

# University House Legal Advice Centre

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## Legal Aid Agency

Exceptional Case Funding Team

By Email only

[ContactECC@justice.gov.uk](mailto:ContactECC@justice.gov.uk)

Our Ref:

Your Ref:

Date: November 2021

Dear Sirs,

**Re:** Exceptional Case Funding Application – Mr. [REDACTED]

**Contact:** Mr. [REDACTED]  
c/o Lisa Okoroafor

University House, Legal Advice Centre  
104 Roman Road, London, E2 0RN  
Email: [lisa@legaladvicecentre.london](mailto:lisa@legaladvicecentre.london)

Tel: 020 3606 0372

We are a charity assisting Mr [REDACTED] in Children Act 1989 ("CA 1989") proceedings. We write to apply for exceptional case funding ("ECF") to enable us to assist Mr [REDACTED] obtain legal representation in these proceedings.

We believe that, based on the presumption that Mr [REDACTED] will be competently represented in his CA 1989 proceedings, he would have a good prospect of success and the test for the grant of ECF, i.e. that of 'sufficient benefit' will be met. This is an initial assessment, in line with the comments on how merits criteria should be assessed made by Mr Justice Collins in *I.S. v Director of Legal Aid Casework* [2015] EWHC 1965 (Admin) paragraph 96:

*"the whole point of representation is that it will produce the chance of success which without representation will not exist"*

It is of utmost importance that Mr [REDACTED] is allowed to have contact with his son, [REDACTED], and it would be entirely reasonable for a privately paying individual to use their own resources in the circumstances of a case like this.

Please find enclosed the following documentation as part of the application for ECF under s. 10(2) Legal Aid Sentencing and Punishment of Offenders Act 2012:

1. statement of case for ECF and supporting documents (as identified therein);
2. CIV ECF 1 form;
3. CIV APP 3 form; and
4. CIV Means 1 form.

We look forward to hearing from you.

Yours faithfully

University House, Legal Advice Centre

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## STATEMENT OF CASE FOR EXCEPTIONAL CASE FUNDING

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### Background

██████████ (date of birth ████ March 1970) ("Mr ██████████") is a 51-year-old Ugandan national and is currently resident at ██████████.

██████████ has one child, ██████████ with ██████████ (date of birth ████ March 1965) ("Ms ██████████"). ██████████ and ██████████ have never been married and are not currently in a relationship. ██████████ currently resides with ██████████.

There is a long history of Children Act 1989 ("CA 1989") proceedings between ██████████ and Ms ██████████ in relation to ██████████ as detailed below. Ms ██████████ was in receipt of a Legal Aid certificate and has been represented by counsel during the proceedings, whereas Mr ██████████ to date has been acting in person.

Throughout the proceedings, Ms ██████████ has made serious allegations against Mr ██████████ including as to domestic violence or abuse, emotional and financial abuse, sexual assault, child abduction and alcohol abuse, each of which are denied by Mr ██████████.

### Background of proceedings

#### CA 1989 Proceedings

1. Child Arrangements and Prohibited Steps Order proceedings (ref: ██████████)

Ms. ██████████ applied for a Child Arrangements Order, Prohibited Steps Order and Specific Issue Order where she alleged that Mr ██████████ may leave the UK with ██████████. Ms ██████████ requested that ██████████ live with her and that Mr ██████████ be prohibited from removing ██████████ from Ms ██████████ care. Additionally, Ms ██████████ sought to have Mr ██████████ surrender ██████████ passport to her. A copy of the application is enclosed at **Document A**. As part of the proceedings, Mr ██████████ admitted his conviction on 19 March 2014 of endangering the safety of a person conveyed on the railway by leaving Ms ██████████ car parked on railway tracks on 30 January 2014.

A Child Arrangements and Prohibited Steps Order was made on 1 July 2014 granting Ms ██████████ application. A copy of the Order is enclosed at **Document B**.

2. Suspension of Contact proceedings (ref: ██████████)

A Child Arrangements Order was made on 23 August 2018 limiting Mr [REDACTED] interaction with [REDACTED] to set periods on alternative Friday afternoons, the Saturday following [REDACTED] birthday and on Christmas Eve (the "2018 CAO"). A copy of the Order is enclosed at **Document C**.

