

FOUNDATIONAL REVIEW OF CIVIL LEGAL SERVICES

CALL FOR EVIDENCE FOR CIVIL SOCIETY



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Introduction

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

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

Have you ever had a legal issue or a dispute where you needed advice and support? If so, we want to hear from you. Civil legal services are the services that help people with non-criminal legal issues and conflicts seek a solution to their problem. They can include legal assistance and representation in court, mediation, and provide access to legal aid for domestic abuse victims and survivors who need non-molestation orders and to respond to Article 8 Children Order (Northern Ireland) 1995 proceedings brought by their abuser.

The Department of Justice are asking people who have had a need for help like this to tell us about your experience by completing this call for evidence. We want to hear from members of the public, community and voluntary sector organisations, and anyone with an interest in access to justice. If you haven't yet had a reason to need legal advice or help in court, we would still be interested in your views on our draft opportunities for reform.

Access to justice is complex, especially if you don't have legal expertise. To help you, we have provided a glossary of the legal aid terms at the end of this Call for Evidence. If you have any questions about completing this or need help with any of the questions, please contact us via the email address below.

Responding to this Call for Evidence

The Department of Justice is seeking the views of members of the public, community and voluntary sector organisations, and anyone with an interest in access to justice. You can answer as many or as few questions as you like. You can also respond on behalf of a friend or relative or have someone respond on your behalf. We encourage respondents to answer the Call for Evidence questions via the online Citizen Space platform on the NIDirect Website: **[Foundational Review Call for Evidence Civil Society - NI Direct - Citizen Space](#)**.



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 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 children and young people, and for legal practitioners, has been published.

Accessibility

Hard copies of this document and copies in another language or other formats (including Braille, large print etc.), can be made available on request. If it would assist you to access the document in an alternative format, or language other than English, please let us know and we will do our best to assist you.

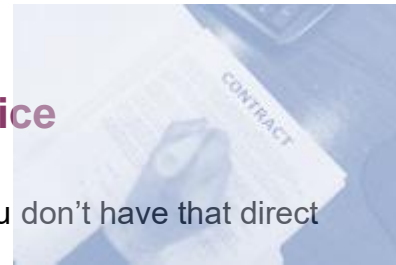
If you would prefer to complete this call for evidence by telephone, please email us at CLAR@justice-ni.gov.uk providing a first name and contact telephone number and we will try and assist you in this. In line with GDPR and data protection, your name and contact details will not be published and will be deleted once the call for evidence has been completed.

Equality Monitoring

If you are responding in an individual capacity, we would also ask that you complete the equality monitoring questionnaire at Part 3. Please note that the completion of this is completely voluntary and it should not be completed by any individuals under 16 or if you are responding on behalf of an organisation.

Part 1 – Your experience of accessing civil justice

This part is for people with direct experience of justice issues. If you don't have that direct experience, please skip to Part 2 where you can share your views.



I am responding as.... (*Please tick one option only*)

- ☐ A member of the public (**Do not provide your name or email address**)
- ☐ On behalf of an organisation – Please specify below and include your organisation's email address.

Organisation name and email address:

Question 1: Why did you need help?

Please set out your response below:

Question 2: What did you want to achieve?

Please set out your response below:

Question 3: Where did you look for help, for example from a website, the Law Centre, or other advice and support organisation, or to a solicitor?

Please set out your response below:

Question 4: Did you consider the use of mediation or another alternative dispute resolution service to help end your issue or go to court?

Please set out your response below:

Question 5: What was most important to you when choosing your solicitor?

Please set out your response below:

Question 6: Did you experience any difficulties (including access and the distance you had to travel) in obtaining a solicitor?

Please set out your response below:

Question 7: What information can you provide us about your experience of using a solicitor?

Please set out your response below:

Question 8: How did you pay for the help you received? Did you have any help from legal aid or elsewhere?

Please set out your response below:

Question 9: If you received legal aid, were you asked to make a contribution to the cost? Did a statutory charge apply to you after the case, and how were you affected by these?

Please set out your response below:

Question 10: If you needed a non-molestation order or occupation order, did your solicitor make sure the financial means test was disregarded?

Please set out your response below:

Question 11: If you were responding to contact or residence proceedings about a child and you are a victim of domestic abuse, did your solicitor apply to have the financial means test disregarded?

Please set out your response below:

Question 12: If you are a victim of domestic abuse, what other information can you provide us about your experiences of accessing civil legal aid and the family courts?

Please set out your response below:



Question 13: If you believe your experience of accessing justice was affected because of your age, gender, ethnicity, sexual orientation, religious belief, political opinion, disability, marital status or because you have dependents, we would be keen to learn more about your experience.

Please set out your response below:

Question 14: What information can you provide us about how well the help available to you met your needs?

