

Working **together** for
fairness, justice and safety

Department of Justice

Improving Value and Impact by Reforming Merits and Scope of Legal Aid



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

Contents

1. Ministerial Foreword 3

2. Executive Summary 5

3. Strategic Context..... 10

4. Evidence Base 13

5. Have Your Say 72

ANNEX – Information and Privacy..... 76

1. Ministerial Foreword

1.1 Access to justice is one of the foundations of a fair, democratic and compassionate society. It ensures that people can enforce their rights, protect themselves and their families, challenge unlawful decisions, and secure the support and services to which they are entitled. For many individuals, particularly those facing vulnerability, poverty, trauma or crisis, legal aid provides the gateway through which justice becomes a practical reality rather than simply an abstract principle. Legal aid is therefore not merely a mechanism for funding legal services; it is a vital safeguard that underpins confidence in the rule of law and the effective functioning of our justice system.

1.2 Throughout my time as Minister of Justice, I have been clear that effective access must remain at the heart of our justice system. We must support those who could not otherwise exercise their rights or enjoy the protections the law provides. Equally, I have been clear that our responsibility extends beyond preserving access to legal services in their current form. We must continually assess whether the system is delivering the right outcomes for citizens, whether resources are being directed towards the areas of greatest need and impact, and whether we are meeting our responsibilities to taxpayers in securing the best possible value from public expenditure.

1.3 The legal aid system in Northern Ireland faces significant challenges. Demand continues to grow, the needs of those seeking support are becoming increasingly complex, and expenditure has risen substantially in recent years. At the same time, wider pressures on public finances mean that every area of government must ensure that limited resources are being used as effectively as possible. The challenge before us is not whether we support access to justice; it is how we ensure that access to justice remains sustainable, effective and available for future generations.

1.4 In December 2024, I launched the Enabling Access to Justice Programme with the objective of placing the citizens at the heart of the justice system. That programme recognises that justice is about far more than legal processes or court proceedings. People often engage with the justice system at some of the most difficult moments in their lives. The quality, timeliness and accessibility of the support available to them can have profound consequences for their wellbeing, their families and their future opportunities. Our reforms must therefore focus not only on legal aid itself, but on how we improve outcomes for those who rely upon it.

1.5 This consultation forms part of that wider programme of reform. It focuses specifically on the operation of legal aid merits and scope provisions and asks whether existing arrangements are still the most effective means of directing publicly funded legal support. The proposals contained within this document have been informed by extensive research, stakeholder engagement, operational data, independent reviews and the lived experience of both service users and legal practitioners. They are intended to stimulate discussion and invite evidence on how legal aid resources can be focused most effectively whilst preserving access to justice for those who need it most.

1.6 I recognise that these issues are complex and that there will be different perspectives on the appropriate balance between access to justice, financial sustainability and value for money. I also recognise the vital role played by solicitors, barristers, advice organisations, community groups and representative bodies in supporting individuals through challenging circumstances. I am grateful for the engagement already received through the Enabling Access to Justice Programme and I encourage all interested parties to contribute their views to this consultation.

1.7 My commitment remains unchanged: to build a justice system that is fairer, more proportionate, more responsive and more sustainable; one that protects the most vulnerable, ensures that people's rights can be exercised effectively, provides appropriately funded high-quality legal representation, and makes the best possible use of public resources. Through this consultation, you have an opportunity to shape a legal aid system that continues to fulfil those objectives and remains capable of meeting the needs of our citizens in the years ahead and we would very much welcome your views.

Naomi Long MLA

Minister of Justice

Department of Justice, Northern Ireland

Working together for fairness, justice and safety

2. Executive Summary

2.1 Access to justice is a fundamental component of a fair, just and democratic society. Legal aid plays a critical role in ensuring that individuals who cannot afford legal representation are able to exercise their rights, protect themselves and their families, and participate effectively in legal proceedings. The Department of Justice remains committed to ensuring fair access to justice, particularly for those who are most vulnerable, while also meeting its statutory duty under Article 11(2) of the Access to Justice (Northern Ireland) Order 2003¹ to secure the best possible value for money from public expenditure.

2.2 This consultation forms part of the wider Enabling Access to Justice Reform Programme and seeks views on proposals to reform the operation of legal aid merits and scope. The objective is to ensure that legal aid remains sustainable, effective and capable of responding to future demand while continuing to provide meaningful support to those who need it most. The statistical information, financial data, evidence and analysis contained within this consultation document have been compiled from legal aid administrative systems and other Department of Justice sources and reflect the best available information held by the Department at the time of publication. While reasonable efforts have been made to ensure the accuracy of the information presented, the Department does not suggest that data cannot be enhanced. The data and analysis are provided to assist consultees in understanding the context, rationale and potential implications of the proposed reforms and should not be regarded as definitive forecasts of future impacts. The proposals set out in this document are intended solely for consultation purposes and do not represent final Departmental policy. The Department welcomes additional evidence, research and analysis from consultees and reserves the right to revise its conclusions, assumptions and proposals considering consultation responses, further evidence and ongoing policy development.

Why Reform is Necessary

2.3 The legal aid system is facing significant financial and operational pressures. Statistics published by the Legal Services Agency Northern Ireland (LSANI) demonstrate that, despite substantial year-on-year increases in investment in legal aid, higher per capita spend on legal aid than any other UK jurisdiction, the number of legal aid certificates being issued each year is falling and fewer than 1-in-4 of the population is eligible to receive help. Clearly, year-on-year comparisons may be influenced by a range of operational and external factors, including the

¹ [Access to Justice \(Northern Ireland\) Order 2003](#)

introduction of the Legal Aid Management System (LAMS) in July 2019 and the disruption arising from the COVID-19 pandemic from 2020 onwards, both of which affected application volumes, processing patterns and recorded outcomes. These figures do suggest, however, that improvements in productivity and efficiency have the potential to support enhanced access to justice through increases in value for money

NOTE: There are three categories of civil legal services, '**advice and assistance**', which is help from a lawyer to understand the law as it applies to your situation and what steps you might take, '**representation (lower)**' which is representation by a lawyer in a magistrate's court or in a county court, and '**representation (higher)**' which is representation by a lawyer in the High Court or in the Court of Appeal.

2.4 The LSANI most recent statistics (Annual Statistics to March 2026² (Statistical Bulletin) published 28 May 2026). highlight several key trends in the operation of the civil legal aid scheme, in particular, that:

- 'In 2025/26, a total of 19,195 civil legal aid applications were granted. Of these, similar proportions were for Representation Higher (40%; 7,615) and Representation Lower (38%; 7,261) proceedings, with a further 22% (4,285) related to Advice and Assistance (civil); and
- while the number of civil grants has remained relatively constant since 2022/23, there has been a substantial drop compared with the preceding years. This has resulted from a sharp reduction in the number of grants of Advice and Assistance.'

2.5 In terms of civil authorised expenditure, it can be noted that:

- 'In 2025/26, authorised expenditure for civil legal aid totalled £59.8m, of which the majority (78%; £49.1m) related to Representation Higher cases. Civil expenditure showed a moderate 1% (£0.8m) increase from 2024/25 (£59.0m);
- while Representation Lower cases accounted for 38% of all civil legal aid applications granted in 2025/26, they represented closer to a tenth (12%; £7.2m) of civil expenditure, an increase of 3% (£0.2m) to the highest level in the time series;
- although Representation Higher cases accounted for 40% of civil grants in

² LSANI Statistical Bulletin 1/2026, 'Legal Aid in Northern Ireland: Annual Statistics to March 2026', 28 May 2026, [Official Statistics 2026](#)

2025/26, they accounted for over double this proportion (82%; £49.1m) of civil expenditure. This equates to an increase of 6.4% (£2.9m) since 2024/25 (£46.2m); and

- in 2025/26, Exceptional Funding accounted for 0.2% of civil applications granted (Section 4.1.5) and 2% (£1.2m) of civil expenditure. Almost all this expenditure was related to inquests, with the remaining 2% (£24k) attributable to a breach of the Human Rights legislation or enforceable EU rights. The series low of £87k authorised in 2022/23 can be directly attributed to a large recoupment of legal aid funds following settlement of Legacy Inquest cases.'

What the Evidence Shows

2.6 The evidence gathered by the Department highlights wider challenges affecting the delivery of legal aid and access to justice including:

- financial eligibility rules that may exclude individuals who cannot afford legal representation but do not qualify for legal aid;
- increasing complexity and cost of legal proceedings;
- delays within the justice system;
- Increased reliance on representation at court along with a reduced use of early legal advice and assistance services;
- increasing numbers of domestic abuse cases and concerns regarding litigation abuse within family proceedings; and
- growth in the cost of judicial review litigation without a corresponding increase in case volumes.

2.7 The Department's Foundational Review of Civil Legal Services, stakeholder engagement and commissioned research identified widespread support for the principles underpinning legal aid but also highlighted concerns regarding the effectiveness of current eligibility, merits and funding arrangements with stakeholders identifying barriers relating to complexity, delay, affordability and inconsistency in decision-making with concerns raised regarding access to justice for victims and survivors of domestic abuse, children, asylum applicants and other vulnerable groups.

2.8 Evidence also suggests that legal aid is often used to address problems at a late stage, after disputes have escalated into formal litigation. This contrasts with evidence on, the Department's commitment to, early intervention through greater use of legal advice and assistance, improved access to information and, where appropriate, alternative dispute resolution processes to improve outcomes.

Key Reform Proposals

2.9 In light of the evidence considered to date, this consultation seeks views on proposals intended to improve the impact and value achieved through legal aid expenditure.

- Article 8 Children Order (Northern Ireland) 1995 Proceedings: The Department proposes introducing a new merits test to limit legal aid funding for repeat applications relating to orders under Article 8 of the Children Order (Northern Ireland) 1995³ ('Article 8') where a recent order for the same child is already in place. The proposal is intended to reduce unnecessary repeat litigation, promote stability for children and families, and address evidence that repeated proceedings can be used as a mechanism for coercive control and post-separation abuse. Safeguards would be available where there has been a material change in circumstances, safeguarding concerns or risks to children or vulnerable adults.
- Judicial Review Proceedings: The consultation proposes strengthening the merits test for judicial review applications by prohibiting legal aid where:
 - the issues have already been litigated unsuccessfully;
 - the challenge is principally directed at decisions concerning the allocation or prioritisation of public resources; and
 - alternative review, appeal or pre-action processes have not been exhausted.
- The consultation also explores the potential introduction of a composite fee structure for Stage I judicial review proceedings to improve expenditure predictability while preserving access to justice.

These proposals were developed following stakeholder engagement and replace an earlier proposal to remove legal aid funding for Stage I judicial review

³ [The Children \(Northern Ireland\) Order 1995](#)

proceedings, which we do not now propose to take forward.

- Direct, Personal and Material Benefit to the Applicant or Their Family: The consultation proposes introducing an additional merits test criterion requiring applications to evidence that the outcome of the legal proceedings will carry a direct, personal and material benefit to the applicant, or their family.
- Protecting Access to Justice: The Department recognises that legal aid remains essential in ensuring rights can be exercised and protections secured, particularly for vulnerable individuals. Reform is not intended to reduce access to justice but to improve how legal aid resources are focused and utilised. The consultation therefore places considerable emphasis on safeguards, exemptions and mitigations, particularly in relation to domestic abuse, child welfare and other instances where there may be significant vulnerability for the applicant.

Have Your Say

2.10 The Department wishes to hear from legal practitioners, representative bodies, advice organisations, voluntary and community sector organisations, public bodies, service users and members of the public. Responses to this consultation will play a vital role in shaping future legal aid policy and ensuring that any reforms remain consistent with the principles of access to justice, fairness, proportionality and value for money. The consultation seeks evidence-based responses to help ensure that legal aid continues to support those most in need while remaining financially sustainable for the future.

2.11 If you would like to meet with the policy team to discuss these reforms, please email: CLAR@justice-ni.gov.uk.

3. Strategic Context

3.1 In undertaking the policy review which informs these proposals, the Department was cognisant of its statutory obligations and functions under:

- Articles 6, 10(5), 11, 12 and 14, Access to Justice (Northern Ireland) Order 2003;
- Sections 27 and 75, The Northern Ireland Act 1988;
- Section 6, The Human Rights Act 1998;
- The Public Records Act (Northern Ireland) 2023; and
- guidance and policy requirements relating to regulatory impact, data protection, rural proofing, economic appraisal, and the requirements of Managing Public Money (NI).

Why Legal Aid Matters

3.2 The core function of the Department of Justice is to help create a fair, just and safe community where we respect the law and each other. Ensuring fair and equitable access to justice remains a cornerstone of the legal system and, without an effective legal aid system, individuals are at risk of being excluded from justice which can lead to wider societal and economic consequences.

3.3 The purpose of legal aid is to ensure access to justice for those whose life, liberty, or personal welfare is directly at stake and to ensure:

- adherence to Article 6, ECHR ‘right to a fair trial’: to ensure individuals can defend themselves in person or through legal assistance of their own choosing or, if they have not sufficient means to pay for legal assistance, to be given it free when the interests of justice require it;
- individuals receive qualified legal advice or representation in criminal and civil cases, from police station interviews to court proceedings; and
- vulnerable groups are supported, such as victims of domestic abuse or children needing legal assistance, by enabling them to obtain necessary legal protection and guidance.

3.4 Article 3 of the [Access to Justice \(Northern Ireland\) Order 2003](#) [‘the 2003 Order’]

provides the statutory basis for civil legal (and criminal defence) services’:

‘Exercise of functions of the Department under this Part

3. The Department shall exercise its functions under this Part for the purpose of
—

(a) securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to civil legal services that effectively meet their needs and promoting the availability to individuals of such services;’

3.5 and it was intended to ensure everyone can have a fair trial and the rule of law in Northern Ireland is upheld by providing help towards the costs of advice and representation for those on low to moderate incomes.

How the scheme works

3.6 Legal Aid is funded by the Department of Justice and administered by the Legal Services Agency Northern Ireland (LSANI).

3.7 Solicitors are typically the first point of contact for legal aid applicants and provide advice and legal representation in matters dealt with in the lower courts with barristers providing legal representation for applicants in some lower and? the higher courts.

