



**Equality Commission for
Northern Ireland**
Equality House
7 - 9 Shaftesbury Square
BELFAST
BT2 7DP

29 January 2015

Civil Legal Aid Scope Consultation
Public Legal Services Division
Department of Justice
Massey House
Stormont Estate
Belfast
BT4 3SX

Dear Sir/Madam

**Consultation on proposed changes to the arrangements for Civil
Legal Aid**

The Equality Commission for Northern Ireland (the Commission) welcomes the opportunity to comment on the consultation by the Department of Justice (the Department) on proposed changes to the arrangements for Civil Legal Aid.

The Commission acknowledges that budgetary pressures require the Department to consider how best it can help people to secure access to justice in a cost effective manner.

The Commission notes that the Department proposes to significantly reduce the availability of legal aid by removing a number of different areas of law from scope including: immigration, welfare benefits and employment.

However, we also note that while the Department propose to leave some immigration issues in scope, notably: (i) asylum advice and representation

and some asylum support issues; (ii) immigration detention cases; and (iii) some domestic violence and forced marriage cases, the majority of immigration cases will nonetheless be removed, including those concerning family reunification cases (pertinent to rights established under Article 8 of the European Convention on Human Rights).

The Regulatory Impact Assessment identifies that with regard to expenditure during the period 2010-13 on categories proposed to be removed from legal advice and assistance, expenditure on immigration consistently topped the list comprising between approximately 25% to 14% of annual expenditure (in real terms between £133K and £50K per annum, a relatively minor sum in comparison to the total civil legal aid budget).

We also note the reference in the screening document (at page 7) that ‘The aim of the proposals for the reform of legal aid, including these proposals on scope, are to discourage unnecessary and adversarial litigation at public expense while targeting legal aid to those who need it most’.

The Equality Screening Form accompanying the consultation finds (at pages 18 and 21) that there is no adverse impact on equality of opportunity or good relations arising from the proposals. However, in the context of immigration and family re-unification, most service users are likely to be from a BME background. The result of the proposed changes is that these families are likely to face longer periods of separation, which will have an impact on their ability to settle and integrate into the Northern Ireland and thus may have an adverse impact on community cohesion in the long-term.

Given the importance of a stable family life to social cohesion, it is surprising conclusion that such cases have been deemed as ‘unnecessary.’

The Department outlines that the voluntary and community sector is funded to provide specialist advice e.g. to provide welfare advice and that it is proposed to remove immigration from the scope of civil legal aid on the grounds that the advice sector is already providing information (page 7 of the screening document).

However, the Commission understands that a key issue is that advice organisations tend to use Legal Aid in order to obtain interpreters, when dealing with clients with no or limited English skills, to assist in various forms of law including contract & consumer issues, bankruptcy, debt,

inheritance, probate, employment, possibly all private family law cases, housing (unless at risk of homelessness), welfare. Therefore, removing Legal Aid with regards to these areas of law may serve to exclude many potential vulnerable users with limited English skills from accessing justice.

The Equality Commission's Racial Equality Policy Priorities and Recommendations paper (May 2014) recommends that the Executive and relevant Departments ensure that first tier generalist advice, including access to the services of an interpreter, is available for those migrants impacted on by the changes to the welfare system and that the application process is accessible, particularly those who live in rural areas.

The Final Report of the Access to Justice Review noted that 'If budgetary pressures mean that some case types have to be taken out of the scope of legal aid, account should be taken of considerations such as vulnerability of applicant, availability of advice and help from other sources and complexity of cases' (paragraph 1.4 of the consultation document).

In light of the vulnerability of users who are immigrants with no or limited English Skills, the Commission suggests that the Department may wish to review its proposal to remove immigration from the scope of civil legal aid.

Yours sincerely

Paul Noonan
Senior Policy Officer



028 90 500570



pnoonan@equalityni.org

Annex 1: The Equality Commission for Northern Ireland

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

2. The Commission's remit also includes overseeing the statutory duties on the Department to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.

3. The Commission's general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action;
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duties;
- keeping the legislation under review;
- promoting good relations between people of different religious belief and / or political opinion.

4. The Equality Commission, together with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of the Convention in Northern Ireland.