A copy of the Cafcass Case Analysis prepared as part of these proceedings is enclosed at **Document D**.

The 2018 CAO was varied on 2 July 2019 given Mr [REDACTED] financial situation to the effect that his contact with [REDACTED] was limited to the last Friday of each month until such time as he can demonstrate that he can afford the travel costs of fortnightly visits. A copy of the Order is enclosed at **Document E**.

### **Family Law Act 1996 proceedings**

3. Non-Molestation Order proceedings (ref: [REDACTED])

Ms [REDACTED] applied for a Non-Molestation Order which was granted on 19 May 2020 and subsequently amended on 1 February 2021. A copy of the amended Non-Molestation Order is enclosed at **Document F**.

### **Current proceedings**

4. Child Arrangements Order variation proceedings ([REDACTED])

Ms [REDACTED] applied for the 2018 CAO to be amended such that contact between Mr [REDACTED] and [REDACTED] be supervised. A copy of the application and supplemental information form is enclosed at **Document G**.

These proceedings are ongoing and have been delayed slightly due to Mr [REDACTED]'s health issues (as detailed below). On 31 March 2021, the court ordered that the First Hearing and Dispute Resolution Appointment (the "FHDR") be adjourned and that Cafcass produce a section 7 report. A copy of the Order is enclosed at **Document H**.

A copy of the Cafcass Case Analysis prepared pursuant to the above Order is enclosed at **Document I**.

The impact of a further amendment to the 2018 CAO with the effect that all contact between Mr [REDACTED] and [REDACTED] will be supervised will be a key issue in the CA 1989 proceedings and will require expert evidence in the form of an independent social work report. Neither Mr [REDACTED] nor University House Legal Advice Centre have the resources to meet this cost.

## **Physical and Mental Health**

Mr [REDACTED] suffers from complex physical and mental health issues, as evidenced by the letter from Mr [REDACTED]'s GP dated 11 July 2021 enclosed at **Document J**.

As noted in the second Cafcass Case Analysis (**Document I**), since the amendment proceedings concerning the 2018 CAO were last before the court, there has been a significant change to Mr [REDACTED]'s circumstances. He was the victim of a violent attack in 2019 which required serious brain surgery, and which has led to his diagnosis of post-traumatic epilepsy and depressive disorder, the latter being exacerbated by Mr [REDACTED] not being able to see [REDACTED] as a result of his injuries. A copy of a letter from Mr [REDACTED]'s consultant neurosurgeon dated 9 October 2019 is enclosed at **Document K**.

An independent psychological assessment and report is required to assess the impact of the proceedings on Mr [REDACTED]'s mental health and in particular concerning the impact on Mr [REDACTED]'s mental health should his contact with [REDACTED] be reduced further or become entirely supervised. Neither Mr [REDACTED] nor University House Legal Advice Centre has the resources to meet this cost.

In addition to the abovementioned physical and mental health issues, Mr [REDACTED] was diagnosed with tuberculosis earlier this year for which he received treatment as an inpatient in hospital. This resulted in a further deterioration to his physical health however as stated in **Document J**, Mr [REDACTED] is "recovering well on the correct treatment".

## **Outcome Sought**

Mr [REDACTED] seeks ECF to obtain legal advice and assistance in relation to the ongoing CA 1989 proceedings concerning an amendment to the 2018 CAO.

## **Legal Framework**

Sub-section 10(3)(a) Legal Aid Sentencing and Punishment of Offenders Act 2012 states that:

- (3) *For the purposes of subsection (2), an exceptional case determination is a determination—*
  - (a) *that it is necessary to make the services available to the individual under this Part because failure to do so would be a breach of—*
    - (i) *the individual's Convention rights (within the meaning of the Human Rights Act 1998), or*
    - (ii) *any rights of the individual to the provision of legal services that are enforceable EU rights, or*

- (b) *that it is appropriate to do so, in the particular circumstances of the case, having regard to any risk that failure to do so would be such a breach.*

In *Gudanaviciene & Ors. R (on the application of) v The Director of Legal Aid Casework & Or [2014] EWCA Civ 1622* the Court of Appeal concluded that a grant of ECF was appropriate in the circumstances and that the failure to provide funding was contrary to the procedural protections under Article 8 of the European Convention of Human Rights ("ECHR"). Whether Legal Aid is required will depend on the facts and circumstances of each case including:

- (a) the legal, factual and procedural complexity of the matter;
- (b) the importance of what is at stake; and
- (c) the ability of the applicant to represent themselves without legal assistance.

