

Legal Aid - A Revised Framework for the Assessment of Legal Aid Costs Subject to Taxation

IMPACT ASSESSMENT SCREENING

October 2026

Purpose

The objective of this screening exercise is to identify likely impacts of proposed changes to the remuneration framework for legal aid costs subject to taxation to determine those that require further investigation and, potentially, a full impact assessment.

Following the guidance provided in the NICS Policy Toolkit, the impact of the proposed policy has been considered against each of the following factors:

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

- o Environmental
- o Strategic Environmental

Background

1. The Department is consulting on proposals in relation to remuneration for solicitors and barristers in legally aided cases subject to taxation. The proposed revised arrangements will change:

- how fees are set;
- how some bills are submitted; and
- how bills are assessed.

2. In developing proposals, the Department has recognised existing arrangements for the determination of other legal aid fees have the benefit of offering transparency and being tried, tested and familiar to practitioners, and the public and scrutiny bodies alike. It is therefore proposed that hourly rates and fees be similarly set for solicitors and barristers acting in civil proceedings in the High Court, and for civil and criminal proceedings in the Court of Appeal. As with other fees, the new hourly rates will be specified in secondary legislation subject to the usual statutory and public consultative processes, economic appraisal, statutory impact assessments and Assembly scrutiny.

3. The new arrangements will retain the independent adjudicative function of the Taxing Master, albeit with some changes to how that function is exercised as the Master will be required to apply the hourly rates and fees specified by the Department to enable greater budgetary control, transparency and oversight.

Information about the policy

4. The policy is owned by Enabling Access to Justice Division, Department of Justice. Implementation is dependent on the Assembly legislative processes.

5. The main stakeholders affected by the policy are:

- Legal representatives (solicitors and barristers) undertaking legally aided work

- The Bar of Northern Ireland
- The Law Society of Northern Ireland
- The Taxing Office
- Costs Drawers
- The Legal Services Agency
- Public Prosecution Service

Impact screening

6. The impact of the proposed policy is considered against each of the factors in the tables at pages 6-27. In summary, the outcome of the screening exercise is:

IMPACT ASSESSMENT / APPRAISAL	FULL ASSESSMENT / APPRAISAL REQUIRED		REASON
	Yes	No	
SOCIAL IMPACTS			
Crime		X	No Impact
Community Safety & Victims		X	No impact
Equality	X		See separate Equality Screening
Health		X	No impact
Human Rights	X		See separate Human Rights Assessment
Rural	X		No impact anticipated but see separate Rural Needs Impact Assessment
Social Inclusion		X	No impact
ECONOMIC IMPACTS			
Economic Appraisal	X		Economic appraisal to be completed
Economic Assessment		X	No impact
Regulatory		X	No impact
State Aid		X	No impact
ENVIRONMENTAL IMPACTS			
Environmental		X	No impact
Strategic Environmental		X	No impact
Sustainable Development Impact		X	No impact

Next Steps

7. The Department has developed the impact screening and assessments required which are now published for consultation alongside the policy consultation document. We welcome any views and additional evidence to inform the impact screening and assessments.

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1. Criminal Activity Impact Assessment

Criminal Activity	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy impact on the costs of or demand for legal goods or services to consumers, or impact on the costs of disposal of legal goods?		X		X	
	Will the policy involve the introduction, delivery or amendment of a financial measure, i.e. a tax or concession, grant or subsidy?		X		X	
	Will the policy introduce, remove or amend a legal requirement or regulatory power?		X		X	
	Will it impact on funding for law or regulatory enforcement activity including demand for legal aid?		X		X	This policy relates to the taxation of cases in the High Court and Court of Appeal and will facilitate the introduction of legal aid rates for proceedings. It will impact on legal representatives' remuneration in legally aided cases.
CONCLUSION					X	A Full Criminal Activity Impact Assessment is not required.

When Is a Full Crime Impact Assessment Required?

