

M (A Child)

5th August 2015

John Tughan QC and Rebecca Foulkes represented the Mother in the recently reported case M (A Child).

The President was asked to consider the funding position of a vulnerable mother who had successfully applied to re-open a finding of fact that she was in the pool of potential perpetrators in respect of non-accidental injury sustained by her infant daughter.

The LAA had taken the view that the mother was ineligible for non-means and non-merits tested funding. However the President accepted the argument advanced on behalf of the mother that the effect of her application had been to re-open the section 31 proceedings and that the new trial will necessarily involve a fresh and complete re-hearing of the local authority's case on 'threshold'. Accordingly the proceedings remain a "special Children Act 1989 case" in relation to which the mother is entitled to legal aid in accordance with paragraph 2 of The Civil Legal Aid (Merits Criteria) Regulations 2013, SI 2013/104.

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