In *Gudanaviciene*, the Court said that "*Equality of arms must be guaranteed to the extent that each side is afforded a reasonable opportunity to present his or her case under conditions that do not place them at a substantial disadvantage vis-à-vis their opponent*". In many family cases, one party will be represented and the other will not. Where one party has the benefit of representation, there will often be an obvious unfairness faced by the other.

We submit that as considered in *Gudanaviciene* that "*without legal representation [Mr ████████ will either (i) defend an application that is likely to be unsuccessful or (ii) not submit the defence at all*". A grant of ECF Legal Aid to prepare the defence is therefore appropriate.

*D (as described by HHJ Wildblood in D v K [2014] EWHC 700 (Fam) and by Munby P in Re B (a Child) [2014] EWFC 31)*

This case involved family proceedings at disputed final hearing stage (i.e. full representation). The father was accused of serious (and potentially criminal) conduct (in this case, rape) in family proceedings. Cross-examination was necessary for fairness, and if the father was unrepresented, he would have to cross-examine the mother in respect of the rape allegations. This case was of significant importance because contact with a child was at stake. It was complex because cross-examination is a specific skill. HHJ Wildblood at paragraph 6 stated that "*Where allegations of this seriousness arise it is very important that the respondent to the allegation is given advice. That advice cannot be given to him by the judge and could not be given to him by the representative of the guardian*".

*Q (as described by Munby P in Q v Q [2014] EWFC 7; Q v Q [2014] EWFC 31)*

This case concerned a father who had been convicted of a sexual offence against a minor. He had applied for contact with his child. Expert reports said that he should not have contact. The father spoke very poor English and could not effectively mount a defence at the final hearing. Munby P stated he was "*unpersuaded that there are not matters in these reports which could properly be*

challenged, probed, by someone representing the father" and as a result could not dismiss the application as the mother requested.

Subsequently in the case of I.S. [2015] EWHC 1965 (Admin) the High Court emphasised:

- (a) the need for both procedural fairness and substantial justice (at [25]);
- (b) concerns about the 13% success rate for non-inquest ECF applications (at [29]);
- (c) that legal aid may be needed for applications to the Home Office as much as for appeals to a court or tribunal (at [79]);
- (d) that the whole point of representation is that it will produce the chance of success which without representation will not exist and that cases should not be prejudged as part of the merits test (at [96]); and
- (e) at [71] that:

*"The reality is that there is a limit to the extent to which it is proper for a judge to assist one party to litigation and if there is either factual, legal or procedural complexity it is difficult to see how an unrepresented party who will inevitably be likely not to be able to approach the matter objectively can have a fair hearing. If there are factual issues to be determined, evidence may be needed, whether medical or expert or other evidence, and the court in adversarial proceedings has no power to obtain such evidence. No doubt some litigants who would not meet the means test for legal aid will choose to represent themselves, but that is not a relevant consideration in deciding on an application by one who cannot afford legal assistance. The belief that because courts and tribunals have to deal with litigants in person legal representation can be refused is one which must be very carefully applied. It should only be used to refuse an application if the issues are truly relatively straightforward."*

### **Why Legal Representation is Needed**

The case is of overwhelming importance to Mr [REDACTED]

These proceedings involve Mr [REDACTED]'s only child in the United Kingdom, who he has not seen in person for a significant period of time (see Documents G and I). Mr [REDACTED] was involved in [REDACTED]'s life since his birth as the parties resided together prior to their separation. As noted in both Cafcass reports (see Documents D and I), it is in the child's best interest to maintain a relationship with his father and to not get involved in the disputes between the parents.

Other than Mr [REDACTED]'s previously disclosed conviction in 2014 (see above), the police have investigated the allegations against Mr [REDACTED] and have not taken any further action against him. These allegations have not been proven and Mr [REDACTED] is not a risk to his child whether his contact with [REDACTED] is supervised or not.

