

LSANI Policy on Fees Adjustment and Recoupment of Overpayment

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Department of
Justice

An Roinn Díl agus Cirt

Mánnystrie O tha Laa

Document revision history		
Date	Version	Reason
September 2020	1.0	Creation of policy
October 2024	2.0	Addition of practitioner error recoupment
February 2026	3.0	Update to appeals process
October 2026	4.0	Update to requirements to evidence Travel & Mileage claims, including recoupment policy

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Part 1

Purpose

- 1.1. This paper sets out the Legal Services Agency Northern Ireland's (LSANI) policy and administrative arrangements for fees adjustments and the repayment of under and recoupment of over payments of fees and expenses made to suppliers/businesses (the "Practitioners").
- 1.2. The Agency launched the Practitioner File Review scheme in January 2023 to establish a baseline measurement of practitioner fraud and error. The original policy (dated September 2020) related to the treatment of LSANI official error only and therefore this revised document seeks to incorporate processes for both official and practitioner and supersedes the previous version.
- 1.3. We have further revised this policy (last updated February 2026) to clearly set out the requirements for evidencing Travel and Mileage (T&M) claims and the associated recoupment policy. Details can be found at [Section 4.3](#) and [Section 6.9](#).

Part 2

Background

- 2.1 The Comptroller and Auditor General (C&AG) has qualified the financial statements of LSANI for several years in respect of fraud and error. The C&AG qualified the 2025-26 financial statements of LSA in respect of:
 - LSA statistics estimating that official error resulted in £0.6m of overpayments and £1.3m of underpayments (£2.0m* in total). In addition, legal practitioner fraud and error resulted in an estimated £4.4m of overpayments and £0.6m of underpayments (£5.0m in total).
 - limitations in the scope on the regularity of legal aid payments in the period as a result of the Agency being unable to provide sufficient appropriate

evidence to satisfy NIAO that material fraud and error by legal aid applicants did not exist within legal aid expenditure.

*amounts do not total due to rounding

- 2.2 LSANI has continued a significant work programme to address the qualification and has worked in collaboration with the Standards Assurance Unit (SAU) within the Department for Communities (DfC) to design and implement methodologies for measuring fraud and error within the Northern Ireland legal aid system. The approach is similar to that used by DfC to measure fraud and error within the wider benefits system in Northern Ireland.
- 2.3 From 2019 SAU, through a strategic relationship with the LSANI, have completed several years of substantive assessment of the level of official error. The level of official error is lower than it has been over the last number of years. In January 2023, SAU commenced independent measurement of practitioner fraud and error to allow a baseline to be established for the 2023 year. From the calendar year 2023, the official and practitioner review has been based on a common sample of cases selected to enable the case to be reviewed from an official and practitioner perspective.
- 2.4 2022/23 saw the introduction of work on Future Overpayments Prevention, a programme of work to review existing legal aid cases to ensure that applicants continued to be financially eligible. This has produced estimated savings of £407k for the previous four reporting years since the scheme started. Applicant fraud and error results are reported on separately and do not form part of this policy.

Part 3

Principles

- 3.1 An overpayment arises when money is paid in excess of what is due in the appropriate fees or expenses payment and is therefore recoverable in principle.
- 3.2 A practitioner must immediately report circumstances where they are aware that they may have been overpaid by the LSANI. All monies owed by a practitioner on foot of being overpaid for whatever reason must be repaid to the Agency as soon as possible.
- 3.3 In general, where the practitioner has received an overpayment but is also owed other monies, these monies will automatically be offset against the amount overpaid. Where an overpayment cannot be recovered through monies owed, the practitioner will be expected to facilitate other arrangements to make good the overpayment.
- 3.4 In circumstances where an underpayment to the practitioner has occurred, LSANI will notify the practitioner of the underpayment and invite (if practitioner error) or automatically process (if official error) an additional fee line claim within set timeframes. See details at [Section 5](#).
- 3.5 For both over and underpayments, the LSANI is under an obligation to seek to recover the amount of the overpayment or repay the amount of the underpayment and correct any mistakes in the disbursement of public monies, subject to relevant procedures and practices in government accounting.
- 3.6 There may be occasions that the Agency determine that recoupment is not an appropriate course of action. When this is the case, LSANI will document the rationale, and senior management will approve that no further action is required. Examples may include travel and mileage claims where the Agency has verified attendance at court and the reasonableness of the mileage claimed.
- 3.7 There may be instances where the cost of processing an under/over payment exceeds the value due to the practitioner or owed to LSANI. The threshold for such payments is set at +/- £10.

Part 4

Internal Controls

Official checks

- 4.1 All payment requests are potentially subject to an internal quality assurance check, which is conducted, prior to the payment authorisation stage. In the event that the claimed value is to be varied, the payment will be made for the assessed amount and a note added on the Legal Aid Management System (LAMS) of the adjustment so the practitioner can see why the adjustment was made. This note will also appear on the LAMS Financial Report.