3.8 Decisions to grant legal aid are not contingent on the availability of the legal aid budget. To be eligible to receive legal support, the following three conditions must be met:

- the subject of the application must be within the scope of legal aid as set out in the [Legal Aid, Advice and Assistance \(Northern Ireland\) Order 1981](#);
- the applicant’s income and capital are below the financial eligibility thresholds specified in the [Civil Legal Services \(Financial\) Regulations \(Northern Ireland\) 2015](#);
- the application meets the ‘merits’ criteria as specified in the [Legal Aid, Advice and Assistance \(Northern Ireland\) Order 1981](#);

3.9 Article 9 of the 2003 Order prevents the funding of civil legal services relating to any law other than that of Northern Ireland, unless the law is relevant for determining an issue relevant to the law of Northern Ireland (for example, immigration, family matters). There are different rules for the assessment of income and capital in determinations of financial eligibility and contributions dependent on the level of representation required. These are contained within the

[Civil Legal Services \(Financial\) Regulations \(Northern Ireland\) 2015](#) (and on which the Department is undertaking a separate consultation which you can respond to via the Department's website [Consultations | Department of Justice](#)). For representation in the lower courts, the solicitor will act as the assessing authority (assessing means and collecting contributions).

3.10 Article 11(2) of the [A 2003](#) Order requires that:

'11.—(1) Civil legal services shall be funded by the Department out of moneys appropriated for that purpose by Act of the Assembly.

(2) In funding civil legal services, the Department shall aim to obtain the best possible value for money.'

3.11 In meeting that duty the Department must ensure its legal aid systems, policies, and operational frameworks undergo regular and evidence-based review, an obligation that is directly connected to the wider purpose of legal aid to secure fair access to justice for individuals who could not otherwise afford legal advice or representation.

3.12 As demand for legal aid continues to be shaped by changing social needs, legislative developments and pressures on public finances, ongoing reform is essential to maintain both the integrity and sustainability of the system. Ensuring strong governance, transparency and value for money in legal aid funding aligns with the Department's responsibility to balance equitable access to justice with the prudent management of public expenditure.

4. Evidence Base

4.1 The proposals set out in this consultation are underpinned by a comprehensive evidence base which examines the financial, operational and societal factors influencing the legal aid system. Evidence has been drawn from administrative data, expenditure forecasts, court performance information, demographic and welfare statistics, academic research, independent reports and stakeholder views. This evidence demonstrates growing pressures across several areas, including expenditure, demand, case complexity and system efficiency, while also identifying opportunities to improve access to justice outcomes and achieve better value for public funds. The following sections summarise the key evidence supporting each of the proposed areas of reform.

Foundational Review of Civil Legal Services

4.2 In 2024, the Department of Justice carried out a foundational review of civil legal services, including a Call for Evidence from both service users and legal practitioners. The review aimed to identify factors that could help speed up justice and guide future civil legal services reform. It focused on how effectively the current system, into which the Department invests around £50 million annually, meets the access to justice needs of individuals seeking legal advice and representation, and where improvements could be made. In addition, the Department of Justice considered legal services provision relating to:

- domestic abuse;
- immigration and asylum;
- divorce and separating families;
- rural issues;
- quality standards;
- alternatives to current delivery models;
- advisory services; and
- legal advice and assistance.

4.3 The review has been informed by a structured programme of research and evidence gathering. There were three strands to this work:

- collation and analysis of Department of Justice spend on legal aid, what the expenditure was paying for and the benefits being delivered for citizens;
- a call for evidence that sought qualitative data relating to the experiences of people requiring legal assistance, including those in receipt of legal aid, and others relying on other forms of support; and
- a programme of stakeholder engagement in which departmental officials met with the widest possible range of stakeholders to hear about their relevant experiences, and to gather evidence to inform the Department's analysis.

4.4 Through the research Department sought to understand the complex interactions of competing drivers and competing priorities, and to harvest the wisdom gained through direct experience with the justice system. to build knowledge and understanding of the issues that affect people's experience of the justice system and legal aid.

4.5 The direct engagement was complimented by an online questionnaire designed and deployed by the Department to support individuals and groups who preferred to submit views and evidence in writing. These, 'Calls for Evidence', sought views from legal practitioners, children and young people, and civil society more generally, including individual citizens:

- part 1 of the Call for Evidence for Civil Society related specifically to the respondent's experience of accessing justice through the provision of civil legal services. a number of questions related directly to the experiences of members of the public;
- the Call for Evidence for Legal Practitioners was aimed at those working within the legal profession in Northern Ireland, including members of the Judiciary; solicitors working in public and private capacity; and Members of the Bar. Respondents were invited to provide responses either in their private capacity or as a representative of their place of work.

4.6 Through the Foundational Review, seven key themes emerged: financial; eligibility; professional expertise; equality; merits; complexity of process; and advice/support. The key findings for each theme are outlined in the table below:

Theme	Key Findings
Financial	Financial circumstances were a major barrier to access to justice – especially for women, children, asylum applicants and victims of discrimination. The financial means test as it currently operated was arduous and humiliating. The speed of the justice system exacerbates the problem by adding to the cost of cases. For people on low incomes, the statutory charge and contributions can contribute to financial hardship. Asking people to pay for access to justice to secure their or their children’s personal safety can result in protection coming at the cost of financial stress, debt and poverty. The application of the statutory charge in cases of mortgage repossession can have a disproportionate impact. Some stakeholders suggested conditional fee agreements and ‘legal aid as a loan’ as ways of broadening access, though others identified a risk of promoting a ‘claims culture’. Solicitors and Barristers needed to be paid fairly, and in a way that ensured appropriately skilled and knowledgeable representatives were available and willing to take on legal aid work. There are skills involved in dealing with vulnerable clients that went beyond legal expertise, and which needed to be recognised and rewarded. There should be appropriate recognition of the role of early advice and assistance in diverting people from court.
Eligibility	Financial eligibility thresholds left many people unable to afford representation whilst remaining ineligible for legal aid. Opportunities to expand access to justice included setting more generous financial eligibility criteria, increasing the number of passported benefits and the areas in which waivers applied, and individuals to which they applied. Other stakeholders suggested scrapping financial eligibility testing and relying on benefit passporting and waivers as the sole determinants of eligibility. There was scope to consider whether children ought to be entitled to access advice and assistance and/or representation to a greater extent than at present.

Various stakeholders supported the introduction of pro-bono costs orders.

In circumstances where budgets were limited, some stakeholders suggested prioritising access to claimants at risk of direct harm, including for people needing protection from domestic abuse. In relation to the domestic abuse waiver (which was introduced under the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 ('2021 Act'), recommendations were received that its operation should be reviewed, that more awareness raising should take place, and that evidential barriers should be lowered.

Professional Expertise

Most individuals who had received legal aid, and those who engaged legal services privately, reported positively on the support that they received but there was a reported shortage of representatives providing legal aid services, and a particular problem in several specific areas, most clearly in immigration and asylum work was noted.

There was a reported shortage of specialist skills required to deal effectively with vulnerable or traumatised clients. Expert, skilled support at an early stage could result in diversions from court and in better outcomes for people. It was suggested there was a potential role for limited certificates to allow for exploration of pre-court settlements of this kind.

People relied on legal representation to get them through the process, but this caused financial strain and still resulted in a process from which people felt disconnected. Online peer support groups were an important source of information for many. The independent advice network was also of assistance to some, including those experiencing digital and social exclusion.

The bureaucratic nature of the legal aid application process was a barrier to justice for some. The legal aid system was particularly difficult to access for some people, and there were few, if any, adaptations made to support vulnerable people to get access.

Advice/Support	People most sought support with legal issues from independent organisations and websites in the first instance. There was a lack of good, accessible information about the justice system and legal issues, which could help most people when they first needed help. Free legal advice as part of a system of wrap-around, integrated support ‘could save lives’. There was a potential role for the independent advice sector in early intervention and the delivery of integrated support, given suitable support. Beyond the Gate, Drug and Alcohol Court NI, and the Housing Possession Court Duty Scheme were models of good practice with the potential for expansion.
----------------	--

Section 29 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 Report⁴

4.7 Among the evidence informing proposals was independent research commissioned in connection with the implementation of Article 29 of the 2021 Act, which required consideration of measures to reduce the financial burden on victims of domestic abuse involved in Article 8 proceedings and to address the issue of proceedings being initiated or prolonged unduly through access to legal aid.

4.8 Researchers engaged with members of the judiciary, legal professionals, statutory agencies, voluntary and community organisations, victims of domestic abuse and individuals with lived experience of the family court system and while the research was undertaken in the specific context of domestic abuse and Article 8 proceedings, many of its findings are relevant to the wider operation of the family justice system and the future direction of legal aid reform. The research highlighted concerns regarding delays, repeated and prolonged proceedings, the financial and emotional impact of litigation on families, the need for earlier intervention and alternative dispute resolution, and the importance of ensuring that legal aid and family justice processes are focused on delivering better outcomes for children and vulnerable individuals.

⁴ [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#)

These findings provide important contextual evidence in support of the reforms considered in this consultation.

4.9 Access to legal aid was consistently identified as essential for enabling individuals, particularly victims of domestic abuse, to participate effectively in family court proceedings. Stakeholders welcomed the introduction of the domestic abuse waiver, recognising that the financial costs associated with court proceedings can be substantial and, in some cases, prohibitive. However, concerns were raised that access to legal aid remained dependent on a victim's ability to provide evidence of abuse, which can disadvantage groups who are less likely to report abuse or engage with support services, including male victims, ethnic minorities, LGBTQ+ individuals and those living in communities where there are barriers to disclosure.

4.10 The process of obtaining legal aid was also highlighted as a barrier, with contributors viewing it as unnecessarily complex and potentially burdensome for vulnerable individuals. Respondents emphasised the need for clearer guidance, streamlined processes and greater consistency in how legal professionals inform clients about available legal aid support. Concerns were also raised in the research about the costs associated with obtaining supporting evidence and the possibility that some victims may not pursue legal aid or legal remedies because of uncertainty about eligibility, costs or procedural requirements.

4.11 A further recurring theme throughout the research were the challenges many families face when navigating the family court system. Victims described proceedings as lengthy, stressful and emotionally draining, often involving repeated applications, multiple assessments, delays and adjournments spanning several years. Many reported feeling disempowered and lacking control over the process, while professionals highlighted concerns that court proceedings could unintentionally enable ongoing patterns of abuse and control following relationship breakdown suggesting negative impacts extended beyond financial costs and included adverse effects on mental health, emotional wellbeing, family relationships and employment.

4.12 The report also identified concerns about the increasing complexity of family proceedings and the prevalence of repeat litigation. Respondents suggested repeat court applications were used by some parties as a means of maintaining contact and control over former partners. While legal aid funding was acknowledged as one aspect of this issue, the research concluded that restricting access to legal aid alone would be unlikely to prevent vexatious proceedings. Instead, respondents suggested a range of measures required to be deployed including greater use of existing court powers, earlier interventions, mediation where appropriate, and improved mechanisms for identifying and managing repeat or vexatious applications.

4.13 Finally, there was strong support in the research for a more child-centred and trauma-informed family justice system. Stakeholders repeatedly emphasised the need for earlier assessment of children's needs, greater participation by children in decisions affecting them, improved communication between courts and agencies, and better support for vulnerable parties throughout proceedings. The report concluded that improving access to justice requires more than legal aid funding alone; suggesting that instead it requires a wider programme of reform focused on reducing delays, improving user experiences, supporting early resolution of disputes, and ensuring that family court processes are responsive to the needs of children and vulnerable adults.

‘A Steep Learning Curve’ Review and Rapid Priority Setting Exercise of Civil Legal Aid for Cases of Domestic Abuse in Northern Ireland.

4.14 To further enhance the evidence base on the experiences of domestic abuse victims and survivors in the family courts., the Department, jointly commissioned a rapid review and priority setting exercise with the Commissioner Designate for Victims of Crime. Key findings are detailed below:

Theme	Key Findings
Understanding Civil Legal Aid	Most interviewees reported having little or no understanding of civil legal aid when they first accessed it, describing the experience as a steep learning curve. Those with any prior knowledge typically only understood that people not in work might qualify for free representation. This lack of awareness left many feeling unprepared and later disappointed. Interviewees also said legal staff provided minimal explanation about legal aid, often treating the process as a tick-box exercise and simply asking clients to sign forms without offering information. Because entering the justice system was a first-time experience for most, they relied heavily on solicitors to guide them. Poor communication about eligibility caused significant anxiety with some worried about whether their legal aid would be approved at all.
Barriers to Civil Legal Aid: Meeting/	Interviewees identified financial thresholds as one of the biggest barriers to accessing legal aid. Many felt penalised for being employed,

Maintaining the Financial Threshold	with decisions often poorly explained. Several described situations where they earned too much to qualify for legal aid but too little to afford legal representation, even on minimum wage. Some were unaware that increases in income could trigger contributions, leading to unexpected debt or difficult decisions such as leaving employment to remain eligible. Many spoke of assuming their legal aid would cover costs only to discover significant debts had accumulated.
No Standard Administration Practice	Women described inconsistent practices among solicitors when accessing legal aid, noting fees and outcomes varied widely. Some solicitors failed to inform clients about legal aid or did not check eligibility at the outset. Several interviewees only learned about legal aid after incurring costs. Others were initially told they did not qualify without any explanation. This lack of transparency left many confused and facing unexpected bills.
Wider understanding of coercive control	Accessing civil legal aid can be especially challenging for women experiencing domestic abuse, as the harm they face is often invisible or difficult to prove. Participants in the women's focus group described the emotional and practical barriers to telling others what happened, noting that abuse without visible injuries is frequently dismissed or misunderstood. Many women felt afraid to speak out, even about being involved in family court, and some struggled to recognise the abuse themselves while it was happening. This lack of visibility and understanding made seeking legal support even more complex.
The Bare Minimum: Civil Legal Aid as a Barrier to Justice and Support	<u>The nature and types of support:</u> Many interviewees felt solicitors were reluctant to take on legally aided domestic abuse cases, with some having their cases dropped and being forced to self-represent or seek multiple second opinions. Several reported inconsistent representations, including seeing a different barrister at each hearing, which left them feeling that no one fully understood their case. Participants frequently described being "fobbed off," having to chase solicitors, and receiving what they perceived as minimal effort due to being legal aid clients. This undermined trust and created a sense their

case was not being handled in their best interests. Some believed lower legal aid fees resulted in reduced time, commitment, and urgency from solicitors. While a few individuals reported positive, supportive relationships with their solicitors, most felt finding good representation was a matter of luck: an additional battle on top of already challenging circumstances. Even with strong legal support, the system itself was described as rigid and limiting.

