



Department of
Justice

An Roinn Dlí agus Cirt

Mánnystrie O tha Laa

www.justice-ni.gov.uk

FOUNDATIONAL REVIEW OF CIVIL LEGAL SERVICES CALL FOR EVIDENCE FOR LEGAL PRACTITIONERS (JUDICIARY, SOLICITORS (IN PRIVATE AND PUBLIC PRACTICE), BARRISTERS)



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Introduction

Call For Evidence Opens: **22 April 2024**

Call for Evidence Closes: **18 June 2024**

The Department of Justice (DoJ) is conducting a review of civil legal aid in Northern Ireland. 32% of the legal aid cases granted in 2022/23 were civil cases with the split in expenditure between civil and criminal cases being almost equal, with civil authorisations accounting for 50.2% of the total expenditure (criminal cases accounted for 49.8%).

At various points in their lives, people will need support with issues they face that have a legal dimension. Access to efficient, effective, and responsive help in these circumstances is essential to enabling people to secure their rights in a democratic society. Under the Access to Justice (Northern Ireland) Order 2003¹ the Department is required to inform itself about:

- ‘(a) the need for, and the provision of, civil legal services and criminal defence services, and*
- (b) the quality of the services provided.’*

The Department is also committed to delivering on the United Nation’s Sustainable Development Goals² which have been developed to eradicate extreme poverty, fight inequality and injustice and leave no one behind. Goal 16 specifically relates to the need to support access to justice for all:

‘Goal 16 – Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.’

The Department of Justice previously conducted a number of high-level reviews aimed at assessing the legal aid structure (both criminal and civil). The objective of the first Access to Justice Review Northern Ireland in September 2010 was to produce proposals that provided effective and affordable access to justice and legal aid systems that helped to ensure disputes were resolved at the earliest stage whilst sustaining the quality of justice. The second major review commenced in June 2014 and was aimed at the establishment of a clear strategic approach to the development of publicly funded legal services and access to justice to

¹ [Access to Justice \(Northern Ireland\) Order 2003 \(legislation.gov.uk\)](https://legislation.gov.uk/ukni/2003/1001/contents/section/1)

² [THE 17 GOALS | Sustainable Development \(un.org\)](https://un.org/sustainabledevelopment/goals)

safeguard the interests of justice at a time when there were many competing demands on public expenditure. Many of the recommendations made because of these reviews are based on a different legal aid system, that of a Funding Code, and as such, many are no longer applicable.

The current review is intended to be a holistic review of our civil legal aid provision in Northern Ireland. It will look at what we did in the past, what we can learn from comparative reviews, and what we have learned from those needing legal assistance and, importantly, those delivering civil legal aid provision in Northern Ireland.

The Civil Legal Services Remuneration Order (Northern Ireland) 2015 was designed to replicate, not change, the existing legal aid legislation, guidance, and practice, providing for the fees payable to the legal profession and other expenses associated with civil legal aid. The Order makes provision for a formal review of the levels of the prescribed remuneration. The first such review was due in 2018 and has not yet taken place.

The Department of Justice will be taking into consideration comparable reviews within the other UK regions and the Republic of Ireland. This will include the ongoing Ministry of Justice Review of Civil Legal Aid (<https://www.gov.uk/guidance/civil-legal-aid-review>) and the Ministry of Justice Means Test Review (<https://www.gov.uk/government/consultations/legal-aid-means-test-review/outcome/government-response-to-legal-aid-means-test-review--3>), and [The Scottish Government's Legal Aid Review](#). Evidence obtained because of this Review may be used to support other work being progressed by the Department, such as the proposals to enhance access to justice for domestic abuse victims involved in Article 8 Children Order (Northern Ireland) 1995 proceedings.

