

Separated migrant children given better access to legal aid

- legislation will increase access to justice for vulnerable group
- move welcomed by children's charities

Vulnerable migrant children who have been separated from their parents will get quicker and simpler access to legal aid, after new government legislation came into force today (25 October 2019).

The Legal Aid for Separated Children Order 2019 will bring non-asylum immigration and citizenship matters into the scope of legal aid for under 18s who are not in the care of a parent, guardian or legal authority.

Previously, vulnerable children making such applications to remain in the UK could only apply for legal aid through the Exceptional Case Funding (ECF) scheme.

Justice Minister Wendy Morton MP said:

This is a positive step to make sure we are offering the right support and protection to some of the most vulnerable in our society.

These changes will mean migrant children who have been separated from their carers can access the vital legal support they need faster and more easily.

The Ministry of Justice has worked with The Children's Society and other children's charities on the amendment and will continue to do so as it comes into force.

Mark Russell, CEO the Children's Society, said:

We are delighted the government has acted on their promise to ensure separated and unaccompanied children can resolve immigration issues and secure their citizenship, without the stress of applying for exceptional case funding, or trying to navigate complex human rights law all alone.

We look forward to working closely with the Ministry of Justice to ensure that affected children and the professionals supporting them know about this vital change.

The amendment is in addition to publication of the department's Legal Support Action Plan earlier this year. This committed to improving the Exceptional

Case Funding scheme, along with a series of pilots to test the most effective forms of early legal support.

Reviews have also begun into the legal aid means test to ensure accessibility into the future, along with the entire criminal legal aid system through the Criminal Legal Aid Review.

Notes to editors

- Under current legislation, legal aid is available in all asylum cases – for all age groups – and immigration cases where someone is challenging a detention decision. For immigration matters not in the scope of legal aid, funding may be available via the Exceptional Case Funding scheme, if the relevant eligibility criteria are met and there is a breach or risk of a breach of ECHR rights or enforceable EU law.
- Following litigation from The Children’s Society, a Written Ministerial Statement was made in July 2018 by former Justice Minister Lucy Frazer MP detailing the government’s commitment to amend the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to bring immigration matters for unaccompanied and separated children into scope of legal aid. A Statutory Instrument was laid in July and has since been approved by both the House of Commons and House of Lords.
- This amendment brings non-asylum immigration and citizenship matters into the scope of legal aid for under 18s who are not in the care of a parent, guardian or legal authority including legal aid for applications to the EU Settlement Scheme.- Legislation will increase access to justice for vulnerable group