

## Legal aid case studies

1. Mr and Mrs L are separated with two children aged 12 and 14. When Mr L visits the house to collect or see the children he is physically rough, pushes her and is generally extremely overbearing. She finds his behaviour extremely intimidating, but doesn't want to report the abuse as she is worried it will make things worse.

Mr L is self-employed so the financial situation is complicated. Mrs L used to help keep the books for her husband's business so is aware that his claimed income is significantly less than previously. It will be extremely difficult for her to prove what his income is and she would need to demonstrate in court that his lifestyle is inconsistent with his stated income.

Under the proposals she will have to cross-examine Mr L herself in court, or bring a separate domestic abuse action. This would then make her eligible for legal aid to sort out the finances. These proposals could result in the state having to fund two cases rather than one.

2. Mr and Mrs P have three children. She and her husband have separated due to Mr P's violent behaviour. Mrs P has not reported Mr P's abusive behaviour as he is a policeman and she is worried that he will lose his job and no longer be able to support her and the children. She will not be eligible for legal aid and will have to pursue her financial claims herself despite her fear of her ex-husband and his continuing threats against her.
3. Mr and Mrs R have been separated for several years. Two years ago, their 16-year-old son was killed in a road traffic accident. Mrs R has never recovered from the loss and continues to have emotional difficulties. She works part-time and has care of their 14-year-old daughter who was also badly affected by the death of her brother and now self-harms.

Mr R has a new partner and is pushing Mrs R to sell the house and share the proceeds. He has stopped paying the mortgage in order to pressure her into this, and the bank is now involved due to mortgage arrears. Mr R believes that they are both entitled to 50 percent of the home's equity – but does not appreciate that as the equity is insufficient to re-house Mrs R and their daughter, the sale should be deferred until the daughter reaches 18.

Mrs R's emotional difficulties mean that it would be impossible for her to act for herself in any necessary negotiations and court case.

4. Mr and Mrs T are separated but have yet to sort out their financial arrangements. There is a history of domestic abuse – Mr T would frequently shout, verbally threaten Mrs T and on one occasion he sent her 32 threatening text messages in one day. Using legal aid, Mrs T was able to get an undertaking from Mr T that he would not have direct contact with her.

Under the proposal cuts, Mrs T will have to conduct her own negotiations with Mr T in order to sort out their finances, including potentially having to cross examine him in any court case as the domestic abuse definition in the green paper is drawn too narrowly and excludes cases like this where an undertaking was given instead of a formal court order.

5. Following the intervention of the local authority Mrs P's grandson has come to live with her because her son and his wife are unable to care properly for the child. Mrs P is a pensioner and to get housing and child benefit to help her care for her grandchild she would need to obtain a parental responsibility order through a Residence or Special Guardianship order.

The child's father does not agree that any order should be made. The cuts will mean that Mrs P is no longer eligible for legal aid and the matter will end up back with the local authority to fund as a public care case.

6. Mrs C had learnt through a mutual friend that her Algerian husband intended to take their two children to Algeria during a regular contact visit and planned not to return them to her. Under the present legal aid system, lawyers were able to obtain a 'prohibited steps' order, preventing Mr C from taking the children out of the country.

Under the cuts, approval would have to be sought for this matter to be considered an exceptional case – but the green paper is silent on what process would grant that approval. The danger is that it will slow down and introduce delay to emergency cases. If Mrs C cannot prevent the children's removal she faces potentially permanent separation from her children, as Algeria is not a party to the Hague convention on child abduction.

7. Mr G has struggled to see his children since he and Ms P broke up. Ms P refused to attend mediation and Mr G was able to use legal aid to obtain a court order allowing him to see his children. But Ms P has continued to ignore the court order and he will need to take further action to enforce contact. Under the new proposals Mr G would not have been eligible for legal aid despite his ex-partner's refusal to attend mediation – but he would also be faced with having to represent himself in any further action to enforce the court order.
8. Mr H has a loving and close relationship with his daughter and has regular contact with her. Contact has never been an issue but his former partner Ms J has recently become engaged and would like to move to America with her daughter and new partner.

Mr H is devastated – he will not be able to afford the airfare to America to visit his daughter but has been unable to persuade Ms J not to move away with their daughter. Mr H will no longer be entitled to legal aid to help him oppose the move despite his believing that this will not be in his daughter's best interests.

9. Ms M met Mr P at work. After they had been dating for a year he asked her to move in with him. After they'd been living together for two years Mr P, an extremely high earner with a pressured job, proposed marriage and asked Ms M to give up work to take care of the house and support the entertaining that was a large part of his work. He promised that if anything happened to their relationship he would make sure that she was financially okay.

She agreed and they lived together happily for a further five years and had a child together. When their daughter was aged two, Ms M returned from a short visit to her sister to find that Mr P had moved a new girlfriend into the house in her absence. Mr P told her that she could no longer share their home, that she was entitled to no financial assistance from him and that she should leave and leave their daughter with him. Mrs M had always thought she would have rights as a 'common-law wife'.

Ms M used legal aid to obtain an order under Schedule 1 of the Children Act that enabled her to re-house and provide for herself and her daughter. Under the cuts, she would not be eligible for legal aid and might not become aware of, or assert her less well-known legal rights. If she did she would have to represent herself whilst her wealthy ex-partner could afford to pay for legal representation.

10. Ms C died without making a will. She and her partner had one child together and her son from her former relationship lived with them.

The father of her oldest child (Mr Y) made an ex parte application (an emergency application that doesn't require the other side to be put on notice) for Ms C's new partner to deliver her oldest child to him. Mr Y made serious and false statements to the court.

