

Barnardo's NI Consultation Response Department of Justice - Legal Aid Engagement Papers – A Simpler Fairer Approach to Means Testing/ Improving Impact and Value for Money by Reforming Scope and Merits

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Barnardo's Northern Ireland (NI) is the largest children's charity in Northern Ireland. In the past year we worked with more than 18,000 children, young people and families across more than 45 different services and programmes. We deliver a wide range of services, from providing family support and early intervention, to working directly with children and families who have experienced adversity and need our support. Our goal is to achieve better outcomes for more children. To achieve this, we work with partners to build stronger families, safer childhoods and positive futures.

Barnardo's NI welcomes the opportunity to respond to the Department of Justice's engagement papers, A Simpler Fairer Approach to Means Testing and Improving Impact and Value for Money by Reforming Scope and Merits. We support the Department's intention to make the legal aid system more accessible and efficient. Our response is directly shaped by the Barnardo's 2024–2027 Strategy, which explicitly prioritises ensuring that children are safer, happier, healthier, and more hopeful. For many of the families we support, particularly those already facing crisis, delays and complexity in accessing legal aid can increase uncertainty, prolong unsafe situations, and place added pressure on children and non-abusive parents. In practice, families experiencing domestic abuse or ongoing safeguarding concerns often need urgent legal support at the point of crisis, not after lengthy administrative processes have been completed.

Efforts to modernise and simplify the system must not come at the cost of safety; Barnardo's NI is concerned that some of the proposed reforms could unintentionally create further barriers for those already at greatest risk of harm. In our experience, families affected by domestic abuse, coercive control, trafficking, and severe family instability often present with complex circumstances that do not fit neatly within standard financial or legal assessments. A legal aid system that appears streamlined on paper may remain inaccessible in practice for those whose finances, communication, or decision-making are controlled by another person.

We therefore urge the Department to ensure that decisions about “impact” and “value for money” are considered alongside child safety, trauma prevention, and long-term safeguarding outcomes. Short-term savings achieved by restricting access to legal aid can result in significantly greater pressures elsewhere across health, social care, and child protection services. For the children and families Barnardo's NI supports, timely

access to legal protection is often a critical factor in creating stability and reducing harm.

Barnardo's NI would also have significant concerns about any reforms that increase reliance on Alternative Dispute Resolution (ADR) or mediation in cases where domestic abuse or coercive control is a factor. In these circumstances, mediation can reinforce existing power imbalances and place survivors under further pressure. Any future reforms to scope and merits must continue to recognise the risks associated with non-physical forms of abuse and ensure that survivors can access safe and appropriate legal remedies.

1: A Simpler, Fairer Approach to Means Testing

1.1 Barnardo's NI supports the Department's goal to simplify means testing, as the current complexity often causes delays that leave children in unstable environments for too long. However, for reforms to be truly fair, the system must account for the realities of coercive control and economic abuse as defined under the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021ⁱ. Families rarely present with one issue in isolation. Legal problems are often tied to housing insecurity, trauma, poverty, and ongoing safeguarding concerns.

1.2 Whilst the papers propose measures to streamline asset assessments, implement rigid income and capital limits, and keep evidence-led waivers, they do not account for economic abuse. Under a standardised test, a survivor may appear to have sufficient wealth because they own a 50% share in a family home or have a joint savings account. In domestic abuse cases, the abuser often controls these assets entirely, leaving the survivor with no finances to pay for legal representation. By ignoring the accessibility of finances, a "simple" test becomes a barrier to justice.

1.3 In several recent family support cases, mothers fleeing domestic abuse relationships were unable to access joint savings or use shared accounts without the perpetrator's knowledge, despite technically appearing to meet financial thresholds. For many families, delays of even a few weeks can increase risk significantly.

1.4 In line with the Istanbul Convention's mandate for accessible legal remedies, Barnardo's NI advocates for a mandatory disregard of assets (such as a family home or joint savings) when those assets are legally or practically controlled by an abuser. A survivor should not be denied legal aid because of paper wealth they cannot access.

1.5 Furthermore, in cases involving Child Protection Orders or Non-Molestation Orders, the means-test must be expedited. A "simpler" system should mean an immediate interim grant of legal aid to ensure safety. Barnardo's NI proposes that any applicant or

child identified as being at risk of domestic abuse be granted a presumption of financial eligibility to prevent a funding gap being exploited by perpetrators.

1.6 In addition, as the provider of the Independent Guardian Service in Northern Ireland, Barnardo's NI is acutely aware of the barriers faced by separated and trafficked children. We believe the proposed reforms offer a vital opportunity to recognise these children as a priority cohort.

1.7 We recommend that any child assigned an Independent Guardian be exempted from means testing and that the 'merits' of their asylum or trafficking case be assessed with a presumption of protection. Legal aid is not just a service for these children; it is a fundamental safeguard that prevents further exploitation and ensures the UK meets its obligations under the UN Convention on the Rights of the Child and Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015. ⁱⁱ

2: Reforming Scope and Merits

2.1 Funding must remain robustly in scope for all proceedings where domestic abuse - including non-physical coercive control and economic abuse - is a factor. Barnardo's NI is deeply concerned that restricting the scope of legal aid to achieve short-term fiscal savings will create a false economy, displacing costs onto acute child protection and health services.

