STATUTORY INSTRUMENTS

2016 No. 516

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil Legal Aid (Procedure) (Amendment) Regulations 2016

Made - - - - *18th April 2016*

Laid before Parliament *21st April 2016*

Coming into force in accordance with regulation 1(2)

The Lord Chancellor makes the following Regulations(**1**) in exercise of the powers conferred by sections 12(2) and (3)(e) and (g), 41(1)(a) and (b), and 41(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Civil Legal Aid (Procedure) (Amendment) Regulations 2016.

(2) These Regulations come into force for the purposes of regulation 2(2) on 25th April 2016 and for all other purposes on 16th May 2016.

(3) In these Regulations, the "Procedure Regulations" means the Civil Legal Aid (Procedure) Regulations 2012(**3**).

Amendments to the Procedure Regulations

2.—(1) The Procedure Regulations are amended as follows.

(2) For regulation 33(2) (supporting documents: domestic violence)(**4**), substitute—

"(2) For the purpose of paragraph (1), the evidence of domestic violence or risk of domestic violence must be provided in one or more of the following forms—

(**1**) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act "regulations" means regulations made by the Lord Chancellor (except in Schedule 6).
(**2**) 2012 c. 10.
(**3**) S.I. 2012/3098.
(**4**) Amended by S.I. 2014/814 and 2015/1416. On 9th March 2016, the Court of Appeal by order quashed references in regulation 33(2) to the requirement for evidence in support of an application for civil legal services to be no more than 24 months old (R (on the application of Rights of Women) v The Lord Chancellor [2016] EWCA Civ 91).

(a) a relevant unspent conviction for a domestic violence offence;

(b) a relevant police caution for a domestic violence offence given within the sixty month period immediately preceding the date of the application for civil legal services;

(c) evidence of relevant criminal proceedings for a domestic violence offence which have not concluded;

(d) a relevant protective injunction which is in force or which was granted within the sixty month period immediately preceding the date of the application for civil legal services;

(e) an undertaking given in England and Wales under section 46 or 63E of the Family Law Act 1996(**5**) (or given in Scotland or Northern Ireland in place of a protective injunction)—

(i) by the individual ("B") with whom the applicant for civil legal services ("A") was in a family relationship giving rise to the need for the civil legal services which are the subject of the application; and

(ii) within the sixty month period immediately preceding the date of the application for civil legal services,

provided that a cross-undertaking was not given by A;

(ea) evidence that B is on relevant police bail for a domestic violence offence;

(eb) a relevant conviction for a domestic violence offence where B was convicted of that offence within the sixty month period immediately preceding the date of the application for civil legal services;

(f) a letter from any person who is a member of a multi-agency risk assessment conference confirming that—

(i) A was referred to the conference as a victim of domestic violence; and

(ii) the conference has, within the sixty month period immediately preceding the date of the application for civil legal services, put in place a plan to protect A from a risk of harm by B;

(g) a copy of a finding of fact, made in proceedings in the United Kingdom within the sixty month period immediately preceding the date of the application for civil legal services, that there has been domestic violence by B giving rise to a risk of harm to A;

(h) a letter or report from a health professional who has access to the medical records of A confirming that that professional, or another health professional—

(i) has examined A in person within the sixty month period immediately preceding the date of the application for civil legal service; and

(ii) was satisfied following that examination that A had injuries or a condition consistent with those of a victim of domestic violence;

(i) a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that, within the sixty month period immediately preceding the date of the application, A was assessed as being, or at risk of being, a victim of domestic violence by B (or a copy of that assessment);

(**5**) 1996 c. 27; section 46 was amended by paragraph 37 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28) and paragraphs 129 and 131 of Schedule 11 to the Crime and Courts Act 2013 (c. 22). Section 63E was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 (c. 20) and amended by section 120(1) and (3) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).