The new partner was on benefits and was able to make an urgent application to the court so the child stayed with his brother and stepfather. Subsequently it was discovered that Mr Y had bought a ticket to Pakistan and had intended to take the child to Pakistan.

11. Mrs E fled to a refuge when she left her husband three years ago. She had not wished to rock the boat so did not make an application for an Injunction. There was an Order for sale of the former matrimonial home to take place in 2008 but Mr E had not acted on this.

Mrs E now needs to be able to apply for legal aid to go to Court to force an Order for Sale, so she can recover monies due to her from the former matrimonial home. She has the care of the children and only receives minimal child support from the father. She is also a student. Under present rules the statutory charge would apply and the state could recoup the legal aid costs from her share of the matrimonial home. She would not receive Legal Aid under the new scheme.

12. Mrs F has serious concerns about the behaviour of Mr F. He sleeps naked in the same bed as their young daughter. The daughter has told her mother that she is also naked when they go to bed and that she touches her father's penis. She is only five. Mr F has also been emailing naked pictures of their daughter to a woman he has met. Social Services have serious concerns and have told Mrs F to stop contact immediately. As there is no history of domestic violence, Mrs F will not be eligible for Public Funding under the new scheme.

13. Mr N and his ex-partner are extremely vulnerable, with borderline learning difficulties. Because of concerns about Mrs N's alcohol consumption and learning difficulties, Children's Services have encouraged Mr N to seek full-time care of the children. As part of the proceedings, assessments have been carried out on both Mrs and Mr N, and alcohol testing on Mrs N. Mr N now has the benefit of a Residence Order, with a defined Contact Order to his former partner, which is working well. A final Order is expected soon.

Mr N has required significant advice and support from his family lawyer. Both he and Mrs N have limited communications skills and would have found it very difficult to negotiate between themselves without support. Neither could afford legal costs. Under the cuts, neither would have received legal aid, and matters would have ended up in the Public Law sector, with the local authority instigating care proceedings. This would have cost the Legal Aid Fund considerably more and would likely have involved more court time and costs.

14. Ms R, the main carer for her young child, was subject to verbal abuse by the child's father, Mr D. As Mr D refused to leave the home, and his abuse was not serious enough to lead to

emergency proceedings, he stayed in the property and made living conditions for both mother and child very uncomfortable.

Mrs R's family lawyer applied for and obtained a transfer of tenancy, and the father had to leave the property on the day the court order was made. Without legal aid Mrs R would not have been able to have Mr D removed from the property, because the Housing Association could not sever the tenancy. The application and court procedure is not straightforward and includes filing an Affidavit, which is not something the mother could have done by herself. Legal representation and funding was needed, and ensured much improved and safer living arrangements for both mother and child.

15. Mr B continually tried to remove their young children from Ms T's care. The police became involved but could not take further action, labelling this a family/civil dispute. Mr B would follow Ms T when she was driving with the children in her car. On one occasion he cornered her by driving aggressively and tried to pull the children out of the car through the windows.

Ms T sought and obtained a Residence Order to stop Mr B attempting to remove the children from her care. This enabled her to look after the children properly and provide them with safety and consistency. Without legal aid, she could not have made the application to the court and put her case across because Mr B, acting in person, was aggressive and shouted down Ms T when she tried to speak. It is likely Ms T would have lost her nerve and would not have been able to put her case across to the court and achieve the required outcome for her children's safety.

16. Mrs P separated from her husband and was detained in a mental health hospital. The couple attended mediation but the agreement reached was not fair to Mrs P. Mrs P's mental health meant that she was easily confused and had agreed without fully understanding the position. Her family lawyer subsequently negotiated a higher settlement to more fairly represent her contribution to the family. This agreement was reached and contained in a consent order and leaves Mrs P in a more stable financial position, which she would not have been in had she not had solicitors instructed.

17. When she was 15, Ms R (now 21) became pregnant by 23 year-old Mr F. Following the birth of their son, Mr F carried out a campaign of violence towards Ms R. Physically and emotionally vulnerable, Ms R did not know how to defend herself or protect her son and, herself the product of an abusive father, accepted powerlessness as her lot. She left the home and child when Mr F ordered her to do so, and even accepted limited contact with her son. Eventually, hearing rumours about her son being abused by Mr F, she applied for a residence order, which was resisted by Mr F.

In 2010, Mr F's new partner disclosed details of Mr F's violence towards his son, prompting police and social services intervention. Mr F's violent behaviour included throwing the four-year-old across rooms, failing to get up in time to give the child breakfast and, when the child fed himself, punishing him for "theft" of food. Through legal aid, Ms R's lawyer secured an interim residence order that was later extended. With the support of social services, the issue of whether there should be any contact is now the subject of investigation.

Ms R could not have protected her son without legal aid. It is likely that this little boy's safety and emotional future would have depended on the chance of involvement by social services.

Ms R's lawyer said: "The Government is being short-sighted. Those involved in family law know (and statistics support this) that children who suffer sustained abuse, particularly in early life, are often emotionally scarred and can grow up to become damaged adults. Such people in turn constitute a disproportionate percentage of those who, in adult life, form an additional burden upon the State through health and benefit claims or through the Criminal Justice system. Ignoring the plight of children now stores up trouble for the future: I very much doubt if the cost in legal aid terms of helping this little boy and his mother would bear any relation at all to the potential long-term costs of adult dependency/support in the future. It would be a case of saving a penny now and spending a pound later."