

IMPACT ASSESSMENT SCREENING

**Introduction of a Statutory Registration Scheme for
all providers of Publicly Funded Legal Services in
Northern Ireland**

Document Information

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INTRODUCTION

Government is committed to ensuring that sustainable development is central to the agenda right across the Northern Ireland Civil Service. The goal of sustainable development is to enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations. Sustainable development is therefore not just about protecting the environment and using natural resources in a prudent way, it is about ensuring stable social and economic growth for all. It is often defined as being based on three interdependent and mutually supporting pillars:

- i. social (people);
- ii. environmental (planet); and
- iii. economic (prosperity).

2. There is a duty on public authorities to promote sustainable development in a manner that produces positive outcomes in terms of each of the three pillars. The objective of this screening exercise is to identify likely impacts related to the introduction of a Statutory Registration Scheme (the Scheme) for all providers of publicly funded legal services in Northern Ireland and to highlight any areas which need further investigation and, potentially, a full impact assessment.

Background - Legal Aid

3. There are broadly four types of civil legal aid available in Northern Ireland, these are:

- Advice and Assistance: solicitor can provide face to face advice to a client about any point of Northern Ireland law;
- Representation (Lower Courts): this scheme provides legal representation for proceedings heard primarily in the Magistrates Court level;
- Representation (Higher Courts): provides legal representation for cases heard in the County Court, High Court, Court of Appeal and the Supreme Court; and

- Exceptional Legal Aid: provides legal advice and representation for legal matters which usually fall outside the scope of the legal aid scheme.

4. Legal Aid is available (subject to the usual means and merits tests where appropriate) for a wide range of issues. Representation to legally assisted applicants is provided by solicitors and, where appropriate, barristers. Any solicitor or barrister wishing to provide representation in Northern Ireland must be registered with the Law Society of Northern Ireland, or the Bar Council of Northern Ireland, respectively. A number of voluntary and community sector organisations also provide representation under a waiver issued by the Law Society.

Policy Objectives

5. The purpose of the introduction of the Scheme is to put in place arrangements to ensure that those who receive public funding for the delivery of legal services provide the appropriate level and quality of service to their clients and the public purse. The Scheme is not intended to exclude any provider from continuing to undertake publicly funded representation, though it is accepted that some may choose not to register.

6. Expenditure on legal aid represents a significant element of the budget of the Department of Justice (the Department). The Department is responsible for ensuring the propriety of all public funds expended under its remit and as such must be confident that the representation provided to legally aided clients is of a sufficient standard to justify the expenditure. A number of external reports have been critical of the Department's oversight of this expenditure and it is therefore introducing arrangements which will assist the Legal Services Agency Northern Ireland (the Agency) to provide assurance of propriety and regularity in the use of public funds.

7. In developing the proposals the Department undertook a public consultation which ran for 16 weeks closing in October 2014. The Post Consultation Report¹ (the

¹ <https://www.justice-ni.gov.uk/publications/post-consultation-report-statutory-registration-scheme>

Report) setting out the policy intent was published in April 2015. Sixteen responses were received, with substantive responses from twelve organisations.

8. The Report noted the Department's intention to introduce the Scheme in a phased manner. The initial stage, with registration and self-certification of compliance with policies and procedures, was intended to allow for the further development of the Codes of Practice and fee changing methodology. It was envisaged that this initial stage would be free to the legal profession, with formal changing commencing in phase two. Since publishing the Report the Department has continued to develop the Code of Practice, including the Audit and Compliance Framework, and has formalised the fee charging methodology.

9. In the intervening period, the Northern Ireland Audit office (NIAO) has published a further report in to Managing Legal Aid² which was critical of the delay in implementing the Scheme. The Public Accounts Committee (PAC) has also been highly critical of the delay in implementing the Scheme. When Departmental officials appeared before the PAC in June 2016, the Committee Members noted that the enabling legislation for the Scheme (the Access to Justice (Northern Ireland) Order 2003) had been in place for a considerable period of time and stated that the Scheme should be implemented without further delay.

10. The policy developed during the Consultation, and further refined in the intervening period, requires that:

- all firms of solicitors, individual solicitors and barristers, whether in private practice or working in the voluntary sector, operating under a waiver issued by the Law Society, will be required to register with the Department in order to continue to provide publicly funded legal services;
- the requirements for registration will be set out in a Code of Practice (CoP);

² <https://www.niauditoffice.gov.uk/publication/managing-legal-aid>

- compliance with minimum quality standards, as detailed in the Audit & Compliance Frameworks section of the CoP, must be evidenced by self-certification, audit and compliance visits, administrative desktop reviews, customer surveys and complaints reviews;
- the Agency will have the power to impose sanctions or conditions, suspend and exclude providers who fail to meet or maintain requisite standards;
- the Scheme must be fully self-financing in terms of costs incurred in administering the Scheme and ensuring compliance which will be recouped through fees charged to those registering; and
- the data provided at registration may also be used to help the Agency meets its monitoring obligations under section 75 of the Northern Ireland Act 1998.