Responding to this Call for Evidence

The role of legal practitioners in the delivery of legal services is a vital one. Members of the legal profession operate in several diverse roles in Northern Ireland; they administer justice in the County and High Courts, they advise Government, they protect the rights of members of the public through the provision of advice and representation in court. They work in Law Centres and in community and voluntary organisations ensuring those most in need can access justice. Each role will interact differently, and each will bring a unique understanding and experience of what access to justice means to them. It is important that, in carrying out any review of civil legal aid, we reach out to all those who work within the legal field in

Northern Ireland. We appreciate that over the past number of years there may have been changes within the legal aid landscape. It is only by engaging with all those involved in administering civil justice within Northern Ireland that we can hope to obtain a holistic overview of the issues around enhancing access to justice.

The Department of Justice is keen to listen to your experiences as a practitioner with experience in supporting members of civil society in their access to justice. This may, for example, be as a member of the Judiciary, as a Barrister, or as a Solicitor (either in private practice or working for the public services) or as a former legal practitioner. The perspectives of those who work daily in our legal aid system will provide insight that can usefully inform this review. There are 5 Parts to this Call for Evidence, and we would ask that you complete each one:

- Part 1 – About you and your place of work
- Part 2 - Access to Justice – Civil Legal Aid provision in Northern Ireland
- Part 3 – Review of Civil Legal Services
- Part 4 - Prioritisation of Legal Aid Budget
- Part 5 - Potential Opportunities for Reform

We hope that you will take the time to complete this call for evidence. We encourage respondents to answer the Call for Evidence questions via the online Citizen Space platform on the NIDirect Website: <https://consultations.nidirect.gov.uk/doj/call-for-evidence-for-legal-practitioners-judicial>



Additional pages may be submitted if required. If you are unable to respond using our online consultation facility, you can email your response using this questionnaire. We would also welcome written submissions with your views on the issues raised. Completed questionnaires or submissions should be sent to the following address: CLAR@justice-ni.gov.uk or you can write to us at:

**Civil Legal Aid Review Call for Evidence
Enabling Access to Justice Division
Massey House
Stoney Road
Belfast BT4 3SX**

A separate call for evidence for civil society and for children and young people, has been published.

If you would like to meet with us to discuss the contents of this call for evidence in person or to make other representations about civil legal aid in Northern Ireland, please let us know by email to CLAR@justice-ni.gov.uk.

Part 1 – About you and your place of work

This section concerns information about you and your employment. Some questions will be applicable to solicitors only. Please only respond to those questions which are appropriate to your individual employment status.

Q1 Which of the following best describes your employment status?

- | | |
|--|--|
| <input type="checkbox"/> Solicitor working within a Private Practice | <input type="checkbox"/> Solicitor working within the public service |
| <input type="checkbox"/> Senior Counsel | <input type="checkbox"/> Junior Counsel |
| <input type="checkbox"/> Member of the Judiciary NI | <input type="checkbox"/> Working within a Law Centre |
| <input type="checkbox"/> Working in a Not-for-Profit Organisation | <input type="checkbox"/> Retired Solicitor |
| <input type="checkbox"/> Retired Senior Counsel | <input type="checkbox"/> Retired Junior Counsel |
| <input type="checkbox"/> Other. <i>Please indicate</i> _____ | |

Q2 Are you responding in an individual capacity or on behalf of your place of employment?
If you are responding on behalf of your place of employment, please provide name and email address of the organisation.

- | | |
|---|--|
| <input type="checkbox"/> As an individual | <input type="checkbox"/> On behalf of an organisation |
| | <input type="checkbox"/> Name: _____ (will not be published) |
| | Name of Organisation: _____ |
| | Email address of organisation: please indicate main point of contact for correspondence: _____ |

Q3 If you are employed as a solicitor working in private practice, what is the size of your place of employment?

- | | |
|--|--|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> Small (0-20) |
| <input type="checkbox"/> Medium (21-99) | <input type="checkbox"/> Large (100-500) |
| <input type="checkbox"/> Very Large (500+) | |

Q4 If you are a solicitor in a private practice, which of the following amounts would best describe your company's net annual profits?

