Ministry of Justice

Lord Bellamy KC
Parliamentary Under-Secretary of State for Justice

Chair of Public Accounts Committee
Dame Meg Hillier, MP
Public Accounts Committee
House of Commons
London
SW1 0AA

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Dear Dame Hillier

LEGAL AID MEANS TEST REVIEW: IMPLEMENTATION UPDATE

In advance of the oral evidence session on Value for Money from Legal Aid, scheduled for 25 March 2024, I want to update the Public Accounts Committee on implementation of the Government's Legal Aid Means Test Review (MTR).

In publishing its response to the MTR, the Government outlined proposals for the phased implementation of the new legal aid means test over the following two years.

Under Phase 1, the Government implemented the new non-means tested areas of legal aid in August and September 2023. Moving forwards, Phase 2 will deliver the new civil legal aid means tests, with Phases 3 and 4 introducing the corresponding criminal means tests.

I should stress that the Government remains fully committed to delivery of the MTR as our reforms will both protect and extend access to justice for many more vulnerable individuals and families across England and Wales. However, whilst detailed work has been undertaken to develop our MTR implementation plans, the timeline for implementation will take longer than initially envisaged due to wider competing Government priorities. We now expect that full implementation of the MTR reforms cannot realistically be completed before Summer 2026.

Given more legal aid applicants are forecast to benefit from the changes to the civil scheme, the Government will continue to focus on delivery of Phase 2 ahead of Phases 3 and 4. Nonetheless, as the Government highlighted in the MTR consultation exercise, as means testing plays a key role in the full life cycle of both civil and criminal cases, these are complex reforms to deliver. This includes the initial assessment of the applicant's financial means, as well as the issuing and collection of legal aid contributions. The scale of digital change required across several different LAA systems is also significant. This demands a fully integrated approach with rigorous testing of the new systems before they can go live. All of this has to be achieved whilst maintaining the functionality of the existing schemes so that applications may continue to be assessed and processed without adversely impacting legal aid clients or the providers who deliver services on behalf of the Legal Aid Agency.

I fully appreciate that the delay to MTR implementation will be disappointing for many parliamentarians as well as for our stakeholders across the legal profession. In light of this delay, we have been exploring possible options to accelerate implementation of certain MTR measures. In this context, I am pleased to announce that the Government intends to lay a tailored SI later this spring to deliver a number of specified measures focusing on payments which may be disregarded from the means assessment, including:

- A new general power for discretionary disregards;
- A discretionary disregard for the Victims of Overseas Terrorism Compensation Scheme;
- A mandatory disregard for the Modern Slavery Victim Care Contract;
- A mandatory disregard for backdated welfare benefits and child maintenance;
- A mandatory equity disregard where a victim of domestic abuse has temporarily left their home; and
- A mandatory disregard for Scotland and Northern Ireland redress schemes for historical child abuse.

In addition, we intend to use the spring SI to implement the following disregards which were not consulted on in the MTR:

- A discretionary disregard for miscarriage of justice compensation under Section 133 of the Criminal Justice Act 1988; and,
- A discretionary disregard of Grenfell Tower compensation in criminal legal aid.

It is our intention that the measures covered by the new SI will come into force by no later than June 2024.

Yours sincerely

Christopher Bellamy

LORD BELLAMY KC