

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

Department of Justice

Consultation on Reform of Civil Legal Services (Financial) Regulations



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

Contents

1. Ministerial Foreword 3

2. Executive Summary 4

3. Proposed Reforms 9

4. Template for responses 14

1. Ministerial Foreword

Access to justice is a fundamental to securing rights and supporting the rule of law and in 2024 I launched the Enabling Access to Justice Programme with the aim of ensuring our delivery models aid the best possible outcomes and support efficient and effective resolution of disputes. The availability of expert advice and representation, particularly for the most vulnerable, is critical to achieving that objective and so I committed to reforming legal aid eligibility rules and thresholds through the Programme. We must support those who could not otherwise exercise their rights or enjoy all the protections the law allows and I believe ease of access and ensuring the most vulnerable have access to advice and representation is critical. The proposals examined in this consultation are to that end and I believe they can have a significant impact on access to justice.

Financial eligibility rules that are clear, fast and fair can only help ensure that reliable support is available to those in need without undue delay. The reforms proposed in this consultation have precisely this end in mind. They seek to simplify and harmonise financial eligibility testing for civil legal aid, and to expand the use of exemptions from eligibility criteria to support victims of domestic abuse and to prevent delay in the asylum system.

More critically perhaps, are the changes I am also proposing to make to financial eligibility thresholds to expand access to legal aid to a larger section of our population, a key measure of access to justice.

These changes are important, but they are not without cost. Changing thresholds will increase pressure on the legal aid budget, so implementation will be affordable only in the context of successful reform in other areas of the legal aid system, and of taxation and merits criteria in particular. However, I believe the Reform Programme in its entirety can ensure greater access to justice while allowing us to live within our means in a system that is sustainable. Through this consultation, you have an opportunity to help shape that system and we would very much welcome your views.

Naomi Long MLA

Minister of Justice

Department of Justice, Northern Ireland

2. Executive Summary

2.1 The Department of Justice has reviewed the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015. This review was based on the findings of the Foundational review of Civil Legal Services, and on the recent engagement exercise on finding a faster, fairer approach to means testing for legal aid.

2.2 Following its review, the Department proposes:

- (a) to retain benefits passporting, and to exempt recipients of passport benefits from both the income and capital parts of the means test;
- (b) to add asylum support to the list of passport benefits;
- (c) to set new harmonised income thresholds to apply to all categories of civil legal services applications, aligned to income thresholds used to assess eligibility for Universal Credit;
- (d) to add a new allowable deduction from income for a spouse and to cover priority debt;
- (e) to introduce an annual review of entitlement;
- (f) to set new harmonised capital thresholds to apply to all categories of civil legal services applications, aligned to capital thresholds used to assess eligibility for Universal Credit;
- (g) to add new allowable deductions from capital to cover those in receipt of payments from historic compensation schemes;
- (h) to remove means testing for applications for representation in Parole or High Court Bail proceedings; and,
- (i) to make provision for a new form of legal aid certificate for victims of domestic abuse.

Have Your Say

2.3 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.

2.4 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;'

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

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

3.6 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 in the higher courts.

3.7 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](#);

3.8 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](#). For representation in the lower courts, the solicitor will act as the assessing authority (assessing means and collecting contributions).

3.9 Article 11(2) of the [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.'

3.10 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.

3.11 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. Proposed Reforms

Benefit passporting

4.1 The regulations which govern entitlement to legal aid contain a list of benefits, receipt of which is accepted as evidence of financial eligibility for public legal assistance. Legal aid is not unique in this respect. This model, known as passporting, is used across a range of public services to provide access to services for those in receipt of certain specified benefits at no cost or at discounted rates.

4.2 The Department has engaged extensively on the passporting system including through the Foundational Review of Legal Aid and more recently in a structured engagement exercise undertaken earlier this year and, as regards access to legal aid, the passporting model was assessed as generally working well. It is therefore proposed that it be retained, broadly in its current form.

4.3 Two modifications are however proposed.

4.4 Firstly, to passport recipients of relevant benefits through both the capital and income tests rather than only the income test as at present. Currently only very small numbers of people in this category are ineligible due to capital, and the operation of the capital test in these circumstances may consequently be a source of avoidable delay because it is essentially seeking to identify a category of ineligible applicant that doesn't exist to any great extent.

4.5 Secondly, it is proposed to add asylum support to the list of passport benefits. Evidence indicates people in receipt of asylum support do not, generally speaking, have any significant income or capital, and often have particular difficulty in sourcing the documentary evidence required to comply with a financial eligibility test.

