Local Authority. These orders normally last for one year but can be extended up to a total of three years. A Social Worker who supervises under the order should 'advise, assist and befriend a supervised child' amongst other things. A Supervision Order can require the supervisor to direct where the child must live, to visit the child where it is living and that the child should visit certain people, e.g. a doctor or participate in particular activities, like attending school.

If the Local Authority issue proceedings at Court, a Guardian will be appointed for the child. A Guardian is a completely independent social worker who works for CAFCASS. They will visit the parents and the children so that they can make recommendations to the Court as to what order (if any) should be made. One of their primary duties is to prepare detailed reports setting this out.

A Court can only make a Care or Supervision Order in respect of a child (aged under 17 years) if it is satisfied:

1. That the children are suffering, or are likely to suffer significant harm; and
2. That the harm or likelihood of harm is:
 - i. The care given to the children is not what it would be reasonable to expect the parent to give to them; or
 - ii. The children are beyond parental control.

This is known as the threshold criteria and the Court must first consider if this threshold criteria is satisfied, and then consider whether to make an order, whilst bearing in mind the 'No Order' Principal. This sets out that no order should be made unless the Court considers that doing so would be better for the child than making no order at all.

Care and Supervision Orders can be made at the end of the proceedings, at the final hearing. Before this, there will be interim hearings to discuss what other information the Court needs to know or what other assessments should be carried out before it can make a final decision.

The Court's paramount consideration when making any order in respect of a child must be the welfare of that child and there are seven criteria set out in section 1(3) Children Act 1989 :

1. The ascertainable wishes and feelings of the child concerned
2. The child's physical, emotional and educational needs
3. The likely effect on the child if circumstances changed as a result of the court's decision
4. The child's age, sex, backgrounds and any other characteristics which will be relevant to the court's decision
5. Any harm the child has suffered or maybe at risk of suffering
6. Capability of the child's parents (or any other person the courts find relevant) at meeting the child's needs
7. The powers available to the court in the given proceedings

At the outset of the proceedings the Local Authority may apply for an Interim Care Order or a Supervision Order. The Court can only make such interim orders if it finds there is 'reasonable grounds' for believing that the threshold criteria are satisfied.

If there is an emergency or an incident with police involvement, the Court may be asked to make an Emergency Protection Order (EPO). These orders are designed to protect children in an emergency and are initially limited to eight days. The Court can only make this order if it is satisfied that:

1. There is reasonable cause for believing the child is likely to suffer significant harm if:
 - i. They are not removed to accommodation provided by or on behalf of the Local Authority; or
 - ii. They do not remain in the place where they are currently accommodated.

The Court can also grant one extension of up to seven days, but the EPO should not be granted for any longer than necessary to protect the child. Although the order does confer parental responsibility to the Applicant Local Authority, this is limited to only what is necessary to safeguard and promote the child's welfare.

The police can also take a child into police protection under the same criteria for up to 72 hours, although the police do not acquire parental responsibility and must inform the Local Authority, who may take steps to apply for an EPO, Care Order or Supervision Order if necessary.

Following the conclusion of care proceedings:

If final Care Orders are made and the child is placed in the care of the Local Authority, whilst the Local Authority can make overriding decisions about the child's life, this still does not give them the right to consent to the child's adoption.

If the care plan for the child was adoption, the Local Authority would need to apply for a Placement Order, this would allow the Local Authority to place the child for adoption with any prospective adopters if granted. However, this order can only be made with the consent of the parent or guardian, unless the Court directs that such consent can be dispensed with. This means parents do have an opportunity to oppose this.

Once a child has been placed with potential adopters, those adopters can make an application to the Court for an Adoption Order after the child has been living with them for at least 10 weeks. Such orders cannot be made without the parents' consent unless the Court is satisfied that they cannot be found, or are incapable of giving consent, or that the welfare of the child requires their consent to be dispensed with.

Pre-proceedings help and assistance:

If social services are involved with your family, but have not issued care proceedings, then you may still be able to access free, independent legal advice from a solicitor under the Legal Help scheme. However, this level of public funding maybe means and merits tested, which means you must be financially eligible and there must be a certain level of social services involvement with your children in order for us to assist you.

