



Ministry of  
**JUSTICE**

# **Crown Court means testing: the design of the scheme on implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012**

Equality Impact Assessment

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## **Introduction**

1. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) received Royal Assent on 1 May 2012. When Part 1 of LASPO comes into force on 1 April 2013, it will repeal and replace the existing legal aid schemes established under the Access to Justice Act 1999. Part 1 of LASPO contains provisions governing the scope of the new criminal legal aid scheme as well as the financial eligibility criteria determining an individual's access to services under that scheme.

2. In light of the need to draft new secondary legislation setting out the Crown Court means testing (CCMT) scheme under LASPO, the Ministry of Justice (MoJ) is keen to use this opportunity to consider proposals to improve the overall effectiveness of CCMT.

3. These proposals are aimed at ensuring that defendants comply fully with the requirements of the scheme so that a comprehensive and accurate assessment of financial liability can be undertaken, as well as reinforcing existing measures to support more effective collection of contributions.

4. We wish to stress that none of the proposals impact on the financial eligibility thresholds governing CCMT, nor do our proposals impact on the nature or type of evidence required in support of the criminal legal aid application.

5. Our proposals focus on the following key elements of the scheme:

- The provision of evidence and sanctions for the failure to comply with requests for evidence: In particular, under these proposals the Legal Services Commission (LSC)<sup>1</sup> would be entitled to assume in certain circumstances that if a defendant did not comply with a subsequent or additional request for information or evidence in relation to capital assets that the individual has sufficient capital resources to pay any outstanding balance of their defence costs following conviction at the conclusion of the case.

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<sup>1</sup> When LASPO is commenced on 1 April 2013, the LSC will cease to exist and will be replaced by a Legal Aid Agency. For convenience, we refer to the 'LSC' throughout this document.

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- Once liability to an Income Contribution Order (ICO) is established, considering the range of triggers which may lead to a re-assessment of that liability: This may arise, for example, from a change in the defendant's financial circumstances; if evidence has been provided by the defendant; if new information and/or evidence has been supplied by a third party; and if there has been an administrative error by the LSC. In particular, where it emerges that the defendant's liability under an ICO has been underestimated, the LSC would be able to recover the shortfall through an additional payment under the ICO. In terms of a defendant's liability to an ICO, these changes are intended to ensure that the defendant is asked to pay an amount which accurately and properly reflects their true income status.
  - Provisions in relation to collection and enforcement of payments under a contribution order, including implementation of motor vehicle order regulations. These would allow the LSC to apply to the court for a clamping order and, subsequently, to apply for an order for sale of the vehicle if the defendant is convicted and has still not settled their liability under the ICO and/or Capital Contribution Order (CCO). In addition, following a defendant's conviction, the LSC will have the flexibility to enforce unpaid ICO payments and to pursue ICO payments yet to fall due alongside enforcement of a CCO.
6. This EIA examines these proposals and should be read alongside the Impact Assessment accompanying the Consultation Paper.

## **Equality duties**

1. Under section 149 of the Equality Act 2010, when exercising their functions, Ministers and the Department are under a legal duty to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

2. Having 'due regard' needs to be considered against the nine 'protected characteristics' under the Equality Act 2010 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

## Summary

1. We have considered the impact of the proposals against the statutory obligations under the Equality Act 2010. Our current assessment, based on the evidence available, is that the proposals will affect some Crown Court legal aid clients who are assessed as able to contribute towards their legally aided defence costs. In the great majority of cases there will be no impact for those legal aid clients who comply fully with their obligations to provide information and evidence to the LSC and keep up their payments if any liability is owed. Over represented groups amongst those who are subject to a contribution order in comparison to all clients granted legal aid in the Crown Court are those likely to be aged 40 years and older, and of White ethnicity.

2. We have considered whether the proposals may have also have an impact on providers of legal aid, and consider this impact to be negligible. Any potential impact stems from the obligation of providers to advise their clients of the arrangements under CCMT, including the proposed changes, and to assist clients in securing evidence to support their application when the client may previously have been reluctant to do so.

### *Direct discrimination*

3. The proposals will apply to equally to all cases. They do not treat any group of legal aid clients less favourably than others because of a protected characteristic. We therefore do not consider that they constitute direct discrimination within the meaning of the Equality Act 2010.

### *Indirect discrimination*

4. Although the proposals will apply equally to those who share a protected characteristic and those who do not, we have in this EIA attempted to identify how those who share a certain characteristic may be more likely to be affected by the changes to the means testing procedures than others.