Injustice: Interviewees felt deeply let down, describing solicitors as indifferent to the impact of their actions and found the court environment dehumanising. Many believed domestic abuse and family cases were handled poorly, with decisions appearing predetermined before hearings even began. They felt that their voices were not listened to in court, leaving them disillusioned and questioning their expectations of receiving justice.

Don't want to 'ruffle feathers': Nowhere to complain: Interviewees felt unable to raise complaints about their treatment, fearing backlash within what they described as a small and closely connected legal community. Many worried complaining would negatively affect their case or make it impossible to find another solicitor. Some were even discouraged by solicitors from speaking up, including being told not to complain about judges. This created a sense of helplessness, particularly among women, who felt there was “no door to knock on” and that the system relied on their silence and vulnerability.

The Hidden Costs of Legal Aid: Even when people qualified for civil legal aid, many described living with constant anxiety about losing eligibility if their financial circumstances changed. Some feared receiving bonuses or pay increases, unsure how this might affect their entitlement or what costs they might ultimately face. This uncertainty led some to reduce their income, leave employment, or significantly alter their lifestyle to remain eligible and protect their ability to defend themselves. Several only discovered during proceedings that they might have to repay some legal aid depending on the financial outcome

of their case. For some, having compensation reduced to cover legal aid costs felt like being revictimized.

Surviving the System: Distress and Injustice The Justice system as a form of abuse and trauma: Interviewees described the court process as a continuation of abuse, with some abusers using the threat of court to exert control. Both women and men felt re-victimised by their experiences within the justice system, sometimes even comparing judicial behaviour to their abuser's. Many said professionals, including solicitors, judges, and the police, lacked understanding of the nuances of domestic abuse, particularly emotional and psychological harm, which is harder to evidence and often dismissed as a "civil matter." Participants felt that this lack of insight affected outcomes for both them and their children, leaving them shocked, distressed, and unsupported. The lengthy, complex legal process added further trauma, especially when individuals were already recovering from abuse while caring for children. Navigating legal jargon, receiving emotionally triggering correspondence, and trying to stay functional under extreme stress left many feeling overwhelmed, numb, and unable to process information.

A Better Way – Civil Legal Aid and Wider Justice Reform: Despite the significant difficulties they faced, many interviewees emphasised that they would have been unable to pursue justice at all without civil legal aid. However, they also felt that legal aid demand is inflated because

the wider court system is dysfunctional, suggesting that if the system worked effectively, far fewer people would need legal aid.

Interviewees stressed that domestic abuse caused enduring harm, often lasting years, and called for comprehensive trauma-informed training for all professionals and judges to prevent further re-victimisation. They highlighted the need for coercive control and psychological abuse to be fully recognised as serious forms of harm. Participants also urged the system to acknowledge children as victims

and ensure family courts prioritise children's safety and wellbeing over the rights of abusive parents.

Accountability of, and from the Court: Interviewees raised concerns about accountability within both the justice system and among perpetrators of abuse. Some felt that abusive ex-partners were able to manipulate the system to repeatedly access legal aid, thereby continuing patterns of control. They suggested stronger background checks for applicants and recommended that fact-finding hearings should take place at the outset of cases. Given their negative experiences with legal professionals and court processes, participants also called for greater oversight, such as a regulatory body or independent court observers, to ensure fairness and prevent misuse of the system.

A standard practice and price: Interviewees emphasised the need for clear, accessible information about how legal aid works, including simple explanations, flow charts, posters, and transparent decision-making. They also wanted information presented in formats that are easy to understand during periods of stress. Some suggested alternative dispute resolution (ADR) could reduce costs in appropriate cases, such as financial or housing disputes but agreed it was unsuitable where domestic abuse was a factor.

Participants stressed the importance of upfront clarity about legal aid costs to avoid constant worry about unexpected bills and to reassure clients they can afford to pursue their case. They also recommended

providing free legal advice specifically about legal aid to help people understand the process and their responsibilities. Finally, they called for equality in legal representation so that legally aided clients receive the same quality of service as those who can afford higher fees.

Dedicated support and response: Entering the legal system is extremely difficult for survivors of domestic violence, with many describing the experience as emotionally overwhelming and only manageable because legal aid enabled them to fight for themselves

and their children. Voluntary support services played a crucial role, providing emotional strength and guidance during court proceedings. The trauma and hidden financial burdens of navigating the system left many feeling hopeless about justice, and they raised concerns about the impact on future generations. Interviewees felt meaningful reform was essential, alongside practical, accessible support. Suggested improvements included having a dedicated person to guide clients through the legal aid application and process, and early-intervention measures to prevent homelessness after relationship breakdown. Participants stressed the current system is unsustainable, calling urgently for change to prevent future harm.

“Totally Invisible” The experiences of domestic violence and abuse victims/survivors and children engaging with private law family court processes in Northern Ireland⁵

4.15 Recent research commissioned by the Commissioner Designate for Victims of Crime and undertaken by Queen's University Belfast has provided further supplemented the available evidence on the experiences of domestic abuse victims/survivors and children involved in private family law proceedings in Northern Ireland. The report identified concerns that:

- repeat proceedings are frequently identified as a form of litigation abuse;
- victims can face significant financial burdens from repeated applications;
- legal aid is viewed as a critical access to justice safeguard;
- existing legal aid protections for domestic abuse victims appeared underused;
- restricting legal aid may widen the ‘justice gap’;
- distinguishing abusive repeat applications from legitimate applications is challenging; and
- powers already exist to address abusive repeat litigation.

⁵ <https://www.cvocni.org/files/cvocni/2025-12/Totally%20Invisible%20Report%20December%202025%20CVOCNI%20and%20QUB.pdf>

The Judicial Review Process in Northern Ireland, Report by the Comptroller and Auditor General, Northern Ireland Audit Office, 4 July 2023⁶

4.16 Judicial Review is a constitutional safeguard that enables individuals and organisations to challenge the lawfulness of decisions and actions taken by public bodies. It is concerned with the legality of the decision-making process rather than the merits of the underlying decision and serves as an important mechanism for ensuring accountability, transparency and adherence to the rule of law. Applications, which are heard in the High Court, proceed through a number of stages, the pre-action stage (during which the applicant must write to the public body (the Pre-Action Protocol Letter (PAPL)) which has a short window to respond); Stage 1 (during which the applicant seeks leave from the court to apply for the review (which is intended to weed out unmeritorious or out of time applications); and Stage 2, (the substantive hearing on the issues which follows if leave has been granted by the court at Stage 1. All stages are subject to funding from the LSANI.

4.17 The Northern Ireland Audit Office (NIAO) has described Judicial Review as an important means of holding public decision-makers to account while recognising that the process can also generate significant costs for applicants, government departments and the wider justice system. Evidence indicates that Judicial Reviews can involve substantial legal aid expenditure, lengthy case durations and considerable public sector resource commitments, raising questions about how limited legal aid resources can best be targeted towards cases with genuine merit whilst maintaining effective access to justice.

4.18 In terms of formal Stage 1 applications, the NIAO reported that there were 1,770 applications for leave to apply for judicial review between 2017 and 2022, of which 1,139 related to Departmental Solicitors' Office ('DSO') cases. The number of applications generally declined over the period before increasing significantly in 2021 and then falling again in 2022. Significantly, in terms of introducing a Stage I composite fee, the report found that most Stage I applications do not progress past the permission stage. DSO Stage I Applications: between 2017 and 2022, only 363 (38%) were granted leave to proceed to a substantive hearing. This indicates approximately 62% failed to progress beyond Stage 1. Reviewing f all judicial review applications recorded by the court during the period the report noted that 1,506 Stage I applications were disposed of; 601 were granted and 894 were either withdrawn, refused or dismissed.

4.19 The Department of Justice recognises that a Judicial Review should not be regarded as

⁶ [00296837 NIAO Judicial Reviews in Northern Ireland A4 \(Combo\) v6.pdf](#)

unsuccessful or lacking merit simply because it does not progress to Stage II, as proceedings may be resolved, settled or otherwise achieve their intended objective before reaching that stage. Nevertheless, given the substantial expenditure associated with publicly funded cases, the Department has a responsibility to assess whether legal aid resources are being deployed effectively and efficiently, and to pursue proportionate reforms where necessary to deliver value for money while safeguarding access to justice for those cases and individuals for whom public funding is most essential.

4.20 A particularly important implication for legal aid reform is that Stage 1 represents the point at which most judicial review cases conclude. The NIAO evidence suggests that a substantial proportion of publicly funded judicial review expenditure is concentrated on work undertaken before the court has determined whether the claim merits a substantive hearing. Consequently, the Stage 1 process is an identifiable and self-contained phase of litigation that may lend itself to a composite fee arrangement, providing greater certainty and control over legal aid expenditure while recognising that most cases do not proceed beyond this stage.

4.21 The report indicates:

- judicial review remains an important access to justice mechanism;
- significant public expenditure is spent on judicial review legal aid;
- a substantial proportion of legally aided applications do not ultimately succeed:
 - o 40% of Stage 1 applications obtained leave to proceed;
 - o 32% of Stage 2 applications succeeded;
 - o the overall success rate was approximately 13%, meaning around 1 in 8 applicants who commenced the judicial review process ultimately succeeded.
- alternative remedies are not always exhausted;
- high proportion of cases do not proceed beyond the initial stages;
 - o approximately two-thirds of sampled pre-action protocol cases did not proceed to judicial review proceedings; and
 - o most applications disposed of by the court were withdrawn, refused or dismissed.
- need to balance value for money with access to justice, considering:

- o the cost of publicly funded challenges;
 - o the relatively low overall success rate;
 - o the importance of maintaining accountability of public bodies; and
 - o the constitutional role of judicial review as a safeguard against unlawful decision making.
- potential importance of more focused funding on:
 - o cases with a realistic prospect of success;
 - o cases where alternative remedies have been exhausted;
 - o cases delivering a direct benefit to the applicant; and
 - o genuinely arguable challenges to legality.

4.22 Examination of LSANI statistics on judicial review applications granted funding indicates a distinct increase in expenditure, without a correlating rise in the number of cases granted. This is particularly notable when comparing the figures for 2019/20 and those for 2024/25. Despite a fall in the number of cases granted (150 and 140 respectively), authorised expenditure rose by £3,295,854. The most significant increase occurred in 2023/24 when authorised spending doubled to £6.11 million before falling to £4.98 million in 2024/25. It is reasonable to suggest that the 2023/24 increase was impacted by recovery from the Covid-19 pandemic. However, the overall increase in spend, against lower numbers of cases granted, would suggest other factors such as greater complexity, longer proceedings, or higher legal costs per case, may be relevant.

Legal Services for Judicial Review Proceedings, 2021/22-2025/26

Year	Applications Granted	Authorised Expenditure
2021/22	160	£3,113,200
2022/23	195	£3,019,392
2023/24	159	£6,109,433
2024/25	140	£4,982,735
2025/26	122	£5,232,159

4.23 When LSANI data on judicial review applications is considered against the adult population of approximately 1.5 million and, recognising that access to legal aid is largely limited to those meeting a financial eligibility threshold, the proportion of people in Northern Ireland who pursue judicial reviews is limited. Figures indicate that judicial review is accessed by around 0.01% of adults per year, rising to approximately 0.05% even within the financially eligible population. This would suggest judicial review remains a highly exceptional mechanism, used sparingly and primarily as a remedy of last resort, rather than as a routine means of challenge.

4.24 As noted above, the Department recognises that applications not progressing beyond Stage I of the Judicial Review process does not mean they are without merit and to inform development of proposals the Department undertook a random sift of thirty judicial review applications lodged over a three-year period. Of those cases:

Detail	Number
Applications which failed to reach stage 2	22
Applications which reached stage 2	3
Applications were Interim Hearing or Rolled Up Hearing	2
Applications were no outcome recorded on LAMS	3
Applications received in LSANI on same working day	1
Applications received in LSANI within five working days of date of PAPL	5
Applications received in LSANI within 7 to 14 working days of date of PAPL	7
Applications received in LSANI from 14 working days	9
Cost to Legal Aid Budget	£577,761k

4.25 Analysis of these trends would indicate that the PAPL can be impractical or unnecessary in cases involving urgency or where the decision-maker is already functus officio (when it has fully exercised its legal authority over a matter and therefore has no power to revisit, change, or reopen its decision):

4.26 Most of the cases reviewed constituted reactive intervention rather than complex points of law suggesting that the judicial review process is filling gaps left by delays, capacity issues and resource constraints within public bodies and is being used to manage operational failures, rather than to address unlawful decision-making. Taken together, the Department believes the data supports the view that judicial review is functioning less as a constitutional safeguard and the PAPL process, cost proportionality and final outcomes playing a secondary role to immediacy and leverage.

Strategic Review of Legal Aid

4.27 To inform the policy development, the Department also undertook a structured engagement exercise between February and May 2026. This included an initial pre-engagement phase from February to April 2026, followed by an eight-week public pre-consultation exercise which invited written submissions. That exercise, which concluded on 20 May 2026, sought to gather the views of a wide range of stakeholders on potential opportunities for reform identified,

the evidence detailed above with a particular focus on the risks and potential benefits of each opportunity, and the implementation modalities that might enhance benefits and help mitigate risks. The findings from this engagement were intended to inform decisions on which reform options should be developed further and taken forward to formal public consultation.