The Local Authority may convene a Child Protection Conference. This is a formal meeting where professionals involved with the child, like their school, health visitors, police and social workers meet with the parents and an independent chairperson to gather information and determine whether the child is at risk of significant harm, whether this be due to physical, emotional or sexual abuse, or neglect. If so, then a Child Protection Plan will be drafted with immediate actions to be taken to protect the child. This will be reviewed after three months and then six months thereafter.

We may be able to attend these conferences with parents in a supportive and advisory capacity, though we cannot take an active role in these meetings and can only observe and advise parents afterwards.

The Local Authority could commence the Public Law Outline Process (PLO). There will be a PLO meeting arranged by the Local Authority to try and work with parents prior to proceedings being issued. Usually the meeting allows for a draft a written agreement to be signed and adhered to, setting out things that should and should not happen, like abstinence from alcohol or ensuring the child attends school. These will also be reviewed and the matter may be de-escalated if the concerns are alleviated, or the Local Authority may issue care proceedings if they think threshold (as above) is met.

We may also be able to attend these meetings with you and negotiate the written agreement on your behalf. If you are able to provide evidence by way of a pre-proceedings letter (which states that the Local Authority are entering the PLO process) then the Legal Help Funding is non-means, non-merits tested. We must have a copy of the PLO letter to enable us to open up a Legal help file to advise and assist you.

Gateway evidence

"Gateway evidence" is the proof a client is required to provide to show that they are eligible for legal aid for certain types of cases, namely:

1. Divorce
2. Financial remedies
3. Child Arrangements Order
4. Prohibited Steps Orders
5. Specific issue Orders

In order to show that a client is eligible for legal aid for one of the above cases, we will need evidence of at least one of the following *:

1. An **unspent conviction** for a domestic violence offence dated within the past 5 years;
2. A relevant police **caution** dated within the past 5 years;
3. Evidence of **ongoing criminal proceedings** e.g. a letter confirming a pending hearing date;
4. A relevant **protective injunction** which is either in force or made in the 5 year period before the date that the client visits us for legal aid;
5. An **undertaking** dated within the past 5 years (please note that if a cross-undertaking is provided, it will not be sufficient gateway evidence);
6. A letter from the chair of a multi-agency risk assessment conference (**MARAC**) that the client was referred as a "high risk victim of domestic violence" and that there was a conference in the last 5 years;
7. A copy of a **finding of fact** made in proceedings in the UK in last 5 years;
8. A **letter from a health professional** e.g. a GP confirming that in the 5 year period before the assessment the client had "injuries or a condition consistent with those of a victim of domestic violence";
9. **Letter from social services** confirming that the client was at risk of being a victim of domestic violence;
10. Admission to a **domestic violence support organisation** for a period of 24-hours (at least) within the past 5 years.

**The usual means and merits tests will still apply even if the above gateway evidence is present.*

Template Letters

Police

- a. Request for evidence of police caution for a DV offence
- b. Request for evidence of police bail for a DV offence

Health professionals

- a. Request to health professional for medical evidence of injuries/condition consistent with DV
- b. Response from health professional to request for evidence of injuries/condition consistent with DV
- c. Response from health professional to request for evidence of a referral of applicant to specialist DV support service, due to DV

DV Support Services and Refuges

- a. Request to refuge for evidence of stay or refused entry due to DV
- b. Response by refuge to request for evidence of stay due to DV
- c. Request to DV specialist support service for evidence of referral of applicant to them
- d. Response from DV specialist support service to request for evidence confirming a referral by a health professional to them

MARAC

- a. Request for evidence of MARAC protection plan
- b. MARAC response to request for evidence of protection plan

Social Services

- a. Request to Social Services for evidence of an assessment of DV
- b. Social Services response to request for evidence of DV
- c. Request to Social Services for evidence of an assessment of child abuse or a child protection plan
- d. Social Services response to request for evidence of child abuse assessment or child protection plan

<https://www.gov.uk/legal-aid/domestic-abuse-or-violence>

Request for evidence of a police caution for a domestic violence offence

This example letter has been designed by the Ministry of Justice to be used to request evidence of a police caution for a domestic violence offence.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

Data Protection Officer
[Police Force HQ Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern,

I would like to request details of a caution as the victim in the case concerned. The details of the case are as below.