5. The combined effect of the additional proposals is unlikely to have any impact on the great majority of legal aid clients who comply fully with their obligation to provide information and evidence in respect of the legal aid application process, and, if subsequently liable to a contribution order, comply fully with the payments required. However, the proposals may have an impact on those legal aid clients who do not comply with these obligations.

6. Insofar as there is any significant impact on clients, the proposals are a proportionate means of achieving a legitimate aim.

### *Discrimination arising from disability and duty to make reasonable adjustments*

7. In so far as these proposals extend to disabled offenders, we believe the policy is proportionate and can be justified with regard to ensuring compliance with the requirements under the scheme. It would not be reasonable to make an adjustment for disabled persons so that they are out of scope of the proposals.

8. If it becomes apparent that a defendant with a disability cannot provide evidence of their financial means (for example, a defendant with a mental health issue, a learning disability or other disability), the LSC will work with their solicitor and other relevant authorities, if necessary, to verify their means (for example, by considering psychiatric reports or getting more information from the Department for Work and Pensions). In this way care will be taken to avoid putting such a defendant at a disadvantage. The LSC contract for collection and enforcement also includes a vulnerability policy.

9. However, in relation to motor vehicle order regulations, reasonable adjustments are merited so that those motor vehicles used by disabled persons cannot be the subject of a clamping order or an order for sale.

#### *Harassment and victimisation*

10. We do not consider there to be a risk of harassment or victimisation as a result of the proposals.

#### *Advancing equality of opportunity*

11. We do not consider that the proposals will necessarily be beneficial or detrimental in advancing equality of opportunity.

#### *Fostering good relations*

12. We do not consider that the proposals will have any impact on the achievement of this objective.

#### *Conclusion*

13. The proposals in this EIA do not constitute direct or indirect discrimination against clients. With the exception of motor vehicle order regulations where there is an exemption to protect motor vehicles used by disabled persons, we do not believe there are any other changes required by virtue of the duty to make reasonable adjustments.

14. For the great majority of legal aid clients who comply fully with their obligations under the CCMT scheme, there is likely to be no impact arising from the proposals. However, the proposals may have an impact on those legal aid clients who do not comply with these requirements. Where that impact materialises, we believe that the proposals are a legitimate and proportionate means of helping CCMT to fulfil its policy objectives.



## **Aims and outcomes of the policy**

1. The proposals seek to improve the effectiveness of the CCMT scheme under LASPO. In so doing, we will ensure that finite resources are better targeted at those most in need and so achieve better value for money for the taxpayer.

2. The policy proposals detailed in the Consultation Paper seek to promote attainment of this policy objective by implementing changes which focus on:

- The provision of evidence and sanctions for the failure to comply with requests for evidence;
- Once liability to an ICO is established, considering the range of additional triggers which may lead to a re-assessment of that liability; and
- Provisions in relation to collection and enforcement, including implementation of motor vehicle order regulations.

## **Consultation**

1. The MoJ consulted on the current CCMT scheme when considering the policy design of that scheme in 2008/09. In light of the changes we propose to make under the new CCMT scheme being implemented under LASPO, we are now carrying out a public consultation exercise on our proposals to optimise operational effectiveness under the new scheme and these proposals are the subject of this EIA.
2. We will supplement our existing information sources with any relevant information obtained through the consultation exercise. In particular, we are asking for views on likely impacts on groups sharing the protected characteristics, and will review the EIA accordingly.
3. The consultation period will run for six weeks from 30 October 2012 to 11 December 2012.

## Methodology

1. Our approach to analysing the potential equalities impacts of the CCMT proposals has been to identify the characteristics of clients granted legal aid for legal representation in the Crown Court in the 2011/12 financial year.
2. In order to concentrate our analysis on the clients most likely to be impacted, we have compared the characteristics of those clients who, as determined by a means assessment, were liable to make a contribution towards their defence costs with the characteristics of all Crown Court legal aid clients. To provide a complete picture of the potential equalities impacts of the proposals, we have also presented the characteristics of the adult population of England and Wales to facilitate further comparison (see 'Evidence sources' at Annex A).
3. We do not have information on the characteristics of clients who default on contributions. We are therefore not currently able to directly assess the equalities impacts of the provisions related to collection and enforcement, including implementation of motor vehicle order regulations.
4. However, to assess the impact of these proposals, we have assumed that the clients liable to make contributions from income in 2011/2012 are representative of those who could *potentially* be subject to such enforcement options. We are aware of the limitations of this assumption, as the characteristics of those liable to enforcement may not always be the same as those liable to contribute.
5. Due to limitations in the available evidence we are unable to identify the potential for the proposals to have any differential impact in respect of Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Religion and Belief, and Sexual Orientation. However, given our understanding of the CCMT scheme and its operation, we have no reason to believe that any of these groups would be put at a particular disadvantage.

