Department of Justice | An Roinn Dlí agus Cirt | Männystrie o tha Laa

DOJ

LEGAL AID IMPACT ASSESSMENT (LAIA)

Revised: October 2021

TRIM reference: 21/187526

Contents

Introduction

Guidance Note

Screening Exercise

Full Legal Aid Impact Assessment (LAIA)

Introduction

A legal aid impact assessment must be completed where a proposed policy might increase expenditure from the legal aid fund. Such impacts are likely if your policy will create: -

- a new criminal offence
- a new procedure before a court, tribunal or right of appeal
- an increase in people seeking legal assistance or issuing or defending court proceedings
- any change of policy or practice which may lead people to consult a solicitor.

It should be noted that legal aid is not just about funding cases in court. Legal advice and assistance can be available to inform people of their rights and obligations and entitlement, where a question of Northern Ireland Law is concerned. For example, to explain how new legislation impacts on them individually or to advise on the entitlement to state benefits or access to public services.

In considering the development of a policy proposal, especially one involving the introduction of new criminal offences or sanctions or civil rights or responsibilities, the appropriate Criminal or Civil Legal Aid Team in Enabling Access to Justice Division (EAJD) should be contacted. EAJD will be able to provide assistance to any queries relating to legal aid and should be the initial contact point for queries including those relating to data requests for Legal Services Agency (LSA).

It will always be necessary to discuss and agree the consequences of the policy proposal, including the resource implications of the new proposal for the workload of the courts and legal aid. Central to these considerations will be the completion of a legal aid impact assessment where applicable. This is not a difficult process but it is very important that it is carried out to ensure that there are no subsequent problems with securing policy approval for your proposal. To assist in completing a LAIA all relevant stakeholders, for example NICTS, should be consulted at an early stage of the project.

Although there are a large number of impact assessments, not all will be required to be undertaken on all policies. Screening helps to determine where a full impact assessment may be required and where no further action is necessary.

The first stage should be to complete the screening exercise to decide if a full legal aid impact assessment is required.

You will need to have the following information available:

- A broad outline of the proposal;
- What it is intended to achieve, in what timescale;
- What commitments have been given and to whom;
- Whether these are new or revised proposals;
- Estimate of Costs; and
- Implementing, monitoring and review of policy.

Guidance Note

This section is aimed at giving policy teams a summary of what is required at the different stages of assessment. It includes definitions and should be used to support completion of the necessary templates.

Any queries in relation to this document and its completion should be directed to the Enabling Access to Justice Division (EAJD) on the below contact details:

LAIA Queries	* Email: - 'DoJ EAJD Legal Aid Impact Assessments'

**** Completed forms should also be forwarded to this email address.***

What is Criminal Legal Aid? (and Criminal Defence Services)

Criminal Legal Aid and Criminal Defense Services provides help and assistance to those accused of a criminal offence.

Criminal Legal Aid represents approximately 40% of the total legal aid budget. There are three levels of service:

- advice and assistance on criminal matters general, under the same provisions for civil cases
- free advice and assistance for anyone being interviewed at a police station in connection with a suspected offence (PACE advice)
- free legal aid in terms of legal representation in court proceedings

To qualify for legal aid in respect of court proceedings, the court must satisfy itself on two matters

- that the means of the accused are insufficient to enable him to obtain legal aid
- it is desirable in the interests of justice that the accused, or a person brought before it to be dealt with, should have free legal aid

In satisfying itself, the court may consider, among other matters:

- where the offence is serious enough that on conviction a custodial sentence is possible
- there is a possibility of loss of livelihood or damage to reputation
- there is a substantial question of law to be argued
- the accused is unable to understand the proceedings (e.g. does not speak English or lacks mental capacity)

What is Civil Legal Services (Civil Legal Aid)?

Civil Legal Aid through Civil Legal Services provides help and assistance in civil and family matters.

Civil Legal Services provides help across a range of areas

- adoption/affiliation
- bail
- bankruptcy
- children and family matters
- divorce/maintenance/other matrimonial
- injunctions
- judicial reviews
- personal injury cases including medical negligence

There are three types of Civil Legal Services:

- Legal advice and assistance which provides initial advice on any aspect of Northern Ireland law;
- Representation Lower (before the lower courts) and
- Representation Higher (before the higher courts).

Qualification is subject to the individual's financial circumstances and is assessed by the 'means test' and there is a different means test for the three types of aid.

To qualify for Representation Lower or Higher there are two tests:

- The first involves financial eligibility, and depending on the applicant's personal circumstance, he/she may receive free help or may have to pay a contribution towards the cost of the case.