11. The Scheme will be developed further with a second Phase which will include:

- the development of an education and support programme relevant to legal aid (which will be taken forward by the Agency in collaboration with the Law Society and Bar Council); and
- quality assurance mechanisms will be developed which may include peer reviews in due course.

12. In developing the final options the Department was mindful that, as required by Managing Public Money Northern Ireland³ (MPMNI), the full costs of the Scheme must be recovered and therefore those registering would be required to pay a fee at the point of registration. The methodology for recovering the cost of the Scheme, through fee charging, is detailed in the targeted consultation issued with this

³ <https://www.finance-ni.gov.uk/publications/managing-public-money-ni-chapter-6-and-associated-annexes>

screening document. The methodology developed will allow the Agency to recover all costs directly associated with the administration of the Scheme.

13. The fee has been developed to ensure that legal practitioners who receive minimal income from legal aid representation would not be excluded from registering to continue to undertake legal aid work, nor is the fee at the higher end deemed disproportionate against the level of payments made to those firms, and individuals, receiving larger overall payments from the legal aid budget. The potential impact of the fee on the numbers providing representation is more fully outlined at Annex A.

Approach

14. Following the guidance provided in the TEO Policy Toolkit the proposed Scheme was screened to consider the impact against each of the following factors:

- Social
 - Crime Impact Assessment
 - Community Safety & Victims
 - Equality
 - Health
 - Human Rights
 - Rural
 - Social inclusion
- Economic
 - Economic Appraisal
 - Economic Impact Assessment
 - Regulatory Impact Assessment
 - State Aid Compliance Assessment
- Environmental
 - Environmental
 - Strategic Environmental

SCREENING FOR SOCIAL IMPACTS

1. Crime Impact Assessment

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the policy impact on the costs of or demand for legal goods or services to consumers, or impact on the costs of disposal of legal goods?		✓		✓	
Will the policy involve the introduction, delivery or amendment of a financial measure, i.e. a tax or concession, grant or subsidy?		✓		✓	
Will the policy introduce, remove or amend a legal requirement or regulatory power?		✓		✓	
Will it impact on funding for law or regulatory enforcement activity including demand for legal aid?		✓		✓	
CONCLUSION				✓	Does not impact on Crime. Introduction of Registration Scheme will only affect legal aid providers.

When Is a Full Crime Impact Assessment Required?

If the answer to any of the above questions is yes, consideration should be given to undertaking a Criminal Activity Impact Assessment.

In undertaking the assessment it is only necessary to address the relevant questions highlighted by the screening tool

2. Community Safety & Victims

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the policy / project contribute to community safety or impact on fear of crime?		✓		✓	
Is it likely to have an impact on any specific type of crime?		✓		✓	
Will the policy / project have an impact on victims of crime?		✓		✓	
Is there any evidence to suggest that the policy would have a particular impact on victims of the conflict?		✓		✓	
CONCLUSION				✓	Does not impact on Community Safety. Introduction of Registration Scheme will only affect legal aid providers.

When Is a Full Community Safety & Victims Impact Assessment Required?

If the answer to any of the above questions is yes, consideration should be given to undertaking a Community Safety & Victims Impact Assessment.

Where a potentially significant impact is identified, a Community Safety Impact Assessment should be undertaken.

3. Equality

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Is there any indication or evidence of higher or lower participation or uptake by different groups?		✓		✓	
Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?		✓		✓	
Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them?	✓			✓	The Bar Council response to the initial policy consultation noted a potential impact on members of the Young Bar in relation to the introduction of a Registration Fee. The Department has sought to mitigate the potential impact by setting the registration fee at a proportionate level based on the payments received from legal aid.
Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?		✓		✓	
CONCLUSION				✓	A full EQIA is not required. See separate Equality Impact Screening.

When Is a Full Equality Impact Assessment Required?

If the answer to any of the above is yes, consideration must be given to undertaking a full EQIA. A full EQIA must be undertaken where a significant implication for equality of opportunity is identified.

4. Health

1. Health Determinants

Is the initiative affecting any of the following determinants of health?

LIFESTYLE	Positive Effect	Negative Effect	No Effect
Diet			✓
Physical activity			✓
Safe sex			✓
Substance use: alcohol, tobacco, illegal substances			✓
Other			✓

Explanation: If there is likely to be a positive or negative effect on lifestyle factors, note briefly here what those effects are.

There will be no effect on lifestyle factors.

PHYSICAL ENVIRONMENT	Positive Effect	Negative Effect	No Effect
Air			✓
Built Environment & Land Use			✓
Noise			✓
Water			✓
Other			✓

Explanation: If there is likely to be a positive or negative effect on the physical environment, note briefly here what those effects are.

There will be no effect on the physical environment.

SOCIO-ECONOMIC ENVIRONMENT	Positive Effect	Negative Effect	No Effect
Crime			✓
Education			✓
Employment			✓
Family Cohesion			✓
Housing			✓
Income			✓
Recreation			✓
Social Cohesion			✓
Transport			✓
Other			✓

Explanation: If there is likely to be a positive or negative effect on the socio-economic factors, note briefly here what those effects are.