Table of reforms considered by public engagement process and the conclusion reached in respect of each	
Proposal	Conclusion
1. Prohibition on legal aid for repeat Article 8 Children Order proceedings	Taken forward to consultation. Clear potential to reduce abuse using the justice system, and to prevent children being impacted by repeated contact with courts.
2. Restrictions on legal aid for Judicial Review Proceedings	Partially taken forward to consultation. Removal of funding for phase I proceedings has been dropped due to potential negative impact on access to justice.
3. Legal aid merits test based on direct, material and proportionate benefit to the Applicant	Taken forward to consultation. Potential to improve value for money by preventing spending where the costs outweigh the benefits.
4. Prohibition on legal aid for public interest litigation	Not for consultation now. Clear potential identified to enhance access to justice through the establishment of an alternative funding model that addresses issues with the legal aid-based approach, but extensive preparatory work is required first.
5. Restrictions on legal aid for personal injury cases	Not for consultation now. Clear potential identified to enhance access to justice through the establishment of an alternative

	funding model that addresses issues with the legal aid-based approach, but private sector engagement work is required first.
6. Removing Legal Aid for Ancillary Relief	Not for consultation now. Potential alternative private sector funding arrangements remain a possibility, however the risks associated with having potentially vulnerable unrepresented parties in trials involving complex or fraudulent financial arrangements will require mitigation.
7. Removing land and property cases from the scope of legal services	Not for consultation now. The volume and value of cases is low, so the benefits are limited, and there are potential equality considerations that are not currently well understood.

Informing Future Reform: Stakeholder Insights and Proposed Next Steps

4.28 The table below summarises the key reform options considered as part of the review, the main themes emerging from stakeholder engagement, and the Department's proposed way forward. The engagement exercise provided valuable insight into the potential benefits, risks and practical implications associated with each reform option, helping to identify areas of consensus as well as concerns requiring further consideration and we are grateful for those contributions. The proposed next steps reflect the Department's assessment of the evidence gathered and seek to balance the objectives of ensuring access to justice, protecting vulnerable individuals, supporting the effective operation of the justice system, and achieving a more sustainable and proportionate legal aid framework.

Statistical Information

Please note: The figures in this section are based on administrative data held by the Department of Justice at the time of publication and should be read alongside the data disclaimer set out at the beginning of this consultation document. The Department believes however that we can draw a number of conclusions from the information available. That includes the pressure the current system for resolution of disputes relating to the care of children is placing growing pressure places on the courts and the consequent impact on outcomes for children and families.

4.29 Evidence shows high volumes of applications, repeated litigation and reliance on adversarial processes which may be delaying resolution for families and increasing the distress of those involved. [Judicial statistics](#) indicate the average time for proceedings to be concluded has continued to increase since 2017 from 21.5 to 31.8 weeks in 2024, which is no insignificant time in the life of a child. Rural courts show some of the longest private law case durations, particularly within the Family Proceedings Court (FPC) and Family Care Centre (FCC tiers).

Children Orders Received in Court			
Year	Children Orders Received in Court	Children Orders Disposed in Court	Average Time Taken in Court (Weeks)
2019	3,835	3,752	25.8
2020	3,464	2,304	28.9
2021	4,014	4,022	36
2022	3,394	3,565	36.6
2023	3,632	3,353	32
2024	3,513	3,334	35.8

4.30 Disposal rates have also not aligned the number of Children Order applications received with the average disposal time rising from 25.8 weeks in 2019 to 35.8 weeks in 2024. While illustrative of demand on courts, the Department recognises the human impact could be greater as delay means separating parents and their children are living in uncertainty for much longer which can in turn prolong conflict, make it harder to establish stable routines and relationships, and place additional emotional strain on children who may be unsure about future contact, living arrangements, and lack an overall sense of security. Moreover, where domestic abuse has been a factor in a relationship, delays could have a much more serious effect, particularly if parents and children continue to feel unsafe.

4.31 LSANI data shows that between 2021/22 and 2025/26, legal aid for proceedings under the 1995 Order remained at a consistently high level. Over the five-year period, a total of 19,307 applications were granted for representation in the lower courts and 4,184 applications for representation in the higher courts. While the number of applications fluctuated modestly from year to year, overall volumes remained relatively constant. Grants in the lower courts ranged from 2,828 applications in 2022/23 to a peak of 3,187 applications in 2024/25, while grants in the higher courts initially fell to 682 applications in 2022/23 before increasing steadily to 959 applications in 2025/26, the highest level recorded during the period.

4.32 Authorised expenditure shows a similar pattern of sustained investment in children-related proceedings. Over the five years, total authorised expenditure amounted to approximately £76.8 million, comprising £14.8 million for representation in the lower courts and £62 million for representation in the higher courts. Expenditure in the lower courts increased from £2.3 million in 2021/22 to £3.1 million in 2025/26, despite relatively stable application numbers, suggesting an increase in the average cost of cases. Expenditure in the higher courts remained significantly greater than in the lower courts throughout the period, rising from £8.4 million in 2021/22 to £10.4 million in 2025/26, perhaps reflecting both the complexity of higher court proceedings and the greater resources typically required to support such cases.

4.33 Overall, the data demonstrates a continuing demand for legal aid for proceedings relating to children, across both lower and higher courts. The increase in authorised expenditure, particularly in the higher courts, indicates the growing financial pressures that continuing demand brings, but most concerning is the impact that demand has on case resolution times and the consequent poorer outcomes that may associate.

Note: As LSANI does not publish separate statistics for Article 8 legal aid applications, the data presented reflects legal aid granted for proceedings under the 1995 Order generally (Articles 7

to 41 of the and other generic child-related proceedings. The figures therefore provide an indication of overall activity in child proceedings rather than Article 8 cases specifically.

Legal Aid for proceedings under the Children Order (Northern Ireland) 1995				
Year	Applications Granted		Authorised Expenditure	
	Representation in the Lower Courts	Representation in the Higher Courts	Representation in the Lower Courts	Representation in the Higher Courts
2021/22	3,057	877	£2.3m	£8.4m
2022/23	2,828	682	£3.3m	£8.9m
2023/24	3,035	790	£2.8m	£9.8m
2024/25	3,187	876	£3.2m	£9.7m
2025/26	3,016	959	£3.1m	£10.4m
Total	15,123	4,184	£14.7m	£47.2m

4.34 In developing proposals, the Department also considered Police Service of Northern Ireland (PSNI) data⁷ which sadly also indicates continuing need and increasing need for support for victims of domestic abuse with a 30% increase in domestic abuse incidents and crimes recorded. The statistics also demonstrate an increase in violence with injury involving victims under the age of 18 and adult male victims as well a significant increase in the number of offences involving parent-child relationships perhaps implying greater levels of risk and vulnerability for parties involved in repeat Children Order proceedings.

4.35 The levels of need demonstrated by the PSNI statistics is echoed by data released

⁷ Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland, 2004/05 to 2024/25, Police Service of Northern Ireland

through the Annual Review of the effectiveness of the 2011 Act⁸ which suggests a significant increase in the number of domestic abuse cases entering the criminal justice system between 2022/23 and 2023/24. Prosecutions for the standalone domestic abuse offence introduced under the 2021 Act increased from 41 to 72 cases (76%), while convictions more than doubled from 16 to 37 cases (131%).

Prosecutions and Convictions for Cases with the Domestic Abuse Offence or with other offences with the Domestic Abuse Statutory Aggravator						
Year	Domestic Abuse Offence Only		Cases with other offences with statutory aggravator only		Cases with both the domestic abuse offence and other offences with the statutory aggravator	
	Prosecution	Conviction	Prosecution	Conviction	Prosecution	Conviction
2022/23	41	16	1,456	753	128	71
2023-24	72	37	2,332	1,305	324	173

4.36 The most notable increase occurred in cases involving other criminal offences where domestic abuse was an aggravating factor. Prosecutions rose from 1,456 cases in 2022/23 to 2,332 cases in 2023/24, an increase of approximately 60%, while convictions increased from 753 to 1,305 cases (73%). This suggests that domestic abuse continues to be associated with a wide range of offending behaviour, including assault, criminal damage, harassment and other offences, and that the statutory aggravator is being applied more frequently within the criminal justice system. Cases involving both the domestic abuse offence and other offences with the statutory aggravator also increased substantially, with prosecutions rising from 128 to 324 cases (153%) and convictions increasing from 71 to 173 cases (144%). This may indicate that more complex and serious patterns of abusive behaviour are being identified and prosecuted, with prosecutors increasingly utilising the full range of legislative tools available to reflect the nature and extent of domestic abuse but overall.

4.37 While it is worth noting the increase in prosecutions and convictions may indicate greater

⁸ Annual Review of the Effectiveness of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021-Year Two Progress Review, Criminal Justice Inspection Northern Ireland, Second annual review of Domestic Abuse legislation ([Second annual review of Domestic Abuse legislation](#))

prevalence of domestic abuse, it is also worth noting changes may also reflect increased reporting by victims, improved police recording practices, enhanced awareness of coercive and controlling behaviour, and the implementation and wider use of the 2021 Act. Consequently, the figures are best understood as demonstrating increased criminal justice system engagement with domestic abuse rather than a direct measure of prevalence. They do, however, illustrate the continuing need for support.

4.38 The Department also acknowledges the increase may have implications for Children Order proceedings, which often involve allegations of abuse and which may consequently be more complex as cases involving abuse can require additional evidence gathering, risk assessments, fact-finding hearings and consideration of protective measures, all of which can increase the complexity, duration and cost of proceedings (a [2021 House of Commons Library Briefing](#) referenced a Cafcass/Women's Aid report which noted that **62%** of a sample of 216 family court applications featured allegations of domestic abuse. Considering the research and data referenced above, a cautious confidence range has been selected of 55.5% to estimate the potential number of Northern Ireland child proceedings involving domestic abuse). Research conducted by the University of Edinburgh in 2024⁹ shows that living with domestic abuse can seriously affect the victim's mental health and strain their relationships with their children, making everyday family life more challenging. It also has a significant impact on children's social and emotional development, increasing the risk of adverse childhood experiences and their impact on child behaviour all of which the court will be required to consider and balance and in respect of all of which the victims will require support.

4.39 Support must, however, be the right support at the right time and it must be timely and not prolonged unnecessarily. Litigation as a form of post-separation abuse was examined by the Commissioner for Victims of Crime Report into the experiences of family court processes and proceedings¹⁰. That research noted in particular the additional harms which may be suffered by children through prolonged or repeated proceedings. The research in particular suggested:

- the degree of common and long-running proceedings, some of which often lasted years, with issues around Article 8 contact or residence orders being revisited in court multiple times. The Commissioner noted victims and survivors reported

⁹ BASW UK & University of Edinburgh. (2024) *Poverty, social inequality and domestic abuse: The impact on children. Implications for Social Work Practice*. BASW UK. Available at: <https://basw.co.uk/policy-and-practice/resources/poverty-social-inequality-and-domestic-abuse-impact-children>

¹⁰ Corr, M.L., Diver, A., McAlister, S., Mooney, S., Hanna, C. and McDonald, A. (2025) *Experiences of Family Court Processes and Proceedings*. Commissioner for Victims of Crime Office. [CVOONI website - totally invisible report](#)

cases rarely felt 'finished', with court involvement being an ongoing feature of their lives rather than a temporary intervention. The Department of Justice received similar concerns as part of the research into the experiences of domestic abuse victims in family proceedings and the foundational review of civil legal services. One victim and survivor noted that their court proceedings had not concluded by the time their children reached adulthood;

- victims and survivors of domestic abuse experienced the impact of repeated proceedings as a form of ongoing abuse, rather than a legitimate child-focused litigation aimed at maintaining contact and control, further exhausting survivors emotionally and financially, and being a means to undermine their recovery and stability;
- many repeat applications were frequently made without meaningful change with the perceived lack of court intervention to prevent the same disputes being persistently re-litigated;
- the lack of judicial action and repeated proceedings meant victims and survivors lived in constant anticipation of the next application which heightened anxiety both for them and their children, disrupted their parenting and prevented families from settling into stable routines;
- repeated exposure to adult conflict through renewed proceedings, assessments and discussions led to emotional fatigue, confusion about outcomes and fears that relationships and living arrangements could change at any time for children; and
- victims and survivors believed the emotional harm caused by repeat proceedings was not being adequately recognised by the court with judicial focus appearing to manage applications individually rather than recognising the cumulative harm of repeated litigation over time.

4.40 The Department believes limiting the number of repeat Children Order proceedings for minor matters has the potential to help ease pressure on the family courts by reducing unnecessary hearings and allowing judicial time to focus on cases where intervention is genuinely needed. More importantly, it also lessens the emotional and financial strain on families, particularly where repeated applications are used to prolong conflict rather than resolve conflict. The Department believes by encouraging minor issues to be addressed through early legal advice or alternative dispute resolution, the system can better support proportionate, child-

focused outcomes while preventing the court process from being misused or overburdened.

4.41 The Department recognises there are already existing powers that may be used to that end. Article 179(14) of the 1995 Order empowers the court to require an individual to obtain the court's permission before making further applications under the Order. The provision is intended to protect children and families from unnecessary, repetitive or vexatious litigation by enabling the court to restrict future applications where it considers this to be in the child's best interests. In exercising this power, the court must balance the need to prevent the misuse of proceedings and reduce conflict with the fundamental right of individuals to seek the court's intervention where circumstances have genuinely changed. As such, Article 179(14) serves as an important safeguard to promote the efficient administration of justice and to protect the welfare of children involved in proceedings:

(14) On disposing of any application for an order under this Order, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Order of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(15) Where an application ("the previous application") has been made for—

- (a) the discharge of a care order;
- (b) the discharge of a supervision order;
- (c) the discharge of an education supervision order;
- (d) the substitution of a supervision order for a care order; or
- (e) a child assessment order,

no further application of a kind mentioned in sub-paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.

(16) Paragraph (15) does not apply to applications made in relation to interim orders.

(17) Where—

- (a) a person has made an application for an order under Article 53;
- (b) the application has been refused; and
- (c) a period of less than six months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

4.42 Data on the judicial use of Article 179(14) of the 1995 Order between 2016 and 2025 demonstrates the courts have intervened in a small but persistent number of children proceedings. During the ten-year period, the number of orders ranged from 22 to 71 annually, with an average of approximately 46 orders per year and highest number of 71 recorded in 2017. The lowest number of orders were made in 2020 (22), but that number may reflect the disruption to court business caused by the COVID-19 pandemic rather than a decline in need or willingness to make the orders as numbers in subsequent increased (57 in 2021 and 34 in 2022, 43 in 2023,

37 in 2024 and 49 in 2025):

Judicial use of Article 179(14) of the Children Order (Northern Ireland) 1995			
Year	Total	Year	Total
2016	55	2021	57
2017	71	2022	34
2018	58	2023	43
2019	33	2024	37
2020	22	2025	49

4.43 It is worth noting that these figures should be interpreted with caution as information on the reasons for the order is not available. The making of an Article 179(14) order cannot therefore be assumed to indicate malicious conduct by a party but rather that a judge has determined restrictions on further applications are necessary in the circumstances of the case. The use of the orders does however demonstrate recognition of the impact of repeated applications on the welfare of children and families albeit that the relatively small number as compared to anecdotal evidence reports from victims and domestic abuse and support organisations may reflect a high threshold for the making of such orders in the interests of preserving access to justice. In seeking to introduce reforms to reduce the impact of repeat or nugatory applications relating to children, the Department is also seeking to ensure balance between access to justice and the protection of children and families.

