

Table of MIAM Exemption changes and new evidence required

MIAM exemption changes	Added evidence and comments
<p>3a Domestic Abuse</p> <p>The most notable change has been in the language from domestic violence to ‘domestic abuse’ and this has been carried throughout the changes.</p> <p>Also the connection between the parties has changed from being someone who was ‘in a family relationship’ to being ‘personally connected’.</p> <p>These definitions are taken from the Domestic Abuse Act 2021:</p> <p>‘Abusive behaviour’ is defined in the act as any of the following:</p> <ul style="list-style-type: none"> • physical or sexual abuse • violent or threatening behaviour • controlling or coercive behaviour • economic abuse • psychological, emotional or other abuse <p>For the definition to apply, both parties must be aged 16 or over and ‘personally connected’, which is defined as parties who:</p> <ul style="list-style-type: none"> • are married to each other • are civil partners of each other • have agreed to marry one another (whether or not the agreement has been terminated) • have entered into a civil partnership agreement (whether or not the agreement has been terminated) • are or have been in an intimate personal relationship with each other • have, or there has been a time when they each have had, a parental relationship in relation to the same child • are relatives <p>An appropriate health professional can now provide an examination by telephone or by video conferencing, as well as in person.</p>	<p>There were already detailed provisions for what evidence was needed for each exemption. The only ones added are:</p> <p>a domestic abuse protection notice given under section 22 of the Domestic Abuse Act 2021 against a prospective party is added;</p> <p>a letter by a independent domestic violence or sexual violence provider can now confirm that they are providing, ‘or have provided’ support to a prospective party.</p> <p>A Home Office official can now confirm a prospective party has been granted leave to remain based on ‘domestic abuse’ instead of a definition under immigration rules.</p>
<p>3b Child Protection Concerns</p>	<p>Unchanged</p>

<p>3c Urgency</p> <p>The only change is that urgency is the hardship clause. This can now only be claimed if there is a 'significant financial hardship' and not just 'unreasonable hardship' to the prospective applicant.</p>	<p>It was suspected that many LiPs may have seen that their case, involving children especially, was urgent and any delay would cause 'unreasonable hardship'. The tightening of this definition to only specific financial circumstances may lead to many fewer exemption claims.</p>
<p>3d Previous MIAM Attendance or NCDR (NCDR being added instead of Miam exemption]</p> <p>As before, an applicant will be exempt from attending a MIAM or NCDR process, if, in the four months prior, they have already attended a MIAM or NCDR.</p> <p>The exemption where there are existing proceedings and the applicant attended a MIAM beforehand still stands.</p> <p>However the exemptions are abolished when the application is made following a filing of a relevant family application within the last four months and a MIAM exemption was claimed for that, or where there is a prospective application within existing proceedings, without a time limit as to when they started, and a MIAM exemption was claimed for that.</p>	<p>The evidence for this will be written confirmation from the NCDR provider that the prospective applicant has attended.</p> <p>One hope that the confirmation must also be dated, to comply with the timescales after it finished.</p> <p>The logic behind the existing and removed exemptions is that if a MIAM or NCDR has already been attempted in the last four months, there is no need to attend again. However, an earlier MIAM exemption, will not exempt MIAM attendance at a later date, though the reason for the previous exemption may well still hold good, but must be separately claimed, the second time around.</p>
<p>3e OTHER</p> <p>There are a range of categories under 'other', each given there separate heading, with the deleted provisions mentioned at the end.</p>	
<p>Other - bankruptcy (financial remedy cases only)</p>	<p>Unchanged</p>
<p>Other – without notice</p>	<p>Unchanged</p>
<p>Other – Disability</p> <p>This provision now extends to proving incapacity to attend online or by video link first. They would then have to contact five, not three, MIAM providers within the 15 mile range who state that they are all unable to provide the required appropriate facilities.</p>	<p>Previously the rules stated that the details of the authorised mediators contacted 'can be' be provided to the court if requested. This has been changed to state that they 'are provided to the court'.</p> <p>This proof must now be sent to court with their application. This, as before, comprises the names, contact information and details of the dates of contact with the authorised family mediators.</p>

<p>Other – in prison or other institution</p> <p>The exemption only applies if facilities cannot be made available for the prospective applicant to attend a MIAM online or by video-link.</p> <p>Existing provisions relating to being subject to conditions of bail or licence remain.</p>	
<p>Other – one party is a child</p>	<p>Unchanged,</p>
<p>Other – lack of availability of a local mediator if online is not possible</p> <p>This has been amended to add at the start that the applicant must prove that they are unable to attend a MIAM online or by video link. Thereafter proof of a lack of availability of the local mediators is the same as for those with a disability.</p>	<p>As with the disability provision, this proof must now be sent to court with their application.</p>
<p>Other –non-existence of any local mediators if online is not possible</p> <p>This has been amended to add at the start that the applicant must prove that they are unable to attend a MIAM online or by video link.</p>	<p>As with the disability provision, this proof must now be sent to court with their application.</p>
<p>ABOLISHED EXEMPTIONS:</p> <ul style="list-style-type: none"> • when the applicant has claimed a MIAM exemption made within the past four months • the application would be made within existing proceedings and a MIAM exemption was claimed then. • not having contact details for the prospective respondent • one or both prospective parties are not habitually resident in England and Wales • the mediator exemptions for MIAM attendance based on: <ul style="list-style-type: none"> ○ the prospective respondent not attending a MIAM (unwilling or failing to attend) or ○ the mediator assessing [without meeting either participant] that mediation is not suitable as a means of resolving the dispute. 	