## Analysis

1. The proposals that are the subject of this EIA relate to improving the effectiveness of the new CCMT scheme under LASPO, especially in terms of collection of contributions. The following analysis deals with the question of whether these proposals can be expected to have a positive or negative impact in the context of the equality duty.
2. The proposals under consideration are detailed in full in the consultation paper and summarised in the introduction of this EIA.
3. Some legal aid clients may pay an increased amount in future if as a result of a re-assessment of their liability they are asked to make an additional payment under the ICO. However, the amount will only ever reflect what the defendant should properly be liable to when all the information or evidence is taken into account.
4. There will for the most part be no costs to defendants who comply fully with their obligations to provide information to the LSC and keep up their payments if any liability is owed.
5. There may be an impact on legal aid clients in future if the defendant does not comply with the terms of their contribution order and enforcement action is taken using motor vehicle clamping orders. In some cases, this may lead to the vehicle being sold although the defendant would have the opportunity to settle any outstanding liability prior to this (under our proposals, any application for an order for sale can only be made once the defendant has been convicted and a specified period of no less than 1 month has elapsed following seizure of the vehicle).
6. If enforcement action is taken, the defendant would be liable for any associated enforcement fees in addition to the liability owed to the LSC. Introducing motor vehicle clamping orders for non compliance with payments is anticipated to have a real impact on recovery rates. It is assumed that as this change will affect only those defendants with sufficient means to pay a contribution, a greater number of these defendants are likely to have a motor vehicle than the majority of Crown Court defendants (this is on the basis that those with greater means are more likely to be car owners).

7. Failure by the defendant to comply with a supplementary request for information or evidence in relation to their capital assets will allow the LSC to assume in certain circumstances that the defendant has sufficient capital resources to pay 100% of their outstanding defence costs. This may mean that the defendant would pay more than under the existing arrangements. However, this proposal is intended as a prompt to compliance. Therefore, once the information or evidence is provided, the LSC will re-assess how much the defendant can afford to pay towards their final defence costs from their capital assets.

8. Allowing the LSC the option to pursue a defendant for monthly contributions under an ICO which remain outstanding or fall due after conviction may improve the recovery rate, especially where a defendant has insufficient capital and equity from which to recover outstanding defence costs.

9. Further to the impacts outlined above, some defendants might be incentivised to provide the information and evidence requested, or keep up with any required contributions in order to avoid the potential sanctions that could be levied.

10. These costs will only be encountered by legal aid clients who, as determined by a means assessment, are liable to contribute towards their legally aided defence costs. Over represented groups in comparison to all clients granted legal aid in the Crown Court are those likely to be aged 40 years and older and of White ethnicity (as summarised in Annexes B and C).

### **Eliminating discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010**

#### Direct discrimination, harassment and victimisation

11. The proposals will apply regardless of whether the defendant is a member of a protected group. They do not treat any group of defendants differently because of a reason connected to a protected characteristic. We, therefore, do not consider that they constitute direct discrimination, harassment or victimisation.

#### Indirect discrimination

12. The 'Evidence' section at Annex B indicates that there is potential for the proposals to have a differential impact on clients in relation to age and race in that people aged 40 years and older and those from the White ethnic group are over represented amongst Crown Court legal aid clients liable for income contributions in comparison to all Crown Court legal aid clients.

13. It is reasonable to suppose that where a proposal has a detrimental effect on Crown Court legal aid clients, there is a risk that a higher proportion of defendants sharing those protected characteristics will be disadvantaged given they are over represented in this group. Where a proposal has an entirely beneficial effect for defendants, we have assumed that defendants sharing those protected characteristics will also share the benefit. On that basis, we assess the impacts of each of the proposals as follows.

- *The provision of evidence and sanctions for the failure to comply with requests for evidence*

14. Whether an individual is asked to pay a contribution towards their defence costs depends on the assessment of their completed legal aid application in which details of their income and capital must be recorded, and, where appropriate, supported by relevant evidence. Compliance with the evidential requirements is essential if the LSC is to make an accurate assessment of the defendant's liability to an ICO and/or CCO and the amount to be paid under the order.

15. The proposal will not have a beneficial or detrimental impact on clients who fulfil their obligations in providing the correct information to the LSC.

16. However, if an individual does not comply with a supplementary request for information or evidence they may face a potential sanction under which the LSC may assume (in certain circumstances) that the defendant, if convicted, has sufficient capital assets to pay the totality of their defence costs.