Judicial Review Reform

4.44 As noted above, LSANI statistics demonstrate that between 2021/22 and 2025/26, the number of judicial review applications granted fell by 23.8%, from 160 to 122 cases. In contrast, authorised expenditure increased by 68.1%, rising from £3.11 million to £5.23 million. This indicates that the average cost per funded judicial review has increased substantially over the period. Most striking is the sharp increase in expenditure during 2023/24, when authorised

spending more than doubled from £3.0 million to £6.1 million, despite applications granted falling from 195 to 159. Although some of this increase may reflect the courts' recovery from the Covid-19 pandemic, expenditure has remained well above pre-2023 levels in subsequent years suggesting judicial review litigation is becoming increasingly costly on a per-case basis.

4.45 The Department recognises potential factors include:

- greater legal and factual complexity;
- longer-running proceedings;
- increased interlocutory and procedural activity;
- a greater use of senior counsel and expert evidence;
- multiple applicants or related proceedings; and
- increased challenges involving health, immigration, prison, legacy and inquest matters

4.46 What is clear is that the cost growth has not been driven by increased demand for funding. Application numbers have increased correspondingly. Instead, expenditure has risen while the number of funded cases has fallen consistently since 2022/23.

4.47 Moreover, the review of judicial review applications mentioned above suggests issues of proportionality, consistency and value for money within the current legal aid framework:

Analysis of LAMS data relating to judicial review applications

Closed Judicial Review Applications chosen on LAMS at random	30
Applications which failed to reach stage 2	22
Applications which reached stage 2	3
Applications were Interim Hearing or Rolled Up Hearing	2
Applications were no outcome recorded on LAMS	3
Applications received in LSANI on same working day	1
Applications received in LSANI within five working days of date of PAPL	5
Applications received in LSANI within 7 to 14 working days of date of PAPL	7
Applications received in LSANI from 14 working days	9
Total Cost to Legal Aid Budget	£577,761k
Cost to Legal Aid Budget for proceedings not reaching court	£390,426k

4.48 The research also suggested significant costs can be incurred in cases that were dismissed, which become academic or which fail at an early stage, implying a disconnect between expenditure and outcome. There was also evidence that multiple, parallel proceedings arising from the same underlying issue are being funded, reflecting an emphasis on individual legal rights rather a problem focus or procedural efficiency. In addition, there is evidence that clearer policy guidance could improve consistency and reduce challenges to funding decisions. The recurring appearance of the same public bodies as respondents may indicate persistent systemic issues or a tendency to concede or only to revisit decisions once proceedings are commenced. While stakeholders emphasise the importance of judicial review as a means of raising matters of public concern, the Department maintains that legal aid should primarily support individuals seeking to exercise direct legal rights, with judicial review remaining a remedy of last resort where alternative avenues are unavailable or unsuitable.

4.49 between 2021/22 and 2025/26, the number of judicial review applications granted fell by 23.8%, from 160 to 122 cases. In contrast, authorised expenditure increased by 68.1%, rising from £3.11 million to £5.23 million. This indicates that the average cost per funded judicial review has increased substantially over the period. Calculating the average authorised expenditure per granted application clearly demonstrates this trend:

Year	Applications Granted	Authorised Expenditure	Average cost per case
2021/22	160	£3,113,200	£19,458
2022/23	195	£3,019,392	£15,484
2023/24	159	£6,109,433	£38,424
2024/25	140	£4,982,735	£35,591
2025/26	122	£5,232,159	£42,887

4.50 As noted above the NIAO reported that approximately 60% of Stage 1 judicial review proceedings do not progress beyond the leave stage. Applying this proportion to legal aid expenditure on judicial review proceedings suggests that expenditure associated with cases that do not proceed to substantive judicial consideration may amount to approximately £13.5 million over the five-year period from 2021/22 to 2025/26, representing an average of around £2.7 million per year. On this basis, the removal of legal aid for Stage 1 proceedings could potentially generate significant savings for the legal aid fund. Estimated annual savings would range from approximately £1.8 million to £3.7 million, depending on the volume and cost of cases each year.

4.51 Figures should of course be treated with caution. They assume that expenditure is evenly distributed across all cases and that the cost associated with cases that do not progress beyond Stage 1 is proportional to their volume. In practice, some costs will already have been incurred before a decision is reached on leave, and expenditure is likely to vary significantly between cases. Furthermore, as noted above the fact that a case does not proceed beyond Stage 1 does not necessarily mean that it lacks merit. Consequently, the figures presented represent an indicative estimate of potential savings rather than a measure of actual recoverable funds. A further caveat is that if Stage 1 funding were removed entirely, some litigants with meritorious claims may be unable to bring proceedings, potentially impacting access to justice and reducing judicial oversight of public authorities. An argument has been made strongly through the stakeholder engagement exercise.

4.52 In this context, the Department believes the introduction of a composite fee for Stage 1 of the judicial review process could provide greater cost certainty and improve the predictability of legal aid expenditure while ensuring access to justice is maintained. The Department believes a fixed fee for work undertaken up to and including the permission stage would establish a clearer and more consistent framework for remuneration, reducing exposure to escalating costs arising from lengthy preparatory work and detailed hourly-rate claims. It would also simplify the assessment and payment process, reducing administrative burdens for both legal representatives and the LSANI. and support more effective budget management and enable resources to be allocated with greater confidence across the wider legal aid system.

Year	Legal Aid Grants	Estimated Stage 2 Cases (40%)
2021/22	160	64
2022/23	195	78
2023/24	159	64
2024/25	140	56
2025/26	122	49

4.53 The potential effect of introducing a fixed composite fee for legally aided judicial review applications is detailed below.

Financial and Expenditure Analysis

Overall legal aid expenditure

Authorised Expenditure, 2021/22-2025/26 ¹¹				
Category of Service	Case Type	2021/22	2025/26	Differential
Criminal	All	£48.2m	£61.2m	↑£13.0m (↑27.0%)
Total				
	All	£46.2m	£56.3m	↑£10.1m (↑21.9%)
Criminal Courts	Crown Court	£21.0m	£30.8m	↑£9.8m (↑46.7%)
	Magistrates' Court	£20.0m	£21.5m	↑£1.5m (↑7.5%)
	Extradition	£0.6m	£0.41m	↓£0.19m (↓31.7%)
	Criminal Court of Appeal	£4.2m	£2.6m	↓£1.6m (↓38.1%)
	County Court Appeal	£0.6m	£1.0m	+£0.4m (+66.7%)
Criminal Advice and Assistance (PACE)	All	£2.0m	£4.8m	↑£2.8m (↑140.0%)
Civil Total	All	£47m	£59.8m	↑£12.8m (↑27.2%)
	All	£2.0m	£2.3m	↑£0.3m (↑15.0%)
Advice and Assistance Civil	Family	£0.29m	£0.27m	↓£0.02m (↓6.9%)
	<i>of which Matrimonial</i>	£0.03m	£3,270k	↑£3.24m (↑10.8%)

¹¹ [Legal Aid in Northern Ireland - Annual Statistics to March 2026 | Department of Justice](#)

	<i>of which non-matrimonial</i>	£0.2m	£0.2m	£0.0m (0%)
	Non-Family	£1.7m	£2.0m	↑£0.3m (↑17.6%)
Rep Lower	All	£5.3m	£7.2m	↑£1.9m (↑35.8%)
	Family	£4.9m	£6.5m	↑£1.6m (↑32.7%)
	<i>of which Matrimonial</i>	£1,788k	£1,750k	↓£0.00004m (↓2.1%)
	<i>of which non-matrimonial</i>	£4.9m	\$6.5m	↑£1.6m (↑32.7%)
	Non-Family	£0.35m	£0.7m	↓£0.35m (↓100%)
Rep Higher	All	£39m	£49.1m	↑£10.1m (↑25.9%)
	Family	£27.2m	£34.0m	↑£6.8m (↑25.0%)
	<i>of which Matrimonial</i>	£3.2m	£0.4m	↓£2.8m (↓87.5%)
	<i>of which non-matrimonial</i>	£24m	£30.1m	↑£6.1m (↑25.4%)
	Non-Family	11.6m	£15.1m	↑£3.5m (↑30.2%)
Exceptional Funding	All	£1.0m	£1.2m	↑£0.2m (↑20.0%)
	<i>Breach of Human Rights</i>	£27,465	£24,296k	↓£3,169 (↓11.5%)
	<i>Inquest</i>	£1m	£1.2m	↑£0.2m (↑20.0%)
Grand Total	All	£95.3m	£121m	↑£25.7m (↑27.0%)

4.54 Overall legal aid expenditure increased significantly between 2021/22 and 2025/26, rising from £95.3 million to £121 million, an increase of £25.7 million (27.0%). Growth was evident across both the criminal and civil legal aid schemes, evidencing the increasing pressures on the legal aid fund mentioned in forgoing sections.

4.55 During that period civil legal aid expenditure increased from £47.0 million to £59.8 million, an increase of £12.8 million (27.2%). The most substantial component of civil expenditure remained representation in the higher courts, which increased by £10.1 million (25.9%) to reach £49.1 million in 2025/26. Family proceedings accounted for most of the expenditure, rising from £27.2 million to £34.0 million (25.0%) with growth concentrated in non-matrimonial family proceedings, which increased by £6.1 million (25.4%), suggesting increasing demand and complexity in matters concerning children, parental disputes and related family proceedings. Conversely, expenditure on matrimonial representation in the higher courts fell sharply from £3.2 million to £0.4 million (-87.5%), potentially reflecting changing patterns of family litigation or the impact of alternative dispute resolution mechanisms.

4.56 Representation in the lower courts also experienced notable growth, increasing from £5.3 million to £7.2 million (35.8%). Family proceedings remained the dominant driver of expenditure, accounting for more than 90% of lower court representation costs. Expenditure on non-family lower court representation doubled from £0.35 million to £0.7 million (100%), although it remains a relatively small component of overall civil legal aid expenditure.

4.57 Exceptional funding expenditure also increased from £1.0 million to £1.2 million (20.0%), largely driven by expenditure on inquests. Expenditure relating to breach of human rights cases declined slightly from £27,465 to £24,296 (-11.5%), indicating that such cases continue to comprise only a very small proportion of the overall legal aid budget.

4.58 Taken together, the data suggests that the principal driver of legal aid expenditure growth in civil proceedings was higher court family representation.

4.59 The data shows that expenditure on family-related legal aid, including Children Order proceedings, has increased significantly between 2021/22 and 2025/26. Expenditure on family representation in the higher courts increased from £27.2 million to £34.0 million, an increase of £6.8 million (25.0%), while expenditure on family representation in the lower courts increased from £4.9 million to £6.5 million, an increase of £1.6 million (32.7%). Taken together, these increases indicate that family proceedings continue to account for a substantial proportion of civil legal aid expenditure and remain a key driver of overall growth in the civil legal aid budget.

4.60 Growth has been concentrated in non-matrimonial family proceedings, with higher court expenditure increasing from £24.0 million to £30.1 million (25.4%) and lower court expenditure increasing from £4.9 million to £6.5 million (32.7%). As Children Order proceedings comprise a significant element of non-matrimonial family work, these figures suggest increasing financial pressures arising from cases concerning children and family welfare. By contrast, expenditure on matrimonial proceedings declined over the same period, particularly in the higher courts where expenditure fell from £3.2 million to £0.4 million (-87.5%). This indicates that growth in family legal aid expenditure is being driven primarily by non-matrimonial matters rather than divorce or related matrimonial proceedings.

4.61 Overall, the data suggests that children and family cases are becoming an increasingly significant component of legal aid expenditure. As noted in forgoing sections, several factors may be contributing to this shift. First, cases involving allegations of domestic abuse, safeguarding concerns, parental alienation, substance misuse, mental health issues, and other welfare considerations often require significant evidence gathering and judicial scrutiny. Such matters can result in longer hearings, multiple expert reports, the involvement of multiple professionals, and repeated court appearances, all of which increase the likelihood that proceedings progress beyond the lower courts and generate higher legal aid expenditure. Secondly, the increase in higher court expenditure may reflect a rise in repeat applications and ongoing litigation between parties also discussed above.