There will be no effect on socio-economic factors.

2. Health Care

Is the initiative affecting access to health services?

Health care	Positive Effect	Negative Effect	No Effect
Access to Health Services			✓

Explanation: If there is likely to be a positive or negative effect on access, note briefly here what those effects are.

There will be no effect on access to health services.

3. Population Affected

Considering the health impacts identified above, which of the following sections of the population will be affected (Includes Section 75 groups)

POPULATION	Positive Effect	Negative Effect	No Effect
Whole Population			✓
Sub-Populations:			
Children (0-18 years)			✓
Older People			✓
Marital Status			✓
Persons with dependants			✓
Persons without dependants			✓
Political Opinion			✓
Religious Belief			✓
Chronically ill			✓
Economically Disadvantaged People			✓
Gender (specify male/female)			✓
Homeless			✓
Sexual Orientation			✓
People with Disabilities			✓
Racial and Ethnic Minority Groups			✓
Rural Population			✓
Unemployed			✓
Other			✓

Explanation: If there is likely to be a positive or negative effect on the whole or a section of the population, note briefly here what those effects are.

Note: The proposal may have a positive impact on one section of the population and a negative effect on another. Specify where this occurs.

There will be no effect on the population.

4. Recommendation

Considering the health impacts, if any, identified above, are these significant enough to warrant a health impact assessment?

Yes	
No	✓

This decision must be based on a judgement of the strength of the available evidence and its applicability to local conditions and the strength of feeling of stakeholders and key informants.

If No, what are the reasons for not carrying out a HIA.

Note: Possible reasons might include:

- Health impacts not considered significant enough
- Lack of evidence to show health impacts
- Not enough time to influence decisions on the proposal
- Lack of resources to carry out required level of research

There are no health impacts to be considered.

Note:

Further information on HIAs can be obtained from the following web sites:

- (i) the dedicated Institute of Public Health HIA site (www.publichealth.ie/hia)
- (ii) Investing for health (<http://www.investingforhealthni.gov.uk/impact.asp>).

5. Human Rights⁴

Before completing the Human Rights screening exercise, it is necessary for you to have read the TEO guidance on human rights entitled “Get in on the Act; a practical guide to the Human Rights Act for public authorities in Northern Ireland”.⁵

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 could 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.

Human Right	Does the policy engage the right?	
	Yes/No	Explanation
Article 2 Right to life	No	
Article 3 Prohibition of torture, inhuman and degrading treatment	No	
Article 4 Prohibition of slavery and forced labour	No	
Article 5 Right to liberty	No	
Article 6 Right to a fair trial	No	

⁴ See page 63 onward for guidance on considering the impact on human rights, https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/workbook-four-changes-involving-sustainable-development-2.pdf

⁵ https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/practical-guide-to-human-rights-act.pdf

Human Right	Does the policy engage the right?	
	Yes/No	Explanation
Article 7 No punishment without law	No	
Article 8 Right to respect for private and family life	No	
Article 9 Freedom of thought conscience and religion	No	
Article 10 Freedom of expression	No	
Article 11 Freedom of assembly and association	No	
Article 12 Right to marry and found a family	No	
Article 14 Prohibition of discrimination	No	
Protocol 1, Article 1 Right to property	No	
Protocol 1, Article 2 Right to education	No	
Protocol 1, Article 3 Right to free elections	No	

When Is a Human Rights Impact Assessment Required?

If you have answered yes to any of these questions you must complete the Human Rights Impact Assessment.

If you have answered no to all of the questions, a Human Rights Impact Assessment is not required. However, in this case you should complete part 8 of the human rights assessment proforma only which must be signed off by a Senior Responsible Officer (Grade 7, equivalent or above).

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.

6. Rural

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
1. Does the policy apply in rural areas and communities? If NO: set out the reasons why If Yes:	✓			✓	
(a) Does the policy have the potential to have a negative impact on rural areas and communities?		✓		✓	The introduction of the Scheme could see a reduction in the number of solicitors offering legal aid services, although this may impact rural and urban areas equally. The Department has considered the impact. If, for example, 20% of solicitors do not register, there will still be adequate access to other providers. This is outlined more fully at Annex A.
(b) Does the policy have the potential to have a positive impact on rural areas and communities?		✓		✓	As above.
CONCLUSION				✓	Has minimal rural impact. Introduction of the Registration Scheme will still provide for adequate legal aid providers in rural areas.

When Is a Rural Impact Assessment Required?

If the answer to question 1 is yes, consideration should be given to undertaking a rural impact assessment. The following guidance applies:

If the answer to (a) is yes, a rural impact assessment must be undertaken and the checklist completed.

If the answer to (b) is yes, the policy document should include a reference to how and why the impact will be positive.

