

**Research into the impact of the legal aid capital and
contribution thresholds for victims of domestic
violence**

September 2018



The impact of legal aid capital and contribution thresholds for victims of domestic violence

Affording protection from domestic violence - key points

The government promised to continue legal aid funding for injunctions to protect victims of domestic abuse. However, government policy¹ introduced in April 2013 made changes to the legal aid eligibility rules regarding capital and income and now victims on very low incomes and in receipt of benefits are being asked to make contributions towards their legal aid. Many victims are unable to afford these contributions and are being forced to remain at risk.

During October and November 2014, additional data was collected from callers to the National Centre for Domestic Violence (NCDV) helpline in relation to their income and capital, to assess the impact of the changes to eligibility criteria on their ability to proceed with a domestic violence injunction.

- One in five (20%) of the 2,026 callers to the NCDV helpline who were eligible to apply for a domestic violence injunction were not able to proceed with their application because they could not afford the contributions towards their legal aid.

This was made up from:

- 16% of eligible callers were unable to proceed with an application, as they could not afford to pay contributions triggered by their level of disposable income.
- 4% of eligible callers were unable to afford the contributions required due to their capital assets. Whilst for some capital was in the form of savings and assets, for a quarter equity in their home, which is not quickly realisable, had triggered contribution requirements.

Background

Following the introduction of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, all applicants for legal aid are now subject to means testing in respect of capital.

The Law Society, LAPG and Rights of Women are concerned that the introduction of these new capital rules is forcing many to remain at risk of domestic violence.

Domestic violence injunctions such as non-molestation orders can protect victims, including children, from violence and harassment. They can forbid an 'associated person':

- using or threatening physical violence
- intimidating, harassing or pestering

¹ The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013

- communicating with the victim
- instructing or encouraging others.

A non-molestation order is typically granted for six to twelve months, a breach of which can be an arrestable offence.

Changes to the income rules

Under the 2013 Regulations the general rule regarding income is that those on gross incomes of over £2,657 per month will not be eligible for legal aid. This financial eligibility limit is waived if the case concerns an application for a domestic violence injunction. However, contribution requirements are not waived for non-molestation orders if monthly disposable income² is higher than £315 per month. Where a contribution towards legal representation is required, the amount of this contribution will depend on income.

The 2013 Regulations introduced the requirement to pay a higher level of contributions in legal aid cases. The concern is that some victims are unable to afford these increased contributions and are therefore failing to seek the protection they need. Monthly contributions are required until the case ends and the certificate is discharged.

Changes to the contribution requirements

Examples of disposable Income ² per month	Access to Justice Act 1999	LASPO Act 2012
£315	£1 per month	£1.40 per month
£500	£50.17 per month	£69.65 per month
£600	£88.50 per month	£114.65 per month
£733	£147.35 per month	£203.75 per month

Capital

- Legal aid is not available for those with capital in excess of £8,000. This limit is waived in relation to domestic violence injunctions but again the contribution requirements are not waived.
- Those with capital in excess of £3,000 will be required to pay a contribution towards the cost of the injunction.
- This includes people on income support.

² 'Disposable income' is the amount of income left after deductions have been made for national insurance, tax, maintenance, housing costs and certain other expenses.

About the project partners

The [Law Society](http://www.lawsociety.org.uk) is the independent professional body, established for solicitors in 1825, that works globally to support and represent its members, promoting the highest professional standards and the rule of law. From negotiating with and lobbying the profession's regulators, government and others, to offering training and advice, the Law Society supports, protects and promotes solicitors across England and Wales. The Law Society's Access to Justice Campaign seeks to raise public awareness of the importance of legal aid; obtain political commitment to no further legal aid cuts; and to seek targeted restoration of legal aid in key areas.

www.lawsociety.org.uk

[Rights of Women](http://www.rightsofwomen.org.uk) is the national charity which provides women with the legal advice and information they need to understand and use the law and their legal rights. The charity works to improve the law for women and increase women's access to justice.

www.rightsofwomen.org.uk

Legal Aid Practitioners Group (LAPG) is a membership organisation. Both the LAPG committee and its members reflect the full range of practitioners from large organisations to small, throughout England and Wales and cover both private practice and not-for-profit organisations. LAPG assists members with legal aid issues and sends out regular updates to members, engages with the LAA and MoJ on operational and policy issues, runs the Legal Aid Lawyer of the Year Awards, an annual conference and training events and has at its heart the need for a strong legal aid system that provides quality legal advice when needed.

<https://www.lapg.co.uk/>

Research objectives

- To identify what proportion of victims of domestic violence are currently excluded from applying for protection.
- To identify the proportion of people who were caught by the new capital contributions.

Approach

The [National Centre for Domestic Violence](http://www.ncdv.org.uk) (NCDV) helps victims of domestic violence apply for emergency injunctions, usually within 24 hours of first contact. The NCDV is used by victims directly and by the police when they have dealt with a case of domestic violence.

During October and November 2014 the NCDV asked callers to their helpline a series of additional questions about their level of income and capital. During the

monitoring period the NCDV received 5,411 calls, 2,026 of these calls were deemed to have merits for an application for a domestic violence injunction.

Findings

Outcomes

- Overall, 80% of the 2,026 callers eligible for an injunction proceeded with their application either fully-funded or by paying a contribution.
- 20% of eligible callers, unable to afford the required contributions, did not progress their case, potentially remaining at risk.

Table 1: Outcome for eligible callers

	Number of callers	% of eligible callers
Clients that proceeded, making contributions (all under £100)	1,275	63%
Legal aid cases that progressed without a contribution	352	17%
Clients not able to proceed	399	20%
Of which:		
unable to afford – contributions triggered by disposable income limit	320	16%
unable to afford – contributions triggered by capital assets	79	4%
Number of eligible callers	2,026	100%

Of those not proceeding with an application for a domestic violence injunction:

- 80% were unable to afford the contributions required under the new rules because of the level of their disposable income
- 20% were not able to afford the contributions required due to their capital. Whilst capital for some was in the form of savings, the capital being taken into account for others was not quickly realisable, for example, a quarter had equity in their home which had triggered contribution requirements.