Authorised Expenditure, 2021/22-2025/26¹²

Category of Service	Primary Nature	2021/22	2025/26	Differential
A&A	All	£2.0m	£2.3m	↑£0.26m (↑12.8%)
	Child Proceedings	£0.18m	£0.249	↑£0.08m (↑44.1%)
	Criminal Matters	£0.22m	£0.03m	↓£0.19m (↓87.2%)
	Family	£0.113	£0.02m	↓£0.09m (↓81.0%)
	Government	£0.288	£0.148m	↓£0.140m (↓48.6%)
	Housing & Debt	£0.052	£0.02m	↓£0.036m (↓69.1%)
	Neg / Personal Injury	£0.226	£0.02m	↓£0.204m (↓90.4%)

¹² [Legal Aid in Northern Ireland - Annual Statistics to March 2026 | Department of Justice](#)

	Other	£0.847	£1.63m	↑£0.780m (↑92.1%)
	Parole Matters	£0.1	£0.17m	↑£0.07m (↑71.7%)
Rep Lower	All	£5.272	£7.22m	↑£1.950m (↑37.0%)
	Children Order Articles 44-8	£1.433	£2.29m	↑£0.855m (↑59.7%)
	Children Order Articles 62-69	£0.061	£0.04m	↓£0.024m (↓38.6%)
	Children Order Articles 7-41	£2.207	£3.08m	↑£0.87m (↑39.6%)
	Children Order Generic	£0.069	£0.08m	↑£0.09m (↑11.6%)
	Family Homes Domestic Violence	£1.147	£1.07m	↓£0.08m (↓6.9%)
	Maintenance	£0.01m	£0.02m	£0.00m (↓2.7%)
	Parole Matters	£0.26m	£0.48m	↑£0.216m (↑82.7%)
	Quasi criminal	£0.01m	£0.02m	↑£0.007m (↑55.1%)
	Tribunal	£0.08m	£0.17m	↑£0.094m (↑120.7%)
Rep Higher	All	£38.75m	£49.1m	↑£10.353m (↑26.7%)
	Appeals	£2.68	£2.32m	↓£0.360m (↓13.4%)
	Asylum & Immigration	£0.18m	£0.38m	↑£0.197m (↑108%)
	Children Order Articles 44 - 58	£15.11m	£18.79m	↑£3.679m (↑24.3%)
	Children Order Articles 62 - 69	£0.05m	£0.11m	↑£0.074m (↑148.0%)
	Children Order Articles 7 - 41	£5.31m	£5.89m	↑£0.579m (↑10.9%)
	Children Order Generic & Child Proceedings	£3.09m	£4.53m	↑£1.448m (↑46.9%)
	Debt / Ejectment	£0.07m	£0.17m	↑£0.18m (↑154.8%)
	Family Homes Domestic Violence	£0.37m	£0.60m	↑£0.23m (↑62.2%)
	High Court Bail	£1.19m	£1.33m	↑£0.141m (↑11.8%)
	Judicial Review	£3.11m	£5.23m	↑£2.119m (↑68.0%)
	Land / Property	£0.08m	£0.22m	↑£0.137m (↑164.3%)
	Maintenance	£0.05m	£0.01m	↓£0.039m (↓78.3%)

Matrimonial / Civil Partnership	£3.13m	£3.87m	↑£0.745m (↑23.8%)
Other	£2.85m	£2.36m	↓£0.493m (↓17.3%)
Parole Matters			↑£0.007m (↑2,220.0%)
Personal Injury	£1.34m	£3.24m	↑£1.899m (↑141.6%)
Quasi criminal	£0.14m	£0.03m	↓£0.115m (↓81.7%)
All	£1.04m	£1.19m	↑£0.152m (↑14.6%)
A breach of the Human Rights Act or enforceable EU rights	£0.03m	£0.02m	↓£0.003m (↓11.5%)
Inquest	£1.01m	£1.17m	↑£0.155m (↑15.3%)
All	£47.8m	£59.8m	↑£12.715m (↑27.0%)

4.62 The data shows that authorised legal aid expenditure increased significantly between 2021/22 and 2025/26, rising from approximately £47.1 million to £59.8 million, an overall increase of £12.7 million (27%). However, this growth is not evenly spread across all areas of legal aid. Instead, it is concentrated in a relatively small number of categories, particularly children's proceedings, judicial review, personal injury and family-related cases. This is important when considering legal aid reform options, as any meaningful savings are likely to require intervention in the areas where expenditure is increasing most rapidly.

4.63 As aforementioned, the Department of Justice acknowledges that the statistical evidence relating to Children Order proceedings includes a range of applications made under Articles 7-41 and is therefore wider than the specific category of Article 8 proceedings affected by the proposed reforms. However, Article 8 applications form part of the same private law family justice landscape and are subject to many of the same factors that have contributed to rising expenditure and increasing case complexity, including repeat litigation, prolonged disputes between parties, safeguarding concerns and heightened judicial intervention. Accordingly, while the wider Children Order data should not be interpreted as evidence of cost pressures arising solely from Article 8 cases, it provides important contextual evidence of the challenges facing the family justice system and the need to consider reforms that promote earlier resolution of disputes, reduce unnecessary litigation and ensure that legal aid resources are used effectively and proportionately. While legal aid management information does not separately identify all expenditure attributable to Article 8 proceedings, Article 8 applications form a substantial component of private law Children Order litigation. Accordingly, expenditure and application

trends relating to proceedings under Articles 7-41 provide an important indicator of the pressures affecting the broader category of private law children cases within which Article 8 proceedings operate. The data is not presented as evidence that all expenditure growth is attributable to Article 8 applications, but rather as contextual evidence of increasing demand, complexity and cost within the wider private law children jurisdiction.

4.64 The most significant driver of expenditure growth is children's proceedings. Across both lower and higher representation, Children Order cases account for several million pounds of additional expenditure over the period. Higher Representation for Children Order Articles 44-58 alone increased by £3.68 million, while Children Order Generic and Child Proceedings increased by a further £1.45 million. Lower Representation Children Order cases also experienced substantial growth. Together, these categories account for a large proportion of the overall increase in legal aid spending. From a reform perspective, these cases present the greatest opportunity for financial savings because of their scale. However, they are also among the most sensitive areas of legal aid, involving child protection, care proceedings and safeguarding issues.

4.65 Judicial Review expenditure is another notable area of growth, increasing from £3.11 million to £5.23 million, an increase of £2.12 million or 68%. This represents one of the largest monetary increases within the scheme and suggests increasing demand for challenges against public bodies.

4.66 The data also highlights growing expenditure in family-related matters. Matrimonial and Civil Partnership cases increased by £0.75 million, Family Homes Domestic Violence cases increased by £0.23 million in higher representation, and Child Proceedings within Advice and Assistance increased by 44%. These figures suggest sustained demand for legal support in family law. While these areas contribute to overall expenditure growth, they are closely linked to wider policy priorities concerning vulnerable individuals, victims of domestic abuse and access to justice. The Department notes that, reforms focused solely on restricting access may prove difficult and practical approaches, where appropriate in terms of safeguarding, may involve promoting mediation, encouraging earlier dispute resolution and improving procedural efficiency to reduce costs while maintaining support for those who need it most.

4.67 Overall, the data suggests that legal aid reform should focus on managing the costs of a small number of high-growth, high-value categories. Children's proceedings, Judicial Review and Personal Injury account for most of the spending increase and therefore present the greatest opportunities for expenditure control. However, children's proceedings and Judicial Review also

carry significant access to justice and public policy risks.

4.68 Exceptional Funding expenditure also increased substantially, rising from £1.5 million to £3.5 million. This increase was driven almost entirely by funding for inquests, which rose from £1.47 million to £3.40 million. The growth reflects the increasingly complex and resource-intensive nature of inquest proceedings, particularly those involving Article 2 obligations and matters of significant public interest. Although exceptional funding comprises a relatively small proportion of total civil legal aid expenditure, its rapid growth demonstrates the extent to which exceptional and complex cases can create considerable pressure on the overall budget.

4.69 The Department acknowledges the potential for reform measures to create displacement effects, whereby cases that would previously have been funded under standard legal aid provisions may instead be pursued through applications for exceptional funding. Care will therefore need to be taken to mitigate the risk that expenditure reductions within reformed categories are offset by increased demand through the exceptional funding mechanism, thereby diminishing the anticipated financial benefits of reform.

Legal Aid Demand Analysis

Civil Applications Granted by Primary Nature, 2021/22-2025/26¹³

Category of Service	Primary Nature	2021/22	2025/26	Differential
A&A	All	12,088	4,285	↓7,803 (64.6%)
	Child Proceedings	1,277	508	↓769 (↓60.2%)
	Criminal Matters	2,298	80	↓2,218 (↓96.5%)
	Family	2,260	287	↓1,973 (↓87.3%)
	Government	1,327	503	↓824 (↓62.1%)
	Housing & Debt	355	39	↓316 (↓89.0%)
	Neg / Personal Injury	1,141	108	↓1,033 (↓90.5%)
	Other	3,178	2,440	↓738 (↓23.2%)
	Parole Matters	252	320	↑68 (↑27.0%)
Rep Lower	All	7,588	7,261	↓327 (↓4.3%)
	Children Order Articles 44 - 58	1,642	1,853	↑211 (↑12.9%)
	Children Order Articles 62 - 69	167	70	↓97 (↓58.1%)
	Children Order Articles 7 - 41	2,904	2,895	↓9 (↓0.3%)
	Children Order Generic	155	126	↓29 (↓18.7%)
	Debt / Ejectment	0	0	-
	Family Homes Domestic Violence	2,324	1,778	↓546 (↓23.5%)

¹³ [Legal Aid in Northern Ireland - Annual Statistics to March 2026 | Department of Justice](#)

	Maintenance	14	14	-
	Parole	208	299	↑91 (↑43.8%)
	Quasi criminal	23	39	↑16 (↑69.6%)
	Tribunal	151	187	↑36 (↑23.8%)
Rep Higher	All	7,213	7,615	↑402 (↑5.6%)
	Appeals	208	103	↓105 (↓50.5%)
	Asylum & Immigration	112	339	↑227 (↑202.7%)
	Children Order Articles 44 - 58	1,335	1,421	↑86 (↑6.4%)
	Children Order Articles 62 - 69	12	20	↑8 (↑66.7%)
	Children Order Articles 7 - 41	827	723	↓104 (↓12.6%)
	Children Order Generic & Child Proceedings	306	432	↑126 (↑41.2%)
	Debt / Ejectment	30	47	↑17 (↑56.7%)
	Family Homes Domestic Violence	158	151	↓7 (↓4.4%)
	High Court Bail	1,388	1,854	↑466 (↑33.6%)
	Judicial Review	160	122	↓38 (↓23.8%)
	Land / Property	41	47	↑6 (↑14.6%)
	Maintenance	1	3	↑2 (↑200.0%)
	Matrimonial / Civil Partnership	1,227	1,198	↓29 (↓2.4%)
	Other	584	481	↓103 (↓17.6%)
	Parole	2	2	-

	Personal Injury	802	657	↓145 (↓18.1%)
	Quasi criminal	20	15	↓5 (↓25.0%)
Exceptional Funding	All	30	34	↑4 (↑13.3%)
	Breach of the Human Rights Act or enforceable EU rights	14	6	↓8 (↓57.1%)
	Inquest	16	28	↑12 (↑75%)
Grand Total	All	26,919	19,195	↓7,724 (↓28.7%)

4.70 The applications data presents a markedly different picture from the expenditure analysis. While overall legal aid expenditure increased by 27% between 2021/22 and 2025/26, the volume of applications remained broadly stable in Representation work and fell significantly in Advice and Assistance (A&A). This suggests that cost growth is being driven more by the increasing complexity, duration and cost of cases than by a substantial increase in the number of applications entering the system.

4.71 The most striking trend is the substantial reduction in Advice and Assistance applications, which fell from 12,088 to 4,285, a decrease of 64.6%. Significant reductions are apparent across almost every category, including Criminal Matters (-96.5%), Negligence and Personal Injury (-90.5%), Housing and Debt (-89.0%) and Family (-87.3%). The only exception is Parole Matters, which increased by 27.0%. This decline suggests that demand for initial advice services has reduced considerably or that applicants are entering the legal aid system through different routes.

4.72 Lower Representation applications have remained comparatively stable, decreasing by only 4.3% overall. Within this category, Children Order proceedings continue to dominate volumes, with applications for Articles 44-58 increasing by 12.9% and applications relating to Articles 7-41 remaining almost unchanged. Family Homes Domestic Violence applications have fallen by 23.5%, while Parole and Tribunal applications have both increased. The stability of lower representation volumes, particularly in children's proceedings, suggests continued demand for publicly funded legal assistance in these areas. As these cases frequently involve vulnerable individuals and significant welfare considerations, reform options focused on restricting eligibility may prove challenging.

4.73 Higher Representation applications increased modestly by 5.6%, from 7,213 to 7,615. However, there are significant variations beneath the headline figure. Applications for High Court Bail increased by 33.6%, Children Order Generic and Child Proceedings increased by 41.2%, and Asylum and Immigration applications increased by more than 200%. By contrast, applications for Appeals, Judicial Review and Personal Injury all declined. This is particularly noteworthy because expenditure in some of these categories, especially Judicial Review and Personal Injury, increased significantly over the same period despite lower application volumes. This indicates that expenditure growth is unlikely to be primarily volume-driven and may instead reflect greater case complexity, longer case duration, increased work undertaken per case or increases in remuneration levels.

4.74 The continued growth in children's proceedings is particularly significant when the application and expenditure data are considered together. Although application volumes have increased only modestly, expenditure growth has been substantial. This suggests that cases may become increasingly complex or resource intensive.

4.75 The exceptional funding data also warrants consideration. While application numbers remain very small, increasing from 30 to 34 applications, this represents a 13.3% increase over the period. Although the overall volume is low, the Department needs to be mindful of the potential for legal aid reform measures to create displacement effects. Careful design of any reforms will therefore be required to ensure that expenditure reductions in reformed categories are not offset by increased exceptional funding applications, thereby undermining the anticipated savings and creating additional administrative pressures.

Reform Principles

4.76 In undertaking the strategic reform of legal services, the Department's proposed reforms have been guided by five key principles:

- access to justice;
- value for money;
- proportionality;
- protection for the vulnerable; and
- sustainability.

4.77 The potential mitigations outlined within this consultation document are intended solely to inform consideration of possible impacts and responses. They are illustrative in nature and

should not be regarded as proposed measures, agreed mitigations, or an indication of the Department's final policy position.

