



Legal Aid
Agency

Working with others to achieve excellence in the delivery of legal aid

Civil Merits - Help Us Say Yes Webinar – Your Questions

Non-family merits assessment

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Possession

Q: Recently, the LAA has been asking for witness statements, expert reports and / or defences etc before approving the application for legal aid. These are not available on application as that is, in part, what we are applying for funding for. When we put in an appeal on this and say why - funding is granted. Is there a way around this?

A: For us to determine an application for possession we need to see the following:

- The pleadings
- The client's defence or a document setting out what the client's defence is.

If you have additional information, for example witness statements or experts report, to support an Equality Act counterclaim, you can submit these in support. However, this is not information we should be requesting on an initial application, especially if that is what you are applying for funding for.

We may ask for an expert's report or medical evidence in a disrepair case. This is so we can be satisfied that the disrepair poses a risk to the health and safety of the client or family member.

Q: What is the position where a suspended possession order has been made (on grounds of rent arrears), but there is a valid disrepair claim (counterclaim), which would reduce /clear the level of arrears, which could result in the applicant making an application to discharge the possession order?

A: It would be expected that a counterclaim is pursued at the same time as the possession claim. However, in the following circumstances, a valid disrepair counterclaim which would reduce or clear the arrears, would be in scope and can then be brought in order to discharge the order:

- The counterclaim and the possession claim have not been dealt with at the same time;
- A possession order has been made and suspended;
- The threat to the individuals' home is still 'live'

A free-standing application can be submitted using the proceeding 'Bring a Counterclaim'.

Q: Where we seek funding for a counterclaim, CCMS automatically requires us to file the counterclaim with the application and we have to say that we are filing it in order to proceed

A: When you submit an application on CCMS (PUI) and you indicate it is your intention to bring a counterclaim, you may be automatically prompted by CCMS to confirm that you have a copy of the counterclaim, or are filing it before you can proceed or even be asked to upload a copy. We do not expect that a fully pleaded and drafted counterclaim is uploaded, but we do need a statement setting out how the counterclaim arises and how it assists with the defence to the possession claim.

Other

Q: What is CCMS?

A: CCMS stands for: Client and Cost Management System. This system enables us to work online with our providers and advocates to process initial applications and amendments, pay bills and recover debt for civil certificated work.

Q: I was expecting some guidance on the merits threshold we must meet- is that not being covered?

A: No. To assist us to get it right first time, we considered it was important to run a session on the information we need to make a determination. This is based on the data we collected in relation to appeals. A webinar on guidance on merits threshold has been added to the webinar schedule.



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