7. Social Inclusion

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the policy involve the spending of public monies, the allocation of non-financial resources or the delivery of a service?	✓			✓	The costs, approximately £700k per annum, will be recovered from those suppliers registering with the Scheme.
Will the policy impact on socially excluded or vulnerable groups or involve the delivery of a service within or to socially excluded areas?		✓		✓	
Will the policy address or impact on measures to promote employment or employability among the most disadvantaged?		✓		✓	
Will the policy address or impact on other areas of inequality and disadvantage such as health, education and housing?		✓		✓	
CONCLUSION				✓	Does not impact on social inclusion. Introduction of Registration Scheme will only affect legal aid providers.

When Is a Social Inclusion Impact Assessment Required?

If the answer to any of the above is yes, consideration should be given to undertaking a social inclusion impact assessment.

In undertaking the assessment it is only necessary to address the relevant questions highlighted by the screening tool.

SCREENING FOR ECONOMIC IMPACTS

8. Economic Appraisal

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Does the decision/proposal involve the spending or saving of public money?	✓			✓	The costs, approximately £700k per annum, will be recovered from those suppliers registering with the Scheme.
Does the decision or proposal involve changes in the use of public resources?	✓			✓	As above.
CONCLUSION				✓	Overall expenditure on legal aid averaged £105m per annum between 2011/12 and 2015/16. Individual solicitors firms and barristers often undertake a mix of publicly funded representation and private paying clients and therefore the legal aid payments only represent a proportion of the overall income received by lawyers in Northern Ireland. The costs, approximately £700k per annum, will be recovered from those suppliers registering with the Scheme. These costs represent approximately 1% of the net income received by suppliers from legal aid payments and therefore the overall impact on the economy is negligible. A full economic assessment is not required.

When is an economic appraisal required?

If the answer to any of the above is yes, an economic appraisal may be required. However, the level of appraisal should be proportionate to the costs involved. Departmental economists can provide further advice in this regard.

9. Economic Impact Assessment

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the policy impact on the provision of goods or services to consumers, or the uptake of such goods and services to consumers?	✓			✓	There is potential that fewer lawyers will undertake legal aid work following the introduction of the Registration Scheme. The Department has sought to mitigate the potential impact by setting the registration fee at a proportionate level.
Will the policy impact on the region's infrastructure?		✓		✓	
Will the policy impact on investment in research and development or promote innovation and creativity?		✓		✓	
Will the policy impact on or encourage enterprise?		✓		✓	
Will the policy impact on the skills level within the economy?		✓		✓	
Will the policy address negative perceptions of Northern Ireland and /or help promote it as a place to live, work and invest?		✓		✓	
CONCLUSION				✓	There will be minimal impact on the economy. Introduction of Registration Scheme will only affect legal aid providers.

When is an economic impact assessment required?

If the answer to any of the above is yes, consideration should be given to undertaking an economic impact assessment. In undertaking the assessment it is only necessary to address the impacts highlighted by the screening tool.

10. Regulatory Impact Assessment

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Is the policy or amendment to the policy likely to have a direct or indirect impact on businesses?	✓		✓		The Registration Scheme will directly impact the legal profession.
Is the policy or amendment to the policy likely to have a direct or indirect impact on the voluntary / community sector?	✓		✓		The Registration Scheme will directly impact voluntary and community sector organisations operating under a waiver issued by the Law Society.
CONCLUSION			✓		A Regulatory Impact Assessment has been carried out.

When is regulatory impact assessment required?

If the answer to any of the above is yes, consideration should be given to undertaking a Regulatory Impact Assessment. However, the level of appraisal should be proportionate to the costs involved.

A Regulatory Impact Assessment is not required for:

- I. proposals which impose no costs or no savings, or negligible costs or savings on business, charities, social economy enterprises or the voluntary sector;
- II. increases in statutory fees by a predetermined formula such as the rate of inflation; or
- III. Road closure orders.

11. Legal Aid Impact

In considering the development of a policy proposal especially one involving the introduction of new criminal sanctions or civil penalties, the Northern Ireland Courts Service should be consulted at an early stage in the development of the proposal.

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. It should be noted that legal aid, subject to means and merits test, is available for many aspects of the law which are subject to trial in a court in Northern Ireland. Many new proposals brought forward by central government departments will directly impact on legal aid expenditure such as changing the criminal or civil law or improving or affecting in any way the rights of individuals without that impact being readily or immediately apparent.

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the new legislation impact on or have implications for the workload of the courts and legal aid?		✓		✓	
Will the policy proposal involve any entitlement to benefits?		✓		✓	
Will the new legislation or policy proposal impact on people?		✓		✓	
CONCLUSION				✓	There will be no impact on legal aid expenditure. Introduction of Registration Scheme will only affect legal aid providers.

12. State Aid Compliance

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the policy involve undertakings (businesses or any entity ⁶ involved in economic activity)?		✓		✓	
CONCLUSION				✓	Does not impact on State Aid Compliance. Introduction of Registration Scheme will only affect legal aid providers.

When Is an Assessment of State Aid Compliance Required?

If the answer to the above questions is yes, a state aid assessment should be undertaken.

⁶ The entity does not have to be profit-making if the activity carried out is one which has commercial competitors. In some instances, public and voluntary sector organisations, such as universities and charities, could be classified as undertakings, as can the State itself. Private individuals are generally not considered to be undertakings unless e.g. self-employed.