Practitioner checks

- 4.2 Once practitioner payments are authorised by LSANI but before they are processed through the Account NI interface, they may be selected as part of the common sample for SAU review. When this is the case, the payment is held until LSANI receives the practitioner's file, either electronically or in hard copy, to include evidence to substantiate payment. Once the file is received, payment is released to the practitioner, and the file is submitted onwards to SAU for review. If the practitioner does not submit the required evidence/ file, the payment is not released and after a certain timeframe the Bar Library or Law Society are notified of non-compliance.

Travel and Mileage Evidence

- 4.3 The Agency continues to recommend that practitioners retain contemporaneous Travel and Mileage (T&M) records, including journey dates, start and finish location and times and mileage travelled.

Part 5

Underpayments

Underpayments over £10

Any underpayments with a value of £10 or less will not be processed.

Official Error

5.1 Where the SAU assessment or any other process identifies an official error (i.e. LSANI error), which has resulted in an underpayment to the practitioner, the Agency will process the additional fee or expense item required to correct the payment without further involvement from the practitioner. Any adjustments made will be displayed on the Account NI remittance and the payment history for the case. In addition, adjustment transactions are included when a report is produced by practitioners using the new LAMS Financial Report functionality.

Practitioner Error

5.2 Where SAU identifies a practitioner underpayment error e.g. SAU has identified items on the file which have not been claimed for by the practitioner, the Agency will advise the practitioner by letter uploaded onto LAMS inviting the practitioner to submit an additional fee line for payment which will be processed in line with normal payment procedures, timelines and policies such as the [LSANI policy on submission of payment requests within statutory time limits](#). The following details will be included in the letter:

- the case in which the underpayment has occurred
- the reason for the underpayment
- the period to which the underpayment relates
- the procedure for claiming the amount of underpayment
- the timeframe by which to submit an additional fee line application

5.3 Functionality has been added to LAMS from 18 December 2025 to allow practitioners to select a new additional fee drop-down option: "Additional Fee -

Practitioner Underpayment". Using this option will alert the Agency's payment assessor that the payment request has already undergone the required checks through the Practitioner File Review. The additional fees will have been identified as underpayments during SAU's review and require the practitioner to submit additional fee lines in order to be paid.

- 5.4 Only relevant fee lines as stated in the letter may be submitted for consideration. Practitioners must submit each item individually on separate lines, similar to a normal claim.
- 5.5 Please note that any claim will be subject to the normal LSANI assessment processes, which will determine whether any additional fees are payable. Any additional fees payable may be subject to LSANI's Late Fee Policy, depending on the time elapsed since the original claim was submitted.

Part 6

Overpayments

Overpayments over £10

Any overpayments with a value of £10 or less will not be processed.

Official Error Only (value >£10 and <£1,000)

- 6.1 Where the SAU assessment process or any other quality review process identifies an error which has resulted in an overpayment where the value is more than £10 but less than £1,000, the Agency will recoup the overpayment from a future payment, usually during the next quarterly fees adjustment exercise. If there are no further practitioner bills a debt will be raised. If there is both official and practitioner error in a case, the Agency will deal with the practitioner error in the manner set out in paragraphs 6.8–6.15.

Official Error only (value >£1,000)

- 6.2 Where the SAU assessment process or any other process identifies an error

which has resulted in an overpayment where the value is more than £1000, the Agency will notify the practitioner in advance of any recoupment action, so the practitioner can make appropriate commercial contingency arrangements, giving 21 days to raise an objection or agree a repayment plan, by the appropriate authority within the firm. If the practitioner is content with the overpayment, this should be confirmed by them via a message on LAMS.

Official Error Review and Appeal process

- 6.3 **Eligibility:** Where a practitioner or business is dissatisfied with the calculation of remuneration payable or deductible due to an identified official error, they may request a Review.
- 6.4 **Submission Requirements:** The Review request must be submitted by the practitioner via LAMS within 21 days of receiving notification of the payment adjustment or overpayment. The request follows the standard established approach for practitioners submitting review requests. Practitioners should indicate that the request is respect of an Official Error determination and set out their grounds for objection within the body of the review request.
- 6.5 **Review procedure:** The Review will be conducted by a Team Leader, who will consider the practitioner's grounds and determine whether to:
- Confirm the original assessment
- Or**
- Adjust the amount previously determined (increase or decrease), including any resulting overpayment or underpayment
- 6.6 **Escalation process:** If the reviewer reaffirms the official error and the practitioner remains dissatisfied, then the case will be considered by an internal panel. Should the practitioner/business remain dissatisfied following consideration by the internal panel they can submit an appeal to the Taxing Master, where appropriate to do so.
- 6.7 If no objection is raised or a repayment plan is not sought, the overpayment will be recouped from a future payment, usually during the next quarterly fees adjustment exercise or if there are no further practitioner bills a debt will be

raised.

