Additional Information from the Ministry of Justice on the Civil Legal Aid (Procedure) (Amendment) Regulations 2026 (SI 2026/573)

Q: Please provide more context about the status of all the changes that were introduced by the 2025 Amendment Regulations. From the EM, those being reversed by this instrument are a relatively minor part of the whole. Please provide a summary table that shows each measure introduced in the 2025 Regulations (including for criminal legal aid), and for each:

- **whether the legislative change remains in place;**
- **whether it is being used in practice;**
- **whether it is intended to reverse the change eventually; and**
- **if so, on what timetable (approximate if necessary).**

A:

Change made by the 2025 Amendment Regulations	Is this being used in practice?	Will these changes be reversed eventually?	If yes, when is this expected?
Civil Legal Aid			
Certificates – regulation 2(3) amended the Civil Legal Aid (Procedure) Regulations 2012 ("the Procedure Regulations") to remove the requirement on the Director to provide a copy of a certificate to an individual.	**No**. The Legal Aid Agency (LAA) has already resumed this activity.	**Yes**. To be reversed through 2026 Amendment Regulations.	SI coming into force (CIF) date – 23 June 2026
Civil legal aid delegations – regulation 2(4) amended the Procedure Regulations to remove the restrictions on the delegation of functions by the Director of Legal Aid Casework ("the Director") to legal aid providers in relation to issuing certificates recording determinations in relation to authorised	**Partially**. Delegations to amend and make substantive determinations in relation to Licensed Work were removed 1 December 2025.	**No**. The amendments to the Procedure Regulations removed restrictions on delegations that are controlled separately through the Director's tables of delegated functions.	N/A

Change made by the 2025 Amendment Regulations	**Is this being used in practice?**	**Will these changes be reversed eventually?**	**If yes, when is this expected?**
representation, amending limitations or conditions to which determinations are subject, the withdrawal of determinations, and the ability to conduct a review in relation to authorised representation. With those restrictions lifted, the Director then amended her tables of delegated functions to delegate to civil legal aid providers the ability to: • amend substantive determinations for Licensed Work[1] up to a certain limit; • make determinations in respect of certain proceedings which are related to those for which a determination has already been made by the Legal Aid Agency (LAA); and • withdraw non-contentious determinations on legal aid funding where: the services made available by the determination have been provided; the proceedings to which the determination relates have been concluded; the individual consents; or the individual has died.	Delegations to withdraw non-contentious determinations remain in place when the application for Licensed Work has not yet been uploaded to the LAA's Client and Cost Management System or Civil Apply Service.	Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	

[1] For Licensed Work, where legal representation in court is needed, the LAA (acting under delegated powers) usually determines eligibility and is also typically responsible for taking decisions in relation to the potential amendment of the determination as well as its possible withdrawal, subject to the circumstances of the case.

Change made by the 2025 Amendment Regulations	**Is this being used in practice?**	**Will these changes be reversed eventually?**	**If yes, when is this expected?**
Notification – regulation 2(5) amended the Procedure Regulations to remove the requirement for a provider who makes a determination, under delegated authority, to notify themselves of the determination, amendment or withdrawal, the written reasons for such, and the right to a review. This was a necessary change as a result of the changes to the restrictions on delegations.	**No**. This no longer applies following the removal of delegated functions for substantive determinations.	**No**. As above under 'civil legal aid delegations', retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A
Withdrawal of emergency representation determinations – reg 2(6) amended the Procedure Regulations in relation to emergency representation so that where, following the provision of further information, the Director determines that an individual does not qualify for relevant legal services, such a determination must be withdrawn. Previously the requirement was that such a determination must be revoked. A 'withdrawal' has the effect of ending the legal aid funding, without any adverse consequences. A 'revocation' has the effect as if the individual had never qualified for legal aid – meaning they are liable for the costs of the legal services provided themselves.	**Yes**. The requirement to withdraw (not revoke) is still in place.	**Yes**. To be reversed through 2026 Amendment Regulations.	SI CIF date – 23 June 2026