- | | |
|--|--|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> £100,000-£200,000 |
| <input type="checkbox"/> Not for Profit | <input type="checkbox"/> £200,000-£400,000 |
| <input type="checkbox"/> I don't know/Prefer not to say | <input type="checkbox"/> £400,000-£1m |
| <input type="checkbox"/> Below £50,000 | <input type="checkbox"/> £1m-£3m |
| <input type="checkbox"/> £50,00-£100,000 | <input type="checkbox"/> £3m+ |

Q5 If you are a solicitor working in a private practice, where is your company's main office located?

- | | |
|--|--|
| <input type="checkbox"/> Antrim and Newtownabbey | <input type="checkbox"/> Fermanagh and Omagh |
| <input type="checkbox"/> Ards and North Down | <input type="checkbox"/> Lisburn and Castlereagh |
| <input type="checkbox"/> Armagh, Banbridge and Craigavon | <input type="checkbox"/> Mid and East Antrim |
| <input type="checkbox"/> Belfast | <input type="checkbox"/> Mid Ulster |
| <input type="checkbox"/> Causeway Coast and Glens | <input type="checkbox"/> Newry, Mourne and Down |
| <input type="checkbox"/> Derry and Strabane | <input type="checkbox"/> Other. Please indicate: |

Q6 Which of the following categories of legal advice and representation does your company perform? **Please indicate the approximate percentage of work** (eg 40%) that this category accounts for.?

- | | |
|--|--|
| <input type="checkbox"/> Asylum and Immigration _____% | <input type="checkbox"/> Negligence/Personal Injury _____% |
| <input type="checkbox"/> Debt/Ejectment _____% | <input type="checkbox"/> Private Family Law _____% |
| <input type="checkbox"/> Government _____% | <input type="checkbox"/> Public Family Law _____% |
| <input type="checkbox"/> Housing _____% | <input type="checkbox"/> Other. Please indicate: _____ |
| <input type="checkbox"/> Judicial Reviews _____% | |

Q7 Are there any civil legal aid issues specific to your local area (both rural and urban) which you believe have had, or have the potential to have, a negative impact on access to justice?

- ☐ Yes ☐ No

If so, please provide any information, evidence or data supporting your response below:

Q8 Does your place of employment currently offer legal aid services?

- | | |
|--|--|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> Yes, we currently offer access to legal aid |
| <input type="checkbox"/> Yes. However, our company have a limited numbers of solicitors who would have experience in a specialist field (for example, asylum and immigration) and have had to limit the numbers of cases we can accept at any given time due to the numbers of people wanting assistance in this area. | |
| <input type="checkbox"/> Not currently. We previously offered access to legal aid | <input type="checkbox"/> No |

If so, please provide any information, evidence or data supporting your response below:

Why does your place of employment not currently offer access to legal aid services? *Please tick all that are applicable.*

- | | |
|--|--|
| <input type="checkbox"/> I don't know | <input type="checkbox"/> My company is too small |
| <input type="checkbox"/> It has been too difficult to retain suitably qualified practitioners | <input type="checkbox"/> It is not economically viable |
| <input type="checkbox"/> The administrative arrangements for applying for certificates are too complex and long which adds to costs and inefficiencies | <input type="checkbox"/> Other. Please indicate: _____ |
| <input type="checkbox"/> There are more people wanting access to specialist legal services than our company can accept. | |

Q9 What percentage of your work is accounted from legal aid work?

- | | |
|--|------------------------------------|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> 40-60% |
| <input type="checkbox"/> None | <input type="checkbox"/> 60-75% |
| <input type="checkbox"/> Below 5% | <input type="checkbox"/> 75-90% |
| <input type="checkbox"/> 10-25% | <input type="checkbox"/> Above 90% |
| <input type="checkbox"/> 25-40% | |

Q10 How many legal aid cases have you **accepted** between January 2022 and January 2023?

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> 501-750 |
| <input type="checkbox"/> None | <input type="checkbox"/> 751-1000 |
| <input type="checkbox"/> 1-250 | <input type="checkbox"/> 1000+ |
| <input type="checkbox"/> 251-500 | |

Q11 How does this compare with 10 years ago?

