

## Annex 1

### Summary of the Changes to Legal Aid Proposals they may Impact on Migration

The table below shows the proposed changes to the scope of legal aid to areas of law relating directly to migration. The last column identifies some of the key issues arising from the proposed changes in each specific area of law.

To gather views a brief questionnaire is included at the end of this summary however SESPM would also be pleased to receive comments outside of this format.

Area	Currently in Scope	What MOJ proposes to Remove from Scope	Why MOJ are removing from scope	Issues for respondents to consider.
Asylum	<p><b>Advice and representation relating to asylum issues (not welfare support – see below), particularly applications and appeals.</b></p> <p>This includes:</p> <ul style="list-style-type: none"><li>• advice at the application stage</li><li>• Representation before the First-tier Tribunal (Asylum and Immigration), and representation before higher courts</li><li>• Advice to clients in</li></ul>	Provision remains	N/A	

	<p>detention on making a bail application;</p> <ul style="list-style-type: none"> <li>• Advice on grant or variation of leave in the UK;</li> <li>• Advice to Unaccompanied Asylum Seeking Children.</li> </ul>			
<b>Asylum Support (Welfare)</b>	<p>Legal Help to assist applicants to complete applications for support and notices of appeal against refusal or termination of support (representation at hearings is not currently in scope).</p>	<p>Removal of advice and representation for applications for asylum support and appeals relating to subsistence only applications (applications relating to accommodation remain in scope).</p>	<p>Applications for support and appeals are not complex.</p>	<ul style="list-style-type: none"> <li>• Initial support for making an application for support is provided through grant funded agencies – however they have just received a 62% reduction in grant so have a reduced capacity and are not funded for support appeal applications.</li> <li>• Support regulations are detailed (supported by over 30 public policy documents) and the process can be complex. False statements on a support form could lead to prosecution.</li> <li>• Support delays often delay engagement with the asylum process, producing a knock on cost as the asylum process takes longer.</li> <li>• Self representation is complicated by language barriers and a range of issues commonly experienced by asylum seekers such as experience of trauma, mental and physical health problems, and isolation and culturally unfamiliar with the legal processes, making asylum seekers particularly vulnerable.</li> </ul>
<b>Immigration Detention</b>	<p>It is proposed to retain advice and representation for claims brought by detainees that directly challenge their detention.</p> <p>It is also proposed to retain</p>	<p>None</p>	<p>N/A</p>	<ul style="list-style-type: none"> <li>• Immigration detention can be challenged using legal aid but not the underlying immigration issue.</li> </ul>

	advice and representation for proceedings before the Special Immigration Appeals Commission (SIAC)			
<b>Immigration</b>	<p>Legal Help and Controlled Legal representation on a range of issues including:</p> <ul style="list-style-type: none"> <li>• Nationality</li> <li>• Leave to enter or remain in the UK</li> <li>• Deportation</li> <li>• Family visit applications/appeals</li> <li>• Visa applications and appeals</li> <li>• British Citizenship</li> <li>• EU free movement rights.</li> </ul>	<p>It is proposed to remove all advice and representation for immigration matters, other than for persons seeking release from detention or proceedings before the SIAC (as above)</p> <p>These include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Grant/variation of leave to remain;</li> <li>• Entry clearance applications including refugee family reunion;</li> <li>• European applications;</li> <li>• Citizenship and travel documents; and</li> <li>• Applications</li> </ul>	<ul style="list-style-type: none"> <li>• Unlike asylum the driver behind immigration is personal choice.</li> <li>• Immigration cases are generally not complex and individuals can represent themselves.</li> <li>• The Tribunal system is user friendly</li> <li>• Appellants in non asylum cases are not particularly vulnerable and can represent themselves.</li> </ul>	<ul style="list-style-type: none"> <li>• Some immigration issues involve involuntary personal separation with British partners or children and are not a matter of personal choice.</li> <li>• Tribunal procedures may not be as straightforward as thought and depends on migrants understanding the process.</li> <li>• UKBA may choose to be represented.</li> <li>• Consideration of Human Rights legislation is complex and a profoundly difficult area of law.</li> <li>• There is a likelihood that people excluded from obtaining advice will make an asylum claim (for which legal aid remains available under the proposals).</li> <li>• Case studies demonstrate a number of areas where lack of access to legal aid would have resulted in family separation, human trafficking and other criminal activity being undetected.</li> </ul>

		<p>under concessions or policy outside of the Immigration Rules (HC395) including applications involving human rights issues such as private and family life.</p>		
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Legal Aid provision will be delivered through a telephone advice service as below:

- Screening for entitlement
- Initial and ongoing advice
- Face-to-face advice will only be provided exceptionally (except for asylum seekers who remain entitled to face to face advice)

Comments on the effectiveness of considerably reducing face-to face advice in favour of a centralised telephone advice provision would be welcomed from respondents to this paper (for advice relating to issues other than asylum).