2.2 A significant proportion of the children we support are caught in family law cases that involve high-risk domestic abuse. With official NICTS data showing over 1,000 new Children Order applications entering the court system every quarter, protecting funding for these proceedings is vital. ⁱⁱⁱ To align with the Department's strategic commitments to Ending Violence Against Women and Girls (EVAWG) - most notably underscored by the Executive's launch of the Second EVAWG Delivery Plan - funding for these proceedings must be protected to ensure the child's safety is prioritised and their voice is safely heard.

2.3 In abusive contexts, children's perspectives are easily suppressed or manipulated by coercive parental dynamics. Robust funding ensures the court can appoint independent legal representation for the child (such as a Guardian) and commission specialist, trauma-informed welfare reports. This creates a critical safety net, allowing the child's true experiences and wishes to be safely articulated to the court without exposing them or the non-abusive parent to further intimidation.

2.4 We caution against a merits test that relies solely on a high probability of a specific legal outcome. In family law, the merit of a case is the stabilisation of a child's life.

Barnardo's NI recommends a 'Protective Merits Category' for EAWG-related cases. This would allow legal aid to be granted based on the risk of harm rather than just the likelihood of a successful litigation outcome.

2.5 Currently, legal aid focuses on the legal proceedings. Barnardo's NI knows that a child's ability to take part effectively in the justice system depends on their emotional stability. Expanding the scope of legal aid to include funding for therapy or emotional preparation for children who are required to provide evidence or be interviewed would ensure that a child's mental health is supported throughout the legal timeline.

3. Improving Impact and Value for Money

3.1 Barnardo's NI welcomes the focus on impact, but we urge the Department to define "Value for Money" through Social Return on Investment (SROI). Short-term savings achieved by denying legal aid often result in long-term costs to the public purse in health, social care, and police intervention. Data from the Safeguarding Board for Northern Ireland (SBNI)^{iv} continually shows that unaddressed childhood trauma and domestic instability significantly drive up acute statutory service costs in later life. We recognise the Department's need to manage finite public resources. However, reforms should not unintentionally increase long-term safeguarding pressures elsewhere in the system.

3.2 While mediation can offer value in low-conflict cases, it is often inappropriate in coercive control contexts. Forcing survivors into mediation can cause secondary trauma, a practice discouraged by the Gillen Review (2019). [?](#)

3.3 Value is best achieved when legal aid is provided early to settle arrangements for children, preventing the escalation of conflict and the need for more intensive statutory social work involvement. Impact metrics should include indicators such as increased child safety rather than just the duration or cost of the legal case, aligning legal aid delivery with broader Department of Justice Delivery Plan goals.

4. Modernisation

4.1 We support the modernisation of the legal aid infrastructure to make it more responsive. A digital-first approach can empower users, provided it is designed with the safety of survivors in mind. For survivors of coercive control, digital footprints can be dangerous. Any new system must have robust privacy protocols to protect users under the Domestic Abuse and Civil Proceedings Act (NI) 2021, to ensure that an abuser cannot track an application for legal aid.

4.2 Barnardo's NI works with many families facing digital poverty or low literacy. Modernisation must not mean digital only. In accordance with Article 12 of the UNCRC^v,

any digital modernisation should include accessible ways for children and young people to understand their rights and provide input into their cases.

4.3 The Department should adopt a ‘No Wrong Door’ delivery model by introducing a ‘Trusted Partner’ gateway. Rather than placing the entire administrative burden on the individual, a modernised system should allow accredited support workers, where appropriate and with explicit consent, to assist families in initiating the legal aid application process. This does not require support organisations to act as legal advisors; rather, it creates a secure mechanism for information-sharing between existing family support structures and legal aid providers. Third-sector support services vary significantly in structure and capacity. The system should therefore allow trusted professionals to share relevant trauma-informed information securely with legal aid providers, with the family’s consent.

5. Conclusion

While Barnardo's NI welcomes the modernisation and simplification of the legal aid framework, these reforms must not create a false economy that displaces costs onto acute health and child protection services. If reforms are intended to reduce long-term costs, they must support early intervention and child safety from the outset. By implementing Barnardo’s NI's recommendations—including accessible non-digital pathways, immediate interim grants for high-risk cases, and legal aid exemptions for separated or trafficked children—the Department can prevent secondary trauma and ensure compliance with statutory domestic abuse legislation. We welcome continued collaboration with the Department to ensure these reforms deliver a genuinely agile, safe, and fair justice system.

For further information, please contact:

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ⁱ [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#)

ⁱⁱ [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 - Explanatory Notes](#)

ⁱⁱⁱ [Northern Ireland Courts and Tribunals Service quarterly report published | Northern Ireland Statistics and Research Agency](#)

^{iv} [Annual Report 2023-2024](#)



^v [The United Nations Convention on the Rights of the Child - Children's Rights](#)