

## **Human Rights Act Impact Assessment**

This proforma will help you to articulate any human rights issues in the policy/proposal that you are working on. It is necessary for you to have read the guidance on human rights entitled “Get in on the Act; a practical guide to the Human Rights Act for public authorities in Northern Ireland” before completing this proforma.

If the policy/proposal is relevant to some rights but does not interfere with or limit them, your assessment must be signed off by a Senior Responsible Officer (Grade 7, equivalent or above). If you find that it does interfere with or limit one or more of the Convention rights, and your Senior Responsible Officer agrees, you must seek legal advice, even if it is considered that the interference or limitation is justified.

This proforma is available from the [Executive Office](#). If you fill in the form electronically, there is no restriction as to the amount you can type in each box.

Your answers in the rest of this proforma will help you draft a clearer note to your legal advisor.

### **1. Policy title and aims**

Title: Enabling Access to Justice Reform Programme: Changes to Legal Aid Financial Eligibility

Aims: The overall aim of the programme is to enhance access to justice through a number of workstreams - improving access to justice; ensuring appropriate quality services; ensuring value; managing public funds; and oversight.

The objective of this specific proposal is to introduce simpler, fairer, faster applications for legal aid through a review of the financial eligibility requirements for legal aid and to ensure the continued availability of high-quality advice and representation in criminal and civil legal services.

### **2. Rights which the policy/proposal engage**

Go through each of the rights detailed in the table below. For each one consider whether the policy/proposal engages the right; i.e. how the policy/proposal you are working on would involve the right. Explain how the right is engaged.

*Please note that the rights have been abbreviated so you should see the relevant Article in the Guide referred to above for the full title and explanation of the right.*

| Right                                                                | Yes/No | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 2<br>Right to life                                           | Yes    | <p>Article 2 of the <u>Human Rights Act</u> protects a person's right to life. This means that nobody, including the Government, can try to end someone's life. It also means the Government should take appropriate measures to safeguard life by making laws to protect people and, in some circumstances, take steps to protect people if their life is at risk. It also requires public authorities to consider a person's right to life when making decisions that might put them in danger or that affect their life expectancy.</p> <p>The provision of civil legal services engages this right.</p> |
| Article 3<br>Prohibition of torture, inhuman and degrading treatment | Yes    | <p>See above. In the 12 months from 1st October 2023 to 30 September 2024, the PSNI Statistics indicate there were 31,043 domestic abuse incidents in Northern Ireland. The provision of civil legal services engages this right.</p>                                                                                                                                                                                                                                                                                                                                                                       |
| Article 4<br>Prohibition of slavery and forced labour                | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Article 5<br>Right to liberty                                        | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Article 6<br>Right to a fair trial                                   | Yes    | <p>Art 6(3) provides that everyone has a minimum right to "defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require".</p> <p>The provision of civil legal services criminal legal aid therefore engages this right.</p> <p>This policy also provides for simpler access to legal aid asylum and immigration seekers. This should help provide access and assist migrants who are appealing Home</p>                                                            |

| Right                                                     | Yes/No | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                           |        | Office asylum and immigration decisions. The provision of civil legal services engages this right.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Article 7<br>No punishment without law                    | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Article 8<br>Right to respect for private and family life | Yes    | Article 8 provides protection for an individual's right to respect for their private life, their family life, home and correspondence. Civil legal services provide for access to Children Order proceedings for people in need of advice and representation for people who cannot afford to pay – including victims of domestic abuse. The provision of civil legal services engages this right.                                                                                                                                               |
| Article 9<br>Freedom of thought conscience and religion   | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Article 10<br>Freedom of expression                       | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Article 11<br>Freedom of assembly and association         | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Article 12<br>Right to marry and found a family           | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Article 13 Right to an Effective Remedy                   | Yes    | Article 13 provides for the right to an effective remedy. Under the rule of law, effective remedies, effectiveness of justice, notably in providing effective recourse to anyone who alleges that her or his rights have been violated, is essential. Without such recourse, justice is of little use. This policy relates to providing fairer and simpler procedures for accessing legal aid services. This should help towards ensuring a sustainable legal aid service which will benefit people in need of legal advice and representation. |
| Article 14<br>Prohibition of discrimination               | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| Right                                            | Yes/No | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protocol 1, Article 1<br>Right to Property       | Yes    | The “statutory charge” is engaged if a recipient of legal aid preserves or recovers assets as a result of having had legal aid to pay for their representation. The client is asked to repay the funds outlaid through any money or assets, including property, which the client gains or receives. If there are insufficient funds available to fully repay the costs of their legal help, a charge can be placed on any property they own ensuring that the recovery will be fully achieved when a trigger event occurs. |
| Protocol 1, Article 2<br>Right to education      | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Protocol 1, Article 3<br>Right to free elections | No     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