- *Once liability to an ICO is established, considering the range of additional triggers which may lead to a re-assessment of that liability.*

17. There is no detrimental impact for the great majority of clients who fulfil their obligations in providing the correct information to the LSC. By providing the correct information or evidence in a timely manner, clients will ensure that they are not asked to pay a contribution that exceeds their financial means.

18. For those defendants who do not co-operate in providing the correct information or evidence (for example, if they seek to avoid or mitigate their liability under an ICO), or for those defendants in whose case there is an administrative error in calculating their liability under an ICO, the proposals may have an adverse impact; if such information and/or evidence subsequently emerges and the defendant's liability is revised upwards, he/she may become liable to an additional payment under the ICO. This may have a more detrimental impact on White defendants and those in the 40 plus age group (see Annex B) as it is these groups of defendants who are most likely to be deemed liable to pay an ICO.

- *Provisions in relation to collection and enforcement, including implementation of motor vehicle order regulations.*

19. This proposal reflects the MoJ's stated principle that those defendants with sufficient means should make a contribution towards their legal costs. The proposal will not have a beneficial or detrimental impact on clients that keep up with their payments if a liability is owed.

20. For those defendants who do not comply with the terms of their ICO or CCO, the enforcement provisions, particularly motor vehicle order regulations, may have a detrimental effect. It is proposed that the motor vehicle order regulations will authorise the court to impose a clamping order in respect of the individual's vehicle and, ultimately, to make an order for sale of the vehicle.

#### Conclusion on indirect discrimination

21. Overall, we consider that the combined effect of the proposals is likely to have no impact on the great majority of legal aid clients who comply fully with their obligations under the CCMT scheme. The proposals may have an impact on those legal aid clients who do not comply with these requirements. If that impact materialises, we do not believe that this gives rise to indirect discrimination as the proposals are a legitimate and proportionate means of helping CCMT to fulfil its policy objectives.

#### **Advancing equality of opportunity between people who share a protected characteristic and those who do not, and fostering good relations**

22. We have considered the three parts of this objective as follows, in line with the factors set out at ss.149(3) and (5) of the Equality Act 2010.

#### Whether the persons affected by the policy suffer a disadvantage connected to one of the protected characteristics, and if so what can be done to remove or minimise the disadvantage

23. As noted above in relation to indirect discrimination, we consider that the combined effect of the proposals would be unlikely to put Crown Court legal aid clients sharing a protected characteristic at a particular disadvantage. More generally, we do not believe that the proposals will make it more difficult for people with protected characteristics to be assessed for their liability in respect of legal aid contributions.

#### Whether the needs of persons who share a protected characteristic are different from those who do not share it, and what can be done to meet such needs

24. With the exception of disabled drivers, there is no evidence to suggest that the needs of one particular group may be different from those of other Crown Court legal aid clients.

25. Motor vehicles used by disabled drivers cannot be the subject of a clamping order or order for sale.<sup>2</sup>

Whether there is different use of services or the policy by persons who share the protected characteristics, whether participation by some is disproportionately low, and what can be done to encourage participation

26. The 'Evidence' section at Annex B indicates the potential for an element of under-representation of some protected groups among Crown Court legal aid clients affected by the proposals; these include those under 40 years old and those from a BAME group.

27. We do not consider that the proposals will have any impact on the achievement of this objective.

Fostering good relations

28. We do not consider that the proposals will have any impact on the achievement of this objective.

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<sup>2</sup> As provided for in paragraph 7 of Schedule 2 to LASPO.



## Mitigation and justification

1. We consider that the proposals will have neither a beneficial nor detrimental impact on clients who have provided all the relevant information and evidence required in support of the application and where those clients do not default on payments where a liability to an ICO or CCO is established.

2. While analysis has shown that there may be a detrimental impact on legal aid clients of White ethnicity and legal aid clients aged 40 years and older who do not pay their contributions, it is not clear that such defendants would be put at a particular disadvantage. However, even if these defendants were put at a particular disadvantage, this does not result in discrimination since the proposals are justified in terms of ensuring that those who can afford to pay towards the costs of their defence should be made to do so.

3. Where a defendant's liability under an ICO is re-assessed in the light of new information and/or evidence, or as a result of an administrative error, the overriding objective is always to ensure that the defendant is only ever asked to pay an amount under an ICO which accurately and properly reflects their true income status. In some cases, the re-assessment will result in the defendant being found liable to pay a higher contribution from income. In this case, it is proposed that the shortfall between the amount previously due under the defendant's ICO and the new amount will be collected through an additional single/one-off payment beyond the 6 monthly payments due under the ICO.