4.6 The Department believes easing the administrative burden through these reforms will aid efficiency and ensure quicker access to legal aid for those who need it.

Income thresholds

4.7 The current income thresholds for eligibility for legal aid differ depending on the type of assistance being sought, with higher income thresholds applying to representation relative to that which applies to advice and assistance, and higher again thresholds applying to representation in the higher courts relative to representation in other courts. In reality, this creates an anomalous situation where a person may be ineligible for the advice and assistance which might be used to consider and to take steps that avert litigation to the betterment of outcomes and potentially lower costs, but eligible for representation to engage in litigation that might otherwise have been avoided.

For this reason, it is proposed that income and capital thresholds be harmonised across advice, assistance and all forms of representation. The Department believes this change will help ensure resources are used to best effect and reduce the administrative burden in the interests of expediency and earlier assessment of applications.

4.8 In addition, income thresholds have not been adjusted for some time and so their value has consequently been eroded. This can lead to a scenario where someone is ineligible for income-related benefits but have income equal to or below that of a person on an income-related benefit and yet are ineligible for the legal aid those on similar incomes are entitled to. The Department is alert to the inherent unfairness that creates and, to ensure parity and equality of access, it is therefore proposed to increase income thresholds for legal aid eligibility to ensure they broadly align with those for income-based Universal Credit. That is: a new lower threshold for net income of £5,099, and retaining the upper threshold of £9,937 (as compared to the current levels of £3,355 and £9,937 for representation (higher)). The Department believes this change will help ensure resources are targeted where there are needed most.

Application process

4.9 The process of applying for legal aid through the means test has been a consistent theme of engagement to inform proposals with evidence suggesting the process is in itself a barrier to access to justice for some applicants. Indeed, some respondents suggested evidential requirements result in applicants or their representatives abandoning applications or deciding not to pursue applications for legal aid in circumstances where they may in fact be eligible for support.

4.10 For this reason, a new, simplified application process is proposed, by virtue of which a P60, recent payslips or, in the case of a self-employed person, their most recent accounts, and supported by a declaration by the applicant that the evidence remains reflective of their income will be sufficient to establish eligibility for legal aid in the first instance.

4.11 It is proposed the change in evidential requirements be supported by an obligation on the applicant to report material changes in circumstances, a yearly review of finances and the use of information from HMRC, DfC and other systems by the LSANI to confirm continuing eligibility.

Deductions from income

Spouse

4.12 Eligibility for Legal Aid is based on the income of the entire household. In the course of engagement, a number of stakeholders highlighted the need to take account

of the financial impact of an additional person in the household where the applicant has a partner, especially as the earnings and income of a partner are considered for the purposes of determining eligibility. It is therefore proposed to introduce a spousal deduction to reflect the increased outgoings of a couple over those of a single person, thereby reducing the combined income of the household for the purposes of calculating net income. It is proposed this deduction replicate the difference between the single allowance for Universal Credit over 25 and that of a couple over 25, that is £2,905 per year.

Priority Debts

4.13 The Department also proposes to make changes in the treatment of priority debt in deductions from income for the purpose of determining eligibility for legal aid. While regulations currently make provision for a range of deductions from income in the calculation of 'disposable income', concerns were raised during the course of engagement that no provision is made to disregard payments required to service priority debts. The Department acknowledges that such payments are non-discretionary and failure to discharge them is likely to have severe consequences for them and for their family. It is therefore proposed that such payments should be added as permitted deductions from income for the purposes of determining legal aid financial eligibility. In particular, it is proposed to permit deductions in respect of:

- (a) Court ordered payments
- (b) Fines
- (c) Rates arrears
- (d) TV Licence arrears
- (e) Child Maintenance arrears
- (f) Gas and Electricity arrears
- (g) Income Tax, National Insurance and VAT arrears
- (h) Mortgage interest arrears,
- (i) Rent arrears
- (j) Loans secured against the applicant's primary residence
- (k) Payments in relation to Individual Voluntary arrangements (IVAs) or other structured debt repayment schemes

4.15 The Department believes that, collectively, the proposed changes to allowed

deductions will aid fairness in the allocation of public legal funds and ensure access to support is provided to those most in need.

Change of Circumstances

4.14 There is already a requirement for changes in the level of income of legally aided parties to be reported to the LSANI. During the course of engagement, stakeholders suggested increasing the level of change that needs to be reported to £1,000 in order to ensure balance between ensuring support and operational efficiency. In the interests of that balance, it is proposed that the reporting requirement is adjusted as suggested.