Subject	Detail
Reform Proposal	1. Reform of Legal Services for Article 8 Children Order (Northern Ireland) 1995 proceedings
Current Position:	At present, legal aid remains available for Children Order proceedings under Article 8 of the 1995 Order, subject to applicants satisfying the statutory means and merits tests. Applicants must demonstrate both financial eligibility and that the proceedings meet the applicable legal aid merits criteria before funding is granted. Once these requirements are met, there is currently no restriction on the number of legal aid certificates that may be granted in relation to the same child or the same family dispute. As a result, legal aid may be made available for initial applications, subsequent variation applications, enforcement proceedings, and further applications arising from changes in family circumstances or ongoing disputes between parties. While the existing framework ensures continued access to justice where issues relating to a child's welfare require judicial determination, it is also capable of funding repeated applications concerning the same child over an extended period, provided each application satisfies the relevant legal aid tests. Evidence gathered through the Department's Foundational Review of Civil Legal Services, the report prepared under Article 29 of the <i>Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021</i>, and the <i>Review and Rapid Priority Setting Exercise of Civil Legal Aid for Cases of Domestic Abuse in Northern Ireland</i> identified concerns regarding the repeated use of family court proceedings, including Children Order applications, as a means of perpetuating conflict and, in some circumstances, continuing patterns of coercive or controlling behaviour following relationship breakdown. Stakeholders, including

	victims and survivors of domestic abuse, reported that the prospect of repeated applications can create uncertainty, prolong disputes and contribute to emotional distress for both parents and children. The evidence suggests that repeated returns to court, particularly where arrangements have recently been determined, can undermine stability for children and place additional pressures on families and the justice system. At the same time, the Department recognises that family circumstances can change and that access to the courts will continue to be necessary where genuine welfare, safeguarding or other material issues arise.
Case for Change:	Evidence indicates a significant proportion of disputes concerning existing contact and residence arrangements may be capable of resolution without the need for formal court proceedings. The Advice and Assistance scheme was designed to provide early legal advice, support negotiation between parties, assist with correspondence and facilitate appropriate dispute resolution at an early stage. Effective use of these interventions has the potential to resolve routine disagreements and minor variations more quickly and proportionately, reducing both costs and the emotional impact of litigation on children and families. Increased reliance on early legal advice and assistance may support a less adversarial approach to family disputes while preserving access to court proceedings where judicial intervention is genuinely required. However, the Department recognises that the Advice and Assistance scheme is currently underutilised. Stakeholders and legal practitioners have identified factors which may discourage use of the scheme, including administrative complexity, financial eligibility requirements and concerns regarding remuneration. Statistical evidence from the Legal Services Agency Northern Ireland indicates a sustained decline in the number of family-related Advice and Assistance cases since 2019/20, with usage falling by approximately 75% over the period. This trend suggests the scheme is no longer operating as effectively as originally intended and that opportunities for early intervention and resolution may increasingly be lost. Victims of domestic abuse can face difficulties in accessing legal support. The objective is to ensure those affected by abuse can access timely legal advice, protective remedies and representation in family

	proceedings through a process that is responsive, proportionate and centred on their needs, while encouraging earlier resolution of disputes and reducing unnecessary recourse to repeated litigation. The '<i>Totally Invisible</i>' report found repeated contact and residence proceedings can, in some cases, operate as a mechanism of post-separation abuse, resulting in cumulative and enduring harm to both adult victims and children. The Department notes that Article 179(14) of the 1995 Order already provides the court with a discretionary power to require leave before further applications may be made. The exercise of Article 179(14) remains a matter for the independent judiciary, which must balance the welfare of the child, the rights of the parties and the interests of justice in each individual case. The Department is also mindful of the evidence demonstrating that, even where individual applications may have merit, repeated litigation can itself have a detrimental impact on children by creating uncertainty, prolonging parental conflict and undermining stability in arrangements relating to contact and residence. The proposed reform is therefore intended to introduce an additional and proportionate safeguard within the legal aid framework. Consistent with the principles underpinning Article 179(14), the proposal is not intended to provide a blanket ban or prevent applications from being made or remove access to the courts. Rather, it is intended to discourage the unnecessary reopening of disputes that have recently been determined while continuing to support access to justice where there has been a material change in circumstances, safeguarding concerns, allegations of abuse, or other urgent welfare issues. The Department considers that this approach has the potential to reduce avoidable litigation, promote greater finality in family proceedings and better support children's need for stability, certainty and security following parental separation.
Key Risk:	Illustrative Mitigation/Safeguard:
Risk to child welfare.	Permit repeat applications where there is evidence of a material change in circumstances affecting the child's welfare, including changes in living arrangements, household composition, educational needs, health needs or the child's wishes and feelings.

Reduced access to justice for a child	Introduce a clearly defined exception process enabling legal aid to remain available where a repeat application is necessary to protect the welfare or best interests of a child.
Increased numbers of litigants in person involved in repeat Article 8 Children Order (Northern Ireland) 1995 proceedings without legal representation	Provide clear guidance on eligibility criteria, available exceptions and alternative dispute resolution pathways to reduce unnecessary applications and support informed decision-making.
Undermining judicial discretion by restricting access to publicly funded representation in repeat proceedings.	Retain judicial discretion to direct or recommend representation in exceptional cases where legal assistance is necessary to ensure fairness or protect the welfare of a child.
Potential risk of adverse impact on vulnerable applicants	Provide an automatic exception where there is evidence of domestic abuse, coercive control, litigation abuse, non-molestation orders, Domestic Abuse Protection Orders, police involvement or ongoing criminal proceedings. For the purposes of the Direction, decision-makers may have regard to the evidential criteria applied in determining eligibility for the domestic abuse waiver under section 28 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 and the associated Department of Justice and LSANI guidance.
Review Provision:	The Department of Justice shall keep the operation of the Direction under review, having regard to its effectiveness in focusing legal aid resources on cases that meet the merits criteria, maintaining access to justice, and securing value for money. The first such review shall be completed within three years of commencement.

Proposed Reform:	A new limb to the merits test to refuse applications for legal aid to seek an order under Article 8 of the Children Order (Northern Ireland) 1995 about a child where a recent order is already in place.
------------------	---

Subject	Detail
Reform Proposal	2. Reform of Legal Services for judicial review proceedings.
Current Position:	Currently, legal aid funding is available for both Stage I and Stage II judicial review proceedings dependent on the applicant passing the means and merits tests. When the Prospects of Success merits test is being considered within LSANI for a potential judicial review, the Agency is concerned with the prospects of securing the substantive relief being sought. Simply having good prospects of obtaining leave from the court to proceed is not sufficient. However, if the judicial review is seeking to overturn a decision, the Agency will not generally need to consider whether a different decision would be reached by the public body if the challenge were successful. Where leave for a judicial review has been granted by the court, LSANI may regard the Legal Merits Test as having been satisfied, in the absence of any new information casting doubt on the merits of the application. Even where leave has been granted, legal aid may be refused under the Reasonableness Test on applicable grounds, for example lack of cost benefit or the availability of alternative funding.
Case for Change:	Judicial Review is an important mechanism for ensuring that public bodies act lawfully and in accordance with their legal obligations. It is concerned with the legality of decision-making processes rather than the merits of the underlying decision itself. As a remedy of last resort, applicants are generally expected to exhaust any available alternative remedies, such as statutory appeals, complaints procedures or review mechanisms, before seeking Judicial Review. The courts have repeatedly emphasised the importance of this principle and have, in some cases, stayed or dismissed proceedings where an appropriate alternative remedy remained available.

The courts have recognised that Judicial Review is not always the most effective mechanism for resolving certain types of disputes, particularly where the issues involve complex factual disagreements, rapidly changing circumstances or the allocation of scarce public resources. This is especially relevant in cases involving health and social care services, where applicants may seek access to services or resources that are subject to broad statutory discretion and competing demands. In such circumstances, the courts have highlighted the limitations of Judicial Review as a means of securing practical outcomes for applicants and have cautioned against its use where other more appropriate remedies may exist. Against a backdrop of increasing legal aid expenditure, wider fiscal pressures and the need to ensure the sustainability of the legal aid fund, the Department considered whether legal aid resources could be more effectively focused on cases that deliver outcomes which provide direct, personal and material benefits to the applicant or their family. Initial consideration focused on whether Stage I (leave stage) Judicial Review proceedings should continue to be funded through legal aid in their existing form.

This work was informed by extensive stakeholder engagement with representative bodies, legal practitioners, advocacy organisations and civil society groups, together with evidence contained within the Northern Ireland Audit Office (NIAO) report The Judicial Review Process in Northern Ireland (2023). The NIAO report identified Stage I as a significant filtering mechanism within the Judicial Review process. Before a claim can proceed, applicants must obtain the Court's permission by demonstrating an arguable case. The purpose of this stage is to prevent trivial, unmeritorious or otherwise unsuitable claims from progressing to a substantive hearing. The NIAO also found that many disputes are resolved before formal proceedings commence. Approximately two-thirds of Pre-Action Protocol cases examined did not proceed to Judicial Review proceedings because alternative remedies were pursued, public authorities provided satisfactory responses, decisions were reconsidered, or applicants chose not to proceed. This suggests that both the Pre-Action Protocol and the leave stage play an important role in filtering cases and resolving disputes without the need for substantive court proceedings.

The evidence further indicates Stage I is the point at which most Judicial Review cases conclude. As a result, a significant proportion of publicly funded expenditure is incurred before the Court has determined whether a claim should proceed to a full hearing. This raised questions as to whether Stage I should be treated as a distinct phase of litigation for legal aid purposes and whether alternative funding arrangements could provide greater certainty and proportionality in expenditure.

During stakeholder engagement, the Department explored an option to remove legal aid funding for Stage I Judicial Review proceedings while allowing legal representatives to recover costs retrospectively where leave was granted. However, stakeholders expressed significant concerns regarding access to justice, the constitutional importance of Judicial Review, and the role of legal representation in ensuring effective scrutiny of public authorities. Concern was raised regarding the fact that many cases are resolved, withdrawn or conceded before permission is formally granted, meaning that important outcomes can be achieved without a case ever reaching a substantive hearing.

Having considered the evidence and stakeholder feedback, the Department decided not to proceed with the removal of legal aid funding for Stage I proceedings. Instead, the Department is consulting on alternative reforms, including the potential introduction of a composite fee structure for Stage I work. Such an approach could provide greater certainty and value for money while preserving access to publicly funded legal representation during this critical stage of the process.

The evidence reviewed by the Department also highlights broader issues concerning the operation of Judicial Review and the use of legal aid funding. Firstly, there is evidence that emergency Judicial Review procedures are increasingly being used in a wide range of cases involving detention, removal, accommodation, prisons and coronial matters. While many such applications raise legitimate urgent concerns, the evidence suggests that emergency funding applications are often submitted before all procedural requirements have been fully addressed, with outstanding issues resolved later in the process. In some cases, applications initially refused by LSANI have subsequently been

overturned on appeal. This may indicate a perception that emergency procedures offer a practical route to securing funding while eligibility and merits issues are resolved subsequently.

Secondly, Judicial Review proceedings often appear to be used as a means of prompting engagement or action by public authorities rather than securing a final court determination. Evidence suggests that many disputes are resolved after proceedings are issued through reconsideration of decisions, provision of services, restoration of payments or other forms of administrative action. As a result, many cases are withdrawn, settled, become academic or conclude without substantive judicial determination. While stakeholders emphasised the wider public value of Judicial Review and public interest litigation, the Department's position remains that legal aid is intended primarily to assist individuals in addressing direct legal problems affecting them personally, rather than to facilitate litigation whose primary purpose is the advancement of wider public policy objectives.

Thirdly, the evidence indicates that substantial costs can be incurred regardless of the eventual outcome of proceedings. Significant expenditure has arisen in cases that have been dismissed, resolved outside the court process or become academic before any substantive determination on the merits. This raises questions regarding the relationship between expenditure, proportionality and outcomes within the current legal aid framework.

The Department also notes evidence of multiple proceedings being funded in circumstances where several individuals are affected by substantially the same issue. While the legal system properly recognises the individual rights of each applicant, consideration may be required as to whether greater use could be made of consolidation or coordinated litigation in appropriate circumstances to reduce duplication of costs and court resources.

Concerns have also emerged regarding consistency in legal aid decision-making. Evidence suggests that refusals by LSANI are sometimes viewed as part of a continuing process rather than a final determination, particularly where appeal mechanisms exist. The Department recognises that LSANI must

	carefully balance effective stewardship of public funds with the need to ensure fair and legally robust decision-making, while also managing the resource implications of appeals and reviews. Finally, the evidence demonstrates that Judicial Review proceedings are concentrated around a relatively small number of public authorities, including Health and Social Care Trusts, the Home Office, the Northern Ireland Prison Service and the Education Authority. While the reasons vary, this may indicate areas where applicants perceive recurring difficulties in decision-making processes or where public authorities are more likely to reconsider decisions once proceedings have commenced. Taken together, this evidence reinforces the importance of ensuring that Judicial Review remains available where no adequate alternative remedy exists, whilst also considering whether legal aid funding arrangements can better support proportionality, value for money and the effective targeting of publicly funded representation.
Key Risks:	Illustrative Mitigations/Safeguards:
Failure to identify meritorious cases at an early stage of proceedings.	Maintain access to proportionate funding for pre-permission (Stage I) work and ensure revised merits criteria continue to support genuinely arguable claims with a realistic prospect of success. Potential for development of composite fee for Stage I proceedings.
Potential human rights and equality impacts.	Carry out ongoing equality and human rights monitoring and retain flexibility to fund cases where Convention rights, equality issues or effective participation considerations are engaged.
Restriction of access to justice for individuals seeking to challenge the lawfulness of public authority decisions.	Retain exceptional funding provisions and preserve legal aid where a refusal of funding would create a significant risk of injustice or prevent effective access to a legal remedy.

Review Provision:	The Department of Justice shall keep the operation of the Direction under review, having regard to its effectiveness in focusing legal aid resources on cases that meet the merits criteria, maintaining access to justice, and securing value for money. The first such review shall be completed within three years of commencement.
Proposed Reform:	1) Restriction of funding for repeat Judicial Reviews. Legal aid may be refused where the applicant seeks to relitigate issues that have already been determined by a court or tribunal and where there has been no material change in circumstances or new evidence. 2) Requirement to exhaust alternative remedies. Legal aid may not be available where an applicant has not first pursued an available review, appeal, complaint, tribunal or statutory remedy. 3) Restricting legal aid funding for judicial review challenges primarily concerned with resource allocation. Legal aid may not be available for applications where the principal purpose of the judicial review is to challenge how public resources are allocated rather than the legality of a decision-making process. 4) Potential introduction of a composite, or fixed, fee for Stage I judicial review stage.