Mr [REDACTED]'s right to respect of private and family life may be severely jeopardised by the potential outcome of these proceedings. This application is made on the basis that the consequences of an adverse outcome to the proceedings would be extremely serious and would potentially mean that Mr [REDACTED] would have only very limited supervised contact with his son [REDACTED]. It is of great importance to Mr [REDACTED] that he has quality unsupervised contact with [REDACTED] so that he maintains a relationship in a natural setting.

Mr [REDACTED] should be able to enjoy his private and family life with his son. Pursuant to section 1(2A) of the CA 1989, when the court makes a decision about who a child should live or spend time with, there is a presumption (unless the contrary is shown) that the involvement of both parents in the child's life will further the child's welfare.

Mr [REDACTED] is unable to represent himself without legal assistance due to the emotive and sensitive issues which the case raises – see *P, C and S v UK* [2002] 35 EHRR 31 at [95]:

*"The complexity of the case, along with the importance of what was at stake and the highly emotive nature of the subject matter, lead this Court to conclude that the principles of effective access to court and fairness required that P receive the assistance of a lawyer."*

It is not reasonable to expect Mr [REDACTED] to be able to make representations on the impact it would have on him and on [REDACTED] and their relationship should their interaction reduced to supervised only without appropriate legal representation. It is impossible for Mr [REDACTED] to effectively present his fears for the future in a way that the court would attach any weight.

#### Complexity of the case

Mr [REDACTED] has a history of suffering from physical and mental health issues, for which he is on medication. The case is complex and Cafcass has recommended that [REDACTED] become a party to the proceedings and is represented via a guardian. There is also a long history of proceedings between the parties and the previous papers will be disclosed in these proceedings. There is a voluminous amount of documentation for Mr [REDACTED] to consider and analyse in this case, which he does not have the ability to do. Expert evidence is required in the form of an independent psychological assessment and report. Neither Mr [REDACTED] nor University House Legal Advice Centre have the resources to pay for an independent psychological assessment and report.

Cases involving the right to private and family life and exceptional circumstances are inevitably complex emotive matters requiring careful preparation of evidence and attention to the requirements of the law. Inadequate preparation of evidence can hamper the decision of the court which is required to make a balanced judgement and ultimately lead to injustice. Failure to understand the legal tests and guidance in both statute and case law can also result in injustice.

Representations setting out that it is in [REDACTED]'s best interest to have contact with his father under the CA 1989 are required. To successfully make submissions for the purpose of section 1(3) of the



CA 1989, Mr [REDACTED] will need to have an in-depth understanding of this legal area in order to identify the relevant law, and then the types of evidence required to advance the issues in his case.

Mr [REDACTED] has no knowledge or experience of: (i) identifying, obtaining and appropriately analysing evidence such as that required in support of his case; (ii) drafting witness statements; (iii) instructing experts such as an independent social worker for a best interest's assessment, if appropriate; (iv) drafting representations taking account of and presenting the evidence and applicable law and procedure coherently; (v) completing legal forms; and vi) representing himself at court. Further, Mr [REDACTED] has documented physical and mental health issues. This process would be too complex for the average lay person and it would be impossible for Mr [REDACTED] to deal with this case by himself. Mr [REDACTED] does not have any family members or friends that will be able to assist him with this case.

The factual dispute over the allegations is too complex for Mr [REDACTED] to engage in without legal representation. He would be unable to assess any expert reports (e.g. the Cafcass reports, the independent social work report and/or the independent psychological report) or respond to them adequately and does not have any understanding of the standard of proof in civil matters.

Mr [REDACTED] does not have the skills to conduct advocacy in court, particularly in light of the serious uncorroborated allegations that Ms [REDACTED] has made against him, whereas Ms [REDACTED] has legal representation and is expected to instruct counsel for the adjourned FHDRA hearing in November 2021 and subsequent hearings.

Further, after Mr [REDACTED] was violently attacked in 2019 and in the circumstances of not being able to see his son exacerbating his difficulties, Mr [REDACTED] developed depression being diagnosed with depressive disorder in June 2020. Mr [REDACTED] takes regular medication to help manage his symptoms.