- | | |
|--|--|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> We take on fewer cases per year |
| <input type="checkbox"/> No difference | <input type="checkbox"/> We are taking on more legal aid cases |
| <input type="checkbox"/> We no longer accept legal aid cases | |

Please briefly provide a reason why you have or have not conducted pro-bono work:

Q12 If you have personally conducted pro bono work between January 2022 and January 2023, how many hours of work would this have involved?

- | | |
|--|---|
| <input type="checkbox"/> This question is not applicable to me | <input type="checkbox"/> 10 to 50 hours |
| <input type="checkbox"/> 10 hours or less | <input type="checkbox"/> Above 50 hours |

Please briefly provide a reason why you have or have not conducted pro-bono work:

Q13 Has your company had to turn away work between January 2022 and January 2023?

- | | |
|--|-----------------------------|
| <input type="checkbox"/> This question is not applicable to me | |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If 'yes', how frequently have you had to turn away work? Please complete for both privately funded work and legally aid cases.

Non-Legal Aid Cases

- | | |
|---------------------------------|---------------------------------------|
| <input type="checkbox"/> Daily | <input type="checkbox"/> Monthly |
| <input type="checkbox"/> Weekly | <input type="checkbox"/> Infrequently |

Legal Aid Cases

- | | |
|---------------------------------|---------------------------------------|
| <input type="checkbox"/> Daily | <input type="checkbox"/> Monthly |
| <input type="checkbox"/> Weekly | <input type="checkbox"/> Infrequently |

We are particularly keen to understand whether solicitor firms are having to refuse to accept legal aid cases and, if this is the case, the degree to which this is happening and the reasons for this. Do you think this is happening? If you do, what do you think is the cause? What is the impact on access to justice? What measures do you think are required to improve this?

Please provide any information, evidence, or other data in support of your response.

Part 2 – Access to Justice – Civil Legal Aid provision in Northern Ireland

Q14 Do you believe there have been significant changes in the demand for legal advice and representation over the past 10 years?

- | | |
|------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|------------------------------|-----------------------------|

Q15 How do you think access to justice for civil matters has significantly changed over the past 10 years?

- | | |
|---|---|
| <input type="checkbox"/> Improved significantly | <input type="checkbox"/> Worsened slightly |
| <input type="checkbox"/> Improved slightly | <input type="checkbox"/> Worsened significantly |
| <input type="checkbox"/> Stayed the same | |

Please provide any information, evidence, or other data in support of your response.

What do you think the **reason** for this is?

- | | |
|--|--|
| <input type="checkbox"/> Remuneration levels | <input type="checkbox"/> Operational/Admin issues or delays |
| <input type="checkbox"/> Means Tests | <input type="checkbox"/> Insufficient staffing and resources |
| <input type="checkbox"/> Merits Tests | <input type="checkbox"/> Impact of legislative changes |

Please provide any information, evidence or data (including any other reason you believe pertinent) supporting your response below:

Q16 What do you see as the biggest barriers and challenges to people accessing civil legal aid? Please tick all that are applicable.

- | | |
|--|---|
| <input type="checkbox"/> Lack of legal service providers in some areas of Northern Ireland | <input type="checkbox"/> Lack of public understanding of the law/rights |
| <input type="checkbox"/> Lack of solicitors providing legal aid | <input type="checkbox"/> Complexity of legal processes |
| <input type="checkbox"/> Lack of understanding of legal processes | <input type="checkbox"/> Court delays (including pre-Covid) |
| <input type="checkbox"/> Issues with the legal aid system | <input type="checkbox"/> Other |

Please provide any information, evidence or data (including any other reason you believe pertinent) supporting your response below:

Q17 Do you think more can be done to encourage early resolution/prevention of disputes through the civil legal aid system?

- | | |
|------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|------------------------------|-----------------------------|

Please provide any information, evidence or data supporting your response below:

Q18 Part V of the Solicitors (Northern Ireland) Order 1976 says that no solicitor can accept payment only in the event of success. This means that contingency fee agreements which are available in the rest of the United Kingdom and in the Republic of Ireland are illegal in Northern Ireland.

