

## MIAM exemptions

I have set out the revised Miam exemption rules in the form of how they may look when adapted into a Form A or a Form C100. They have been based on a combination of the wording in the FPR (as amended by the 2023 Rules) and PD 3A (as amended by PD Update no. 6 of 2023). However this is just to give an idea: the exact wording will be released by the MOJ.

### 3a - Domestic ~~abuse violence~~-evidence

#### Section 3a - Domestic ~~abuse violence~~-evidence

**The applicant confirms that there is evidence of domestic violence as specified below:**

evidence that a prospective party has been arrested for a relevant domestic ~~abuse violence~~-offence;

evidence of a relevant police caution for a domestic ~~abuse violence~~-offence;

evidence of relevant criminal proceedings for a domestic ~~abuse violence~~-offence which have not concluded;

evidence of a relevant conviction for a domestic ~~abuse violence~~-offence;

a court order binding a prospective party over in connection with a domestic ~~abuse violence~~-offence;

a domestic violence protection notice issued under section 24 of the Crime and Security Act 2010 against a prospective party;

a domestic abuse protection notice given under section 22 of the Domestic Abuse Act 2021 against a prospective party;

a relevant protective injunction;

an undertaking given in England and Wales under section 46 or 63E of the Family Law Act 1996 (or given in Scotland or Northern Ireland in place of a protective injunction) by a prospective party, provided that a cross-undertaking relating to domestic violence or domestic abuse was not given by another prospective party;

a copy of a finding of fact, made in proceedings in the United Kingdom, that there has been domestic ~~abuse violence~~ by a prospective party;

an expert report produced as evidence in proceedings in the United Kingdom for the benefit of a court or tribunal confirming that a person with whom a prospective party is or was personally connected in a family relationship, was assessed as being, or at risk of being, a victim of domestic ~~abuse violence~~ by that prospective party;

a letter or report from an appropriate health professional confirming that-

(i) that professional, or another appropriate health professional, has examined a prospective party in person, by telephone or by video conferencing; and

(ii) in the reasonable professional judgment of the author or the examining appropriate health professional, that prospective party has, or has had, injuries or a condition consistent with being a victim of domestic ~~abuse violence~~;

a letter or report from-

(i) the appropriate health professional who made the referral described below;

(ii) an appropriate health professional who has access to the medical records of the prospective party referred to below; or

(iii) the person to whom the referral described below was made;

confirming that there was a referral by an appropriate health professional of a prospective party to a person who provides specialist support or assistance for victims of, or those at risk of, domestic ~~abuse~~ abuse ~~violence~~ violence;

a letter from any person who is a member of a multi-agency risk assessment conference (or other suitable local safeguarding forum) confirming that a prospective party, or a person with whom that prospective party is ~~personally connected, in a family relationship~~, is or has been at risk of harm from domestic ~~abuse~~ abuse ~~violence~~ violence by another prospective party;

a letter from an independent domestic violence advisor confirming that they are providing or have provided support to a prospective party;

a letter from an independent sexual violence advisor confirming that they are providing or have provided support to a prospective party;

a letter from an officer employed by a local authority or housing association (or their equivalent in Scotland or Northern Ireland) for the purpose of supporting tenants containing-

(i) a statement to the effect that, in their reasonable professional judgment, a person with whom a prospective party is or has been ~~personally connected in a family relationship~~ is, or is at risk of being, a victim of domestic ~~abuse~~ abuse ~~violence~~ violence by that prospective party;

(ii) a description of the specific matters relied upon to support that judgment; and

(iii) a description of the support they provided to the victim of domestic ~~abuse~~ abuse ~~violence~~ violence or the person at risk of domestic violence by that prospective party;

a letter which-

(i) is from an organisation providing domestic ~~abuse~~ abuse ~~violence~~ violence support services, or a registered charity, which letter confirms that it-

(a) is situated in ~~the United Kingdom-England and Wales~~,

(b) has been operating for an uninterrupted period of six months or more; and

(c) provided a prospective party with support in relation to that person's needs as a victim, or a person at risk, of domestic ~~abuse~~ abuse ~~violence~~ violence; and

(ii) contains-

(a) a statement to the effect that, in the reasonable professional judgment of the author of the letter, the prospective party is, or is at risk of being, a victim of domestic ~~abuse~~ abuse ~~violence~~ violence;

(b) a description of the specific matters relied upon to support that judgment;

(c) a description of the support provided to the prospective party; and

(d) a statement of the reasons why the prospective party needed that support;

a letter or report from an organisation providing domestic ~~abuse~~ abuse ~~violence~~ violence support services in the United Kingdom confirming-

(i) that a person with whom a prospective party is or was ~~personally connected in a family relationship~~ was refused admission to a refuge;

(ii) the date on which they were refused admission to the refuge; and

(iii) they sought admission to the refuge because of allegations of domestic ~~abuse violence~~ by the prospective party referred to in paragraph (i);

a letter from a public authority confirming that a person with whom a prospective party is or was ~~personally connected in a family relationship~~, was assessed as being, or at risk of being, a victim of domestic ~~abuse violence~~ by that prospective party (or a copy of that assessment);

a letter from the Secretary of State for the Home Department confirming that a prospective party has been granted leave to remain in the United Kingdom ~~as a victim of domestic abuse under paragraph 289B of the Rules made by the Home Secretary under section 3(2) of the Immigration Act 1971, which can be found at <https://www.gov.uk/guidance/immigration-rules/immigration-rules-index>~~;

evidence which demonstrates that a prospective party has been, or is at risk of being, the victim of domestic ~~abuse violence~~ by another prospective party in the form of abuse which relates to financial matters.