Guidance Note

	• The second involves the merits of the case, i.e. a person shall not be given legal aid in connection with any proceedings unless he shows that he has reasonable grounds for taking, defending or being a party thereto.

How do I know if my policy will impact on legal aid?

This document is designed to help you make that decision and key factors of consideration have been included to signpost you.

The main question you need to consider is does the policy create a new criminal offence or an enforceable right? Or does it change any existing offences and powers?

In completing this template, the end to end process should be considered for all parties involved.

The 'Introduction' section provides more detail on what legal aid incorporates.

Building legal aid in to the project timeline.

It is vital that policy projects with a legal aid impact factor in to their project timelines the time needed for any required legislative changes and for operationalisation (including IT changes) by the LSA.

EAJD recommends this impact screening and/or assessment is completed at an early stage of the project to allow business areas to develop project timelines accordingly.

Early communication from project teams is welcomed and encouraged by EAJD to discuss legal aid impacts of project, assist with any queries and assist in completing templates. EAJD can be contacted via the 'EAJD Legal Aid Impact Assessments' mailbox or by telephone (extensions are available on the DOJ intranet page under 'Business areas' - 'Justice Delivery Directorate').

Failure to forecast this element of work into timescales could cause major issues in the later stages of the project and has potential to cause considerable delay in implementation.

Stage 1 - Screening Exercise

The screening exercise should be completed in regard to **all** policies being introduced by any NICS Department. It provides an opportunity to determine whether or not your policy is likely to have an impact on current legal aid provisions.

If, after completion, it has been decided a full legal aid impact assessment (LAIA) is not required, the completed screening document should be retained for reference and to show consideration was given to the potential impacts on legal aid. It should be revisited in the event any significant or relevant changes are made to the policy.

Guidance Note

Stage 2 - Full Impact Assessment

If, following the completion of the screening exercise, it has been deemed necessary to conduct a full LAIA, the approved template should be used to structure the information. It is recommended to start work on this at an early stage and maintain it as a live document which should be amended as necessary as your project progresses.

Whilst it is the responsibility of the relevant policy area to complete the LAIA, EAJD will work alongside policy teams to identify gaps, develop the assessment and provide guidance.

Section 1 – General

(1.a) Policy Summary

This section gives an opportunity for the policy details to be outlined. It should give an overview of the overall policy being introduced including what legislation is to be amended or title of any new legislation. Key questions have been included however policy teams should include all information they feel is necessary to give an accurate background to their project.

(1.b) Identify and assess the level of impact on legal aid expenditure

This section is designed to get a snapshot of the impact without going into great detail. It looks at the who, what, where and when.

This section can also be used as a source of reference to help pull together the detail in the latter sections of the template.

Section 2 – Impact on **CRIMINAL** Legal Aid

In this section, more detail should be given on the level of impact the policy will have on criminal legal aid. Whilst key questions have been included as a guide, policy teams are encouraged to include all information they feel is relevant.

Consideration should be given to the entire end to end process and its impact in regards to all aspects of legal aid including resources, monetary impact, legal aid caseload and timings of any changes.

Data should be included in this section to support proposals and show how decisions have been made.

Section 3 – Impact on **CIVIL** Legal Aid

Guidance Note

In this section more detail should be given on the impact on civil legal aid. Consideration should be given to the entire end to end process and its impact in regards to all aspects of legal aid including resources, monetary impact, legal aid caseload and timing of any changes.

If these are new proceedings it will have to be considered if they are within scope of legal aid[1] and if they are not, legislative provision will need to be made by way of affirmative resolution regulations to add them to the list. If there is no fee for these proceedings type a fee, or interim fee will have to be established for payment which might consist of hourly rates or a composite fee and may require legislative provision by way of negative resolution regulations.

Section 4 – Business Case

It is the responsibility of the policy team to complete a Business Case, which should include legal aid costings. Any legal aid costings associated with the project must be covered by the policy area or Department introducing the change. If the Department does not have the available funding, it must secure the approval of the Department of Finance to fund the costs.

There might be associated IT costs or administrative and training costs to the Legal Services Agency which will be charged to the policy area.

This section refers to costs/savings specifically related to the legal aid aspect of project only.

The economic appraisal for the policy should include a full, proportionate consideration of the legal aid impact, so that costs are included in the cost-benefit or value for money assessment and so that their affordability is established.

Queries with regard to completion of Business case should be directed to the relevant Finance Teams within the policy area's Department.