Practitioner Error Review and Appeal process

- 6.8 Where the SAU assessment process identifies an error which has resulted in an overpayment to the practitioner, the Agency will, upon discovery of the overpayment, invite the practitioner to provide evidence that the work claimed for and paid has been undertaken. Where further robust evidence is supplied, it will be submitted to SAU for review. If SAU is satisfied that the additional evidence removes the error identified, no recoupment action will be taken. If, following review, the evidence provided does not remove the error identified by SAU, the Agency may seek recoupment of the overpayment. However, the Agency may determine that recoupment is not appropriate where the work undertaken can be substantiated by evidence provided by the practitioner, independently verified by the Agency, or otherwise established to the Agency's satisfaction. The Agency will notify the practitioner via a message on LAMS of the outcome of the review of any additional evidence provided.
- 6.9 **Travel and Mileage Claims:** The Agency recognizes that T&M claims are ancillary to attendance at court or other authorized proceedings. Where a practitioner's attendance at court has been independently verified and a Payment Assessor has determined that the journey claimed was reasonable in terms of mileage and travel time, the Agency will not seek recoupment solely on the basis that contemporaneous travel records, logs or other supporting evidence are unavailable. In such circumstances, any failure to retain or produce recommended T&M records may be highlighted to the practitioner as a matter of good practice but will not of itself give rise to recoupment action.
- 6.10 **Failure to provide evidence:** Save for those matters the scenario set out at paragraph 6.9 above, if acceptable evidence is not supplied to substantiate the payment, the Agency will proceed with recovery of the identified amount. The overpayment will then be:
- (i) Recouped from a future payment, usually during the next quarterly fees adjustment exercise.

or

- (ii) If there are no further practitioner bills, a debt will be raised.

6.11 **Review Request:** Where a practitioner or business is dissatisfied with the decision to recoup, they may apply to the Agency for a review by submitting a request for 'Practitioner Error Challenge' on LAMS. The Review Request must:

- (i) Be submitted within 21 days of receiving notification of the Agency's intention to recoup.

and

- (ii) Clearly state the grounds for objection.

6.12 **Review procedure:** If there is an issue to be addressed, management will follow the SAU arbitration process and ask SAU to re-consider their conclusions based on the additional information provided. The Agency may also commission independent legal advice from counsel on a case-by-case basis. If no objection is raised within the specified timeframe, the overpayment will be recouped from a future payment, usually during the next quarterly fees adjustment exercise or, where no further bills exist, a debt will be raised.

6.13 The following details will be included in correspondence:

- the case in which the overpayment has occurred
- the value of the overpayment i.e. the amount owed to the Agency, which will be the gross amount inclusive of VAT and the basis of the calculation of the overpayment amount
- the reason for the overpayment
- the period to which the overpayment relates
- the procedure for querying the amount of the overpayment
- timeframe to respond

6.14 Practitioner over and underpayments resulting from practitioner error will be processed separately as any practitioner underpayment will require the practitioner to submit an additional fee so cannot be netted off.

- 6.15 Where a case has both official and practitioner errors these will be treated separately but will be processed simultaneously to ensure transparency and that each error type can be easily reconciled.

Part 7

Repayment plans

- 7.1 If a repayment plan is agreed to, it will be devised to facilitate either (a) a negotiated repayment (minimum of 8%) of fees payable per month, or (b) recoupment of the money owed within a 12-month time frame, whichever achieves the repayment of the monies owed in the shortest timeframe. Monthly monitoring of firms account balances will be conducted to ensure recoupments are being achieved.
- 7.2 There may be circumstances where a repayment plan may not be appropriate given the particular circumstances of a business. Where a business considers that they cannot make a minimum repayment at a rate of 8% or more of payments due or cannot repay the overpayment within 12 months (in circumstances where that is the repayment plan proposed) on the grounds that such a repayment plan would cause them undue hardship, they can apply in writing to the Chief Executive setting out the business/ practitioner's financial position and reasons why the repayment plan cannot be met.
- 7.3 The decision to grant a request for a hardship arrangement will be based on the information supplied by the business. The Chief Executive has the discretion to determine:
- (a) whether hardship arrangements should be applied and thereby apply an amended repayment plan or other recovery arrangement.
 - (b) if hardship arrangements are applied, the level of the repayment plan or other recovery arrangement that should be applied.

The primary focus of the Chief Executive will be on the financial hardship that may arise as a result of the application of the recoupment or repayment plan.

However, there may be other circumstances related to the overpayment that may be relevant to the decision-making process. Any rate of repayment that is lower than 8% of payments due per month must be agreed by the Chief Executive and confirmed to the practitioner in writing within 14 days of the hardship application being made.

- 7.4 Any hardship arrangement put in place may be subject to review after six months, and every six months thereafter should they be in place for longer than a year.

Part 8

Sole traders/ non-standard arrangements

- 8.1 Where a practitioner who is a sole trader is due to cease trading or transfer to another firm, they are required to inform the Agency, and a higher rate of deduction will be applied to completely discharge the overpayment in advance of the business closing, if possible. Should any higher rate of deduction prior to leaving employment not be sufficient to fully discharge the overpayment, the business will be notified of the amount outstanding, and this amount will be recouped from any monies due, or the business will be required to make payment in full.
- 8.2 Where there is no opportunity to recoup the full amount from the business, using any of the above arrangements prior to the business ceasing to trade, as a last resort, appropriate legal proceedings may be initiated by the Agency for the recovery of both the overpayment and the consequential costs of the proceedings.

LSANI

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fairness, justice and safety

