
STATUTORY INSTRUMENTS

2013 No. 104

The Civil Legal Aid (Merits Criteria) Regulations 2013

PART 6

SPECIFIC MERITS CRITERIA

CHAPTER 2

Public law

Standard criteria for determinations for legal representation in relation to public law claims

53. For the purposes of a determination for legal representation in relation to a public law claim, the Director must be satisfied that the criteria in regulation 39 (standard criteria for determinations for legal representation) are met and that—

- (a) the act, omission or other matter complained of in the proposed proceedings appears to be susceptible to challenge; and
- (b) the individual exhausted all administrative appeals and other alternative procedures which are available to challenge the act, omission or other matter before bringing a public law claim.

Standard criteria for determinations for investigative representation in relation to public law claims

54. For the purposes of a determination for investigative representation in relation to a public law claim, the Director must be satisfied that—

- (a) the criteria in regulation 53 (standard criteria for determinations for legal representation in relation to public law claims) are met; and
- (b) the individual has—
 - (i) notified the proposed defendant of the individual's potential challenge and given a reasonable time for the proposed defendant to respond; or
 - (ii) shown that doing so would be impracticable.

Criteria for determinations for investigative representation in relation to public law claims

55. For the purposes of a determination for investigative representation in relation to a public law claim the criteria in regulation 40(1)(a) and (b) (investigative representation) and 54 (standard criteria for determinations for investigative representation in relation to public law claims) apply and the criteria in regulation 40(1)(c) and (2) (investigative representation: minimum damages rule) do not apply.

Criteria for determinations for full representation in relation to public law claims

56.—(1) For the purposes of a determination for full representation in relation to a public law claim—

- (a) the criteria in regulations 41 to 44 (criteria for determinations for full representation) do not apply;
- (b) the Director must be satisfied that the criteria in regulation 53 (standard criteria for determinations for legal representation in relation to public law claims) are met; and
- (c) the criteria in paragraphs (2) and (3) apply.

(2) An individual may qualify for full representation in relation to a public law claim only if the Director is satisfied that—

- (a) the individual has sent a letter before claim to the proposed defendant (except where this is impracticable), and where such a letter has been sent, the proposed defendant has been given a reasonable time to respond;
- (b) the proportionality test is met; and
- (c) the criterion in paragraph (3) is met.

(3) The Director must be satisfied that the prospects of successfully obtaining the substantive order sought in the proceedings are—

- (a) very good, good or moderate; or
- (b) borderline, and—
 - (i) the case is of significant wider public interest;
 - (ii) the case is one with overwhelming importance to the individual; or
 - (iii) the substance of the case relates to a breach of Convention rights.