
STATUTORY INSTRUMENTS

2013 No. 104

The Civil Legal Aid (Merits Criteria) Regulations 2013

PART 6

SPECIFIC MERITS CRITERIA

CHAPTER 3

Claims against public authorities

Criteria for determinations for investigative representation in relation to claims against public authorities

57.—(1) For the purposes of a determination for investigative representation in relation to any matter described in paragraph 21 (abuse of position or powers by public authority) or 22 (breach of Convention rights by public authority) of Part 1 of Schedule 1 to the Act the criteria in—

- (a) regulations 39 (standard criteria for determinations for legal representation) and 40(1)(a) and (b) (criteria for determinations for investigative representation) apply; and
- (b) regulation 40(1)(c) and (2) apply, subject to paragraph (2).

(2) The criteria in regulation 40(1)(c) and (2) (investigative representation: minimum damages rule) only apply to the extent that such a matter—

- (a) is part of a multi-party action; and
- (b) does not relate to—
 - (i) the abuse of a child or a vulnerable adult; or
 - (ii) a contravention of the Equality Act 2010 ^{M1} or of a previous discrimination enactment.

(3) In this regulation and in regulation 59—

- (a) “abuse”, “child” and “vulnerable adult” have the meaning given by paragraph 3(5) of Part 1 of Schedule 1 to the Act (abuse of child or vulnerable adult); and
- (b) “previous discrimination enactment” has the meaning given by paragraph 43(3) of Part 1 of Schedule 1 to the Act (equality).

Marginal Citations

M1 2010 c.15.

Changes to legislation: The Civil Legal Aid (Merits Criteria) Regulations 2013, CHAPTER 3 is up to date with all changes known to be in force on or before 22 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Criteria for determinations for full representation in relation to claims against public authorities

58.—(1) For the purposes of a determination for full representation in relation to any matter described in paragraph 21 (abuse of position or powers by public authority) or 22 (breach of Convention rights by public authority) of Part 1 of Schedule 1 to the Act, the criteria in—

- (a) regulation 39 (standard criteria for determinations for legal representation) ^{F1}... apply;
- (b) regulation 41(a) and (b) (criteria for determinations for full representation) ^{F2}, regulation 42 (cost benefit criteria) and regulation 43 (prospects of success criterion) do not apply;] and

^{F3}(c) paragraphs (2) and (3) apply.]

(2) An individual may qualify for full representation in relation to any matter described in paragraph 21 (abuse of position or powers by public authority) or 22 (breach of Convention rights by public authority) of Part 1 of Schedule 1 to the Act only if the Director is satisfied that—

- (a) the proportionality test is met ^{F4}; and] ^{F5}...

^{F6}(b) the criterion in paragraph (3) is met.]

^{F7}(3) The Director must be satisfied that the prospects of success are—

- (a) very good, good or moderate; or
- (b) borderline or marginal, 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.]

F1	Words in reg. 58(1)(a) omitted (22.7.2016) by virtue of The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(a) (with reg. 3)
F2	Words in reg. 58(1)(b) substituted (22.7.2016) by The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(b) (with reg. 3)
F3	Reg. 58(1)(c) substituted (22.7.2016) by The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(c) (with reg. 3)
F4	Word in reg. 58(2)(a) inserted (22.7.2016) by The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(d)(i) (with reg. 3)
F5	Reg. 58(2)(b) and word omitted (27.1.2014) by virtue of The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2014 (S.I. 2014/131) , regs. 1(1), 2(5)(d) (with reg. 3)
F6	Reg. 58(2)(b) inserted (22.7.2016) by The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(d)(ii) (with reg. 3)
F7	Reg. 58(3) inserted (22.7.2016) by The Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2016 (S.I. 2016/781) , regs. 1(1), 2(6)(e) (with reg. 3)

Criteria for determinations for full representation in relation to claims against public authorities: multi-party action damages criterion

59. For the purposes of a determination for full representation in relation to any matter described in paragraph 21 (abuse of position or powers by public authority) or paragraph 22 (breach of Convention rights by public authority) of Part 1 of Schedule 1 to the Act, the criteria in regulation 41(c) and 44 (multi-party action damages criterion) only apply to the extent that such a matter does not relate to—

- (a) the abuse of a child or a vulnerable adult; or

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- (b) a contravention of the Equality Act 2010 or of a previous discrimination enactment.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(9)(e) and word inserted by [2022 c. 36 s. 25\(3\)](#)
- reg. 11(9)(f) and word inserted by [2023 c. 37 s. 56\(5\)\(b\)](#)