What do you think would be the **benefits** of introducing contingency fee agreements/success fee agreements in Northern Ireland?

☐ Yes

☐ No

Please provide any information, evidence or data supporting your response below:

Q19 What do you think would be the **risks** of introducing contingency fee agreements/success fee agreements in Northern Ireland?

Please provide any information, evidence or data supporting your response below:

Q20 If the legislation was amended to allow for contingency fee arrangements, do you think the level of recovery from a claimant's damages by their solicitor under a success fee should be subject to some form of regulated cap?

☐ Yes

☐ No

Please provide any information, evidence or data supporting your response below:

If you answered 'yes', what type of regulated cap would you prefer?

Q21 As part of the Department's public consultation exercise on the draft reform options, we will be publishing draft Equality Screening Assessments, Rural Needs and other impact assessments. As a Department, we are also keen to enhance our understanding of barriers and other factors impacting on accessing justice for citizens with protected characteristics (section 75 groups). Do you have any comments or issues you particularly feel should be covered in our impact statements which you would like to make in advance of the public consultation?

Please provide any information, evidence or data supporting your response below:

Q22 The legal aid system operates within a fixed budget. When seeking to make savings to deliver within its budget, the Department can consider:

- Cuts to the scope of legal aid;
- Tightening financial eligibility;
- Tightening merits testing;
- Restricting levels of remuneration; and
- Longer payment times

The Department is keen to hear your views on how you feel we should strike a balance between the bulleted options above. Please also indicate which option for savings you feel would make the most impact in terms of access to justice and value for money.

- | | |
|---|---|
| <input type="checkbox"/> Cuts to the scope of legal aid | <input type="checkbox"/> Restricting levels of remuneration |
| <input type="checkbox"/> Tightening financial eligibility | <input type="checkbox"/> Allowing longer payment times |
| <input type="checkbox"/> Tightening merits testing | |

Please provide any information, evidence or data supporting your response below:

Please also indicate which option for savings listed above you feel would make the most impact in terms of access to justice and value for money.

Part 3 – Review of Civil Legal Services

Q23 The Department has identified the following areas of civil legal aid for review. Do you agree?

Scope of Civil Legal Services

☐ Yes

☐ No

Please provide any information, evidence or data supporting your response below:

The Means Test

☐ Yes

☐ No

Please provide any information, evidence or data supporting your response below:

The Merits Test☐ Yes☐ No

Please provide any information, evidence or data supporting your response below:

Contributions☐ Yes☐ No

Please provide any information, evidence or data supporting your response below:

The Statutory Charge☐ Yes☐ No

Please provide any information, evidence or data supporting your response below:

Remuneration☐ Yes☐ No

Please provide any information, evidence or data supporting your response below:

Governance

☐ Yes

☐ No

Please provide any information, evidence or data supporting your response below:

--

Part 4 – Prioritisation of Legal Aid Budget

Q24	How should the Department prioritise the following policy drivers? In this section, we are asking you to rank five policy drivers from 'Top Priority' to 'Least Important' based on which policy driver you believe could make the most difference in terms of access to justice and value for money. <i>Please note that you can only use each ranking once.</i>
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Policy Driver 1: Prioritise the Proportion of the population financially eligible for civil legal aid by reviewing the means testing criteria. Changing financial eligibility rules could result in more people being entitled to access legal aid. However, to do this, the Department might have to make savings in other areas of civil legal aid, such as through reducing scope, remuneration fees or increasing the contributions payable by applicants.

How important is this policy driver in enhancing access to justice for people? *Please note that you can only use each ranking once.*

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

--

Policy Driver 2: Focus legal aid on the most impactful cases by reviewing merits testing. Changing the merits tests could help focus legal aid on people you need it most. It could also free resources and help avoid unnecessary court action to enhance justice in other ways; for example, by expanding legal aid or by finding alternative forms of dispute resolution.