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

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

2. Community Safety & Victims

Community Safety	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy / project contribute to community safety or impact on fear of crime?		X		X	
	Is it likely to have an impact on any specific type of crime?		X		X	
	Will the policy / project have an impact on victims of crime?		X		X	
	Is there any evidence to suggest that the policy would have a particular impact on victims of the conflict?		X		X	
CONCLUSION					X	A Community Safety and Victims Assessment is not required.

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

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

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

3. Equality (this must be completed in line with the Equality Commission's [Guide to the Statutory Duties](#))¹

	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
Equality	Is there any indication or evidence of higher or lower participation or uptake by different groups?		X		X	The policy will not alter the eligibility of citizens for legal aid and therefore there will be no change to existing profile of beneficiaries. The policy proposals will impact solely on legal practitioners.
	Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?		X		X	The aim of this policy is to deliver increased budgetary control and accountability to the legal aid budget. The policy amendment will apply to all legal representatives regardless of group.
	Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them?		X		X	
	Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?		X		X	The policy change will have no impact of legal aid eligibility.

¹ NOTES:

The above questions must be considered in relation to the nine equality groups. These are: Age, Marital Status, Men & Women generally, Persons with a disability and persons without, Persons with dependents and persons without, Political opinion, Racial group, Religious belief, Sexual orientation. A more detailed overview of the nine equality groups is available in the [Guide to the Statutory Duties](#) which should be consulted before completion of this screening exercise.

	CONCLUSION		X	An Equality Screening template has been completed which concludes that a full EQIA is not required.
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When Is a Full Equality Impact Assessment Required?

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

4. Health

1. Health Determinants

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

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

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

There is no impact.

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

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

There is no impact.

SOCIO-ECONOMIC ENVIRONMENT	Positive Effect	Negative Effect	No Effect
Crime			X

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

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

There is no impact.

2. Health Care

Is the initiative affecting access to health services?

HEALTH CARE	Positive Effect	Negative Effect	No Effect
Access to Health Services			X

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

There is no impact.

3. Population Affected

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

LIFESTYLE	Positive Effect	Negative Effect	No Effect
Whole Population			X

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

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

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

There is no impact.

4. Recommendation

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

YES	
No	X

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

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

Note: Possible reasons might include:

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

The policy proposals do not impact on health.

Note:

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

- a. the dedicated [Institute of Public Health HIA](#) site
- b. [Investing for health](#)

5. Human Rights

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

Go through each of the rights detailed in the table below. For each one **consider whether the policy/proposal engages the right**, i.e. how the policy/proposal you are working on could involve the right. Explain how the right is engaged.

Please note that the rights have been abbreviated so you should see the relevant Article in the Guide referred to above for the full title and explanation of the right.

Human Right	Does the Policy Engage the Right?	
	Yes/No	Explanation
Article 2 Right to life	No	
Article 3 Prohibition of torture, inhuman and degrading treatment	No	
Article 4 Prohibition of slavery and forced labour	No	
Article 5 Right to liberty	No	

Human Right	Does the Policy Engage the Right?	
	Yes/No	Explanation
Article 6 Right to a fair trial	Yes	Art 6(3) provides that everyone has a minimum right to <i>“defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require”</i>. While Article 6 does not specify that legal aid must be provided for in civil proceedings, decisions by the ECHR provides that it must be provided where it is necessary for effective access to the courts. However, the policy does not make any changes to the eligibility criteria or reduce the scope of legal aid. The proposals therefore do not interfere with or limit this right. Ensuring that the department delivers increased budgetary control and accountability to the legal aid budget while promoting fair and reasonable remuneration for legally aided work is necessary to ensure that access to justice is maintained.
Article 7 No punishment without law	No	
Article 8 Right to respect for private and family life	No	
Article 9 Freedom of thought conscience and religion	No	
Article 10 Freedom of expression	No	
Article 11 Freedom of assembly and association	No	
Article 12 Right to marry and found a family	No	
Article 14 Prohibition of discrimination	No	
Protocol 1, Article 1 Right to property	No	
Protocol 1, Article 2 Right to education	No	

Human Right	Does the Policy Engage the Right?	
	Yes/No	Explanation
Protocol 1, Article 3 Right to free elections	No	

When Is a Human Rights Impact Assessment Required?