It is strongly submitted that ECF must be granted because it is clear that without such funding Mr [REDACTED] will be unable to effectively represent himself and without funding being available, there is a serious risk of a breach of Mr [REDACTED]'s human rights and those of his son [REDACTED]

How capable is Mr [REDACTED] of representing himself?

The law in this area is too complex for Mr [REDACTED] to navigate without legal representation.

There are complex procedural steps that must be taken in this case. There are arguments to be made, or evidence to analyse, in order to navigate this complexity. Mr [REDACTED] will not be able to do this effectively. Mr [REDACTED] does not have sufficient education and without legal training he is unlikely to be able to effectively engage with the relevant provisions of the statute and case law. Careful preparation of the evidence and submission of the application will be needed, however Mr

██████ lacks the literacy and digital skills to complete this and has no access to the internet in his home, which further hinders his ability to prepare his case.

Furthermore, the issues in his case are not straightforward as they involve serious allegations of (amongst other things) abuse (see **Documents A, D, G and I**). Mr ██████ is unable to represent himself without legal assistance due to the emotive and sensitive issues which the case raises.

#### Expert evidence is required

Mr ██████ requires an independent social worker report to assess the best interests of his son ██████ and the likely impact on ██████'s wellbeing of their contact being on a supervised-only basis.

Mr ██████ also requires an independent psychological assessment and report due to his mental health condition.

Neither Mr ██████ nor University House Legal Advice Centre have the resources to pay for the above reports.

#### ECHR

In the case of *Airey v Ireland (1979) 2 EHRR 305*, it has been accepted that some Convention rights may have an associated right to Legal Aid in some civil cases in order for the rights to be practical and effective.

#### Article 6 ECHR – the right to a fair hearing

This case involves a determination of Mr ██████'s civil rights.

#### Article 8 – ECHR the right to respect for private and family life

It is submitted that exceptional case funding is required to avoid a breach of Article 8 of the ECHR. Article 8 requires that the State ensures individuals are afforded a proper opportunity to participate in the decision-making process where their Article 8 rights are at stake. It is strongly submitted that given the legal, factual and procedural complexity of this case, it's highly emotive subject matter and Mr ██████'s physical and mental health issues, he would not be able to properly present his case without ECF.

Article 8 requires that decisions made which affect a person's private and family life are made fairly. In this case, that requires that legal aid is made available. Article 8 gives rise to procedural obligations. Specifically, Article 8 ECHR may be breached where denial of legal aid prevents an applicant from being "*afforded a proper opportunity to participate in the decision-making process*" where there are Article 8 rights at stake: *Principal Reporter v K [2010] UKSC 56*. For the reasons set out above, the evidence suggests that Mr ██████ will not be able to participate meaningfully or at all in the proceedings without ECF in place.

Furthermore, the decision of the Legal Aid Agency concerns the best interests of Mr [REDACTED]'s son [REDACTED] and so their interests must be a primary consideration – see Article 8 of the ECHR and Article 3 of the United Nations Convention on the Rights of the Child (the "UNCRC"). When interpreting the scope or content of Article 8 of the ECHR, the UNCRC should be taken into account - *ZH (Tanzania) [2011]* UKSC 4 at [25]. The decision on whether or not to grant ECF should therefore itself include a best interests' determination.

An expert assessment in the form of an independent social work report will be required to carry out this assessment. Neither Mr [REDACTED] nor University House Legal Advice Centre have the resources to pay for an independent social work report.

#### Article 47 - Charter of Fundamental Rights of the European Union

Article 47 states that "*Everyone shall have the possibility of being advised, defended and represented. Legal Aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice*". This applies to Mr [REDACTED]'s case as he requires ECF to obtain legal aid.

#### Financial situation

Mr [REDACTED] is currently in receipt of support from the Home Office pursuant to section 95 of the Immigration and Nationality Act 1999. Mr [REDACTED]'s accommodation is provided by Clearel (L&S) and he receives £37.75 in financial support which is provided by way of an Aspen card. A copy of the Home Office letter detailing this support entitlement is enclosed at **Document L** and a copy of Mr [REDACTED]'s Aspen card is enclosed at **Document M**. Mr [REDACTED] does not have a bank account.