Name of offender:	[put full name]
Name of victim,:	[put your name here]
Date caution given:	exact date should be put here if known but if not month and year may be sufficient to process]
Offence:	[please state here the name of the offence – see list of domestic violence offences in the guidance]

This is needed as evidence of domestic violence in order that I can access legal aid for a private family case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. I would therefore be grateful if this could be treated as a **matter of urgency**. I would be grateful if you could send the information to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid can be found at www.justice.gov.uk/legal-aid-for-private-family-matters

Yours faithfully,

[Add your name here]

Request for evidence of police bail for a domestic violence offence

This example letter has been designed by the Ministry of Justice to be used to request evidence of police bail given for a domestic violence offence where the charge is still being considered.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

Data Protection Officer
 [Police Force HQ Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern,

I would like to request confirmation of police bail given for a domestic violence offence, as the victim in the case concerned. The details of the case are as below.

Name of offender:	[put full name]
Name of victim:	[put your name here]
Date police bail given:	exact date should be put here if known but if not month and year may be sufficient to process]
Offence:	[please state here the name of the offence – see list of domestic violence offences in the guidance. If you are not certain of the offence, please briefly describe it]

This is needed as evidence of domestic violence in order that I can access legal aid for a private family case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. **I would therefore be grateful if this could be treated as a matter of urgency.** I would be grateful if you could send the information to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid can be found at www.justice.gov.uk/legal-aid-for-private-family-matters

Yours faithfully,

[Add your name here]

Request to health professional for medical evidence of injuries/condition consistent with domestic violence

This example letter has been designed by the Ministry of Justice to be used to request evidence of injuries/condition consistent with domestic violence from a doctor (including GP), nurse, midwife, practitioner psychologist or health visitor.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Name of health professional]
[Address of surgery/hospital]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

Dear [insert name of doctor, nurse, practitioner psychologist, health visitor or midwife],

Request for evidence of domestic violence for access to legal aid

I would like your help so I can get Legal Aid.

I would like to request written confirmation that I was examined by you in the last 60 months with injuries or a condition that were consistent with those of a victim of domestic violence. In the event of your being absent, I would be grateful if a medical colleague¹ with access to my medical records could do so.

This is needed as evidence of domestic violence in order that I can access legal aid for a family dispute in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. Without evidence I will be unable to get legal aid to pursue my family case. **I would therefore be grateful if this could be treated as a matter of urgency.**

There is an example letter for this which is available on www.justice.gov.uk/legal-aid-for-private-family-matters which can be pasted onto the practice/hospital letterhead.

I will then take your letter to a family lawyer so they can assist me with my dispute.

The legal aid legislation defines domestic violence as "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." This follows the cross-Government definition.

The Ministry of Justice and the Legal Aid Agency recognise that the great majority of physical injuries and many non-physical conditions could be caused by domestic violence.

¹ In order to meet the requirements to access legal aid, this will need to be a doctor, nurse, health visitor, midwife or practitioner psychologist.

I can confirm that the [injuries/condition] that I presented to you with on [insert date when you were examined by the health professional if known] were caused by domestic violence.

[Delete following paragraph if not sending this letter to a GP]

I would be grateful if you could let me know when the letter is ready to collect from the surgery. The best way to contact me is [Enter details on best way to be contacted]

Yours [faithfully/sincerely],

[Add your name here]

Response from health professional to request for evidence of injuries/condition consistent with domestic violence

This example letter has been designed by the Ministry of Justice to be used by doctors (including GPs), nurses, midwives, practitioner psychologists & health visitors (or, in the examining health professional's absence, another health professional who has access to the applicant's medical records), when responding to requests for evidence of injuries or condition consistent with domestic violence.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

HEADED LETTER [Please can you ensure that the letter is on headed paper from the surgery or hospital where the doctor, nurse, practitioner psychologist, health visitor or midwife practises.]

[Addressee name]

[Your Address]

[Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

[GMC/NMC/HCPC] Registration Number:

[GMC/NMC/HCPC] Registration Number:

Dear [Insert name of addressee],

Name of applicant: [Name of applicant]

I understand that [APPLICANT'S NAME] ('the Applicant') wishes to access legal aid for a family dispute as a victim of domestic violence. For this reason I have been asked to provide a letter in accordance with regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012.