SCREENING FOR ENVIRONMENTAL IMPACTS

13. Assessment of Environmental Impacts

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
Will the project / policy impact on air quality i.e. will it lead to a change in emissions of air pollutants or the numbers of people affected by poor air quality?		✓		✓	
Will the project / policy impact on climate change i.e. will it lead to changes in emissions of greenhouse gas, consumption of fossil fuels or increase the need to travel within the region?		✓		✓	
Will it impact on the landscape or the use of land within the region?		✓		✓	
Will it impact on the use of natural resources within the region?		✓		✓	
Will it impact on bio-diversity within the region?		✓		✓	
Will it involve a proposal that has the potential to impact on levels of noise?		✓		✓	
CONCLUSION				✓	No environmental impacts. Introduction of Registration Scheme will only affect legal aid providers.

When is an Environmental Impact Assessment Required?

If the answer to any of the above is yes, an environmental impact assessment should be undertaken.

14. Strategic Environmental Impact Assessment

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
1. Is the plan / programme likely to have significant environmental effects? If yes:		✓		✓	
a. Is the plan / programme of the type listed in Article 3(2)6 which determine the use of small areas at local level, or which are minor modifications to plans and programmes;		✓		✓	
b. Where the plan / programme is not of the type listed in Article 3(2), does it set the framework for future development consent of projects?		✓		✓	
2. Is the sole purpose of the plan / programme to serve national defence or civil emergency?		✓		✓	
3. Is it a financial or budget plan / programme?		✓		✓	
4. Is it supported by the EU Structural Funds or the European Agricultural Guidance and Guarantee Fund for the programming periods from 2000 to 2006 or 2007?		✓		✓	
CONCLUSION				✓	No strategic environmental impact. Introduction of Registration Scheme will only affect legal aid providers.

When Is a Strategic Environmental Impact Assessment Required?

If the answer to question 1 and parts a or b is yes, then a full SEA is required. However If the answer to any one of questions 2, 3 or 4 is yes, an SEA is not required

OUTCOME OF SCREENING EXERCISE

Impact assessment / appraisal	Full assessment / appraisal required		Reason
	Yes	No	
Social Impacts			
Crime		✓	The policy has no impact
Community Safety & Victims		✓	The policy has no impact
Equality		✓	The policy has no impact
Health		✓	The policy has no impact
Human Rights		✓	The policy has no impact
Rural		✓	The policy has minimal impact
Social Inclusion		✓	The policy has no impact
Economic Impacts			
Economic Appraisal		✓	The policy has minimal impact
Economic Assessment		✓	The policy has minimal impact
Regulatory	✓		The policy introduces new regulations
State Aid		✓	The policy has no impact
Environmental Impacts			
Environmental		✓	The policy has no impact
Strategic Environmental		✓	The policy has no impact
SUSTAINABLE DEVELOPMENT IMPACT		✓	The policy has no impact

Approval and authorisation

Screened by:	Position/Job Title	Date
Mark McGuicken	Project Manager	January 2017

Approved by:

Mark McGuckin	Access to Justice, Deputy Director	February 2017
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Potential Impact on Rural Practitioners of introducing Fee for Registration

As has already been noted throughout this screening document the introduction of the Scheme is not intended to exclude any provider from continuing to undertake publicly funded representation. The underlying purpose of the Scheme is to put in place arrangements to ensure that those who receive public funding for the delivery of legal services provide the appropriate level and quality of service to their clients and the public purse.

Fee Methodology

2. In developing the fee charging methodology the Department considered a range of options to recover the costs of the Scheme. These are detailed more fully in the targeted consultation document, however, a number of the factors and assumptions that were considered in the context of this work are highlighted below.

3. The payment data used in developing the fee was for the totality of payments made to solicitors and barristers undertaking legal aid work in the 2013/14, 2014/15 and 2015/16 financial years. The data has been compiled from the Agency's payment system. The information used to develop the Fee relates to net **profit costs only**; disbursements and VAT have been excluded.

4. All suppliers are placed into a payments band dependent on their level of remuneration from legal aid payments. The bands range from below £10,000, up to £2,000,000 and above, and are reflective of the income received from legal aid payments across the three years considered. It is noted that those providers with a higher profit cost (and therefore in the higher bands) are more likely to continue to provide this service going forward. The Department has however been careful to set the Registration Fee for those in the lower bands at a level which would not be prohibitive for anyone to register.