4.15 Respondents to the previous engagement exercises also supported a need to continually reassess entitlement to ensure ongoing qualification and the correct payment of contributions if applicable. An annual review is therefore proposed that will enable legal aid recipients to confirm either whether or not there has been a change to their income. As above, it is expected that LSANI would verify such changes through real time information systems and new information sharing protocols proposed with other Departments. Statutory provisions in the Civil Legal Services (General) Regulations relating to the suspension, discharge and/or revocation of certificates would apply where reporting obligations have not been complied with.

Capital Thresholds

4.16 As with income thresholds, there are variances in the capital thresholds that apply to eligibility for the different levels of civil legal services, and their value has been eroded over time and, in line with the proposed amendments to income thresholds set out above, it is proposed to introduce new, harmonised capital thresholds. The new capital thresholds on which we are seeking views are broadly in line with those used to determine eligibility for means-tested Universal Credit, that is: new lower and upper thresholds for of £8,000 and £16,000 respectively. This is a considerable change which the Department believes will significantly enhance access to justice.

Capital Disregards

4.17 A “maintenance” disregard is currently allowable for a small reduction in the disposable capital of a household. However, if the above proposal to increase the capital thresholds is given effect, the Department proposes to also remove these deductions in the interest of simplicity and aiding the pace of assessment for legal aid.

4.18 In recent years, a range of compensation schemes have been established by the UK Government and the Northern Ireland Executive to provide redress to victims of historic injustices, including the infected blood payment scheme, the HIA redress scheme and others. In the interests of fairness and ensuring compensation is used for

its intended purpose, it is proposed to introduce a new general disregard for capital derived from any of these schemes. It is proposed the disregard be supported by guidance and / or directions as necessary to specify the particular schemes eligible for the exemption.

Exemptions from the Means Test

4.19 Regulations currently detail categories of civil legal services which are exempt from means testing. The exemptions generally apply in circumstances where legal proceedings involve potentially drastic intervention by the state affecting a person's liberty or rights, for example in public family law proceedings, or circumstances in which a particularly vulnerable individual is involved, such as victims of domestic violence and abuse.

4.20 Having considered responses to engagement to date, for which the Department is grateful, it is proposed to expand those exemptions as follows.

4.21 Firstly, applications by a victim of domestic abuse will be exempt from means testing where they are applying for:

- (a) Advice and assistance for a person in relation to their status as a complainant and/or a witness in criminal proceedings about their abuse;
- (b) Advice and assistance for a person in relation to their status as a separating partner and, as applicable, a separating parent;
- (c) Representation to seek a protective order or protective orders as necessary to protect themselves and their family;
- (d) Representation to seek or to respond to an application for a divorce, or a dissolution of a civil partnership, including proceedings concerning ancillary relief; and/or
- (e) Representation for parents, or those with parental responsibility, to apply for, or to defend, an application for an order relating to contact and residence of children.

4.22 These changes are intended to ensure that a victim of domestic abuse has access to the full range of legal services that they need to secure the safety of themselves and their families without regard to means. In the interests of expediency and to reduce the administrative burden on applicants and the system, it is proposed multiple forms of support may be accessed through a single application. Changes will be effected by guidance and directions.

4.23 Secondly, as they involve issues relating directly to the liberty of individuals, it

is proposed applications for representation in Parole and High Court bail proceedings will not be subject to a means test.

5. Template for responses

Views and submissions of evidence are requested in respect of each of the proposed reforms above. Views may be submitted in respect of any or all of the proposals using the template below.

Proposal 1: To retain benefits passporting, and to exempt recipients of passport benefits from both the income and capital parts of the means test
Proposal 2: To add asylum support to the list of passport benefits
Proposal 3: To set new harmonised income thresholds to apply to all categories of civil legal services applications, aligned to income thresholds used to assess eligibility for Universal Credit
Proposal 4: To add a new allowable deduction from income for a spouse and to cover priority debt
Proposal 5: To introduce an annual review of entitlement
Proposal 6: To set new harmonised capital thresholds to apply to all categories of civil legal services applications, aligned to capital thresholds used to assess eligibility for Universal Credit

Proposal 7: To add new allowable deductions from capital to cover those in receipt of payments from historic compensation schemes
Proposal 8: To remove means testing for applications for representation in Parole or High Court Bail proceedings
Proposal 9: To make provision for a new form of legal aid certificate for victims of domestic abuse

6. Have Your Say

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.

7. Responding to this Consultation

Public Consultation on Reform Policy – Duration and Closing Date

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.

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	

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

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).

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.

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

Rural Needs

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.

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/enabling-access-to-justice-reform-programme-public	
Department of Justice Website	Consultations Department of Justice	

Alternative formats

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.

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