Accordingly I can confirm that the Applicant presented [himself/herself] to me [insert relevant health professional's name] on the [DATE WHEN CONSULTATION OCCURRED] (being within 60 months prior to the Applicant's intended application for legal aid). After examining them I [insert relevant health professional's name] was satisfied that the [injuries [and/or] condition] that the Applicant presented me [insert relevant health professional's name] were consistent with domestic violence.

I understand that the Ministry of Justice and the Legal Aid Agency recognise that the great majority of physical injuries and many non-physical conditions could be caused by domestic violence.

I understand that this evidence is only required for a decision on whether or not to grant legal aid – it is not designed to prove domestic violence in the context of a criminal or civil court case.

The applicant has confirmed that the [injuries/condition] that [he/she] presented to me [insert relevant health professional's name] with on [date of consultation] were caused by domestic violence.

Yours sincerely,

[Sign]

[Name of Medical signatory]

[Title of signatory]

[Please indicate if signing on behalf of health professional colleague in their absence]

Response from health professional to request for evidence of a referral of applicant to specialist domestic violence support service, due to domestic violence

This example letter has been designed by the Ministry of Justice to be used by doctors (including GPs), nurses, midwives, practitioner psychologists & health visitors when responding to requests for evidence of a referral of the applicant to a specialist domestic violence support service, within 5 years preceding the date of application for legal aid, due to domestic violence. This can also be used by the health professional to sign on behalf of their fellow health professional colleague, if they are absent and the health professional has access to the applicant's medical records.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

HEADED LETTER [Please can you ensure that the letter is on headed paper from the surgery or hospital where the doctor, nurse, health visitor, midwife or practitioner psychologist practises.]

[Addressee name]

[Your Address]

[Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

[GMC/NMC/HCPC] Registration Number:
[GMC/NMC/HCPC Registration Number]

Dear [insert name of addressee],

Name of applicant: [Name of applicant]

I understand that [APPLICANT'S NAME] ('the Applicant') wishes to access legal aid for a family dispute as a victim of domestic violence. For this reason I have been asked to confirm, in accordance with regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012, that I [insert name of health professional] referred the Applicant, to [insert organisation name] as a domestic violence support organisation. I can confirm that this happened on [insert date of referral].

I understand that the Ministry of Justice and the Legal Aid Agency recognise that the great majority of physical injuries and many non-physical conditions could be caused by domestic violence.

I understand that this evidence is only required for a decision on whether or not to grant legal aid – it is not designed to prove domestic violence in the context of a criminal or civil court case.

Yours faithfully,

[Sign]

[Name of Medical signatory]

[Title of signatory]

[Please state if signing on behalf of fellow health professional]

Request to refuge for evidence of stay or refused entry due to domestic violence

This example letter has been designed by the Ministry of Justice to be used to request evidence of a stay at a refuge due to domestic violence or a refused entry to a refuge due to lack of accommodation available.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

The Manager
[Refuge Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern,

Name – [put your name here]

Dates of stay/ leaving/ turned away – [put dates of when you stayed/ left, or were turned away from refuge if known]

I would like to request written confirmation that I stayed at this refuge because of domestic violence, with details of the date/s I stayed at/ left the refuge.

[Or – delete as appropriate] I would like to request written confirmation that I approached this refuge, which provides accommodation for victims, or those at risk of domestic violence, within the last five years, and was refused admission due to there being insufficient accommodation available.

This is needed as evidence of domestic violence in order that I can access legal aid for a private family case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. I would therefore be grateful if this could be treated as a matter of urgency. I would be grateful if you could send the information to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid can be found at www.justice.gov.uk/legal-aid-for-private-family-matters. This includes a template letter that you can use to reply.

Yours faithfully,

[Add your name here]

Response by refuge to request for evidence of stay due to domestic violence

This example letter has been designed by the Ministry of Justice to be used by refuges when responding to enquiries to requests for evidence of 24 hours or more stays because of domestic violence.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Refuge's own headed paper to be used]

[Addressee name]

[Address]

[Address of refuge]

[E-mail address of refuge]

[Contact telephone number of refuge]

Dear [Insert name of applicant],

Name of victim: [Name of victim]

I confirm that on [state date] the victim was admitted to this refuge for a period of twenty four hours or more because of domestic violence.