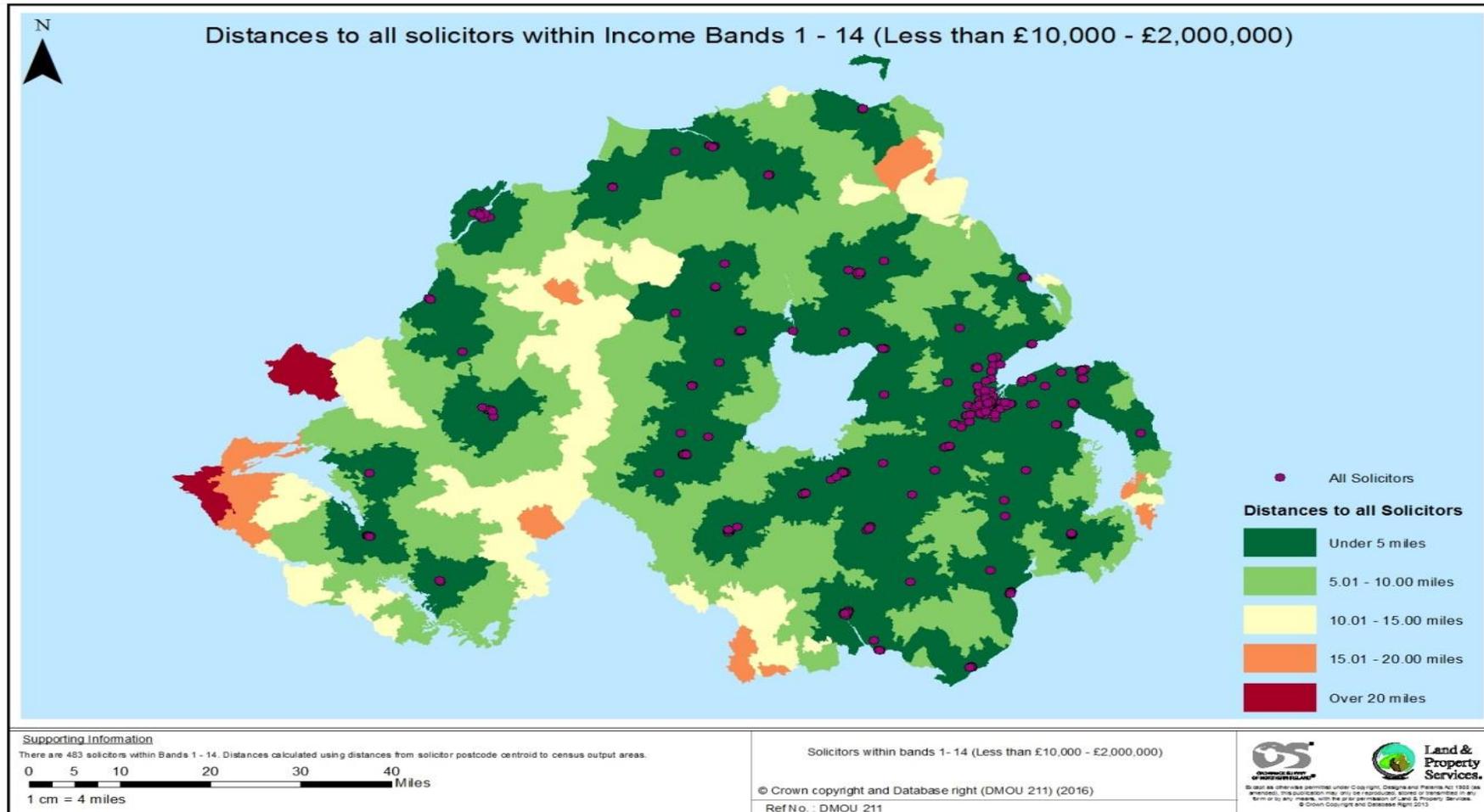
5. The costs to be recovered are in the region of £700,000 per annum and this amount is recovered as a percentage of the total payments received by practitioners. For the purposes of the mapping exercise we have used the 2014/15 Management Information data for solicitor firms only. This data was readily available with postcode information, but may differ from the actual payment data. Also firms with multiple locations may be captured more than once on these maps.

6. The Department Estimates that between 70% - 100% of all suppliers, both solicitor firms and counsel, who currently undertake publicly funded work, will register to continue to provide legal aid representation. However, for the purposes of developing the Fee the Department has made the assumption that approximately 80% of current suppliers will continue to provide representation under the Scheme.

7. The maps used in the remainder of this document are for illustrative purposes to model potential impact of a reduction in suppliers. These maps were produced using 14 fee bands; since the maps were commissioned the number of fee bands have increased to 16, however, the impact for the purpose of these illustrations is negligible. The additional fee bands relate to reducing the range for some of the higher fee bands to make the fee more equitable at those ranges.

8. The illustration below (Figure 1) shows the distribution of all payments to solicitors who received payments for legal aid work in 2014/15; 483 in total. Payments to barristers have been excluded as their primary address is recorded as the Bar Library, located in Belfast, rather than their home address, which could impact the integrity of the mapping.

