

GLOBALARRK'S NO NONSENSE GUIDE

LEGAL AID IN ENGLAND & WALES FOR PARENTS INVOLVED IN INTERNATIONAL CHILD RELOCATION & 'ABDUCTION' CASES

Children: Older children who are mature enough to understand the court proceedings and who really want to be involved in the court process can ask to be represented by their own solicitor. They will usually qualify for free Legal Aid unless they have substantial savings, assets or income. Children should contact a solicitor themselves and ask whether they qualify for Legal Aid.

Adults:

For Hague Convention on Child Abduction 1980:

The applicant (left behind parent) is automatically entitled to free legal aid, this is non-means non-merits funding

The respondent (taking parent) must meet strict criteria on their means (financial) and merit (likelihood to succeed) before qualifying. (see below for details)

For Hague Convention on Child Abduction 1996:

Both parents must be means and merit tested

For Brussels (ii) Proceedings:

Both parents must be means and merit tested

For Relocation/ Leave to Remove Proceedings:

Neither parent is eligible for any free legal aid unless Domestic Abuse can be proven. This is a two stage test, even if domestic abuse is proven; they must still be financially eligible.

Application to prevent removal using Prohibitive Steps Order

Legal Aid is available (means and merits tested) but no gateway is required, for an application to prevent removal from the jurisdiction in defending a relocation application (Prohibited Steps Order).

The Means and Merits Test:

It is advisable to contact a solicitor to ask about eligibility for Legal Aid, many firms will work it out for you. However, as a rough guide current guidelines state that Adults will normally be eligible if they:

- Earn less than £2657 per month and have less than £733 disposable income per month
- Have capital (cars/ savings) of less than £8,000
- Own or co-own a property worth less than £100,000 per person. If re-married there are extra rules – ask an expert!
- Get benefits (eg Job seekers / Universal Credit) UNLESS they have the Capital of £8,000+
- Please note parties applying for legal aid may be in some circumstances be eligible for a contribution. This could be capital based or income based. When applying for legal aid, this information will be provided.

The Domestic Abuse gateway:

If the parent has suffered Domestic Abuse an organisation such as a UK Domestic Abuse Charity, an IDVA, MARAC or the GP can write a letter to confirm they are a victim of Domestic Abuse and through this should qualify for Legal Aid for Relocation. The victim may still need to pay a monthly contribution to legal fees depending on their financial situation. There is an extensive list of examples of letters that can be used and provided to agencies. This can be found on: www.gov.uk/legal-aid/domestic-abuse-or-violence

An Example of means testing:

The applicant has a home worth £320,000 and the mortgage is £150,000. The property is registered in joint names.

Value of Home: £320,000	Deduct mortgage up to maximum allowable: minus £100,000
Equity: £220,000	Client's share of Equity (assume asset held in equal shares): £110,000

In some circumstances, an equity allowance can be further deducted.

Check out the Legal Aid Calculator: www.civil-eligibility-calculator.justice.gov.uk

www.childlawadvice.org.uk/information-pages/legal-aid-for-family-law-matters

Ask the law firms listed on our Website: www.globalarrk.org/find-a-professional



Registered UK charity 1170455

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Contact Us www.globalarrk.org info@globalarrk.org