Change made by the 2025 Amendment Regulations	**Is this being used in practice?**	**Will these changes be reversed eventually?**	**If yes, when is this expected?**
This was changed in 2025 because the costs limit and term during which an individual could receive emergency representation was extended, and without the change, could leave individual's liable to much larger sums than would otherwise be the case. The emergency representation period has now reverted to how it was before the 2025 Amendment Regulations and so the policy to withdraw has also reverted to revoke.			
Civil contributions – regulations 2(2) and (3), and 3 amended the Procedure Regulations and the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 to waive the requirement for individuals to pay income and capital contributions in relation to civil legal aid. This was because the LAA's digital systems were not able to continue to take civil contributions as a result of the cyber-attack.	**Yes**. There is still no requirement to pay civil income or capital contributions.	**Yes**.	A date cannot yet be provided. As outlined in paragraph 5.5 of the EM, further work is ongoing to determine the timing and approach to reinstating the requirement to pay civil income and capital contributions.
Criminal Legal Aid			
Representation Order – regulation 4(2) amended the Criminal Legal Aid (General) Regulations 2013 ("the General Regulations") to remove the requirement for a provider who, under delegated authority, makes a determination that an individual qualifies for representation, to send	**No**. This has been reversed with the removal of the delegated authority relating to certain determinations in the magistrates' court which was	**No**. Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A

Change made by the 2025 Amendment Regulations	Is this being used in practice?	Will these changes be reversed eventually?	If yes, when is this expected?
the representation order to themselves. This was a necessary change as a result of the changes to the restrictions on delegations.	made on 1 October 2025.		
Date of determination – regulation 4(2) amended the General Regulations to provide that where a provider, under delegated authority, issues a representation order, the determination is to have effect from the date the provider made the determination (as opposed to when the application was received by the Director where, before the 2025 Amendment Regulations, only the LAA were authorised to make these determinations). This was a necessary change as a result of the changes to the restrictions on delegations.	**No**. This has been reversed with the removal of the delegated authority relating to certain determinations in the magistrates' court which was made on 1 October 2025.	**No**. Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A
Magistrates' court determinations – regulation 4(3) amended the General Regulations to exclude criminal legal aid providers from the requirement to determine that an individual is financially eligible for representation in the Crown Court where they have made a determination in the same proceedings that an individual is financially eligible for representation in the magistrates' court. This was a necessary change as a result of the changes to the restrictions on delegations to limit	**No**. This has been reversed with the removal of the delegated authority relating to certain determinations in the magistrates' court which was made on 1 October 2025.	**No**. Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A

Change made by the 2025 Amendment Regulations	**Is this being used in practice?**	**Will these changes be reversed eventually?**	**If yes, when is this expected?**
providers delegated authority to certain determinations in the magistrates' court only.			
Notification of withdrawal - regulations 4(4) and 5 amended the General Regulations and the Criminal Legal Aid (Financial Resources) Regulations 2013 to remove the requirement for a provider who, under delegated authority, withdraws a determination that an individual qualifies for representation, to send written notification of this to themselves. This was a necessary change as a result of the changes to the restrictions on delegations.	**No.** This has been reversed with the removal of the delegated authority relating to certain determinations in the magistrates' court which was made on 1 October 2025.	**No.** Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A
Reviews – regulation 4(5) amended the General Regulations to provide that where a representation order is issued to reflect a determination following a successful review, the date of the representation order must be the date of the original determination where this was made by a provider under delegated authority (as opposed to when the application was received by the Director where, before the 2025 Amendment Regulations, only the LAA were authorised to make these determinations). This was a necessary change as a result of the changes to the restrictions on delegations.	**No.** This has been reversed with the removal of the delegated authority relating to certain determinations in the magistrates' court which was made on 1 October 2025.	**No.** Retaining these changes provides the LAA with flexibility to respond at pace to any future circumstances that might require enhanced levels of delegations to legal aid practitioners.	N/A

Q: The table provided in response to the previous question indicated that a number of measures in the 2025 instrument are no longer being used but will not be reversed in legislation, instead being maintained to provide flexibility in the future. However, the EM to the 2025 instrument was clear that the measures in it were temporary (e.g. paras 5.1, 11.3). While the wish to retain flexibility is understandable and may well be for good reasons, it appears to be inconsistent with that previous commitment to Parliament. Could you please explain/justify further?

A: The Explanatory Memorandum (EM) to the 2025 Amendment Regulations stated that the measures were expected to be temporary (see paragraphs 5.7, 7.1, 9.2, 10.2 and 11.3). While the expectation at the time was that they were meant to operate on a temporary basis, this was not framed as a commitment that all measures would necessarily be reversed in legislation in every circumstance.

As set out in the 2026 Amendment Regulations EM, as part of recovery, these extended delegated functions were withdrawn on 1 October 2025 for criminal matters with a gradual withdrawal for civil matters from 1 December 2025. This was done through a separate operational process which was authorised by the Director of Legal Aid Casework.