Mr [REDACTED] has previously received financial support in the form of ad-hoc donations from friends of £50 every few months. Mr [REDACTED] has no other sources of income.

#### **Conclusion**

The facts, law and procedure impacting on this matter are complex. Failure to grant Mr [REDACTED] ECF will leave this vulnerable person without advice and representation in responding to a CA 1989 application. It is our submission that the grant of ECF to Mr [REDACTED] is urgent and necessary to ensure that his rights, including those under the ECHR, are not breached, and we ask that such grant is made without delay. The previous and current proceedings have taken a toll on the Mr [REDACTED]'s health. He is vulnerable and does not know how he can proceed with managing this case alone without legal representation.



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

Before completing this application you should refer to the Lord Chancellor's Exceptional Funding Guidance. An application for Exceptional Case funding should be sent by email to [ContactECC@justice.gov.uk](mailto:ContactECC@justice.gov.uk).

If you are a provider it must be submitted by e-mail only. If you are a provider with a legal aid contract and the application is for a certificate, it must be submitted via CCMS.

**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: MR Initials: \_\_\_\_\_

Surname: ██████████

First name: ██████████

Surname at Birth (if different): \_\_\_\_\_

Date of Birth: ████ MARCH 1970

Contact Details: C/O UNIVERSITY HOUSE LEGAL ADVICE CENTRE, 104 ROMAN ROAD, LONDON E2 0RN

## Provider details \*Not Required for direct applicants.

Name of provider: \_\_\_\_\_

Account number: (if appropriate) 

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\*Solicitors Roll number: (where applicable) 

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\*Address: \_\_\_\_\_

\*Town: \_\_\_\_\_

\*County: \_\_\_\_\_ Postcode: \_\_\_\_\_

\*DX (with exchange): \_\_\_\_\_

\*Telephone number: \_\_\_\_\_

\*Your case reference: \_\_\_\_\_

\*Contact name for enquiries: \_\_\_\_\_

\*Email details: \_\_\_\_\_

## **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?

FAMILY CHILDREN ACT PROCEEDINGS - RESPONDENT  
TO APPLICATION FOR A CHILD ARRANGEMENTS ORDER

## **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?

No

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:

SHOULD ECF LEGAL AID BE GRANTED, THEN THE CASE WILL BE CONDUCTED BY A  
LEGAL AID FAMILY SOLICITOR - DETAILS TO FOLLOW IN DUE COURSE.

## **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:

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

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

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

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

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

## **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.

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

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

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

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

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

## **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).

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF

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

PLEASE SEE ATTACHED STATEMENT OF CASE FOR ECF



## 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.

**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.

**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 only 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 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;
- 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 in the administration of justice and the result of the powers contained in 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 authorities such as: Credit reference agencies Equifax and TransUnion and our debt collection partners, Marston Holdings; and
- Fraud prevention agencies: 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.

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

### **Data Processors**

The LAA may contract with third party data processors to provide email, system administration, document management and IT storage services.

Any personal data shared with a data processor for this purpose will be governed by model contract clauses under data protection law.

### **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: the European Economic Area (EEA)

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 10.25  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

Data.access@justice.gov.uk

### **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 Data Protection Officer  
Ministry of Justice  
3rd Floor, Post Point 3.20  
10 South Colonnades  
Canary Wharf  
London  
E14 4PU

[Privacy@justice.gov.uk](mailto:Privacy@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 1113

[www.ico.org.uk](http://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: \_\_\_\_\_

## 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: 28/10/2021

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).
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Signed: \_\_\_\_\_

Date:  / /

authorised litigator

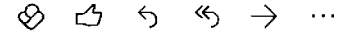
Name: \_\_\_\_\_

Reply all Delete Junk Block ...

## Application for Exceptional Case Funding - Mr [REDACTED] (Children Act 1989)

This message was sent with High importance.

LO Lisa Okoroafor  
Fri 12/3/2021 6:03 PM



To: ContactECC@justice.gov.uk

Final signed civ app 3 for... 1 MB	Final signed civ means 1 ... 1 MB
---------------------------------------	--------------------------------------

Show all 5 attachments (12 MB) Save all to OneDrive - Legal Advice Centre Download all

Dear Sirs,

Please see attached application for ECF for Mr [REDACTED]. We attach herewith:

1. Cover letter and statement of case
2. Civ app 3 form
3. Civ means 1 form
4. ECF1 Form
5. Enclosures for ECF application - Documents A-M (zip file)

We look forward to hearing from you with a decision in relation to the grant of ECF funding.