How important is this policy driver in enhancing access to justice for people? *Please note that you can only use each ranking once.*

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Policy Driver 3: Prioritise rates of pay for solicitors and barristers. Increasing remuneration rates for solicitors and barristers could require resources to be diverted from other areas of civil legal aid reform. It may be necessary in order to support recruitment and retention of legal aid providers and could encourage more solicitors to do legal aid work.

How important is this policy driver in enhancing access to justice for people? *Please note that you can only use each ranking once.*

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Policy Driver 4: Prioritise maximising the range of services available through civil legal aid (scope): Increasing scope could help extend civil legal aid to areas of advice and representation not currently covered under the civil legal aid scheme. However, this could require additional resources to be moved from other areas of civil legal aid. Decreasing scope could restrict the range of areas covered by civil legal aid.

How important is this policy driver in enhancing access to justice for people? *Please note that you can only use each ranking once.*

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Policy Driver 5: Prioritise the contributions paid by recipients of civil legal aid.

Increasing contributions could allow for resources to be directed towards enhancing other areas of civil legal aid, such as increasing the scope of civil legal aid, increasing financial eligibility thresholds or remuneration rates payable to solicitors and barristers. However, decreasing contributions may mean savings having to be identified from other areas of civil legal aid.

How important is this policy driver in enhancing access to justice for people? *Please note that you can only use each ranking once.*

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Part 5 – Potential Opportunities for Reform

In this section, we are providing you with 26 potential opportunities for reform and are asking you to grade these in terms of where you believe reform could be directed to enhance access to justice and value for money. As we are looking for an indication of where you believe reform is most needed, we are asking you to rank these as (1) Top Priority, (2) Important, (3) Fairly Important, (4) Slightly Important, and (5) Least Important. In this section, **it is possible to give the same ranking to several potential opportunities for reform**. This will allow the Department to assess the responses received and develop our policy before deciding which, if any, reform opportunities to progress.

Draft Reform Opportunity 1: Civil Remuneration Levels: Conduct a review of levels of remuneration for solicitors and barristers within the Remuneration Order (Northern Ireland) 2015, addressing the Department's statutory obligations and applying, among the factors that are relevant, the criteria set out at Article 47 of the Access to Justice Order 2003. It is anticipated that such a review, if actioned, will build on learning from the ongoing review of criminal legal aid remuneration.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 2: Structures for Civil Remuneration Conduct a review of the structures used for civil remuneration considering, among the factors that are relevant, the criteria at Article 47 of the Access to Justice Order 2003, with a view to identifying opportunities that could improve fairness, efficiency, transparency, and predictability of remuneration.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 3 Conditional Fee Agreements: Undertake an assessment of the benefits and risks of introducing conditional fee agreements in Northern Ireland as an alternative form of support to legal aid.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 4: Operation of the Statutory Charge: Conduct a review of the operation of the Statutory Charge to ensure fairness, efficiency and to support sustainability of the legal aid fund.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 5 Merits Testing: Conduct a review of the merits test to identify any opportunities where resources could be better directed to have the greatest impact on access to justice and increase efficiency and fairness.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 6 Financial Eligibility Testing: Conduct a review of financial eligibility testing and benefits passporting to focus the provision of civil legal services on those who need them most and ensure efficiency, fairness, transparency, and predictability in the decision-making process. This could include considering areas where legal aid applications should have the means tests disregarded such as in the way they currently are for domestic abuse victims applying for non-molestation orders or in response to Article 8 (Children Order) 1995 proceedings brought against them by their abuser.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 7 Contributions: Conduct a review of contributions payable by an assisted person towards the costs of their own representation to deliver fair outcomes, enabling people to access legal aid, based on what they can afford to contribute towards their legal costs, with a view to ensuring fairness, efficiency, and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 8 Integrated Support: Explore opportunities to build a system of integrated support for people with diverse access to justice needs to provide them with a coordinated set of advice, representation, and other forms of assistance, in an accessible way. Early opportunities to test this model might include advice on housing, debt and ejection, immigration, and private family law.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 9 Advisory Services: Conduct a review of advisory services available through legal aid and elsewhere to consider how access to justice could be enhanced, and duplication avoided, through complementary and effective co-ordination between service providers in different sectors.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 10 Scope: Conduct a review of the scope of civil legal services to ensure public funding does not displace private funding and to seek opportunities to redirect resources towards any currently areas of unmet need.