### **3b - Child protection concerns**

*[No change – NB this section is only on Form C100 and not on Form A]*

**The applicant confirms that a child would be the subject of the application and that child or another child of the family who is living with that child is currently—**

the subject of enquiries by a local authority under section 47 of the Children Act 1989 Act; or

the subject of a child protection plan put in place by a local authority.

### **3c - Urgency**

**The applicant confirms that the application must be made urgently because:**

there is risk to the life, liberty or physical safety of the prospective applicant or his or her family or his or her home; or

any delay caused by attending a MIAM would cause—

a risk of harm to a child; or

a risk of unlawful removal of a child from the United Kingdom, or a risk of unlawful retention of a child who is currently outside England and Wales; or

a significant risk of a miscarriage of justice; or

~~unreasonable-significant financial~~ hardship to the prospective applicant; or

irretrievable problems in dealing with the dispute (including the irretrievable loss of significant evidence); or

there is a significant risk that in the period necessary to schedule and attend a MIAM, proceedings relating to the dispute will be brought in another state in which a valid claim to jurisdiction may exist, such that a court in that other State would be seized of the dispute before a court in England and Wales. 8

### **3d - Previous MIAM attendance or ~~non-court resolution attendance~~ - ~~previous MIAM exemption~~**

**The applicant confirms that one of the following applies:**

in the 4 months prior to making the application, the person attended a MIAM or ~~participated in another form of~~ non-court dispute resolution ~~process~~ relating to the same or substantially the same dispute; ~~or and~~

~~where the person attended a non-court dispute resolution process, there is evidence of that attendance as specified in PD 3A. at the time of making the application, the person is participating in another form of non-court dispute resolution relating to the same or substantially the same dispute; or~~

*[CB note, it may help if the words 'and dated' were added after 'written'.]*

~~in the 4 months prior to making the application, the person filed a relevant family application confirming that a MIAM exemption applied and that application related to the same or substantially the same dispute; or~~

the application would be made in existing proceedings which are continuing and the prospective applicant attended a MIAM before initiating those proceedings; or

~~the application would be made in existing proceedings which are continuing and a MIAM exemption applied to the application for those proceedings.~~

### **3e - Other Exemptions**

**The applicant confirms that one of the following other grounds for exemption applies:**

#### **Bankruptcy**

No change.

[The bankruptcy provisions are not in the C100.]

evidence that the prospective applicant is bankrupt exists in one of the following forms:

- application by the prospective applicant for a bankruptcy order;
- petition by a creditor of the prospective applicant for a bankruptcy order; or

a bankruptcy order in respect of the prospective applicant.

~~the prospective applicant does not have sufficient contact details for any of the prospective respondents to enable a family mediator to contact any of the prospective respondents for the purpose of scheduling the MIAM.~~

the application would be made without notice

~~((ai) the prospective applicant is not able to attend a MIAM online or by video-link and an explanation of why this is the case is provided to the court;~~

i) the prospective applicant is ~~or all of the prospective respondents are~~ subject to a disability or other inability that would prevent attendance in person at a MIAM unless appropriate facilities can be offered by an authorised mediator;

(ii) the prospective applicant has contacted as many authorised family mediators as have an office within fifteen miles of his or her home (or ~~five three~~ of them if there are ~~five three~~ or more), and all have stated that they are unable to provide such facilities; and

(iii) the names, postal addresses and telephone numbers or e-mail addresses for ~~the such~~ authorised family mediators contacted by the prospective applicant, and the dates of contact, are can be provided to the court ~~if requested~~.

the prospective applicant ~~or all of the prospective respondents cannot~~ attend a MIAM because the prospective applicant is he or she is, or they are, as the case may be (i) in prison or any other institution in which the prospective applicant is he or she is or they are required to be detained and facilities cannot be made available for them to attend a MIAM online or by video-link; (ii) subject to conditions of bail that prevent contact with the other person; or (iii) subject to a licence with a prohibited contact requirement in relation to the other person.

~~the prospective applicant or all of the prospective respondents are not habitually resident in England and Wales.~~

a child is one of the prospective parties ~~by virtue of Rule 12.3(1)~~.

(ai) the prospective applicant is not able to attend a MIAM online or by video-link and an explanation of why this is the case is provided to the court;

the prospective applicant has contacted as many authorised family mediators as have an office within fifteen miles of his or her home (or ~~five three~~ of them if there are ~~five three~~ or more), and all of them have stated that they are not available to conduct a MIAM within fifteen business days of the date of contact; and (ii) the names, postal addresses and telephone numbers or e-mail addresses for ~~the such~~ authorised family mediators contacted by the prospective applicant, and the dates of contact, are can be provided to the court ~~if requested~~.

(i) the prospective applicant is not able to attend a MIAM online or by video-link;

(ii) there is no authorised family mediator with an office within fifteen miles of the prospective applicant's home; and

(iii) an explanation of why this exemption applies is provided by the prospective applicant to the court.

~~there is no authorised family mediator with an office within fifteen miles of the prospective applicant's home~~

**NOTE: All Mediator exemptions have all been deleted ie**

~~When an authorised mediator could confirm that he or she is satisfied that~~

~~(a) mediation is not suitable as a means of resolving the dispute because none of the respondents is willing to attend a MIAM; or~~

~~(b) mediation is not suitable as a means of resolving the dispute because all of the respondents failed without good reason to attend a MIAM appointment; or~~

~~(c) mediation is otherwise not suitable as a means of resolving the dispute.~~