Kind regards,

Lisa Okoroafor  
**Solicitor**

Reply | Forward



Reply all Delete Junk Block ...

YOUR CLIENT [REDACTED] REFERENCE [REDACTED]

Flag for follow up. Completed on 1/5/2022.

ContactECC <ContactECC@Justice.gov.uk>  
Tue 12/7/2021 8:21 AM  
To: Lisa Okoroafor



TO WHOM IT MAY CONCERN

The ECC Team has received your client's application for Exceptional Case Funding on the 6 December 2021

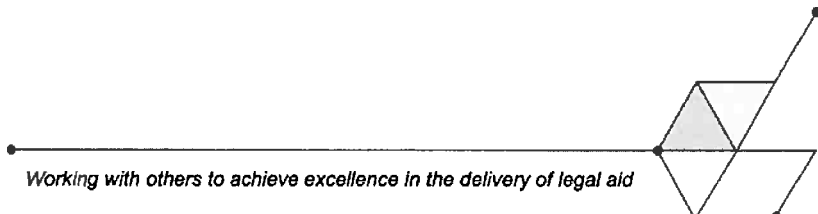
- We aim to deal with all Non-Urgent applications within 25 working days (excluding any time where we are waiting for further information from you/your client if we need to ask for it).
- If we deem the application to be Urgent, we will aim to deal with the application within 10 working days.

Please note that any successful application for ECF may be backdated to the date the Means Form is signed by the client, if the forms are received by the ECF team within 2 months from the date of signature (paper applications for ECF from), or backdated to the date the application is received within CCMS.

Contact details for the ECC team are given below if you need to contact us in the meanwhile.

BY EMAIL ONLY – [ContactECC@justice.gov.uk](mailto:ContactECC@justice.gov.uk)

Yours faithfully



*Working with others to achieve excellence in the delivery of legal aid*

Legal Aid Agency | Exceptional Case Funding Team | T 0300 200 2020  
13th Floor, 102 Petty France, SW1H 9AJ  
Follow us on Twitter [@LegalAidAgency](https://twitter.com/LegalAidAgency).

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Reply | Forward

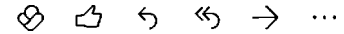
Reply all Delete Junk Block ...

### Application for Exceptional Case Funding - Mr [REDACTED] FAM [REDACTED]

Flag for follow up. Completed on 12/7/2021.

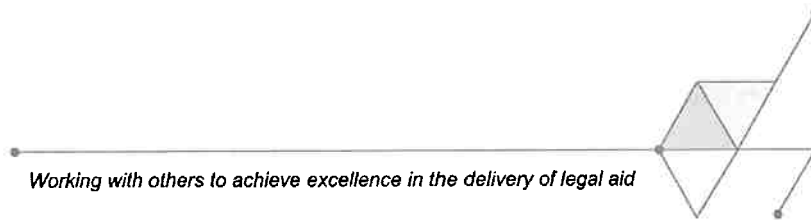
You replied on Tue 12/21/2021 8:59 PM

ContactECC <ContactECC@Justice.gov.uk>  
Tue 12/7/2021 3:05 PM  
To: Lisa Okoroafor



**To Whom it May Concern**

I require further information to complete the applicant's financial assessment, please provide the following:  
The applicant is required to provide recent retail receipts showing the last 4 digits of the Aspen card as the Aspen card alone is not sufficient evidence that the applicant is still in receipt of support  
Please provide this information by 21 December 2021.  
Kind regards



*Working with others to achieve excellence in the delivery of legal aid*

**Margaret**

**Adekanmbi | Means Assessor**  
Legal Aid Agency | Civil Case Management | T 0300 200 2020  
7<sup>th</sup> floor (7.38), 102 Petty France, London SW1H 9AJ  
Follow us on Twitter [@LegalAidAgency](#).

