



Not  
Beyond  
Redemption

## **Not Beyond Redemption Eligibility Policy**

### **Mission Statement**

Not Beyond Redemption (NBR)'s aim is to support the relationship between mothers in prison and their children. NBR provides free Private Children Law advice and representation to mothers in prison to assist in re-establishing and maintaining contact between mother and child. The assistance extends to mothers who have left prison, but the focus and priority is mothers who are in prison.

The objective of this Eligibility Policy is to determine how the Charity will decide which cases will be prioritised and which will come within its remit.

Whilst NBR will act in the best interests of its clients, NBR's advice on the merits of a case will be based on the criteria contained within The Children Act 1989 where the welfare of the child is paramount, therefore any impact on the child will always be taken into consideration.

This Eligibility Policy is to be read in conjunction with the NBR Financial Policy.

### **Legal Aid**

In April 2013, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) reduced the sphere of legal aid. As such, many mothers in prison do not qualify for Legal Aid.

Legal Aid in Private Children Law matters is usually available only to people who can prove they have experienced domestic abuse, or their children have been harmed.

There are other exceptional circumstances where legal aid could be available which are identified on a case-by-case basis.

The LASPO sets out strict evidential requirements, known as "gateway" evidence which must be provided in order to satisfy the test for legal aid:

1. **"Domestic abuse" or "violence"** – this is defined by LASPO as any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence, or abuse (whether psychological, physical, sexual, financial, or emotional) between individuals who are associated with each other.

Examples include:

- An arrest or police caution for a domestic violence offence.
- A conviction for a domestic violence offence.

- A letter or report from an appropriate health professional or referral to a domestic violence support service.
- A letter from an organisation providing domestic abuse support services.
- Leave to remain in the UK as a victim of domestic violence.
- A protective injunction or undertaking.
- Findings made in a family court.

2. Child Protection / if your child is at risk of abuse – “Abuse” in this context means physical or mental abuse, including sexual abuse, and abuse in the form of violence, neglect, maltreatment and exploitation.

Examples include:

- An arrest or police caution for a child abuse offence.
- A letter from social services confirming a risk or victim of child abuse.
- A letter from social services confirming a child protection plan.
- A copy of a child protection plan.
- A protection injunction.

If it is considered that a mother may be eligible for Legal Aid and can obtain the relevant evidence, then NBR will notify a mother of this, and offer names of legal aid solicitors.

If legal aid is refused or a mother is unable to access it (and the mother is able to evidence this), NBR will continue to assist.

### **Representation in court**

When deciding whether NBR will make an application to court and come on the court record, NBR will apply a “merits test” and the following issues will be taken into consideration: -

- Children Act s1(3) welfare checks.
- Offence committed –(in exceptional cases, we may require the approval of NBR’s Trustee sub-committee before proceeding to act.)
- Date of release.
- Time spent in prison.
- Time since last contact with child(ren).
- Behaviour and progress in prison / upon release.
- Engagement with Probation / Housing services.
- Age of child / wishes of the child if appropriate.
- Social services involvement.
- Potential risk(s) to child(ren).
- Consideration of any previous family proceedings.
- Relationship with current carers of child(ren).
- Outcome of sentencing.

If NBR does not consider that a case has sufficient merit to make a court application on behalf of a mother, but the mother wishes to make an application on her own behalf, NBR will further consider whether it can assist in an advisory capacity.

Whilst NBR will always endeavour to find representation for a client at a court hearing, as NBR relies on volunteer lawyers / Pro Bono Counsel this cannot be guaranteed particularly on late notice of instructions.

As a team of lawyers, our duties and obligations are set out in the Solicitors Regulation Authority (SRA) Principles and Code of Conduct. Any decision that is made is with regard to this Guidance.

### **Circumstances in which NBR would come off the court record**

There may be circumstances when NBR will seek to come off the court record and cease to act, for example: -

- If NBR are not in receipt of instructions within 2 months of prison release.
- If the court hearing is within 2 weeks, and NBR has had no contact from the client.
- Breakdown of professional relationship.
- If a client provides NBR with instructions that would lead to NBR misleading the court.
- If a client is or becomes eligible for legal aid.

### **Released from prison**

Access to justice is particularly challenging while a mother is in prison, which is why mothers in prison are NBR's highest priority. Nonetheless, NBR will also endeavour to support mothers when they are released from prison.

NBR will ask that a mother to provide her home address for this assistance to continue and will require proof of this address or the best available identifier.

If a mother is released whilst there are ongoing proceedings, NBR will continue to represent her until the conclusion of those proceedings, (subject to criteria for coming off the record as above).

If a mother seeks support from NBR beyond the 12 months from her prison release date, NBR will take into account the circumstances of the case and NBR's capacity in dealing with a non-priority case.

For mothers returning to NBR after their release date, NBR will only assist with contact with the same child(ren) at the time of the mother's imprisonment, except for in exceptional circumstances, for example where there is an impact on the original case.

If NBR cannot act, it will signpost and refer to other legal services that can provide pro bono advice and representation in the community.