If you have answered yes to any of these questions you must complete the rest of the proforma. If you have answered no to **all** of the questions, you may proceed to Question 9.

**3. Rights which the policy/proposals interfere with or limits**

Will the policy/proposal interfere with or limit any of the rights you identified as being engaged? If so, explain how the right is interfered with or limited.

*You should note that interference could be a negative impact on a right or a failure to take positive action where this is required under the Article in question. For further guidance on which Articles require positive action, please consult the Guide.*

| Article                    | Interfered with or limited?<br>Yes/No | What is the interference/limitation?                                                                                                                                                                                                                                                                                                                                                |
|----------------------------|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 2<br>Right to life | No                                    | This policy aims to increase the remuneration payable to solicitors and barristers providing legal services. Civil legal services provide protections for victims and survivors of domestic abuse. The PSNI <a href="#">Domestic Abuse Incidents and Crime Recorded in Northern Ireland Monthly Update to 30 September 2024</a> indicate that in the 12 months from 1 November 2023 |

| Article                                                              | Interfered with or limited?<br>Yes/No | What is the interference/limitation?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                      |                                       | <p>to 31 October 2024 there were six homicides with a domestic abuse motivation recorded by the police, compared with five homicides with a domestic abuse motivation recorded by the police in the previous 12 months. Five of the victims were female and one was male, compared with three female and two male victims during the previous 12 months. Ensuring simpler, fairer access to legal services, could result in a stronger legal sector which could lead to victims and survivors of domestic abuse being able to escape from abuse earlier.</p> |
| Article 3<br>Prohibition of torture, inhuman and degrading treatment | No                                    | <p>This policy aims to ensure simpler, fairer, faster access to justice for victims of domestic abuse. In the 12 months from 1st October 2023 to 30 September 2024, PSNI Statistics indicate there were 31,043 domestic abuse incidents in Northern Ireland. Ensuring greater access to legal services could lead to victims and survivors of domestic abuse being able to escape from abuse earlier.</p>                                                                                                                                                    |
| Article 6<br>Right to a fair trial                                   | No                                    | <p>The policy aims to enhance access to justice through simpler, faster, fairer applications for legal advice, help and representation.</p> <p>The policy makes changes to the eligibility criteria for civil legal aid and therefore has a positive impact on this right.</p> <p>Learning from the foundational review of civil legal services and the Ministry of Justice review</p>                                                                                                                                                                       |

| Article                                                | Interfered with or limited?<br>Yes/No | What is the interference/limitation?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                        |                                       | <p>informed the Department's proposals around special considerations for asylum seekers and immigrants. This will benefit legal practitioners engaged in civil legal services within asylum and immigration.</p> <p>There are also special considerations for victims of domestic abuse which should remove the financial barriers in accessing legal help in all matters in connection with children orders and protective orders aimed at keeping them safe.</p>                                                                                                                                                               |
| Article 8 Right to respect for private and family life | No                                    | Article 8 provides protection for an individual's right to respect for their private life, their family life, home and correspondence. Civil legal services provide for access to all Children Order proceedings for people in need of advice and representation for people who cannot afford to pay. The policy proposals are aimed at supporting the legal sector in their delivery of vital legal services.                                                                                                                                                                                                                   |
| Article 13 Right to an Effective Remedy                | No                                    | Article 13 provides for the right to an effective remedy. Under the rule of law, effective remedies, effectiveness of justice, notably in providing effective recourse to anyone who alleges that her or his rights have been violated, is essential. Without such recourse, justice is of little use. This policy relates to the provision of simpler, fairer and faster access to justice through proposals to amend the financial eligibility requirements for legal aid entitlement. This should help towards ensuring a sustainable legal aid service which will benefit people in need of legal advice and representation. |

| Article                                    | Interfered with or limited?<br>Yes/No | What is the interference/limitation?                                                                                                                                                                                                                |
|--------------------------------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protocol 1, Article 1<br>Right to Property | No                                    | This policy aims to cease operating the statutory charge for victims of domestic abuse and in Asylum and Immigration cases. The policy aims to simplify the application process, reduce trauma, and improve access to justice for vulnerable groups |

#### 4. Those affected by the interference/limitation

Identify who would be affected by the interference or limitation, e.g. sections of society or people with certain beliefs or opinions, and explain how they could be affected.