Section 5 – Review

Review details should be included in this section. As part of the review the legal aid impact should be evaluated against what was originally forecast.

Policy teams may also include any additional detail they feel is relevant. For example, how the evaluation will be carried out i.e. financial reporting, feedback from user groups, KPI evaluation.

Section 6 – Sign Off

The impact assessment can be completed by any grade but they should be directly involved in the project and have a good awareness and understanding of the policy proposals.

The completed impact assessment should be approved by the Senior Responsible Officer (SRO) of the project.

[1] Schedule 2 of the Access to Justice Order 2003 No.435 (N.I. 10) lists the areas of law within scope Representation Lower and Upper

Stage 1 – Screening Exercise

Lead Department	Department of Justice – Northern Ireland Courts & Tribunals Service (NICTS)	
Project Title	Development of policy on the future of Magherafelt Courthouse	
Project Reference ***(DAP if applies)***	N/A	
Project Status	Policy Development/Public Consultation	
Project Lead	Claire Jordan	
Division	NICTS, Vision 2030, Estates Branch	
Contact Details	Telephone:	02890 336 056
	Email:	Claire.Jordan@courtsni.gov.uk

Screening Questions	**Response to Screening Questions**			**Full Impact Assessment Required**		**Justification / Key issues and groups to focus on**
	Yes	**No**		**Yes**	**No**	
Does your policy or legislation: • Create a new criminal offence?	☐	☒		☐	☒	Magherafelt Courthouse has been temporarily closed since March 2020. The policy proposal is for the permanent closure of Magherafelt Courthouse, resulting in the permanent reallocation of Magherafelt court business to an alternative courthouse. The policy proposal relates to listing practices, it doesn't create a new criminal offence, new enforceable right, or change any existing offences and powers.
• Introduce new court or tribunal proceedings, or changes to court or tribunal proceedings?	☐	☒				
• Grant new powers?	☐	☒				
• Impose new duties?	☐	☒				
• Grant new rights or entitlements?	☐	☒				
• Change or remove an existing right or entitlement?	☐	☒				
• Impose legal restrictions or requirements on people or organisations?	☐	☒				
• Create a potential need for legal advice or assistance?	☐	☒				

CONCLUSION

Due to the temporary closure, the impact of this policy has been felt since March 2020. A full Legal Aid Impact Assessment is not required in relation the proposed policy on the future of Magherafelt Courthouse.

When is a Full Legal Aid Impact Assessment (LAIA) required? If the answer to any of the above questions is yes, a full legal aid assessment should be undertaken.

OUTCOME	
On the basis of the answer to the screening questions, I recommend that this policy /decision	
☐	**Screened in – necessary to conduct a full LAIA**
☒	**Screened Out – no LAIA necessary (no impacts)**
Legal Aid screening undertaken by:-	
Print name: Claire Jordan	Date: 12/10/26
Signature: Claire Jordan	
Position (including Grade): Estate Strategy Delivery Manager	

Stage 2 – Full Impact Assessment		
Lead Department		
Project Title		
Project Reference *(DAP if applies)*		
Project Status		
Project Lead		
Division		
Contact Details	Telephone:	
	Email:	

SECTION 1 - General

(1.a) Policy Summary

Checklist	***Key questions to consider:***
☐ ☐ ☐ ☐ ☐ ☐ ☐	• *Brief overview of the policy change* • *What are the objectives of the strategy, policy plan or service?* • *Title of proposed new or amending legislation* • *What impact do you anticipate it will have on legal aid?* • *Expected implementation date* • *When are the effects of the policy change expected to be seen / realised?* • *What management information (include dates) is used as a baseline to monitor the impact of the policy?*

SECTION 1 - General		
(1.b) Identify and assess impact on legal aid expenditure		
Impact	***Categories***	***Comments***
WHO will be affected by this Project?	Assisted Person ☐ Legal Profession ☐ Courts ☐	
WHAT type of legal aid (business) will be affected by this Project?	Criminal ☐ Civil ☐ Other ☐	
WHICH Court Tiers will be affected by this Project?	Magistrates ☐ County ☐ Crown ☐ High ☐ Appeal ☐ Family Courts FPC ☐ Family Care Centre ☐ Tribunal * ☐ * Please provide tribunal details	
Is a specific area of legal aid affected?	Legal advice & assistance ☐ Representation at court ☐	
Does the policy impact on a particular business area? **(Please provide full details in the comments field)**	Family law ☐ Civil litigation ☐ Criminal matters ☐ Other ☐	Adult Magistrates Business