Please set out your response below:

Question 15: If you were unhappy with the support you received, who did you complain to?

Please set out your response below:

Question 16: Did you feel justice had, or had not, been achieved when your case ended?

Please set out your response below:

Question 17: What information can you tell us that you feel we should include in our impact assessments (Equality, Rural Needs, Children and Young People)?

Please set out your response below:

Question 18: What do you see as the biggest barriers and challenges to people accessing civil legal services? Please tick all that are acceptable.

- | | |
|--|---|
| <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 |

If you chose 'Other', please let us know below:

Question 19: People can currently access legal aid without passing a financial eligibility test if they receive income-related benefits. These include income-based Universal Credit, Income Support and Pension Credit, for example. This is called benefits 'passporting'.

People in receipt of other benefits, those payable to people with disabilities, to carers, and to immigrants, for example, aren't 'passported' in this way, and must pass a financial eligibility test.

Bearing in mind the potential cost, do you think that more benefits should be 'passported', or fewer, or none? Or is the balance currently about right?

Please set out your response below:

--

This section is now complete, and we ask that you now move to Part 2 to give us your views on proposed opportunities for reform.

Part 2 – Your views on proposed opportunities for reform

Question 20: Conditional Fee Agreements (ie ‘No Win, No Fee’ claims) are not available in Northern Ireland. What information can you provide us on why you think they should or should not be allowed here. If you think they should, please provide us with information on whether you think the money recoverable by your solicitor from your damages should be capped at a certain amount.

Please set out your response below:

Question 21: In looking at reviewing civil legal aid, the following key areas will be reviewed:

The range of
services available
through legal aid

The Financial
Means Test

The Merits Test

Rates of pay for
Solicitors and
Barristers

What people pay
towards the cost
of their help

Alternatives to
solicitors and the
courts

Do you think making changes to any of these areas could have improved your access to justice?

Please set out your response below:

Question 22: The next five questions outline some of the ways in which we might try to improve legal aid. Please indicate which policy areas you think are the most important by ranking them in order from ‘Top Priority’ to ‘Least Important’ (please only use each ranking once):

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?

Question 23: 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?

Question 24: And, finally, is there anything else you feel would have helped or improved your experience of accessing legal advice and assistance in court?

Please set out your response below:

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Please move to Part 3 which asks equality of opportunity questions and completion is voluntary.

Part 3 – Equality Monitoring - About You

Completing this section is **voluntary**, however, any information provided will be helpful in identifying any barriers or other factors impacting on access to justice. *Please note this section should only be completed by those aged 16 and over. If you are submitting a response on behalf of an organisation, there is no need to complete this section.*

What is your gender?

- ☐ Female
- ☐ Male
- ☐ Other: *please indicate* _____
- ☐ Prefer not to say

Which of the following best describes your sexual orientation?

- ☐ Straight/heterosexual
- ☐ Gay or Lesbian
- ☐ Bisexual
- ☐ Other sexual orientation: *please indicate* _____
- ☐ Prefer not to say

What is your country of birth?
(*please choose all that apply*)

- ☐ Northern Ireland
- ☐ England
- ☐ Scotland
- ☐ Wales
- ☐ Republic of Ireland
- ☐ Elsewhere, write in the current name of the country: _____

How would you describe your national identity?
(*please choose all that apply*)

- ☐ British
- ☐ Irish
- ☐ Northern Irish
- ☐ English
- ☐ Scottish
- ☐ Welsh
- ☐ Other: *please indicate* _____

What is your ethnic group?

(Choose one option which best describes your ethnic group or background)

- ☐ White
- ☐ Irish Traveller

Mixed/Multiple ethnic groups

- ☐ White and Black Caribbean
- ☐ White and Black African
- ☐ White and Asian
- ☐ Any other Mixed/multiple ethnic background, *please indicate* _____

Asian

- ☐ Indian
- ☐ Pakistani
- ☐ Bangladeshi
- ☐ Chinese
- ☐ Any other Asian background, *please indicate* _____

Other ethnic group

- ☐ Arab
- ☐ Any other ethnic group, *please indicate* _____

What is your religion?

- ☐ No religion
- ☐ Catholic
- ☐ Christian – Catholic
- ☐ Christian – Protestant
- ☐ Buddhist
- ☐ Hindu
- ☐ Jewish
- ☐ Muslim
- ☐ Sikh
- ☐ Any other religion, *please indicate* _____

What is your language?

What is your main language?

- ☐ English
- ☐ Other, (including British/Irish Sign Languages), *please indicate* _____

How well can you speak English?

- ☐ Very well
- ☐ Well
- ☐ Not well
- ☐ Not at all

What is your Marital Status?

