

Guidance on obtaining information from Leicestershire Police to determine eligibility for Legal Aid for, and for use in, private law Children Act proceedings.

The following guidance is the result of discussions between the Designated Family Judge for Leicester and Leicestershire Police (hereafter, ‘the police’). Its purpose is to streamline and speed up the process of obtaining information required to support an application for legal aid for private law Children Act proceedings and the process of obtaining disclosure of information held by the police for use in such proceedings.

Eligibility for Legal Aid for private law Children Act proceedings

1. The Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) requires relevant bodies, including the police, to supply an applicant with the necessary evidence to show that they meet the specific criteria for legal aid.
2. LASPO guidelines state that an applicant can rely on the following.
 - (1) To evidence domestic violence:
 - (a) an unspent conviction for a domestic violence offence where the applicant was the victim and the offender was the other party in the case;
 - (b) a caution for a domestic violence offence where the applicant was the victim (within 2 years preceding the date of the application for legal aid) and the offender was the other party in the case;
 - (c) ongoing criminal proceedings for a domestic violence offence where the applicant was the victim and the person charged with the offence was the other party in the case. (The perpetrator must have been charged with the offence although it does not have to be listed for trial);
 - (d) protective injunctions; or
 - (e) evidence that the applicant was referred to a MARAC conference as being at high risk of domestic violence and within 24 months (from the date of the application for legal aid) a plan was put in place to protect the applicant from the other party.
 - (2) To evidence child abuse:
 - (a) An unspent conviction for a child abuse offence in respect of any child and the offender was the other party in the case;

- (b) A caution for a child abuse offence in respect of any child (within 2 years preceding the date of the application for legal aid) and the offender was the other party in the case;
 - (c) ongoing criminal proceedings for a child abuse offence in respect of any child and the person charged with the offence was the other party in the case. (The perpetrator must have been charged with the offence although it does not have to be listed for trial)' or
 - (d) protective injunctions
3. An application can be made to the police for disclosure of the information referred to at paragraph 2(1)(a), (b) and (c) and 2(2)(a), (b) and (c). Guidance for applicants and an application form can be found at the website address: http://www.leics.police.uk/media/uploads/library/file/legal_aid_application_v4.pdf. The application form can be completed on line and submitted with an official identification document relating to the applicant which contains his/her full names, date of birth and current address. This is the preferred method of seeking such disclosure. Those who do not have access to the internet should telephone the Leicestershire Police on 0116 248 5222 and a form will be posted.
4. The police are only required by LASPO to provide:
- the name of the victim (applicant). This is not required when the request relates to details of child abuse offences;
 - the name of the offender/person charged;
 - the fact they have an unspent conviction (date and sentence), received a caution (date)/ have been charged (date) with a relevant domestic violence or child abuse offence; and
 - a brief summary of the facts to ensure it is a relevant offence.

If the application for disclosure is made by a solicitor the 'victim' must be the solicitor's client unless the 'victim' is a child in which case the solicitor must be acting for a person seeking to protect a child from a person who has a relevant child abuse conviction/caution etc.

5. LASPO specifically states that it will be sufficient for such information to be provided by means of a letter from the police on headed notepaper. So, too, will an email from a @pnn.police.uk e-mail address.

