

Proposed Changes to Legal Aid: Migration and the Impact on Service Areas in the South East

Information and Call for Response Paper

The South East Strategic Partnership for Migration (SESPM) is keen to gather views from across the South East on, the proposed changes to legal aid for immigration and other forms of advice commonly used by migrant communities (including asylum support). We want to explore how these will impact on the statutory and voluntary sector agencies in this part of the UK and the migrant communities they work with.

Input from contributors will be utilised in a summary briefing targeted to inform policy makers as the Bill progresses through parliament. It may also be used as a resource to plan services impacted by these changes.

A summary of the changes are provided (annex 1) to aid completion of a short questionnaire (annex 2).

Who should respond?: All those affected by or interested in the proposed changes in the South East as they impact on migration issues, in particular:

- Local Authorities
- Legal service providers (all sectors)
- Migrant interest groups
- Groups or individuals who wish to contribute

1. Background

1.1 In November 2010 the Ministry of Justice announced proposed changes to legal aid in England and Wales. This paper considers the impact on Immigration and asylum advice as part of the overall reforms to legal aid.

1.2 A consultation was conducted which closed in February 2011.

1.3 The principal drivers cited by the MOJ for the proposed reforms are:

- Financial: To contribute to reducing the fiscal deficit with savings estimated to be £350m in 2014-2015 (total Legal Aid costs are currently standing at over £2bn per year)
- They consider legal aid to be too wide leading to a rise in expensive legal solutions instead of alternative solutions being explored in the first instance.

1.4 The key proposals:

- Reducing Eligibility: Fewer people will be entitled to full funding and eligibility criteria are tightened
- Reduction in Advice areas covered by legal aid: Immigration advice (except asylum) will be removed alongside other areas of advice including: Welfare benefits, Debt (except where a home is immediately at risk), Education, Employment (except discrimination), Family (except domestic violence), and Housing law (except when there is a risk of homelessness or serious health threatening disrepair).
- Reducing payments to providers, counsel and experts: 10% fee cut from October 2011
- Introducing a centralised telephone helpline: Legal casework service to be provided through the extension of the national Community Legal Advice phone service (subject to client satisfying eligibility criteria). Referral for face to face advice will only be allowed in exceptional circumstances. Asylum seekers will continue to be able to access face to face advice.

The full proposals are published at

<http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-consultation.pdf>

The government's response is published at:

<http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>

The Legal Aid, Sentencing and Punishment of Offenders Bill (HC bill 205) is published at:

http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0205/cbill_2010-20120205_en_1.htm

1.5 Legislative timetable

The Bill is currently going through parliament with the committee stage due to begin on 9 July 2011. Details of the proposed schedule for the Bill's progress through Committee have been published, which would allow Committee to take up to 13 October. Note that recess dates are 19 July to 5 September, and 15 September to 10 October. The Bill contains a number of different parts and it is possible that legal aid may be addressed early on in the committee stage and so may be completed before recess begins on 19 July 2011. The Bill is expected to complete its passage by May 2012.

Any amendments to the bill must be submitted as soon as possible if they are to be considered by the Committee and influence the content of the final bill.

2. Impact in the South East

2.1 Areas where the proposed reforms to legal aid are likely to impact locally:

- A rise in the number of households from abroad with unresolved immigration situations and therefore no right to work and No Recourse to Public Funds (NRPF) presenting to the local authority for accommodation and support.
- For those families and vulnerable adults who are supported by local authorities, delays and additional expense might arise as the inability to access independent legal advice makes it more difficult to achieve resolution on their immigration cases and their discharge from local authority care.
- Without access to specialist advisors, those with insecure immigration status may be less likely to approach the authorities for support. The inability of families to submit Article 8 applications may result in Human Right Act assessments which conclude that families have no grounds for support and are offered assistance in returning to their countries of origin instead.
- There is likely to be additional pressures on poorer migrant communities to accommodate and support people with outstanding immigration applications from their countries for longer periods, including asylum seekers who are having problems with their support. It is demonstrated that this often leads to overcrowded and potentially dangerous living conditions.
- The removal of refugee family reunion from the scope of legal aid may reduce the capacity of refugees to integrate and those who are deprived of family reunion are likely to be disadvantaged, with knock-on consequences for their capacity to deal with the effect of other issues, including other non-immigration related problems they may face. It may also encourage the illegal entry of family members resulting in similar problems as set out in the point above.

- Complex legal and financial dilemmas will arise for local authorities as they consider whether to provide advice in order to resolve NRPF cases that may otherwise remain in limbo.
- Unaccompanied Asylum Seeking Children (UASC's) and care leave making applications for further leave on Article 8 grounds will be excluded from assistance under Legal Aid. The Local Authorities' obligations to these children could therefore extend to ensuring legal advice and representation.
- There may be a negative impact, in terms of activity in the informal economy and areas of crime such as trafficking, related to people being unable to regularise their immigration status.
- Advice for asylum support matters will be limited to cases involving accommodation meaning that people who require subsistence only support will not be able to access advice.

2. Responses

2.1 Given the legislative timetable, the timetable for completion of the questionnaire is **15th July 2011**

2.2 Respondents are asked to respond to the following question (annex 2 provides a the simple response template):

Do you consider that the Legal Aid changes related to immigration are likely to impact negatively on your service area?

Yes / No

If Yes, what are the key impacts that you anticipate

Related Documents:

1. Annex 1 Summary of the Changes to Legal Aid Proposals as they May Impact on Migration
2. Annex 2 Question response template