

Domestic violence gateway evidence

Below is a list of the types of evidence the Legal Aid Agency will accept as evidence of domestic violence for the purposes of family law legal aid.

Police and criminal justice system

- a relevant unspent conviction for a domestic violence offence
- a relevant police caution for a domestic violence offence given within the 5 year period immediately preceding the date of the application for legal aid
- evidence of relevant criminal proceedings for a domestic violence offence which have not concluded
- evidence that the abuser is on police bail for a domestic violence offence
- a conviction for a domestic violence offence where the abuser was convicted of that offence within the 5 year period immediately preceding the date of the application for civil legal services
- a domestic violence protection notice or a domestic violence protection order against the abuser within the 5 year period immediately preceding the date of the application for legal aid
- evidence of a court order binding over the abuser in connection with a domestic violence offence, which is in force or which was granted within the 5 year period immediately preceding the date of application for legal aid

Unspent: After a certain period of time convictions become spent, which means the offender or the abuser no longer needs to reveal or admit to the convictions except in certain circumstances. The time after which a conviction becomes spent varies according to the sentence the abuser received. To work out whether a conviction is spent you can use the Ministry of Justice (MoJ) guidance: www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf

Domestic violence offence: A list of domestic violence offences can be found on the MoJ website here: www.gov.uk/government/publications/domestic-violence-and-child-abuse-offences

Bind over: This is an order the court can make when it considers that the abuser may offend again in the future. The abuser must agree to behave properly for a period of time.

Injunctions

- a protective injunction which is in force or which was granted within the 5 year period immediately preceding the date of the application for legal aid

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
- violent offender orders

Family Court

- an undertaking given by the abuser within the 5 year period immediately preceding the date of the application for legal aid, provided that a cross-undertaking was not given by the person applying for legal aid
- a copy of a finding of fact that there has been domestic violence by the abuser giving rise to a risk of harm to the person applying for legal aid. The finding of fact must have been made by a court in the United Kingdom within the 5 year period immediately preceding the date of the application for legal aid

An **undertaking** is a formal promise to the court usually given in place of a non-molestation or occupation order.

A **cross-undertaking** is when both parties to the relationship give an undertakings. For example, if the abuser has given an undertaking not to be violent towards the survivor, and the survivor has also given an undertaking not to be violent against the abuser, then they have given cross undertakings and neither of them can use the undertakings as evidence of domestic violence for legal aid.

Health, social services, and domestic violence support services

- a letter from any person who is a member of a multi-agency risk assessment conference confirming that—
 - (i) the applicant was referred to the conference as a victim of domestic violence; and
 - (ii) the conference has, within the 5 year period immediately preceding the date of the application for legal aid, put in place a plan to protect the applicant from a risk of harm by the abuser

- a letter or report from a health professional who has access to the medical records of the applicant for legal aid, confirming that that professional, or another health professional—
 - (i) has examined the applicant in person within the 5 year period immediately preceding the date of the application for civil legal service; and
 - (ii) was satisfied following that examination that the applicant had injuries or a condition consistent with those of a victim of domestic violence

- a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that, within the 5 year period immediately preceding the date of the application, the applicant was assessed as being, or at risk of being, a victim of domestic violence by the abuser (or a copy of that assessment)

- a letter or report from a domestic violence support organisation in the United Kingdom confirming—
 - (i) that within the 5 year period immediately preceding the date of the application for legal aid, the applicant had been accommodated in a refuge;
 - (ii) the dates on which she was admitted and, where relevant, left the refuge; and
 - (iii) that she was admitted to the refuge because of allegations of domestic violence

- a letter or report from a domestic violence support organisation in the United Kingdom confirming—
 - (i) that the applicant was, within the 5 year period immediately preceding the date of the application for legal aid, refused admission to a refuge, on account of there being insufficient accommodation available in the refuge; and
 - (ii) the date on which she was refused admission to the refuge

- a letter or report from—
 - (i) the person to whom the referral described below was made;
 - (ii) the health professional who made the referral described below; or
 - (iii) a health professional who has access to the medical records of the applicant, confirming that there was, within the 5 year period immediately preceding the date of the application for legal aid, a referral by a health professional of the applicant to a person who provides specialist support or assistance for victims of, or those at risk of, domestic violence

Financial abuse

- evidence which the Director of the Legal Aid Agency is satisfied demonstrates that the applicant has been, or is at risk of being, a victim of domestic violence by the abuser in the form of abuse which relates to financial matters, where that evidence dates within the 5 year period immediately preceding the date of, or is dated on the date of, the application for legal aid

There is no specific type of evidence that the applicant must provide to show that she is a victim of financial abuse. The Legal Aid Agency has provided the following list as examples of evidence that she might produce, but this is not an exhaustive list:

- copies of both the victims and the perpetrator's bank statements and or
- cancelled cheques, relevant letters from banks
- credit card accounts, loan documents and statements
- business financial statements, employee benefit records including insurance,
- stock options and bonuses
- letter from a domestic violence support organisation
- money order receipts
- documentation with regard to any public assistance received
- emails, text messages, diary kept by the victim,
- letters from employers or from an education or training institute

There will be many cases where the survivor of financial abuse has no documentary evidence. In these cases, the Legal Aid Agency will consider a statement by the survivor herself which sets out:

- when the financial abuse commenced
- the degree of financial abuse
- the duration of the financial abuse
- the impact on her
- an explanation as to why no other documentary evidence is available

She can provide more than one type of evidence, for example a statement and bank documents.

The evidence will need to satisfy the Legal Aid Agency that the applicant is a survivor of financial abuse.

Template letters

The Ministry of justice has produced template letters which survivors can adapt to request evidence from the various organisations above. 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