- ☐ Single (never married and never in a civil partnership)
- ☐ Married
- ☐ Separated, but still legally married
- ☐ Divorced
- ☐ Widowed
- ☐ In a civil partnership
- ☐ Separated, but still legally in a civil partnership
- ☐ Formerly in a civil partnership which is now legally dissolved
- ☐ Surviving partner from a civil partnership

Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last at least 12 months? *Please include problems related to old age*

- ☐ No
- ☐ Yes, limited a little
- ☐ Yes, limited a lot

What is your age group?

- ☐ 16-29
- ☐ 30-44
- ☐ 45-59
- ☐ 60+

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 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 in Northern Ireland – Civil Society

Survey of the legal needs of civil society in Northern Ireland.

Data Controller:	Department of Justice
Address:	Enabling Access to Justice Division, Department of Justice, Massey House, Stormont Estate, BELFAST, BT4 3TA
Telephone:	028 9016 9669
Email:	CLAR@justice-ni.gov.uk
Data Protection Officer	Department of Justice Data Protection Officer
Telephone:	028 9037 8617
Email:	DataProtectionOfficer@justice-ni.gov.uk

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 interested parties who have experienced a legal or 'contentious' legal need in the last five years.

Personal data is not being sought as part of this engagement for civil society engaging as individuals. Where responses are received from organisations, we are asking for the name 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, their responses may be published (names and 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 civil society 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 civil society 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/>)

Glossary - Civil Legal Services in Northern Ireland

This is provided as an aide for civil society who may not be have much experience of the terminology used in civil legal aid and is not intended as a legal definition of these terms.

Advice and Assistance	Legal advice and assistance allows you to get advice from a solicitor on any point of Northern Ireland law. It can cover many legal problems such as personal injury, divorce, disputes over children, employment matters and housing.
Article 8 Children Order (Northern Ireland) 1995	Article 8 of the Children (NI) Order is an order ruling the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other.
Capital	<p>Capital, for the purposes of civil legal aid financial eligibility testing, is defined as the total amount of the applicant's savings/capital. This includes savings, ISAs, shares, insurance policies and premium bonds. In determining disposable capital, the following is disregarded:</p> <ul style="list-style-type: none"> • the value of the main or only dwelling house in which the applicant resides; • the value of the household furniture and effects, articles or personal clothing and tools and implements of the client's trade; and • the subject matter of the advice and assistance. <p>Capital must be assessed for advice and assistance even if the applicant is in receipt of a passport benefit and those proofs uploaded with the LAMS application.</p> <p>Below are the maximum disposable capital limits to be applied when assessing financial eligibility for advice and assistance:</p> <p>£1,000 if the applicant has no dependants; £1,335 if applicant has one dependant; £1,535 if applicant has two dependants; £1,635 if applicant has three dependants; and £100 for each extra dependant.</p> <p>A client whose disposable capital exceeds the appropriate amount set out above is not eligible for advice and assistance (even if the client is in receipt of a passport benefit).</p> <p>The maximum disposable capital limits to be applied when assessing financial eligibility for representation in the lower courts is:</p> <p>£3,000 if the applicant has no dependants; £3,335 if the applicant has one dependant; £3,535 if the applicant has two dependants; £3,635 if applicant has three dependants; and £100 for each extra dependant.</p>

	<p>The maximum disposable capital limits to be applied when assessing financial eligibility for representation in the higher courts is in cases where their yearly disposable income does not exceed (a) £10,955, if the representation is sought in connection with taking, defending or being a party to proceedings which include a claim in respect of personal injuries; or (b) £9,937, in any other case.</p>
Conditional Fee Arrangements	<p>A conditional fee agreement (CFA) is a type of 'no win no fee' arrangement between a solicitor and a client. This means a solicitor will only get paid if the case is successful, but they may charge a success fee on top of their normal fee. This would likely come out of the damages awarded to the client.</p>
Contributions	<p>Depending on your income and capital, you may be required to pay a contribution towards your legal costs:</p> <p>For advice and assistance, a contribution is payable when an applicant's disposable income is between £107 and £234 per week. An applicant will not have to pay anything if their disposable income is less than £107 per week, however, an applicant will not qualify if their disposable income exceeds £234 per week.</p> <p>The balance between the contribution paid and the cost of the solicitor's claim is paid by the Legal Aid Fund (unless money or property has been recovered or preserved on behalf of the applicant).</p> <p>For representation in the higher courts, the Legal Services Agency Northern Ireland determine the eligibility for representation and any contributions towards the cost of the case is paid directly to them. Contributions are based on one third of the excess disposable income the client has above the lower threshold. Payments can be paid over 12 months unless the applicant has savings in which case the cost is payable immediately in a lump sum.</p>
Disregarded	<p>There is provision for the Director of the Legal Services Agency Northern Ireland to disregard the upper income and capital financial eligibility thresholds in certain defined circumstances.</p>
Domestic Abuse Waiver	<p>This waiver provides for victims of domestic abuse responding to Article 8 Order proceedings brought against them by their abuser to have the upper earnings and capital limit thresholds removed. Solicitors acting for victims of domestic abuse can apply to the Legal Services Agency Northern Ireland for the waiver to be applied.</p>
Exceptional Funding	<p>Exceptional Funding allows a solicitor and sometimes a barrister to represent you in cases, like inquests which are not covered by any other scheme.</p> <p>The decision to give you legal aid will be made by the Legal Services Agency. If you need to pay any contributions towards the cost of your case, you will need to pay it to your solicitor.</p>
Financial Eligibility Tests ('The Means' Test)	<p>Applicants for civil legal aid eligibility for civil legal aid is assessed on the applicant's disposable income and capital for the seven days up to and including the date of their initial advice with their solicitor.</p> <p>If the applicant has a partner (someone with whom they normally reside as a couple), the partner's savings and income will also be included.</p> <p>If the applicant is in receipt to of a passporting benefit (Income Support, Guaranteed Pension Credit, Universal Credit, Job Seekers Allowance</p>