Subject	Detail
Reform Proposal	3. Eligibility to legal services conditional on direct, personal and material benefit to the applicant.
Current Position:	At present, the statutory merits criteria for civil legal aid in Northern Ireland do not generally require an applicant to demonstrate that proceedings will result in outcomes that will deliver a direct, personal and material benefit to the applicant or their family. The Legal Services Agency Northern Ireland (LSANI) is required to consider a range of factors when determining whether funding should be granted, including the legal merits of the case, the reasonableness of providing representation, the likely costs involved, and the wider interests of justice.
Case for Change:	Legal aid may be granted in cases where the anticipated benefit to the applicant is indirect, non-financial, procedural, declaratory or otherwise difficult to quantify. This recognises that the legal aid scheme serves a broader public purpose than simply securing financial or practical remedies for individual applicants. In some circumstances, legal aid may support proceedings that promote the protection of legal rights, challenge potentially unlawful decision-making, safeguard important interests or clarify the law, even where the applicant may not obtain a tangible personal benefit at the conclusion of the proceedings. The Department's review of legally aided civil proceedings, including applications for injunctions and public law challenges, has identified instances where significant public expenditure can be incurred despite limited practical benefit being secured for the applicant. The evidence reviewed also suggests that funding can be provided in circumstances where disputes are recurring, where multiple parties involved in the same dispute receive public funding, or where proceedings result only in interim measures, procedural outcomes or the continuation of existing disputes rather than their resolution.

While these arrangements have developed within a framework designed to maximise access to justice, they also create a risk that finite legal aid resources may be directed towards litigation that delivers only limited or disproportionate benefit when compared with the cost incurred. In the context of increasing demand for legal aid, wider fiscal pressures and the Department's statutory obligation to secure value for money, consideration is being given to whether the merits criteria should place greater emphasis on the likelihood of achieving a direct, material and proportionate benefit for the applicant.

The Department considers that introducing such a requirement would represent a shift from the current position. Rather than focusing solely on whether proceedings are legally arguable and otherwise fundable, greater weight would be given to whether the anticipated outcome can deliver a direct, personal and material benefit to the applicant or their family. This would help ensure that publicly funded legal representation is targeted towards cases where legal intervention is most likely to achieve a substantive practical outcome for the applicant, while supporting the long-term sustainability of the legal aid scheme.

The Department has a statutory obligation under Article 11(1) of the Access to Justice (Northern Ireland) Order 2003 to ensure that legal aid funding is administered in a manner that secures value for money while maintaining access to justice. In considering how best to target limited resources, the Department reviewed a sample of legally aided applications for Civil Bill Injunctions to better understand the nature of the proceedings being funded, the outcomes achieved, and whether public expenditure was delivering a proportionate benefit to applicants.

The review examined a range of injunction proceedings involving disputes with public bodies, neighbour disputes, domestic harassment, race-related harassment, contempt proceedings arising from breaches of injunctions, and other forms of interpersonal conflict. While the average cost of individual cases was relatively modest, the cumulative expenditure was significant. The sample reviewed resulted in legal aid expenditure of over £120,000, highlighting how apparently low-value authorisations can collectively generate substantial financial commitments for the legal aid fund.

	The evidence gathered through the review indicates that a significant proportion of legal aid expenditure arises not from the complexity of individual cases but from structural features of the current funding framework. In many instances, legal aid is granted to multiple parties involved in the same dispute, resulting in both applicants and respondents receiving publicly funded representation in proceedings arising from the same factual circumstances. In some cases, separate legal aid certificates may be issued to parents, children and other family members participating in related proceedings. The cumulative effect is that the legal aid fund can be required to support multiple streams of litigation stemming from a single dispute, without explicit consideration of the overall value or outcome achieved through that expenditure. The review also identified a pattern of legal aid being used to facilitate ongoing disputes rather than assist in their resolution. Several cases involved repeated applications between the same parties, including injunction proceedings, alleged breaches of court orders, contempt applications and subsequent enforcement actions. While each individual application may be legally justified, the overall pattern raises questions as to whether public funds are being used to achieve a lasting resolution of disputes or, instead, to support recurring litigation. In many cases, outcomes were limited to interim orders, undertakings or other temporary measures which, although capable of delivering short-term benefits, did not necessarily resolve the underlying issues giving rise to the dispute. The Department of Justice recognises that where concerns relating to domestic abuse, harassment or threats of violence arise, individuals may apply for a non-molestation order. Such applications may be made on an ex parte basis in urgent circumstances, where immediate protection is required, or on notice in other cases. Breach of a non-molestation order constitutes a criminal offence, providing both robust enforcement mechanisms and immediate protection for those at risk. Legal aid remains available, subject to the relevant statutory requirements, and no court fee is payable to initiate an application. The Department therefore considers the non-molestation order framework to provide a clear, accessible and effective means of securing protection for individuals facing such risks.
	The Department accepts that proceedings relating to harassment may provide a direct, personal and material benefit to an applicant or a member of the applicant's

family. However, the Department also notes that comprehensive statutory protections are already available through the non-molestation order regime, under which legal aid may be granted in accordance with the applicable legislative provisions. Considering these existing safeguards, the Department does not consider that the proposed exclusion of legal aid for harassment injunctions under the revised merits test would materially impede access to justice in circumstances where legal intervention is required to secure protection from harassment or related forms of abuse. Rather, the proposal is intended to ensure that finite legal aid resources are focused on cases where publicly funded support is necessary and cannot be secured through alternative, established legal remedies.

More broadly, the evidence indicates that the current legal aid framework permits funding in circumstances where the benefit to the applicant may be indirect, limited or disproportionate when compared with the level of public expenditure incurred. Although such funding reflects the long-standing principle that some cases may warrant public support even where no tangible personal gain is achieved, the Department considers that this position should be carefully re-examined considering increasing demand on the legal aid fund, wider fiscal pressures and competing priorities across the justice system.

The Department therefore considers that there is a strong case for reforming the merits criteria to place greater emphasis on whether proceedings are likely to deliver a direct, personal and material benefit to the applicant or their family. Such an approach would help ensure that public funding is focused on cases where legal intervention can produce a meaningful outcome, whether through the protection of legal rights, securing access to services, preventing harm, preserving liberty, safeguarding welfare, or obtaining an identifiable practical remedy.

This proposed reform would not prevent legal aid being granted in cases involving significant personal rights or important legal interests. Rather, it would require greater scrutiny of whether the anticipated benefit to the applicant

	justifies the expenditure of public funds. It would also encourage greater consideration of alternative and potentially more effective mechanisms for resolving disputes, including mediation, complaints procedures, statutory remedies and other forms of non-court intervention where appropriate. A review of legal aid arrangements across the United Kingdom indicates that other jurisdictions place greater emphasis on the practical benefit and proportionality of publicly funded litigation. In England and Wales, legal aid decision-makers are required to consider the likely benefit to the applicant, proportionality and whether a reasonable private litigant would pursue the proceedings. Similarly, in Scotland, civil legal aid may only be granted where proceedings are both legally justified and reasonable, with explicit consideration given to the prospect of practical benefit and whether the anticipated outcome justifies the use of public funds. By comparison, the Northern Ireland scheme does not contain an equivalent explicit requirement that proceedings deliver a direct, material and proportionate benefit to the applicant. The proposed reform would therefore bring Northern Ireland more closely into line with approaches already adopted elsewhere in the United Kingdom, whilst continuing to preserve access to justice in cases where significant rights or interests are engaged. The Department also believes that introducing a requirement to demonstrate a direct, material and proportionate benefit would better align legal aid expenditure with its core purpose: providing access to justice for individuals who would otherwise be unable to afford legal representation in matters that have a genuine and meaningful impact on their lives. In doing so, the reform would strengthen value for money, support the long-term sustainability of the legal aid scheme and ensure that limited public resources are targeted towards cases where they can achieve the greatest benefit.
Key Risks:	Illustrative Mitigation/Safeguard:
Restriction of access to justice.	Retain an exceptional funding mechanism for cases where strict application of the test would result in injustice. Publish detailed guidance to support understanding of the revised criterion. Preserve legal aid where refusal would prevent effective participation in proceedings.

Difficulty applying the "direct, personal and material benefit" test leading to inconsistent decision-making.	Develop clear policy guidance informed by legal advice. Introduce illustrative examples and case studies. Implement quality assurance processes and regular monitoring of decision-making trends.
Exclusion of legal aid for harassment injunctions.	Maintain access to legal aid through the non-molestation order framework where the circumstances involve harassment, domestic abuse, threats, intimidation or coercive behaviour. Clearly communicate the availability of non-molestation orders as an alternative statutory remedy. Ensure guidance directs applicants towards the most appropriate protective remedy and associated legal aid provisions.
Review Provision:	The Department of Justice shall keep the operation of the Direction under review, having regard to its effectiveness in focusing legal aid resources on cases that meet the merits criteria, maintaining access to justice, and securing value for money. The first such review shall be completed within three years of commencement.
Proposed Reform:	A new limb to the merits test to refuse any application for legal aid where there is not a direct, material and proportionate likely benefit to the applicant. Removal of access to legal aid for harassment injunctions (Ordinary Civil Bills).

5. Have Your Say

5.1 We would welcome your views on each of the three reform options set out in this policy document. For ease of reference, a consultation questionnaire has been provided. Respondents are invited to answer as many or as few questions as they wish, and there is no requirement to provide a response to every question. Respondents are encouraged to share any relevant evidence, case examples, or other information that may support their response and help inform the development of future policy. All contributions will be carefully considered to ensure that any changes to the legal aid system are fair, proportionate, and reflective of the needs of those who rely on it.

Public Consultation on Reform Policy – Duration and Closing Date

5.2 Please note that, due to the different durations applicable to each exercise, the consultation on the proposed reforms and the consultation on the impact assessments are being undertaken as separate consultation processes.

5.3 The Public Consultation on the policy document will run for a period of eight weeks from **26 October 2026 to 11.59 pm on 21 December 2026**.

How to submit responses to the policy reforms:

Citizen Space via QR Code	To access the public consultation, simply scan the Citizen Space QR code using your smartphone camera and follow the link that appears.	
Citizen Space via link	https://consultations.nidirect.gov.uk/doj/enabling-access-to-justice-reform-programme-public	
Department of Justice Website	Consultations Department of Justice	

5.4 Written responses to the public consultation can also be made by emailing eajdconsultations@justice-ni.gov.uk or you can write to us at:

Enabling Access to Justice Division
Department of Justice
Block 5, Knockview Building
Stormont Estate
Belfast
BT4 3SJ

Public Consultation on Equality Considerations – Duration and Closing Date

5.5 The Public Consultation on the impact assessments will run for a period of 12 weeks from **26 October 2026 to 12.59 pm on 22 January 2027** (three additional days added to allow for Christmas period).

5.6 In developing these proposals, the Department has considered its statutory obligations under Section 75 of the Northern Ireland Act 1998. Section 75 requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity across the nine Section 75 categories and regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group. In addition to equality considerations, the Department has assessed the proposals against a range of wider statutory and policy obligations to ensure that potential impacts are fully understood and considered during policy development. This includes consideration of the compatibility of the proposals with relevant human rights obligations, the potential impact on children and young people through a Child Rights Impact Assessment (CRIA), and the potential impact on businesses, voluntary and community organisations and public sector bodies through a Regulatory Impact Assessment (RIA). The Department has therefore undertaken equality screening and associated impact assessments in relation to the proposed legal aid merits reforms. Collectively, these assessments are intended to identify any differential impacts, whether adverse or beneficial, on individuals, organisations and communities, and to determine whether any mitigating measures may be required. The Department welcomes views from consultees on the findings of these assessments, including any evidence, information or observations that may assist in informing the final policy position.

5.7 The equality screenings are attached to this public consultation, and we are keen to hear your views.

Rural Needs

5.8 As a public authority under section 1(1) of the Rural Needs Act (Northern Ireland) 2016,

the Department is required to have due regard to rural needs in the development and delivery of strategies and policies.

5.9 The proposed reform opportunities have been subject to Rural Needs Impact Assessment Screening, and we are also seeking your views on their potential impact.

Citizen Space via QR Code	To access the public consultation, simply scan the Citizen Space QR code using your smartphone camera and follow the link that appears.	
Citizen Space via link	https://consultations.nidirect.gov.uk/doj/impact-assessments-reforming-scope-and-merits/	
Department of Justice Website	Consultations Department of Justice	

ALTERNATIVE FORMATS

5.10 Copies of this document and the Reform Opportunities Consultation Questionnaire in alternative formats can be made available upon request. If it would assist you to access the document in an alternative format or language other than English, please let us know and we will do our best to assist you.

© Crown Copyright [2026]

ANNEX – Information and Privacy

If you have any comments about the way this consultation process has been handled, you should send them to: Governance.Unit@justice-ni.gov.uk.

PRIVACY, CONFIDENTIALITY AND ACCESS TO CONSULTATION RESPONSES

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity. All responses from organisations and individuals responding in a professional capacity may be published (see privacy notice at Annex A).

We will remove any personal information, if provided, from the published responses but apart from this, we may publish these in full.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) (EU) 2016/679.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under FOIA or EIR.

Privacy Notice – Consultations (DoJ)

Data Controller Name:	Department of Justice (DoJ)
Email:	eadconsultations@justice-ni.gov.uk
Data Protection Officer Name:	DoJ Data Protection Officer
Telephone:	(028) 90378617
Email:	DataProtectionOfficer@justice-ni.gov.uk

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the [Data Protection Act \(DPA\)](#) and the [EU General Data Protection Regulation \(GDPR\)](#). The Department of Justice (DoJ) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

Purpose for processing

We will process personal data provided in response to consultations for the purpose of informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We will publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents but will include the names of organisations responding. If you have indicated that you would be interested in contributing to further Department work on the subject matter covered by the consultation, then we might process your contact details to get in touch with you.

Lawful basis for processing

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We will only process any special category personal data you provide, which reveals racial or ethnic origin, political opinions, religious belief, health or sexual life/orientation when it is necessary for reasons of substantial public interest under Article 9(2)(g) of the GDPR, in the exercise of the function of the department, and to monitor equality.

How will your information be used and shared?

We process the information internally for the above stated purpose. We don't intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance with the provisions of the data protection laws.

How long will we keep your information?

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule [DoJ Retention & Disposal Schedule](#).

What are your rights?

- You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#);
- You are entitled to have personal data [rectified if it is inaccurate or incomplete](#);
- You have a right to have personal data [erased and to prevent processing](#), in specific circumstances;

- You have the right [to 'block' or suppress processing](#) of personal data, in specific circumstances;
- You have the right to [data portability](#), in specific circumstances;
- You have the right to [object to the processing](#), in specific circumstances; and
- You have rights in relation to [automated decision making and profiling](#).

How to complain if you are not happy with how we process your personal information

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF or casework@ico.org.uk