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

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

6. Rural

Rural	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	1. Does the policy apply in rural areas and communities? If NO: set out the reasons why If Yes:	X			X	The policy proposals will apply equally to all legal professionals engaging in legally aided work regardless of location. There are no proposed changes to scope or eligibility for legal and therefore no impact on the citizen.
	a. Does the policy have the potential to have a negative impact on rural areas and communities?		X		X	
	b. Does the policy have the potential to have a positive impact on rural areas and communities?		X		X	
	CONCLUSION				X	No impact. A Rural Impact Assessment has been completed.

When Is a Rural Impact Assessment Required?

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

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

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

7. Social Inclusion

Poverty & Social Exclusion	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy involve the spending of public monies, the allocation of non-financial resources or the delivery of a service?	X			X	The policy involves public spending through the legal aid budget and will be subject to the necessary financial and legislative approvals as well as the availability of funding.
	Will the policy impact on socially excluded or vulnerable groups or involve the delivery of a service within or to socially excluded areas?		X		X	The policy will apply to the Taxing Master and how legally aided work is remunerated. It does not change the scope of legal aid nor the eligibility criteria for citizens who cannot afford to represent themselves seeking to apply for legal aid. It also does not change the level or standard of service delivery.
	Will the policy address or impact on measures to promote employment or employability among the most disadvantaged?		X		X	
	Will the policy address or impact on other areas of inequality and disadvantage such as health, education and housing?		X		X	
	CONCLUSION				X	The policy does not change the scope of legal aid and it does not impact on the eligibility of individuals for legal aid. Legally aided individuals will continue to get the same service that is currently provided. A Social Inclusion Impact Assessment is not required.

When is a Social Inclusion Impact Assessment Required?

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

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

8. Economic Appraisal ²

ECONOMIC APPRAISAL	Screening Questions	Response to Screening Questions		Full Appraisal Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Does the decision/proposal involve the spending or saving of public money?	X		X		The policy involves public spending through the legal aid budget and will be subject to the necessary financial and legislative approvals as well as the availability of funding. An economic appraisal is being developed and will be finalised when proposals are consulted upon and finalised. It is anticipated that the reformed remuneration arrangements will result in savings for the legal aid fund, however quantifying this is difficult particularly given the lack of transparency in relation to barrister brief fees, which is one of the drivers for reforming expenditure in this area.
	Does the decision or proposal involve changes in the use of public resources?	X		X		
CONCLUSION				X		Economic appraisal to be completed.

² NOTES:

Economic appraisals should, where possible, be undertaken by parties not directly involved in the decision making process. Departmental economists can provide further advice on economic appraisal.

When Is an Economic Appraisal Required?

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

9. Economic Impact Assessment

ECONOMIC APPRAISAL	Screening Questions	Response to Screening Questions		Full Appraisal Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy impact on the provision of goods or services to consumers, or the uptake of such goods and services to consumers?		X		X	The policy impacts the delivery of publicly funded legally aided services only. There is no change to the scope or eligibility. There is no impact on privately funded legal services.
	Will the policy impact on the region's infrastructure?		X		X	
	Will the policy impact on investment in research and development or promote innovation and creativity?		X		X	
	Will the policy impact on or encourage enterprise?		X		X	
	Will the policy impact on the skills level within the economy?		X		X	
	Will the policy address negative perceptions of Northern Ireland and /or help promote it as a place to live, work and invest?		X		X	
	CONCLUSION				X	An Economic Impact Assessment is not required.

When Is an Economic Impact Assessment Required?