SECTION 1 - General

SECTION 2 – Impact on CRIMINAL Legal Aid

(2.a) Outline the level/extent of Impact

N.B. The key questions below should be answered specifically with regards to CRIMINAL legal Aid

Checklist	***Key questions to consider:***
☐	• ***Court tier impacted*** *- if more than one tier affected please detail changes to each separately*
☐	• ***Procedures impacted*** *- existing procedures changing or new processes being introduced, amendment required to court rules*
☐	• ***Anticipated volume of cases / legal aid certificates*** *- % increase / decrease, include actual figures if possible taking into account that there may be a number of legal aid certificates per case*
☐	• ***Timing - the rate at which cases will be progressed through the court(s), come forward for payment / costs recovered*** *- e.g. Initial influx or delayed response, increase/decrease over time in, which costs will be claimed*
☐	• ***The value/costs that may be claimed each year when fully implemented*** *– e.g. % increase / decrease in cost, or estimated total cost per annum*
☐	• ***Will resources be impacted*** *– e.g. will additional staff be required to complete work; will policy implementation reduce staff required*
	• *What fees will be payable to legal representatives providing the services required as a result of this policy?*

SECTION 1 - General

SECTION 3 – Impact on CIVIL Legal Aid

(3.a) Outline the level/extent of Impact

N.B. The key questions below replicate those listed in the previous section but should be answered this time specifically with regards to CIVIL legal Aid

Checklist	***Key questions to consider:***
☐	• ***Court tier impacted*** *- if more than one tier affected please detail changes to each separately*
☐	• ***Procedures impacted*** *- existing procedures changing or new processes being introduced, amendment required to court rules*
☐	• ***Anticipated volume of cases / legal aid certificates*** *- % increase / decrease, include actual figures if possible taking into account that there may be a number of legal aid certificates per case*
☐	• ***Timing - the rate at which cases will be progress through the court(s), come forward for payment*** *- e.g. Initial influx or delayed response, increase/decrease in time over, which costs will be claimed*
☐	• ***The value/costs that may be claimed each year when fully implemented*** *– e.g. % increase / decrease in cost, or estimated total cost per annum*
☐	• ***Will resources be impacted*** *– e.g. will additional staff be required to complete work; will policy implementation reduce staff required*
☐	• *Are there alternative forms of support available to people affected by your policy that might eliminate or reduce the need for access to legal services or which availability of legal services might displace?*
☐	• *Are the legal services that might be required as a result of this policy in scope of legal aid and ought they be?*
☐	• *Are there circumstances in which the normal eligibility rules, particularly financial eligibility rules, for accessing legal aid ought to be set aside in respect of applications for the services required as a result of this policy?*
☐	• *What fees will be payable to legal representatives providing the services required as a result of this policy?*

SECTION 1 - General

SECTION 4 – Business Case	
(4.a) Has a Business case been completed?	**Yes** ☐ **No*** ☐

(4.b) Where business case has been completed, please provide breakdown of forecasted legal aid costs and savings by financial year, showing both gross and net figures:

N.B It is the responsibility of the policy team to complete a Business Case, for approval as required by their Department, which should include legal aid costings. Any legal aid costings associated with the project must be covered by the policy area's budget, or their Department.

This section refers to costs/savings specifically related to legal aid aspect of project only.

Policy teams are reminded the economic appraisal for the policy should include a full, proportionate consideration of the legal aid impact, so that costs are included in the cost-benefit or value for money assessment and so that their affordability is established.

**** If business case has not been completed please provide what stage it is at and anticipated timeframe for completion.***

SECTION 1 - General

SECTION 5 - Review	
Will the implementation of the policy/legislation be reviewed:	**Yes** ☐ **No** ☐
If applicable please detail the anticipated review date:	
Additional Information:	

SECTION 6 – Sign off	
Legal Aid Impact Assessment undertaken by:-	
Print name:	Date:
Signature:	

SECTION 6 – Sign off	
Position (including Grade):	
Legal Aid Impact Assessment approved by:-	
Print name:	Date:
Signature:	
Position (including Grade):	
Completed impact assessment forwarded to the ‘‘DoJ EAJD Legal Aid Impact Assessments’ mailbox ☐	

For completion by EAJD	
Legal Aid Impact Assessment received:-	Date:
Civil implications ☐	Criminal implications ☐

Comments

Key questions to consider:

- *Is any further information and/or supporting evidence required?*
- *Next steps to move forward e.g. discussion with project team*
- *Impact of Project e.g. to be included in relevant statutory review, standalone legislative amendment/Direction, no change required*

For completion by EAJD