



Justice Committee

Lord Bellamy KC
Parliamentary Under-Secretary of State for Justice

By email only

27 March 2024

Dear Christopher,

LEGAL AID MEANS TEST REVIEW: IMPLEMENTATION UPDATE

Thank you for your letter dated 12 March 2024 regarding the implementation update to the Legal Aid Means Test Review (MTR). The Committee wishes to express its dissatisfaction and concern over the Government's decision to delay the full implementation of MTR reforms to 2026.

The Ministry of Justice's approach to updating the legal aid means test has been characterised by repeated delays.

In February 2019, the Ministry of Justice announced a review of the means test for legal aid. In May 2021, the then Lord Chancellor announced that, due to the pandemic, the review's publication would be delayed from Spring 2021 to the Autumn of that year.

In the Government's response to the Future of Legal Aid report, published on 9 November 2021, the then Lord Chancellor said "we are nearing completion of our review of the Legal Aid Means Test" and that the review "is scheduled for publication in Autumn 2021".

The Legal Aid Means Test Review was then published in March 2022. The consultation closed on 2 June 2022. On 18 January 2023, you wrote to us to say that the Government would publish the review "early this year". On 25 May 2023, the Government published the review. On 24 May, in a letter notifying of us publication, you set out that:

The proposals aim to align civil and criminal legal aid more closely through a four-phase implementation plan which will be implemented over the next two years. The first changes introduced will be to non-means tested legal aid, including introducing free legal representation for anyone under the age of 18. This will ensure those who need support the most can access it.



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Civil legal aid changes will be implemented in the second phase, which will support more people to access help in family justice courts. This includes ensuring any disputed or inaccessible assets are not considered when assessing financial eligibility for aid, which will help domestic abuse victims who share a house with their attacker. We will then implement new criminal means tests in phases three and four.

In your letter dated 4 July 2023, you then provided the following update on the timeline for implementation:

I can confirm that the regulations for Phase 2 will be laid in 2023/24, coming into force in 2025. This timeline reflects the substantial digital change which accompanies implementation. The simultaneous introduction of numerous revised and interlinked legacy systems with a successor model creates a material risk to those systems. In order to manage this 'go-live' risk, the implementation plan includes a substantial testing period before the changes come into force.

Then we come to the most recent update in your letter on 12 March 2024, which explains that the full implementation will not be completed before Summer 2026 because of "wider competing Government priorities".

The overall impression created by the repeated delays since this review was first announced in February 2019 is lamentable. We share the concerns expressed by Nick Emmerson, the President of the Law Society, in his statement on 14 March 2024, that "the government is displaying a pattern of behaviour of refusing to commit resources to the justice system resulting in unmet legal need". We would be grateful if you could explain how the decision to delay implementation of the MTR is in keeping with the Ministry of Justice's objective to "deliver swift access to justice".

We look forward to discussing the implementation of the MTR when we see you next.

Yours sincerely,

Sir Robert Neill KC (Hon) MP
Chair
Justice Committee