As also explained in the 2026 EM, it has since become clear that retaining these provisions in legislation provides the flexibility to respond quickly to future pressures or changing circumstances without the need for further legislative change. If we did not retain this flexibility, we would need to introduce further legislation to lift the same restrictions again, which would reduce our ability to act at pace.

Failure to respond quickly could significantly risk compromising the LAA's ability to administer the legal aid scheme. This in turn would have a significant negative impact not just on legal aid providers but on access to justice for individuals more widely.

We consider that this approach is consistent with the wording in the original EM.

Q: What is the current estimate of the additional costs of the remaining measures to the legal aid budget, both to date and in the future? (at the time of the 2025 instrument, the MoJ's estimate was approximately £130,000 per week). What affect will the changes in this instrument have on the estimated ongoing (e.g. weekly) cost of the measures in the 2025 instrument?

A: The £130,000 per week estimate at the time of the 2025 Amendment Regulations was largely driven by changes being made to delegate the means and merits test for criminal legal aid in relation to Summary Only and Each Way Magistrates cases where the applicant is under 18, on a passported benefit or unemployed, alongside the waiving of the requirement to pay income and capital contributions in civil legal aid cases.

There is no estimated financial impact arising from the measures introduced in the 2026 Amendment Regulations.

The remaining financial impacts from the 2025 Amendment Regulations relate solely to the removal of the requirement to pay income and capital contributions for existing civil cases and removal of the requirement to make contributions for new civil cases.

The continued waiver of civil contributions is expected to lead to the loss of around £16.25k of income each week. Since the start of the outage of LAA digital systems following the cyber-attack, this represents approximately £900k of lost income. Ministers and HMT have remained engaged on the financial implications arising from the continued waiver of civil income and capital contributions.

Q: In relation to an assessment of the effect of delegated decision making, at the time of the 2025 instrument the MoJ told us that "a data-led, risk-based approach will be put in place for post-hoc assurance. This will include monitoring the level of emergency certificates raised and the number of refusals once these certificates reach substantive determination; and a review of crime claims data once this becomes available, enabling targeted sampling of cases". Please summarise what "post-hoc assurance" activities have taken place, what the outcome of those has been and what, if any, changes have been made as a result.

A: In relation to the assessment of financial eligibility for civil legal aid, the Assurance team undertook a review of 123 certificates which had been submitted following a delegated grant of emergency funding. This review determined that two applicants were financially ineligible to receive funding. This is in line with pre-outage refusal rates where delegated authorities were used.

For crime claims, a sample of 300 indictable only, appeal[s] to the Crown Court or cases already in the Crown Court which had been granted on the basis that the client was in receipt of a passporting benefit were reviewed once the LAA's link with the Department for Work & Pensions was restored.

The initial review identified that 59% of those clients were in receipt of a passporting benefit. However, following additional checks by the Assurance team, including cross referencing with His Majesty's Revenue & Customs, we were able to apply a full means test to the remaining cases and confirm that only one of the 300 clients was ineligible for legal aid.

The LAA's wider assurance programme has been significantly delayed by the cyber-attack with the final set of data only becoming available at the end of May. The assurance audit programme is scheduled to conclude by the end of August and will then be reviewed by auditors from the National Audit Office. Early indications are that error rates are in line with previous years where normal delegation applied and to date, none of the errors identified are attributable to the measures implemented by the 2025 Amendment regulations.

Q: Also at the time of the 2025 instrument, the MoJ told us that "in such instances where taking contract action would be reasonable and proportionate, such as where a pattern of dishonesty is shown, this will be done based on the individual circumstances. The LAA promotes a "zero-tolerance approach to fraud". Again, could you summarise whether fraud and dishonesty has been detected and, if so, what actions have been taken?

A: In respect of measures implemented by the 2025 Amendment Regulations and the extended delegated authorisations, there has currently been no detected fraud. Fraud Risk Assessments were conducted by the Counter Fraud team at the outset, when all contingency measures were developed, and the controls and mitigations that were implemented as a result will reduce potential fund losses. The counter-fraud team have implemented measures to identify and record cases related to the security incident and subsequent contingencies.

The counter-fraud team has not received individual allegations of fraud related to the contingencies from external sources. There are two factors likely to contribute to this. First, historical data on allegations of fraud indicate that referrals from external sources, (such as members of the public etc.), are not likely to get reported to the counter-fraud team until at least a year after the fact. Second, in relation to other contingency measures, such as the Average Payment Scheme, the Agency tends to receive few allegations from external sources as those sources do not have sufficient knowledge of contingency operations to suspect that dishonesty might have occurred.

8 and 15 June 2026