	(Income Based) or Employment Support Allowance (Income Based)) they will have the upper earnings thresholds disregarded. If the applicant is in receipt of a passporting benefit, they must also be within the capital thresholds for civil legal aid.
Income	<p>Income, for the purposes of civil legal aid financial eligibility testing, is defined as the total income from all sources, which the applicant received or became entitled to during or in respect of the seven days up to and including the date of the legal aid application. It should be noted that child benefit is counted as income.</p> <p>If the applicant is not on a passporting benefit, the solicitor should take their client's actual income (plus their partner's income where relevant) for the seven days (up to and including the date of initial advice which should also be the date the applicant signs the Declaration) and deduct from it:</p> <ul style="list-style-type: none"> • Income Tax and National Insurance contributions • £41.75 in respect of either partner (a partner being anyone with whom the client normally resides as a couple, including a person of the same sex) whether or not their means are aggregated. Where they are separated or divorced, the allowance will be the actual maintenance paid by the applicant in respect of the previous seven days. • £66.90 in the case of each dependent child or dependent relative aged under 20 (from birth to 19 years and 364 days). No deduction can be made in respect of a foster child.
Legal Services Agency Northern Ireland	The Agency's role is to administer the provision of publicly funded legal services in keeping with the statutory legal aid schemes.
Merits Test	Approval for representation will only be granted by the Legal Services Agency Northern Ireland where there are reasonable grounds for taking, defending or being party to proceedings.
Non-Molestation Order	<p>A non-molestation order prohibits a person from molesting another person associated with the respondent or from molesting a relevant child.</p> <p>If you are a victim of domestic abuse, you can apply to the court for a non-molestation order and may also qualify for an occupation order which will set out the terms by which the offender will be restricted from entering or residing in the home and must leave when upon service of the order.</p> <p>Legal Aid is available for victims and survivors of domestic abuse. The upper earnings and capital limit thresholds for those seeking legal aid for non-molestation orders in Northern Ireland has been disregarded. This means that victims of domestic abuse will automatically receive legal aid for these proceedings but may still be required to make a one-off contribution to their legal costs which will be based on legal aid fee rates and not private solicitor's rates.</p>
Representation in the Lower Courts	<p>Representation Lower Courts will allow you to get a solicitor to prepare and represent you in most civil cases in the Magistrates' Courts.</p> <p>The types of cases heard in the Magistrates' Courts can include separation, maintenance, cases involving children, protection orders like a non-molestation Order and paternity cases.</p>

	Representation Lower Courts can also be used for proceedings before a Mental Health Review and for prisoners making parole applications.
Representation in the Higher Courts	<p>Representation in the Higher Courts will allow you to have a solicitor and sometimes a barrister to prepare your case and represent you in court on a civil matter.</p> <p>Most civil cases are heard in the Higher Courts like the County Court, High Court, Court of Appeal, Supreme Court, Lands Tribunal and the Enforcement of Judgements Office.</p> <p>Representation in the Higher Courts is not available for cases in a Coroners Court or for most tribunals or libel or slander cases. Although you may be able to get advice for these type of cases under the Advice and Assistance scheme.</p>
Section 75 of the Northern Ireland Act 1998	<p>Section 75 of the Northern Ireland Act 1998 provides that:</p> <p>(1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity –</p> <ul style="list-style-type: none"> (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependants and persons without.
Statutory Charge	<p>If, as a result of a case, an applicant gains some money or property that they did not own before, or they managed to keep some money or property that someone had tried to take from them, this is called 'recovering or preserving' property.</p> <p>Legal aid is not always free. If, an applicant 'recovers or preserves property' because of their legally-aided solicitor's work, they may have to pay some or all the costs of their case. This is known as the 'statutory charge'.</p>