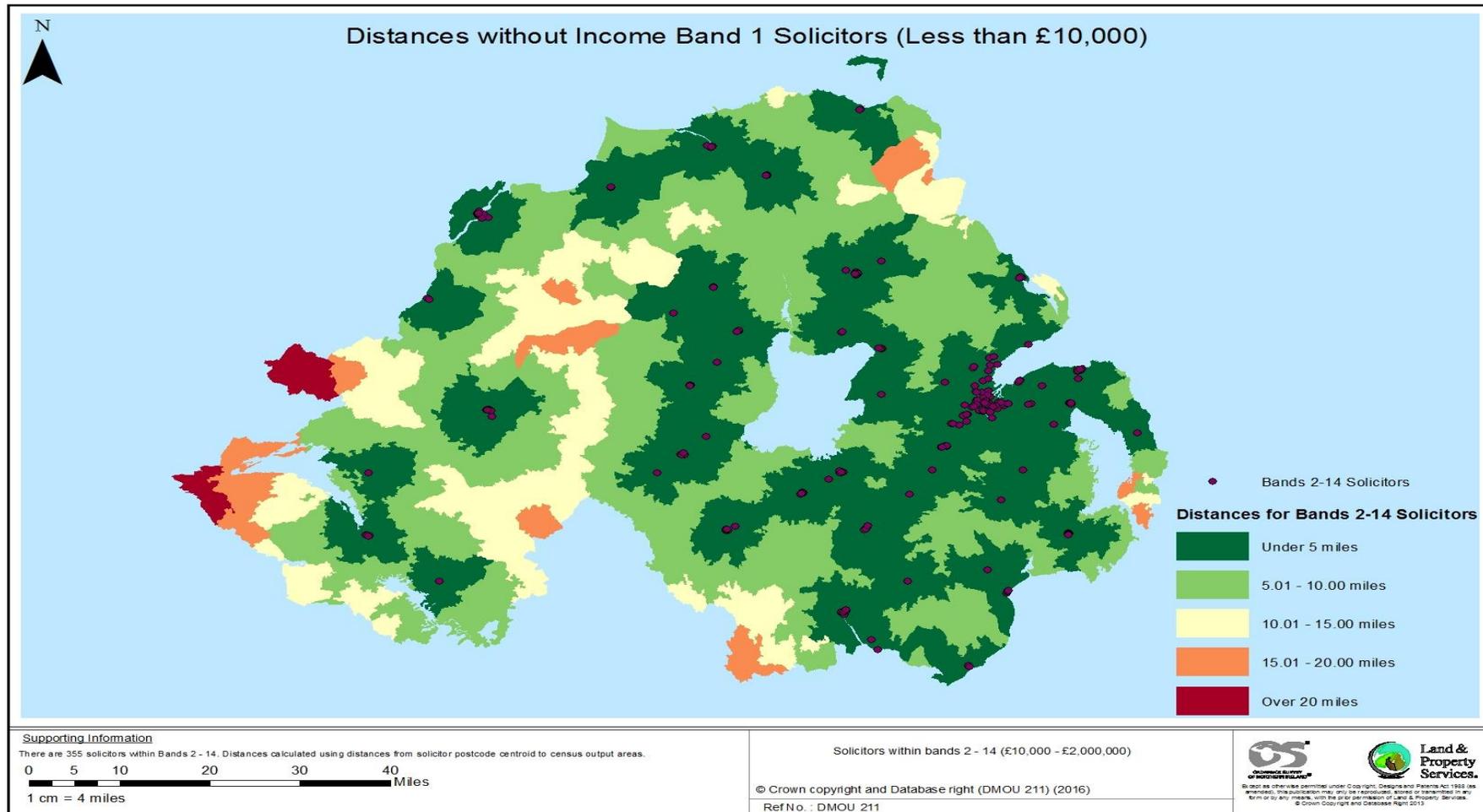
Figure 1: Solicitor firms receiving legal aid payments in 2014/15 and distances to clients



9. As can be seen from Figure 1 there is a wide a spread of solicitors firms across Northern Ireland undertaking publicly funded representation, although as could be expected there are a number of hotspots in the larger towns and cities.

10. The data available for this exercise is not able to identify the individual solicitors that would, or would not, register as these will be decisions for individual firms based on their specific business delivery models. Therefore it is not possible to directly represent the 80% that would register to continue to provide representation. Instead Figure 2 has mapped all solicitor firms with a net profit cost greater than £10,000. Solicitors in band 1 (under £10,000) represent just over one quarter of all solicitor firms (126 out of 483) with payments in the 2014/15 financial year.

Figure 2: Solicitor firms receiving legal aid payments in 2014/15 and distances to clients - Fee band 1 removed