This refuge provides accommodation for victims of, or those at risk of domestic violence.

Signed:

[Name of Refuge Manager]

Refuge Manager

Request to domestic violence specialist support service for evidence of referral of applicant to them

This example letter has been designed by the Ministry of Justice to be used to request letter/report from the domestic violence support service confirming referral of the applicant by a doctor (including GP), nurse, midwife, practitioner psychologist or health visitor to them.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Name of domestic violence specialist support service advocate]
[Address of domestic violence specialist support organisation]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

Dear [insert name of domestic violence specialist support service advocate]

Request for evidence of domestic violence for access to legal aid

I would like your help so I can get Legal Aid.

I would like to request written confirmation that I was referred by a *doctor (including GP), nurse, midwife, practitioner psychologist or health visitor* to your domestic violence specialist support organisation, due to/or being at risk of domestic violence, with the details of the date the referral was made. Please also confirm in your letter that your organisation provides specialist support or assistance for victims of, or those at risk of, domestic violence.

This is needed as evidence of domestic violence in order that I can access legal aid for a family dispute in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. Without evidence I will be unable to get legal aid to pursue my family case. I would therefore be grateful if this could be treated as a matter of urgency.

There is an example letter for this which is available on www.justice.gov.uk/legal-aid-for-private-family-matters which can be pasted onto the domestic violence specialist support organisation letterhead. I would be grateful if you could let me know when the letter is ready to collect. The best way to contact me is [Enter details on best way to be contacted]

Yours [faithfully/sincerely],

[Add your name here]

Response from domestic violence specialist support organisation to request for evidence confirming a referral by a health professional to them

This example letter has been designed by the Ministry of Justice to be used by domestic violence specialist support organisation when responding to requests for evidence of referrals made by doctors (including GPs), nurses, midwives, practitioner psychologists & health visitors of the applicant, to their domestic violence specialist support service which provides support and assistance for victims of, or those at risk of, domestic violence.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

HEADED LETTER [where possible]

[Addressee name]
[Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

Dear [Insert name of addressee],

Name of applicant: [Name of applicant]

I understand that [APPLICANT'S NAME] ('the Applicant') wishes to access legal aid for a family dispute as a victim of domestic violence. For this reason I have been asked to confirm I have received a referral of the Applicant from a health professional, to our domestic violence specialist support service in accordance with regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012.

Accordingly I can confirm that the Applicant was referred to our domestic violence specialist support organisation on the [DATE WHEN REFERRAL MADE] (being within 60 months prior to the Applicant's intended application for legal aid) from a health professional [name/practice to be inserted if known].

Yours sincerely,

[Sign]

[Name of domestic violence specialist support organisation signatory]

[Title of signatory]

Request for evidence of MARAC protection plan

This example letter has been designed by the Ministry of Justice to be used to request evidence of a MARAC protection plan.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Data Protection Officer / MARAC member]

[Your Address]

[Police force HQ / MARAC member address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern [delete and insert name of MARAC member if known],

I would like to request written confirmation from a member of the MARAC that I have been referred to a MARAC as a victim of domestic violence and a plan has been put in place in the last 60 months to protect me from harm by [insert perpetrator's name here].

This is needed as evidence of domestic violence in order that I can access legal aid for a private family case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. I would therefore be grateful if this could be treated as a matter of urgency. I would be grateful if you could send the information to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid can be found at www.justice.gov.uk/legal-aid-for-private-family-matters. This includes a template letter that you can use to reply.

Yours [faithfully/sincerely],

[Add your name here]

MARAC response to request for evidence of protection plan

This example letter has been designed by the Ministry of Justice to be used by any person (which includes an organisation) who is a member of a MARAC to sign on behalf of a MARAC when responding to enquiries to requests for evidence of a MARAC protection plan.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Headed paper – either that of the MARAC or member who is writing - to be used]

[Addressee name]
[Address]

[Address of member]

[E-mail address of member]

[Contact telephone number of member]

Dear [insert name of applicant],

Name of perpetrator: [Name of perpetrator]

Name of victim: [name of victim]

I confirm that the victim was referred to the MARAC as a victim of domestic violence and the MARAC put in place a plan on [insert date here] to protect the victim from a risk of harm by the perpetrator.

