**Case file 1: Rights of Women, R (on the application of) v The Lord Chancellor and Secretary of State for Justice [2016] EWCA Civ 91 (18 February 2016)**

The English Courts recognise domestic violence 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. This case focuses on a registered charity referred to as “Rights of Women” which gives free legal advice on family law (Among other areas). It campaigns and provides education and training women's rights, with a particular specialism in gender-based violence. It has been fully engaged in the recent changes to civil legal aid. This proceedings sets precedent as to when a victim of domestic violence is entitled to legal aid. One case of domestic violence in this was subject “M”, who was a victim of serious physical, sexual and psychological abuse (rape, strangulation, beating, other sexual assault, controlling/coercive behaviour) from her husband and father of two of her children. She had a variety of objective forms of evidence within regulation 33 but all outside 24 month time limit by a few months. Exceptional funding under section 10 was requested and refused. M suffered a relapse of her psychological condition by reason of attending proceedings unrepresented against her ex-husband who sought contact with children more than 2 years later. Only then was she able to obtain a medical report and, as a result of that report, obtain legal aid. The objective evidence M had at the time of her legal aid application, none of which entitled her to legal aid under regulation 33 was as follows:-

a) a caution for a domestic violence offence – but this was more than 24 months old;

b) the allegation of rape in September 2010 which was reported to the police, but in respect of which no charges were brought – police reports/call-outs do not fall within regulation 33;

c) the police had referred her to a MARAC who had assessed her as high risk; the report from November 2010 was more than 24 months old;

d) social services Child in Need reports regarding the children dating from June 2011, the latest of which was 25 months old;

e) counselling at a Rape Crisis centre which ended in June 2011 and was more than 24 months earlier;

f) findings of fact made in the divorce proceedings in 2010 more than 24 months before the application was made;

g) evidence from her former outreach worker from the local children's centre – there is no provision for this in regulation 33; and

h) a CAFCASS report dated 2nd July 2013 prepared in the Claimant's ongoing proceedings for child contact. This detailed the history of domestic violence and assessed the risks to the children: its conclusion was that it would not be in the children's best interests to progress contact.

The other case of domestic violence that sets out the precedent is subject “N”. N was a victim of serious physical assault and psychological abuse by her husband. The objective forms of evidence were (a) a conviction for assault in 2006 (spent), injunctions, findings of fact in divorce and previous contact proceedings, two psychologist's reports from previous proceedings detailing psychological impact on her of abuse – PTSD. All the evidence was outside the 24 months period. Exceptional funding was refused. She began proceedings without legal aid but they induced flash-backs to previous assaults. Only then could she obtain a GP report and obtain legal aid.