



Andy Slaughter MP
Chair of the Justice Select Committee
House of Commons
London
SW1A 0AA

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30 October 2024

Dear Andy,

LEGAL AID MEANS TESTING: REGULATION AMENDMENTS

As part of the new Government's legal aid policy, I am reviewing the rules and arrangements for financial eligibility, particularly in light of the Legal Aid Means Test Review (MTR) undertaken by the Ministry of Justice between 2019 and 2023. Whilst I am still considering how most effectively to shape means testing policy in order to promote access to justice, I have agreed that some specified MTR measures should be introduced straight away.

Earlier today, I laid before Parliament a Statutory Instrument (SI) to extend the list of specified payments which may be disregarded from the legal aid means assessment when determining an individual's financial eligibility for legal aid (full details of the SI and supporting materials are available at: <https://www.legislation.gov.uk/uksi/2024/1074/contents/made>). Such payments may be disregarded on either a mandatory or discretionary basis and the explanatory memorandum sets out the rationale and principles which guide policy intervention on this matter. The changes made by this SI will come into force on 20 November 2024.

The new disregarded payments focus on the following measures:

- Mandatory disregard for Modern Slavery Victim Care Contract (MSVCC) payments in the civil and criminal legal aid means tests and criminal contribution regulations;
- Mandatory disregard for miscarriage of justice compensation payments made under Section 133 of the Criminal Justice Act 1988, in the civil and criminal legal aid means tests and criminal contribution regulations;
- Amendment of the existing mandatory disregard for infected blood support scheme payments under the civil legal aid means test to include recent compensation schemes set up;
- Capital disregard for backdated welfare benefits and child maintenance payments in the civil legal aid means test;

- Mandatory disregard for payments made under Scotland and Northern Ireland redress schemes for historical child abuse in the civil legal aid means test;
- Extension of the equity disregard where a victim of domestic abuse has temporarily left their home in the civil legal aid means test;
- Discretionary disregard for payments made under the Victims of Overseas Terrorism Compensation Scheme (VOTCS) in the civil and criminal legal aid means tests and criminal contribution regulations; and
- Extension of the discretionary disregard for Grenfell Tower-related compensation to the criminal legal aid means test and criminal contribution regulations.

In addition, the SI provides for the introduction of a new general power so that the Legal Aid Agency's Director of Legal Aid Casework may use their discretion to disregard compensation, damages, insurance or ex-gratia payments for loss or harm caused to an individual where that is consistent with the principles underpinning our policy in this area. This new approach will mean that the list of discretionary disregards may be updated without recourse to secondary legislation.

The SI also incorporates transitional provisions so that applicants refused legal aid because they fail the means test, or who are granted legal aid subject to payment of a contribution, may request a reassessment on account of the changes introduced through these amendments.

Taken as a whole, the measures included in this SI may help ensure that more vulnerable individuals and their families are able to access legal aid as they seek to resolve their issue or dispute.

As we further develop and subsequently deliver the Government's means testing and wider legal aid policy agenda, I very much look forward to closer collaboration with the JSC as part of that process.

Yours sincerely,



HEIDI ALEXANDER MP
Minister Of State