This could include exploring the benefits and risks of expanding the scope of civil legal services to include representation in, for example, SENDIST, Employment and Industrial Tribunals Cases.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 11 Limited Certificates: Conduct a policy process to consider the benefits and risks of increasing the use of limited certificates to maintain oversight of ongoing legal aid cases in a way that improves accountability, efficiency, and fairness, and helps focus resources on the cases with the greatest impact.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 12 Legal Aid Repayment Schemes: Assess the benefits and risks of requiring people who benefit from legal aid to repay the cost of their legal aid over time, including the conditions and exceptions that might apply to such a scheme.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 13 Asylum and Immigration: Conduct a focused review into access to justice for people with immigration or asylum issues to identify opportunities to improve access to justice and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 14 Separating Families: Conduct a focused review into access to justice for people experiencing marital/civil partnership breakdown and separation to identify opportunities to improve access to justice and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 15: Victims of Crime Conduct a review of the access to justice needs of victims of crime and to explore effective and opportunities to support access to justice and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 16: Domestic Abuse Waiver Conduct a focused review of the discretionary domestic abuse waiver under section 28 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 17 Access to Justice for prisoners: Conduct a review of the range of issues impacting on access to justice experienced by prisoners and by children and young people in contact with the youth justice system.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 18 Accountability and Governance: Conduct a review of the accountability and governance structures that apply to suppliers of civil legal services to identify opportunities to give improved confidence to civil society and to the Assembly about the quality-of-service provision, impact and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 19 Expenditure Controls: Explore the potential to move from using payment times to using merits testing to control expenditure on legal aid, specifically by responding to anticipated over or under spends in future budget years by making specific, clear changes to merits tests applied to specific categories of cases.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 20: Decision Making and Appeals: Conduct a review of the processes for decision making and appeals of decisions made by the Legal Services Agency to identify opportunities to improve the quality, consistency, transparency, speed, fairness and predictability of decisions.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 21: Debt Recovery: Conduct a review to consider expanding the powers of the Legal Services Agency to recover debts from assisted persons arising from arrears of contributions or the statutory charge.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 22 Expert Witnesses: Conduct a review into issues affecting the availability of expert witnesses in civil court proceedings and to make recommendations for reform.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 23 Expert Witnesses General Authority: Expand the use of general authorities for the appointment of expert witnesses, building on the pilot scheme for psychiatrists and psychologists in Article 8 Children Order (Northern Ireland) 1995 cases in the Family Proceedings Court.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 24 Exceptional Funding: To conduct a review of the provisions in the civil legal aid framework on exceptional funding to identify opportunities to improve fairness, efficiency, access to justice, and value for money.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 25: Pro Bono Costs Orders: Explore the potential impact of pro bono costs orders as a mechanism for enabling civil society to access to justice.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

Draft Reform Opportunity 26 Section 75, Northern Ireland Act 1998: Establish an effective mechanism for gathering and analysing section 75 data on legal aid provision and access to justice needs.

How important do you think this draft reform opportunity is in enhancing access to justice for people?

- ☐ Top Priority
- ☐ Important
- ☐ Fairly Important
- ☐ Slightly Important
- ☐ Least Important

Why do you think this?