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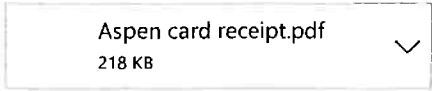
Reply | Forward

Reply all Delete Junk Block ...

### URGENT Application for Exceptional Case Funding - Mr [REDACTED] FAM [REDACTED]

This message was sent with High importance.

LO Lisa Okoroafor  
Tue 12/21/2021 8:59 PM  
To: ContactECC <ContactECC@Justice.gov.uk>



Dear Sirs,

Thank you for your email.

Please see attached recent receipt showing the last 4 digits of the Aspen card.

Mr [REDACTED] can withdraw from the Aspen card and shop with it each week - with his £37 allowance. He does not receive bank statements.

Please do not hesitate to contact me should you have any further questions.

Kind regards

Lisa Okoroafor  
**Solicitor**

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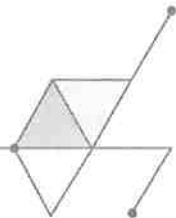
**From:** ContactECC <ContactECC@Justice.gov.uk>  
**Sent:** Tuesday, December 7, 2021 3:05 PM  
**To:** Lisa Okoroafor <lisa@legaladvicecentre.london>  
**Subject:** Application for Exceptional Case Funding - Mr [REDACTED] FAM [REDACTED]

**To Whom it May Concern**

I require further information to complete the applicant's financial assessment, please provide the following:  
The applicant is required to provide recent retail receipts showing the last 4 digits of the Aspen card as the Aspen card alone is not sufficient evidence that the applicant is still in receipt of support  
Please provide this information by 21 December 2021.  
Kind regards



*Working with others to achieve excellence in the delivery of legal aid*



**Margaret**

**Adekanmbi | Means Assessor**  
Legal Aid Agency | Civil Case Management | T 0300 200 2020  
7<sup>th</sup> floor (7.38), 102 Petty France, London SW1H 9AJ  
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Legal Aid  
Agency

**LEGAL AID AGENCY**  
**Exceptional Cases Funding Team**  
13<sup>th</sup> Floor (13.52), 102 Petty France,  
London SW1H 9AJ DX:161440 Westminster 8  
Tel: 0300 200 2020

UNIVERSITY HOUSE LEGAL ADVICE CENTRE  
104 ROMAN ROAD  
LONDON  
E2 0RN

Our Case Reference

[REDACTED]

Date 31 December 2021

**By Email Only:** [lisa@legaladvicecentre.london](mailto:lisa@legaladvicecentre.london)

Your Ref Application for ECF

Dear Ms Okoroafor,

**Exceptional Case Determination - Section 10(2) Legal Aid, Sentencing and Punishment of Offenders Act 2012 – Grant of Funding**

Thank you for submitting an application on behalf of Mr [REDACTED] for an exceptional case determination under section 10(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

This is to confirm that I have considered the application and can confirm that Exceptional Case Funding has been granted **on condition** that the client locates a Firm of Solicitors with a Family Legal Aid Contract to deal with this matter for him.

The terms of this grant of Exceptional Case Funding will be as follows:

**Family Help Higher**

- **Defend an application to Vary/Discharge a Child Arrangements Order (Contact)**  
- Limited to Family Help (Higher) and to all steps necessary to negotiate and conclude a settlement. To include the issue of proceedings and representation in those proceedings save in relation to or at a contested final hearing;
- **£25,000.**

The client's Provider will need to contact the Exceptional Case Funding Team to confirm that they are acting for him in this matter. They may submit an application for Exceptional Case Funding through our CCMS system and include a copy of this determination letter. Once the client's Providers have contacted us, a certificate will be issued to the Providers.

I refer the client to the relevant page of the Legal Aid Agency's website, which provides a list of Solicitor Firms who hold a Legal Aid Contract in the Category of Family: <https://checklegalaid.service.gov.uk/find-a-legal-adviser?category=family>. The client will be asked to type a post code, where he will then be provided with a list of Solicitor Firms with a Family Legal Aid Contract in that Area.

Please note that any Exceptional Case determination may be withdrawn if the Criteria under the Act are no longer met.

Yours sincerely

*G. Moody*

Gayle Moody  
Exceptional Case Funding Team