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

10. Regulatory Impact Assessment

Regulatory	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Is the policy or amendment to the policy likely to have a direct or indirect impact on businesses?		X		X	The proposals do not introduce new regulatory requirements, compliance obligations, reporting duties or enforcement mechanisms for businesses, nor do they create a new regulatory regime. The reforms rather require a change in approach primarily from barristers in terms of how work is billed for and from the Taxing Master in terms of how bills are assessed. In the pre-consultation engagement paper issued by the Department in August 2026, the Department highlighted the changes being proposed with regards to barrister billing, and sought the views of the Bar. The Bar did not comment on the proposal. We would welcome views on the revised proposal contained in the consultation paper.
	Is the policy or amendment to the policy likely to have a direct or indirect impact on the voluntary / community sector? ³		X		X	
	CONCLUSION					A Regulatory Impact Assessment is required.

³ NOTES:

This Includes charities and the social economy sector.

When Is a Regulatory Impact Assessment Required?

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

A Regulatory Impact Assessment is not required for:

- i. Proposals which impose **no costs or no savings**, or negligible costs or savings on business, charities, social economy enterprises or the voluntary sector;
- ii. Increases in statutory fees by a predetermined formula such as the rate of inflation; or Road closure orders.

11. Legal Aid Impact

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

It will always be necessary to discuss and agree the consequences of the policy proposal, including the resource implications, of the new proposal for the workload of the courts and legal aid. Central to these considerations will be the completion of a legal aid impact test. This is not a difficult process but it is very important that it is carried out to ensure that there are no subsequent problems with securing policy approval for your proposal. Further guidance on undertaking a legal aid impact test is available later in this workbook. It should be noted that legal aid, subject to means and merits test, is available for many aspects of the law which are subject to trial in a court in Northern Ireland. Many new proposals brought forward by central government departments will directly impact on legal aid expenditure such as changing the criminal or civil law or improving or affecting in any way the rights of individuals without that impact being readily or immediately apparent. Key questions to consider include:

Legal Aid	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the new legislation impact on or have implications for the workload of the courts and legal aid?		X		X	
	Will the policy proposal involve any entitlement to benefits?		X		X	
	Will the new legislation or policy proposal impact on people?		X		X	The policy will not result in any changes to scope or eligibility for legal aid and will have no impact on court processes.
	CONCLUSION				X	A legal aid impact assessment is not required.

12. State Aid Compliance

State Aid	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the policy involve undertakings (businesses or any entity involved in economic activity)? ⁴		X		X	Legal aid is granted to individuals, not businesses, who are free to avail of legal representation of their choice.
	CONCLUSION				X	A State Aid Compliance Assessment is not required.

⁴ Notes:

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

13. Assessment of Environmental Impacts

Environmental	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	Will the project / policy impact on air quality i.e. will it lead to a change in emissions of air pollutants or the numbers of people affected by poor air quality?		X		X	
	Will the project / policy impact on climate change i.e. will it lead to changes in emissions of greenhouse gas, consumption of fossil fuels or increase the need to travel within the region?		X		X	
	Will it impact on the landscape or the use of land within the region?		X		X	
	Will it impact on the use of natural resources within the region?		X		X	
	Will it impact on bio-diversity within the region?		X		X	
	Will it involve a proposal that has the potential to impact on levels of noise?		X		X	
	CONCLUSION				X	An Environmental Impact Assessment is not required.

When is an Environmental Impact Assessment Required?

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

14. Strategic Environmental Impact Assessment

Strategic Environmental Assessment	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
	1. Is the plan / programme likely to have significant environmental effects? If yes:		X		X	
	a. Is the plan / programme of the type listed in Article 3(2) ⁵ which determine the use of small areas at local level, or which are minor modifications to plans and programmes;		X		X	
	b. Where the plan / programme is not of the type listed in Article 3(2), does it set the framework for future development consent of projects?		X		X	
	2. Is the sole purpose of the plan / programme to serve national defence or civil emergency?		X		X	
	3. Is it a financial or budget plan / programme?		X		X	
	4. Is it supported by the EU Structural Funds or the European Agricultural Guidance and Guarantee Fund for the programming periods from 2000 to 2006 or 2007?		X		X	

⁵ European Directive 2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment”, more commonly known as the Strategic Environmental Assessment or SEA Directive.

	CONCLUSION		x	A Strategic Environmental Impact Assessment is not required.
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When Is a Strategic Environmental Impact Assessment Required?

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