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Q25	And, finally, do you have any suggestions of other changes that you think could improve civil legal aid – both short-term and longer-term changes? Please provide any evidence or data you have that supports your response.
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Please provide any information, evidence or data you would like to make in the box below:

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This Call for Evidence is now complete. Thank you for taking the time and we now ask that you return this to us by 2359 hours on 22 June 2024. We would also welcome written submissions detailing your views of the issues raised within the content of this Call for Evidence. Responses should be sent to us via:

Email to: CLAR@justice-ni.gov.uk.

or by hard copy to:

Civil Legal Aid Review Call for Evidence
Enabling Access to Justice Division
Massey House
Stoney Road
Belfast BT4 3SX

Privacy Notice: Foundational Review of Civil Legal Services – Legal Practitioners

Data Controller: Department of Justice

Address: Enabling Access to Justice Division, Department of Justice, Massey House, Stormont Estate, BELFAST, BT4 3TA

Email: CLAR@justice-ni.gov.uk

Data Protection Officer: Department of Justice Data Protection Officer

Telephone: 028 9037 8617

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Why are you processing my personal information?

The Department of Justice are undertaking a foundational review of civil legal aid in Northern Ireland. Comments are being sought from legal practitioners in Northern Ireland.

Personal data is not being sought as part of this engagement for members of the legal profession engaging on an individual basis. Where responses are received from behalf of an organisation, we are asking for the name and email address of the organisation.

Consent is not being relied on for processing data supplied as part of this survey. Responses are being sought as part of the policy development process.

What is our lawful basis for processing your personal information?

We are carrying out this engagement in the public interest and on the basis of our public task. The lawful basis relied upon by is Article 6(1)(e) of GDPR:

‘processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested the controller’

While we do not intend to identify **individuals** with their responses, we are mindful some respondents may provide personal information and we have taken into consideration how some questions may inadvertently lead to processing special category personal data.

We consider the lawful basis for processing this data to be covered under Article 9(2)(g) of GDPR:

‘processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;’.

We also consider this meets the condition for processing contained at Schedule 1 Part 2 Paragraph 7 of the Data Protection Act 2018:

‘This condition is met if the processing is necessary— (a) for the administration of justice, or (b) for the exercise of a function of either House of Parliament.’

Our intention is to anonymise responses received from individuals should personal details be erroneously provided. Where responses are received from organisations, that information will be retained but contact details will not be released.

What categories of personal data are we processing?

While not being sought, it is anticipated that responses may include names, addresses and/or e-mail addresses. We also anticipate that information may be submitted from citizens which may have the unintended consequence of identifying victims of abuse and that special category data may therefore be processed.

Where will we get your data from?

The personal data will originate from citizens submitting responses to this survey.

Will we share your personal data with anyone else?

No.

Will my personal data be transferred to other countries?

No.

How long will my personal data be retained for?

We will retain your data in line with 8.2 of Schedule 8 of the DoJ Retention and Disposal Schedule (<https://www.justice-ni.gov.uk/publications/doj-retention-and-disposal-schedule>).

How do we use your personal data to make decisions about you (if we use automated decision-making or profiling)?

Automated processing for responses will not be used.

What rights do I have?

You have the right to:

- be informed about how your data is being used;
- access personal data;
- have incorrect data updated;
- have data erased;
- stop or restrict the processing of your data;
- data portability (allowing you to get and reuse your data for different services);
- object to how your data is processed in certain circumstances.

You also have rights when an organisation is using your personal data for:

- automated decision-making processes (without human involvement); and
- profiling, for example to predict your behaviour or interests.

If you wish to make a request for access to your data (including having personal data rectified or erased), you should contact the Department of Justice using the contact details provided above. As there is no automated decision-making and profiling as regards the uses of your personal data for the purposes of this survey, this right does not apply.

How do you complain if you are not happy?

Complaints should be submitted to:

Freedom of Information Unit
Department of Justice
Castle Buildings
Stormont Estate
Belfast BT4 3SG
Telephone: 028 9037 8617
Email: FOI@justice-ni.gov.uk

If you are unhappy with any aspect of this privacy notice, or how your personal information is being processed, please contact the Department of Justice's Data Protection Officer at:

DataProtectionOfficer@justice-ni.gov.uk

If you remain unhappy after this, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Tel: 0303 123 1113

Email: casework@ico.org.uk (<https://ico.org.uk/global/contact-us/>)