*It will help in identifying interferences or limitations to think about all the people who could be affected and seen as a victim within the Human Rights Act.*

| Who could be affected? | How could they be affected? |
|------------------------|-----------------------------|
|                        |                             |

#### 5. Legal basis for interference/limitation

Is there a law which allows you to interfere with or limit the rights identified in Question 4?

Any interference with or limitation on a Convention right must have a legal basis. You therefore need to establish whether there is a law which allows the proposed interference or limitation.

*You may need legal advice to clarify this.*

Relevant legislation:

|  |
|--|
|  |
|--|

Alternatively, the policy/proposal may involve the creation of a new law which allows for the interference or limitation. If this is the case, please detail and explain in the box below:

N/A

## 6. **Purpose of the policy/proposal**

Even if the interference or limitation in the policy/proposal is according to the law, there are further conditions which must be met. The purpose of the policy/proposal must pursue a legitimate aim or fall under one of the specific exception in the Article in question.

Consider each of the Articles which the policy/proposal will interfere with or limit, and for each one specify the exception or legitimate aim which allows the interference or limitation and explain why.

*If you are unsure of the exceptions or legitimate aims which are applicable for the rights interfered with or limited by the policy/proposal you are working on, you should refer to the text of the Convention and the Guide.*

| Article | Exception / Limitation | Explanation |
|---------|------------------------|-------------|
| N/A     | N/A                    | .           |

## 7. **Necessary in a democratic society**

Articles 8, 9, 10 and 11 specify that interferences or limitations must be necessary in a democratic society. If the policy/proposal interferes with or limits one of these rights, detail in the table below how the right is necessary in a democratic society i.e. does it fulfil a pressing social need?

*You may need to speak to the Senior Responsible Officer for clarification of this.*

| Article affected | Explain why it is necessary in a democratic society |
|------------------|-----------------------------------------------------|
| N/A              | N/A                                                 |

## 8. Proportionality

Any interference with or limitation on a Convention right must be proportionate, i.e. the policy/proposal must interfere with or limit a right no more than is absolutely necessary to achieve its aims. For each Article which the policy/proposal interferes with or limits, explain how the interference or limitation is proportionate.

*For further information on proportionality, please consult the Guide.*

| Article affected | Explain why the interference / limitation is proportionate |
|------------------|------------------------------------------------------------|
| N/A              | N/A                                                        |

## 9. Article 14 equality issues

Even if it does not interfere with or limit a right or freedom, could the policy/proposal result in people being treated differently in relation to any of the Convention rights? Article 14 does not allow discrimination in the exercise of any of the other Convention rights.

*For further information on Article 14, please refer to the relevant pages in the Guide.*

| Convention Article affected | How are people treated differently? | Is this justifiable? |
|-----------------------------|-------------------------------------|----------------------|
| N/A                         | N/A                                 | N/A                  |

You should now have a clearer view about the policy/proposal and the possibility of it engaging or interfering with Convention rights and freedoms.

Please ensure the proforma is also signed by your Senior Responsible Officer and if there is any possible interference or limitation refer to your legal advisor for further action and advice.

Please tick the statement that applies, and sign below.

☐

a) The policy/proposal does not engage any Convention rights.

☒

b) The policy/proposal does engage one or more of the Convention rights but does not interfere with or limit it/them.

☐

c) The policy/proposal interferes with or limits one or more Convention rights and legal advice is being sought.

Countersign, hold copy with policy papers and refer to your legal advisor.

Signed by Peter Gibson (Official)

Date 17/08/26 Grade SO

Signed by Steven Allison (Senior Responsible Officer)

Date 23/10/2026 Grade 5