Yours sincerely,

[Sign]

[Name of MARAC member]

Member of MARAC

Request to Social Services for evidence of an assessment of domestic violence

This example letter has been designed by the Ministry of Justice to be used to request evidence of an assessment of domestic violence from social services.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Social Worker (insert name
of Social Worker if known)]
[Social Services Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern [Insert name of Social Worker if known]

I would like to request written confirmation that I have been assessed in the last 60 months by social services as at risk or being a victim of domestic violence by [insert perpetrator's name here].

This is needed as evidence of domestic violence in order that I can access legal aid for a private family case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. **I would therefore be grateful if this could be treated as a matter of urgency.** I would be grateful if you could send the information to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid can be found at www.justice.gov.uk/legal-aid-for-private-family-matters. This includes a template letter that you can use to reply.

Yours faithfully,

[Add your name here]

Social Services response to request for evidence of domestic violence

This example letter has been designed by the Ministry of Justice to be used by social services departments when responding to enquiries to requests for evidence of domestic violence assessments.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Social Services Department own headed paper to be used]

[Addressee name]
[Address]

[Address of Soc. Serv.]

[E-mail address of Soc. Serv.]

[Contact telephone number of Soc. Serv.]

Dear [insert name of applicant],

Name of perpetrator: [Name of perpetrator]

Name of victim: [name of victim]

I confirm that on [date] the applicant was assessed by the social services department as being, or at risk of being, a victim of domestic violence by the perpetrator

Yours sincerely,

Signed:

[Name of Social Services Officer]

[Title of signatory]

Request to Social Services for evidence of an assessment of child abuse or a child protection plan

This example letter has been designed by the Ministry of Justice to request evidence of an assessment of child abuse or a child protection plan.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Social Worker (insert name
of Social Worker if known)]
[Social Services Address]

[Your Address]

[Your E-mail (if applicable)]

[Your Contact telephone number]

To whom it may concern [Insert name of Social Worker if known],

[Select one of the following two paragraphs and delete as appropriate]

I would like to request written confirmation that [insert child's name] has been assessed in the last 24 months by social services as at risk or being a victim of abuse by [insert perpetrator's name].

or

I would like to request written confirmation that [insert child's name] has had a child protection plan in the last 24 months put in place to protect [him/her] from abuse by [insert perpetrator's name].

This is needed as evidence of child abuse in order that I can access legal aid for a private children's case in accordance with the Legal Aid, Sentencing & Punishment of Offenders Act 2012. I would therefore be grateful if this could be treated as a matter of urgency.

I would be grateful if you could send your written confirmation to [state address where you wish this to be sent].

More information and guidance about the evidential requirements for legal aid in family matters can be found at www.justice.gov.uk/legal-aid-for-private-family-matters. This includes a template letter that you can use to reply.

Yours [faithfully/sincerely],

[Add your name here]

Social Services response to request for evidence of child abuse assessment or child protection plan

This example letter has been designed by the Ministry of Justice to be used by Social Services Departments when responding to enquiries to requests for evidence of assessment of child abuse, or implementation of a child protection plan.

Information required is highlighted and instructions are italicised. Please delete any unnecessary text and instructions (including this introduction) before sending.

[Social Services Department own headed paper to be used]

[Addressee name]

[Address]

[Address of Soc. Serv.]

[E-mail address of Soc. Serv.]

[Contact telephone number of Soc. Serv.]

Dear [insert name of applicant],

Name of perpetrator: [Name of perpetrator]

Name of child: [name of child]

[Select one of the following two paragraphs]

I confirm that on [date] the child was assessed by the social services department as being, or at risk of being, a victim of child abuse by the perpetrator

OR

I confirm that on [date] a child protection plan was put in place to protect the child from abuse or risk of abuse by the perpetrator,

Yours sincerely,

[Name of Social Services Officer]

[Title of signatory]