

Child abuse gateway evidence

Below is a list of the types of evidence the Legal Aid Agency will accept as evidence of child abuse for the purposes of family law legal aid. This evidence can be provided in children cases where the legal aid is sought to protect the child, for example, cases about contact where the child's carer seeks to stop or restrict contact.

Evidence that can relate to a child that is not the subject child of the case has two asterisks at the end of it, like this. **

Police and Criminal Justice evidence

- the other party has been arrested for a child abuse offence and the investigation is ongoing**
- the other party has received a police caution for a child abuse offence **
- the other party has been charged with a criminal offence for a child abuse offence and the proceedings have not concluded**
- the other party has a conviction for a child abuse offence**

The offence does not need to be in respect of the child for whom protection is sought, it can be in respect of any child.

The evidence need only name the perpetrator of the child abuse offence.

The perpetrator must be the other party in the case.

If the evidence relates to an offence outside the United Kingdom then the evidence may be a letter from the relevant law enforcement agency in the country where the offence took place. This will usually be on letter headed paper and the Legal Aid Agency may take steps to verify this. If it needs to be translated, a copy of the original and the translation should be provided.

If the evidence used is of police bail and the perpetrator is not subsequently charged for the child abuse offence then evidence of police bail will no longer satisfy evidence requirements and an alternative piece of evidence must be provided.

Injunctions

- a protective injunction in place to protect the child who is the subject of the case

The protective injunction must be to protect the child who is the subject of the case, from the other party in the case. The child and the perpetrator must be named.

Protective injunctions include:

- non-molestation orders
- occupation orders
- harassment injunctions under the Protection from Harassment Act 1997
- restraining orders
- forced marriage protection orders
- female genital mutilation protection orders
- domestic violence protection orders
- violent offender orders

Family Court

- a copy of a finding of fact of abuse of a child by the other party in the case, made in proceedings in the United Kingdom **
- an application for a protective injunction made *together with* an application for a prohibited steps order against the perpetrator which has not been decided by the court at the date of the application for legal aid.

This evidence of a finding of fact will be in the form of a judgement or Court document (including a Tribunal if relevant) that a child was abused by the other party to the proceedings. The child does not have to be the subject of the case for which you are seeking legal aid.

The second form of evidence requires 2 documents – the application for the protective injunction and application for the prohibited steps order. The court must not have made a decision about whether to grant the applications at the time of the application for legal aid. Both applications must be seeking to protect the child who is the subject of the case from the other party in the case who must be named. This piece of evidence will most commonly apply in the case of urgent applications.

Health, social services, and support services

- a letter from a social services department confirming that the child was assessed as being, or at risk of being, a victim of child abuse by the other party in the case
- a copy of the assessment described above
- a letter from a social services department confirming that a child protection plan was put in place to protect the child from abuse or a risk of abuse by the other party in the case
- a copy of the child protection plan described above

This evidence must be from:

- a Social Services Department in England or Wales;
- a Local Authority in Scotland; or
- a Health and Social Care Trust in Northern Ireland

The evidence can be a copy of the assessment, child protection plan or a letter on a department letterhead or an email from a Social Services (or equivalent in Scotland or Northern Ireland) email address.

The child and perpetrator must be named.

The child must be the child that the client is seeking to protect and the perpetrator must be the other party in the case.

Template letters

The Ministry of Justice has produced template letters which survivors can adapt to request evidence from the various organisations above and example letters for professionals showing what is expected. The template letters are available to download online.

Template letters for domestic violence:

www.gov.uk/government/collections/sample-letters-to-get-evidence-of-domestic-violence

Template letters for child abuse:

www.gov.uk/government/collections/sample-letters-to-get-evidence-of-child-abuse

Example letters for professionals:

www.gov.uk/government/collections/legal-aid-cases-of-domestic-violence-and-child-abuse-letters-for-professionals

Guidance

The Legal Aid Agency has updated its guidance in relation to the evidence requirements in private family law matters. This guidance can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885447/Evidence Requirements for Private Family Law Matters guidance version 10.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885447/Evidence_Requirements_for_Private_Family_Law_Matters_guidance_version_10.pdf)