STATUTORY INSTRUMENTS

2014 No. 2864

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Community Legal Service (Funding) (Counsel in Family Proceedings) (Amendment) Order 2014

Made - - - -	*25th October 2014*
Laid before Parliament	*30th October 2014*
Coming into force - -	*24th November 2014*

The Lord Chancellor makes the following Order in exercise of the power conferred by section 6(4) of the Access to Justice Act 1999(**a**).

Citation and commencement

1. This Order may be cited as the Community Legal Service (Funding) (Counsel in Family Proceedings) (Amendment) Order 2014 and comes into force on 24th November 2014.

Amendments to the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001

2.—(1) The Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(**b**) is amended as follows.

(2) In article 2(1)—

(a) for the definition of "Case Management Conference", substitute—

""Case Management Hearing" means a Case Management Conference held in accordance with step 4 of the Children Act Protocol or a Case Management Conference or Case Management Hearing held in accordance with stage 2 of the applicable Public Law Outline;";

(b) after the definition of "Issues Resolution Hearing", insert—

""judge of High Court judge level" means—

(a) a deputy judge of the High Court;

(b) a puisne judge of the High Court;

(c) a person who has been—

(i) a judge of the Court of Appeal; or

(ii) a puisne judge of the High Court,

(**a**) 1999 c. 22. Section 6 was amended by S.I. 2005/3429 and repealed by paragraph 51 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), subject to the savings in regulation 6 of S.I. 2013/534.

(**b**) S.1. 2001/1077. Relevant amending instruments are S.I. 2003/2590, 2005/184, 2007/2443, 2007/3169, 2008/666, 2009/2468, 2011/1027. S.I. 2001/1077 was revoked by article 9(1) of S.I. 2011/1027, subject to savings specified in article 9(2), so it continues to have effect for funded services where the application was signed before 9th May 2011 and was received by the Legal Services Commission before 16th May 2011.

who may act as a judge of the family court by virtue of section 9 of the Senior Courts Act 1981(**a**);

(d) the Senior President of Tribunals;

(e) the Chancellor of the High Court;

(f) an ordinary judge of the Court of Appeal (including the vice-president, if any, of either division of that court);

(g) the President of the Queen's Bench Division;

(h) the President of the Family Division;

(i) the Master of the Rolls; or

(j) the Lord Chief Justice;"; and

(c) in the definition of "Public Law Outline", for the words from "table" to the end, substitute "Practice Direction applicable to the proceedings;".

(3) In articles 2C, 8 and 9, for "Case Management Conference", in each place those words appear, substitute "Case Management Hearing".

(4) In article 4(2), for "High Court, county courts and magistrates' courts", substitute "High Court or family court(**b**)".

(5) In article 5(2), for "in the High Court", substitute "before a judge of High Court judge level".

(6) In article 15(2), omit "from a District Judge to a Circuit Judge or a High Court Judge,".

Transitional provision

3. The amendment made by article 2(4) does not apply to a determination of a claim for payment where that claim relates to a hearing before 22nd April 2014.

Signed by the authority of the Lord Chancellor

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

25th October 2014

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 (S.I. 2001/1077) ("the 2001 Order"), which makes provision about payment by the Lord Chancellor for funded services provided by counsel in family proceedings under the Access to Justice Act 1999 (c. 22) ("the Act") under what is known as the Family Graduated Fee Scheme ("FGFS"). The 2001 Order was revoked by S.I. 2011/1027, and the Act was repealed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10), but in each case this was subject to saving provisions, so both the 2001 Order and the Act continue to have effect in limited circumstances.

Article 2(2)(b) and (4) to (6) make amendments to the FGFS which are consequential on the introduction of the new single family court by the Crime and Courts Act 2013 (c. 22). The amendments align remuneration with the structure and jurisdiction of the family court but will have no affect on the levels of remuneration made under the FGFS.

(**a**) 1981 c. 54.

(**b**) The family court was established by section 31A of the Matrimonial and Family Proceedings Act 1984 (c. 42), as inserted by section 17 of the Crime and Courts Act 2013 (c. 22).

Article 2(2)(a) and (c) and (3) make amendments to reflect the current terminology under the Public Law Outline applicable to family proceedings, the most recent of which is the updated Practice Direction 12A (Care, Supervision and other Part 4 Proceedings: Guide to Case Management) to the Family Procedure Rules 2010.

Article 3 makes transitional provision providing that the amendment made by article 2(4) only applies to a determination of a claim for payment which relates to a hearing held on or after 22nd April 2014.

A full impact assessment of the policy implemented by the amendments has not been produced for this instrument, as no impact on the private or voluntary sectors is foreseen.

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