

Law Centre NI response

Enabling Access to Justice Division Legal Aid Engagement Process

May 2026

1. Introduction

Law Centre NI (LCNI) welcomes the opportunity to respond to the Department of Justice's (DOJ) engagement on proposed reforms to the legal aid system in Northern Ireland (NI).

The DOJ has launched an engagement process as part of the "Enabling Access to Justice Reform Programme." LCNI recognises the significant breadth of these proposed reforms. With LCNI's work in mind, this response is limited to consideration of the following:

- I. Overarching Principles of Legal Aid in NI
- II. Means Testing Reform
- III. Scope and Merit Reform relating to Judicial Review
- IV. Impacts on Vulnerable Groups

LCNI welcomes the opportunity to discuss the reforms in further detail and is keen to have further engagement on the matter.

2. LCNI work

LCNI provides specialist legal services in the areas of social security, immigration and asylum, and employment law. As a regional support organisation, LCNI also supports the advice sector across NI, often taking test cases to help clarify and/or challenge the law; the impact of which has shaped law and policy in both NI and the rest of the UK.¹ A considerable proportion of this work and our day-to-day legal work relies on the support of legal aid. This is discussed further in this response.

¹ [Upholding the dignity of a Law Centre NI client | Law Centre Northern Ireland DfC's misinterpretation of welfare supplementary payment legislation has led to underpayments of DLA to PIP 'pending appeal' mitigation payments - Rightsnet](#)

3. LCNI recommendations

I. Overarching Principles

LCNI welcomes the DOJ's commitment to ensuring the NI Legal Aid System is fairer, simpler, and sustainable, and we recognise the need for reform to maintain effective use of resources. However, we strongly contend that any reform must be underpinned by a clear set of principles aligned with the rule of law and access to justice.

LCNI strongly advocates for the following principles to guide reform:

- ***Effective access to justice as a fundamental human right***
- ***Early legal advice and representation as essential to resolving issues efficiently and preventing escalation²***
- ***Recognition of legal aid as an investment in good administration and public accountability, not solely a cost to the public purse***
- ***Safeguarding equality of arms in legal proceedings***
- ***Upholding the role of legal aid in enabling challenges to unlawful decision-making, crucially through judicial review***

While LCNI appreciates the pragmatism of the proposed reforms placing a strong emphasis on value for money and targeting resources, LCNI emphasises that value must be assessed in terms of outcomes, including improved decision-making by public bodies, as if legal problems are resolved early, this avoids more expensive interventions later, and the protection of fundamental rights.³

In essence, LCNI cautions a purely cost-driven approach, as this risks undermining the objectives of the justice system. Legal aid is fundamental to the rule of law and access to justice, and LCNI passionately believes that any reform must not undermine this core function.

² [Amendments-to-Discretionary-Waiver-Guidance.pdf](#) -

[Overpayments-arising-from-official-error-FINAL-5-April-2022.pdf](#)

[Official Error and Waiver Statistics 2024/25 | Law Centre Northern Ireland](#)

³ [Official Error and Waiver Statistics 2024/25 | Law Centre Northern Ireland](#)

II. Means Testing Reform

LCNI supports the intention to introduce a fairer and simpler approach to means testing, particularly given the complexity of the current system and the risk that individuals on lower incomes are excluded from support. Means testing reform represents an opportunity to close existing gaps in access to justice. A fact that is further compounded by the acute poverty crisis currently in NI – any financial threshold must reflect this.

LCNI respectfully recommends that at the heart of means testing reform should be a simplistic and accessible system, realistic financial thresholds, wider access to early advice, and safeguards for vulnerable applicants (e.g. those on low incomes and migrants) LCNI respectfully recommend that a co-design process with those across the legal landscape, including those from the advice and third sector, would be prudent.

III. Scope and Merits Reform relating to Judicial Review

LCNI has significant concerns regarding the proposals outlined in the consultation to reform scope and merits. The consultation proposes aligning funding with cases that demonstrate impact, benefit, and value for money, alongside stricter merits criteria and prioritisation. While these are legitimate considerations, LCNI has concerns that the approach risks overly narrowing the availability of legal aid.

Judicial Review and Public Law

LCNI is particularly concerned about the proposals relating to judicial review.

The consultation includes specific options on the provision of legal aid for judicial review proceedings, alongside proposals such as requiring a “direct, material and substantial benefit” to the applicant and limiting cases based on standing.

While several cases LCNI take do indeed have a “direct, material and substantial benefit” to the applicant, we have concerns how the proposed approach of also restricting strategic or test-case litigation, which often delivers the greatest systemic impact, will interact with each other. I.e. It is often the circumstance that a case is taken for both a direct benefit and for wider public benefit, thus creating a false distinction between individual and wider public benefit, when in practice many successful judicial reviews achieve both.⁴

⁴ [Legal victory for terminally ill Derrylin woman - The Fermanagh Herald](#)

LCNI has concerns that these proposals risk undermining the constitutional role of judicial review as a mechanism for holding public bodies to account. In order to safeguard access to justice, this mechanism must be safeguarded.

Furthermore, a narrow interpretation of “benefit” may exclude cases where an individual claimant challenges an unlawful policy, and the outcome has wide-reaching implications for others, including vulnerable groups. This creates an inherent tension within the consultation.

LCNI struggle to see how the proposals around judicial review, which seeks to fund high-impact cases, is possible if the proposals simultaneously set criteria that may exclude those with the greatest systemic impact.

LCNI wish to highlight if these proposals are realised, this may leave individuals without representation in complex legal matters, and therefore increasing unrepresented litigation, placing additional pressure on courts and tribunals and potentially undermining early resolution, and increasing long-term costs

In addition, while it is appropriate to ensure that publicly funded cases have a reasonable prospect of success, overly restrictive merit thresholds risk excluding cases where the law is uncertain or developing and preventing legitimate challenges to administrative decisions

LCNI strongly believe that scope and merits reforms must be designed to support, rather than constrain, effective access to justice, particularly in public law.

IV. Impacts on Vulnerable Groups

Legal aid is a critical mechanism for ensuring that vulnerable and disadvantaged groups can vindicate their rights. While the consultation acknowledges the importance of targeting support to those who are most in need, the proposed reforms may have disproportionate impacts if not carefully designed and mitigated.

While an equality screening has been carried out, a full equality impact assessment has not been carried out. LCNI urges DOJ to undertake this exercise, pursuant to s.75 NI Act 1998. LCNI has concerns that failure to do so could lead to reduced access to representation in complex and impactful matters, an increased reliance on self-representation (with poorer outcomes), barriers to challenging unlawful or incorrect decisions by public bodies and a deepening of existing inequalities in access to justice in NI.

In the area of social security and administrative justice, access to legal aid is particularly important where decisions can have immediate and severe impacts on individuals' livelihoods and often systemic issues often require strategic litigation to resolve.

4. Conclusion

LCNI supports the objective of ensuring a sustainable and accessible legal aid system in NI but emphasises that reform must not compromise the core function of legal aid in upholding access to justice and the rule of law.

In particular:

- Means testing reform should expand access, especially to early advice
- Scope and merits reforms must avoid undermining judicial review and strategic litigation
- All reforms should be assessed against their impact on vulnerable groups and systemic fairness

A balanced approach is required; one that recognises legal aid not simply as a cost, but as a cornerstone of a fair and accountable justice system in NI. LCNI welcomes further engagement with the DOJ in this programme of reform.

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