

Department of Justice Policy
Data Protection Impact Assessment

Project Name:	Second Statutory Review of the 2009 Rules
Business Area:	PLSD
Information Asset Owner:	Mark McGuckin – PLSD
Date Completed:	31 October 2017

Summary:

The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 ("the 2009 Rules")¹ prescribe the remuneration for solicitors and counsel representing defendants in publicly funded criminal cases in the magistrates' courts and on appeal to the County Court.

Rule 16 of the 2009 Rules requires the Department of Justice (DoJ) to keep the general operation of the rules under review.

In accordance with Rule 16, the objectives for the second review of the 2009 Rules are to consider:

- the levels of the prescribed fees and the rates of payment under the 2009 Rules (as amended); and
- whether or not these fees and rates of payment within the 2009 Rules are consistent with the requirements of Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order" – see below).

In addition, the DoJ has identified two further non-statutory criteria for inclusion, which are to:

- identify any potential omissions in the 2009 Rules; and
- determine whether the operation of the 2009 Rules can be enhanced to further improve control and forecasting of spending.

When reviewing the fees and rates of payment within the 2009 Rules the DoJ is required to ensure that they are consistent with the criteria set out in Article 37 of the 1981 Order as follows:

- the time and skill which work of the description to which the rules relate requires;
- the number and general level of competence of persons undertaking work of

¹ <http://www.legislation.gov.uk/nisr/2009/313/contents/made>

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- that description;
- the cost to public funds of any provision made by the rules; and
- the need to secure value for money.

The Review has identified that following areas for consideration and/or amendment within the 2009 Rules:

- the fees payable to Counsel for appeals against sentence to the County Court;
- the fees payable at the magistrates' court for children charged with indictable only offences;
- the impact of the registered intermediaries scheme at the magistrates' court, and the need for adequate remuneration arrangements to account for this impact;
- the value for money of remunerated paralegals and "other fee earners" at the same rate as qualified solicitors;
- the provision for any new application fees at the magistrates' court or the County Court on appeal;
- the remuneration arrangements for hearings relating to certain prohibited behaviour orders during criminal proceedings at the magistrates' court;
- the introduction of provisions for interim payments within the Rules;
- the provision for pre-hearing reviews; and
- the appropriateness of the "review period" for the 2009 Rules.

Stakeholders:

Northern Ireland Courts and Tribunals Service
Legal Services Agency
Legally Assisted Persons
The Law Society of Northern Ireland
The General Council of the Bar of Northern Ireland
Public Prosecution Service
Office of the Lord Chief Justice
Attorney General for Northern Ireland

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Description of Personal Data involved:

In order to determine an applicant's eligibility for criminal legal aid at the magistrates' court or County Court on appeal, that individual is required to submit a statement of means form. Therein, the applicant is required to provide a summary of his or her financial circumstances and employment status. Once submitted to the court, if the applicant claims to be in receipt of benefits then this is cross-checked with the Legal Aid Assessment Office, and the form is reviewed by the court when deciding whether or not to grant legal aid.

The recommendation of and policy arising from the second statutory review of the 2009 Rules will not impact upon or alter the above process. Instead, the focus of the review has been to address any gaps in remuneration within the Rules and to consider the appropriateness of certain existing fees. The recommendations arising from the review will therefore not include the collection of any new personal information from legal aid applicants, or introduce any changes to how the personal information of legal aid applicants is handled and stored.

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Privacy Assessment			
	Yes	No	Notes (please complete)
Information Management			
Change to existing policy, process or system that involves personal information (e.g. new legislation or policy that makes it compulsory to collect or disclose information)		x	Any change to the existing policy will be introduced through secondary legislation, but will not impact on the collection or disclosure of personal information.
Change in location of business area or branch (e.g. move to centralised service, or office move)		x	No change in business area or branch location as a consequence of the policy.
Identified as a risk on organisation's Risk Register		x	Policy not identified as a risk on PLSD Risk Register.
Information Collection			
Collecting new information about individuals		x	Policy will not require new information to be collected about individuals.
Personal information collected in new way (e.g. move to online forms)		x	Policy will not result in personal information collected in a new way.
Storage, security & retention			
Change in how personal information is stored or secured (e.g. move to Cloud storage, offsite storage of paper records)		x	Policy will not change how personal information is stored or secured.
Change in how sensitive information is managed (e.g. information migrated to new database)		x	Policy will not change how sensitive information is managed.
Personal information transferred offshore (e.g. Cloud storage)		x	Policy will not result in the transfer of personal information offshore.
Keeping personal data for longer than before (i.e. change to Retention & Disposal policy)		x	Policy will not impact on length of time personal data will be stored.

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Use & disclosure			
Personal information processed includes Sensitive data (e.g. health)		x	Policy will not change use and disclosure of personal information.
Using previously collected personal data for new purpose		x	Policy will not change use and disclosure of personal information.
Disclosing information to a third party		x	Policy will not create disclosure of personal information to a third party.
Sharing or matching personal data held by different organisations or in different datasets (e.g. to provide services jointly)		x	Policy will not introduce sharing or matching of personal data by different organisations.
Individuals' access			
Change that results in people having less access to their personal data (e.g. earlier archiving)		x	Policy will not result in people having less access to their personal data.
Identifying individuals			
Introducing a new way of identifying individuals (e.g. biometrics, or online authentication)		x	Policy will not introduce a new way of identifying individuals.
New intrusions			
Introducing new way to search people's property/ persons/ premises (e.g. new policy of searching laptops returned for servicing)		x	Policy will not introduce a new way to search people's property/ persons/ premises.
Surveillance/ monitoring of movements, behaviours or communications (e.g. new CCTV, monitoring email contents)		x	Policy will not involve surveillance/ monitoring of movements, behaviours or communications.
Change to premises that could impact on privacy (e.g. moving sensitive process into open plan office)		x	Policy will not result in a change to premises that could impact on privacy.
New regulatory requirement resulting in action against		x	Policy will not result in new regulatory requirements leading to


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individuals (e.g. adding new medical condition to requirements for a licence)			action against individuals.
Other privacy intrusions (e.g. DNA swabs, body searches)		x	Policy will not introduce other privacy intrusions.

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Initial Risk Assessment		
Aspect	Level	Score
Volumes	Minimal personal data processed = 1	1
	Moderate volumes of personal data = 2	
	Significant volumes of personal data = 3	
Sensitivity	Not sensitive = 1	1
	Sensitive = 2	
	Highly sensitive = 3	
Change	Minor change to existing processing = 1	1
	Substantial change, or new processing = 2	
	Fundamental change, or radical new initiative = 3	
Third Parties	No interaction with other bodies = 1	1
	One or two other bodies = 2	
	Extensive interaction (multiple government bodies, or non-government bodies) = 3	
Impact	Minimal impact on business/ individuals = 1	1
	Possible concern to individuals, press or elected representatives = 2	
	Major impact on individuals/ likely high degree of press/ political interest = 3	
Total		5

Total score of 5 or less	DPIA not required
Total score of 6 – 11	DPIA required
Total score of 12 – 15	Extensive DPIA required

Information Asset Owner	
Print name: Mark McGuckin - PLSD	Date: 14/11/2017
Signature: 	
Chief Information Officer	
Print name: Tom Clyde	Date: 9/11/17
Signature: Tom Clyde	