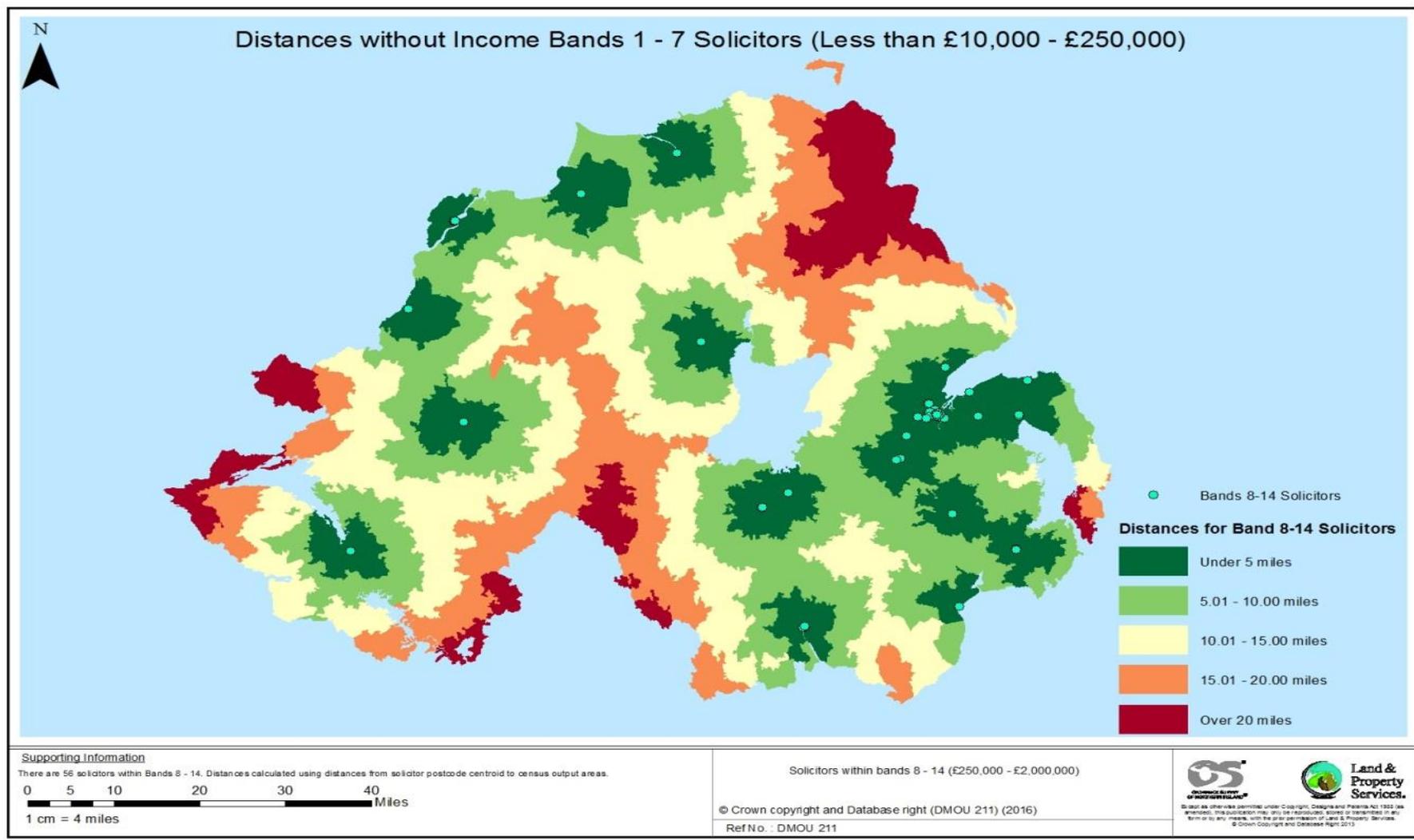


11. As can be seen from this illustration a reduction in 26% of suppliers still provides significant coverage across the breadth of Northern Ireland and does not significantly impact on any specific rural or urban area. It is only when you reach a reduction of up to 70% of solicitors, as shown in Figure 3, do you begin to see any significant reduction in availability of legal aid practitioners.

12. To reach the level of coverage shown in Figure 3, a reduction of up to 70% of all current suppliers would need to be realised. This is equivalent to removing all solicitor firms earning up to £100,000 from continuing to undertake legal aid work. This would also have the overall impact of a reduction of in excess of 330 suppliers paid in 2014/15. As the fee to be paid in band 7 (those earning up to £100,000) is £1,250 it is not considered that this level of reduction in supply to be likely as the income generated from legal aid work far outweighs the fee to be paid.

13. It should also be noted that, in a report to the Justice Committee by the Criminal Justice Inspection Northern Ireland, it stated that in recent years there has been an increase in larger firms undertaking surgeries in rural areas thereby largely eliminating any suggestion that rural areas would become advice deserts. These clinics are not accounted for in the mapping exercise as the payment address would differ from the actual location where the advice was offered.

Figure 3: Solicitor firms receiving legal aid payments in 2014/15 and distances to clients - Fee bands 1 - 6 removed



14. The Department is therefore satisfied that the impact on rural communities will be negligible. The fee for the lowest band is currently set at £53 and therefore it is possible that more than 80% of suppliers will register. Even with a scenario where there is a 26% reduction in suppliers there remains significant coverage across all areas of Northern Ireland.

Monitoring and Review

15. In accordance with good practice, the Department and the Agency will keep the impact of the implementation of these proposals under review.

Summary and Recommendation

16. To meet the requirements detailed in MPMNI the Department must recover the costs of delivering the Scheme. The Department has considered the impact of introducing the fee and also considered what mitigations are available to lessen any impacts.

17. The aim of these proposals is ensure that applicants seeking publicly funded representation continue to have access to a suitably qualified representative and consider the proposed fee methodology to be the most equitable solution to deliver this outcome.