Private law Children Act proceedings

6. There are two routes for obtaining information from the police for use in private law Children Act proceedings:
 - A the person seeking disclosure of information may apply to the court for an order requiring the Chief Constable to disclose the information specified in the order (using the standard wording set out in the Annex to this guidance); alternatively,
 - B the person seeking disclosure may apply directly to the police (whether before or after court proceedings have been issued) with the written consent of all of the adults to whom the information relates, ensuring that the individuals concerned are informed of the extent of the disclosure sought. If the individual to whom the information relates is a litigant in person he or she should be advised to seek guidance from the Leicestershire Police by telephoning 0116 248 5222.
7. Form App A (see below) is a draft application for an order of the court requiring disclosure by the police (route A). An order obtained using route A will be sent by the court to the applicant (or to his or her solicitor if represented). Unless the court directs otherwise, it will be the responsibility of the applicant (or his or her solicitor) to send the sealed order to the police at: Professional Standards Department, Information Management Disclosure Team, Leicestershire Police Headquarters, St Johns, Enderby, Leicester LE19 2BX.
8. Form App B (see below) is a draft application for consensual disclosure by the police (route B). This should also be sent to the police directly at the address above.
9. The response to the request/order for disclosure will be sent:
 - (a) in all cases, to the court by e-mail (unless court proceedings have not yet been issued); and
 - (b) if the applicant is legally represented and his /her solicitor has a secure e-mail address, by e-mail to the solicitor; or
 - (c) if the applicant's solicitor does not have a secure e-mail address, by post to the solicitor.
10. An application to the police may seek
 - (a) details concerning a specific crime/incident, and/or

- (b) a PNC disclosure printout giving details of all proven offences and/or
 - (c) copies of relevant crime reports, working sheets and incident logs which it is believed may be held by the police.
11. Copies of relevant crime reports, working sheets and incident logs will relate to the following types of offences reported against a party to the proceedings within the last five years (and brief details of crimes before this date if they are relevant and significant):
- offences of assault (including all sexual offences);
 - offences involving drink or drugs
 - offences involving firearms or weapons
 - offences of arson
 - offences against children or animals
 - incidents where concerns for mental health arise
 - offences of harassment
 - offences of threats of child abduction
 - offences involving, or in the presence of, children
 - incidents relating to emotional harm or inter-parental conflict (including domestic incidents)

The police will indicate what additional information is held relating to these crimes and the fees which will be charged for providing copies.

12. Upon receipt of the disclosure an applicant may then request (by either route A or route B) additional information relating to the crimes as indicated if this is relevant and necessary for the purpose of the Children Act proceedings. With respect to disclosure of that additional information applicants should note that:
- (a) the detail contained in pocket note books is very limited and should not contain any additional information which is not on the crime report working sheets;
 - (b) information relating to third parties not relevant to the Children Act proceedings will be redacted.
13. If, in the process of complying with an order or request for information, the police find relevant information which is not known to the applicant or the other party, this will be disclosed direct to the Court.
14. As the Chief Constable is not a party to the proceedings he is entitled to make a charge for the provision of the information and the charges applied in

Leicestershire are those agreed by the Association of Chief Police Officers ('ACPO'). The *Application for Court Order/Request for Information with Consent Form* specifies the charge for each of the items. Full details can be found at: <http://www.leics.police.uk/media/uploads/library/file/ACPO-Fees-charges-2013.pdf>

15. Whether a request for disclosure is made using route A or route B the charges payable to the police for providing disclosure shall be borne equally between the parties whether or not either party is publicly funded, unless the court orders differently. The relevant fee should be sent to the police with App A or App B (as appropriate).
16. The police will provide will provide the information requested in the initial application (see para 10) within 14 days from receipt of payment.
17. The police will provide any additional disclosure (see paragraph 12), if required, within 14 days of receipt of the request and payment of the additional fee.
18. In exceptional cases, where there will be increased risk to a child by delaying the hearing for 14 days while waiting for police disclosure, the court may order disclosure in a shorter time period. Any party intending to seek an order for earlier disclosure should inform the police and send the fee so that the searches can be undertaken at the earliest opportunity.

Annex A – Standard wording for court orders

IT IS ORDERED (BY CONSENT) THAT:

1. The Chief Constable of Leicestershire Police shall by 16.00 on [enter date] file with the Court, and serve on the other parties, the information requested in Form App A attached herewith.
2. The Applicant / The Solicitor for the Applicant (*delete as appropriate*) shall serve a copy of this order upon Leicestershire Police, together with a copy of Form App A and the relevant fee as soon as the order is received from the Court.
3. The costs of the application shall be shared equally between the parties.
4. The Chief Constable of Leicestershire Police may apply for discharge or variation of this order, upon giving two clear business days' notice of the hearing to the parties. Any such application to be made within 7 days of receiving this order.