

## MEANS TEST REVIEW CHANGES AND IMPLEMENTATION TIMELINE

### Summary of MoJ means test review consultation response:

The overarching measures are set out in chapter 2 and specifically cover the following proposals:

- to use a cost of living-based approach for the civil legal aid means test, as we already do for the Crown Court and magistrates' court means test
- to use the OECD Modified approach to adjust gross and disposable income for different household compositions
- to disregard Council Tax from the civil legal aid means test (as for the Crown Court and magistrates' court means test), and to remove the £545 per month cap on housing costs
- to uprate the existing work allowance for the civil legal aid means test, and to implement a similar allowance into the Crown Court and magistrates' court means test
- to deduct priority debt and student loan repayments, and pension contributions up to 5% of earnings, from the disposable income assessment.

For civil legal aid, chapter 3 sets out measures for civil income thresholds, passporting and contributions

Chapter 4 sets out measures for civil capital thresholds, disregards and passporting

Chapter 5 describes the intended measures for immigration asylum, under 18s and non-means testing

For criminal legal aid, chapter 6 sets out proposals for Crown Court income and capital thresholds, passporting and contributions

Chapter 7 sets out proposals for magistrate's court, criminal advice and assistance, and advocacy assistance

Date	Event/MoJ Announcement	Notes/LAPG action
Feb 2019	MoJ announced the Legal Aid Means Test Review in February 2019, as part of the Legal Support Action Plan.	
15/3/22	The Ministry of Justice published the Legal Aid Means Test Review consultation.	LAPG responded with input from the Advisory Committee and members.

7/6/22	Consultation closed.	126 responses received
25/5/23	MoJ publishes response.	<p><a href="https://www.gov.uk/government/consultations/legal-aid-means-test-review/outcome/government-response-to-legal-aid-means-test-review--3">https://www.gov.uk/government/consultations/legal-aid-means-test-review/outcome/government-response-to-legal-aid-means-test-review--3</a></p> <p>The MoJ have said that the Phase 1, 2, 3 and 4 changes will be staggered in terms of implementation for the following reason:</p> <p><i>The amount of digital change across several different systems required is significant and delivering all the changes in one step carries unacceptable risk. We intend to manage this risk by adopting the phased approach as set out.</i></p> <p>So far, no indication has been given as to timings.</p>
3/8/23	<p><b>Phase 1 (non means tested areas)</b></p> <p>Means testing removed for</p> <ul style="list-style-type: none"> <li>• Under 18s applying for Legal Representation and Family Help (Higher), including applications for these services under Exceptional Case Funding;</li> <li>• Parents or those with parental responsibility applying for legal representation for matters concerning the withdrawal or withholding of life-sustaining treatment in respect of their child.</li> </ul>	<p><a href="#">Civil news: Phase 1 Means Test Review civil legal aid changes - GOV.UK (www.gov.uk)</a></p>
4/9/23	Bereaved families at inquests can apply to be exempted from the legal help means test using form CW1 INQ	<p><a href="https://www.gov.uk/government/news/civil-news-inquest-legal-help-means-testing-rules-change?utm_medium=email&amp;utm_campaign=govuk-notifications-topic&amp;utm_source=98cc8ec4-5062-4086-b640-df4cf0c8d277&amp;utm_content=daily">https://www.gov.uk/government/news/civil-news-inquest-legal-help-means-testing-rules-change?utm_medium=email&amp;utm_campaign=govuk-notifications-topic&amp;utm_source=98cc8ec4-5062-4086-b640-df4cf0c8d277&amp;utm_content=daily</a></p>

<p><b>TBC</b></p>	<p><b>Phase 2 (civil means test and contributions)</b></p> <p>The rest of the new civil means test and contributory system will be implemented next as phase 2.</p> <ul style="list-style-type: none"> <li>• a significant increase to the income thresholds, using a cost of living-based approach to require recipients of Universal Credit with household earnings above £500 per month to go through an income assessment, rather than being passported as at present</li> <li>• a time cap of 24 months on the maximum length of time for which income contributions are payable</li> <li>• increases to the disposable capital thresholds and the equity allowance</li> <li>• to disregard compensation, ex-gratia and damages payments for personal harm, and backdated benefit and child maintenance payments, from the capital assessment</li> <li>• to disregard property which is the subject matter of dispute, in the case the that individual is applying for legal aid for</li> <li>• to disregard inaccessible capital which cannot be sold or borrowed against to fund legal services</li> <li>• to exempt recipients of certain welfare benefits who are not homeowners from the capital assessment</li> <li>• to remove the means test for civil representation for children under the age of 18 and for parents or those with parental responsibility</li> </ul>	

	<p>whose children are facing the withdrawal or with-holding of life-sustaining treatment.</p> <ul style="list-style-type: none"> <li>• Chapter 5 also covers the removal of the means test for legal help in relation to inquests which relate to a possible breach of ECHR rights (within the meaning of the Human Rights Act 1998) or where there is likely to be a significant wider public interest in the individual being represented at the inquest.</li> </ul>	
<p><b>TBC</b></p>	<p><b>Phase 3</b></p> <p>Phase 3 will consist of the implementation of the new criminal means tests, with the exception of the removal of Crown Court capital passporting for benefits recipients who are homeowners which we will implement as phase 4.</p> <p>Further detail on the implementation and the arrangements for transitioning between the current means test and the revised test can be found in chapter 8</p> <ul style="list-style-type: none"> <li>• to increase the income thresholds for legal aid at the Crown Court and the magistrates' court, to take into account increases in the cost of living and private legal fees</li> <li>• to increase the maximum contribution period for income contributions at the Crown Court to 18 months, and implement a tiered contribution rate (40%/60%/80%)</li> <li>• to remove the upper disposable income threshold for legal aid in the Crown Court</li> </ul>	

	<ul style="list-style-type: none"> <li>• to remove the current exemption from paying a capital contribution for homeowners convicted at the Crown Court who are in receipt of passporting benefits</li> <li>• to continue passporting all recipients of relevant means-tested benefits (including Universal Credit) through the income assessment</li> <li>• to align the criminal advice and assistance and advocacy assistance means tests with our proposed new civil legal aid means test.</li> </ul>	
<b>TBC</b>	<p><b>Phase 4</b></p> <p>The removal of Crown Court capital passporting for benefits recipients who are homeowners, will be implemented as phase 4. Phase 4 will take place approximately 1-2 months after the other new measures for criminal legal aid.</p>	