4. When this arises, we acknowledge that in some cases the additional sum due may be relatively small. However, in some cases, the additional sum may be much larger and give rise to concerns from the defendant as to their ability to settle this sum in a single payment. If this arises, the LSC can agree with the defendant a variation of the payment arrangements.

5. In cases where a defendant fails to comply with an additional request for information or evidence in relation to the capital assets which they hold, the defendant may trigger a sanction which allows the LSC to conclude that the defendant has sufficient capital resources to pay any outstanding defence costs following conviction. However, this sanction can only be triggered if the LSC has reasonable grounds to believe that the defendant has capital assets to cover the defence costs and the defendant has failed to provide a reasonable excuse for not submitting the necessary information or evidence.

6. We also stress that where the defendant subsequently complies with the request, this sanction would be lifted so that the LSC can proceed to ensure that any CCO made only ever accurately reflects the defendant's ability to pay.

7. The proposal to enforce payment of an outstanding debt through the use of motor vehicle order regulations may have a potential detrimental impact on legal aid clients of White ethnicity and legal aid clients aged 40 years and older. Again, that will only be in respect of such clients who do not pay any order imposed. Mitigating steps are proposed and we consider that the scheme will be proportionate.

8. It is proposed that the LSC must apply to the court for a clamping order or order for sale and at the point when such an application is being considered the defendant will have had the opportunity to pay voluntarily and the LSC will have already made repeated attempts to encourage compliance through written correspondence and contact by telephone or e-mail. A court may only make an order if it is satisfied that the defendant's failure to pay the relevant amount was due to wilful refusal or culpable neglect on their part and that the value of the vehicle if sold would amount to over half the estimated recoverable amount.<sup>3</sup>

9. Further safeguards include confirming that the court would not make an order for sale in respect of the vehicle (or vehicles) until the defendant has been convicted and a specified period of no less than 1 month has elapsed following seizure of the vehicle.

10. In addition, before granting an application for a motor vehicle order (whether in relation to its seizure or subsequent sale), the defendant would have an opportunity to make representations to the court as to the adverse impact an order might have. The court will only make an order if it is satisfied that the order is both proportionate and appropriate.

*In regard to discrimination arising from disability and duty to make reasonable adjustments:*

11. In so far as these proposals extend to disabled clients, we believe the policy is proportionate and can be justified with regard to its aim of ensuring that those who are unable to pay towards their defence costs should continue to receive legal aid, but where a defendant is deemed capable of paying towards their defence costs, they are asked to do so. It would not be reasonable to make an adjustment for disabled persons so that they are out of scope of the proposals.

12. If it becomes apparent that a defendant with a disability cannot provide evidence of their financial means (for example, a defendant with a mental health issue, a learning disability or other disability), the LSC will work with their solicitor and other relevant authorities, if necessary, to verify their means (for example, by considering psychiatric reports or getting more information from the Department for Work and Pensions). In this way care will be taken to avoid putting such a defendant at a disadvantage. The LSC contract for collection and enforcement also includes a vulnerability policy.

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<sup>3</sup> As provided for in paragraph 5 of Schedule 2 to LASPO.

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13. However, in relation to motor vehicle order regulations, reasonable adjustments are merited so that those motor vehicles used by disabled persons cannot be the subject of a clamping order or an order for sale.<sup>4</sup>

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<sup>4</sup> As provided for in paragraph 7 of Schedule 2 to LASPO.

## Monitoring

1. We anticipate that these changes will be implemented from 1 April 2013.
2. Our intention is to monitor and review the impact of the policies on all affected groups outlined in the Impact Assessment, and Equalities Impact Assessment. This is likely to involve the collation of existing administrative data from a variety of sources, including the LSC, Her Majesty's Courts and Tribunals Service and providers. We have identified a number of areas where there are limitations in the administrative data and we will explore the feasibility of improving data coverage and quality in the medium and longer term. We will also complement the use of administrative data with bespoke research exercises where appropriate.
3. For example, we are currently exploring administrative data collected by LSC on the characteristics of legal aid clients, including income and capital to inform our review of the implementation of these reforms. This may lead to survey work in order to address gaps in our knowledge. In addition, we are working with the Legal Services Board and the Law Society to produce further research on providers prior to the reforms and following their implementation.

## **Annex A - Evidence sources**

1. In this EIA, we have used LSC caseload data on the age, disability status, race and sex of Crown Court legal aid clients, England and Wales, in the 2011-12 financial year.

2. As with many administrative datasets, the quality of the LSC data is affected by the extent of missing data, particularly regarding illness/disability status and race. Volumes of missing data are reported and, where appropriate, the data is analysed both including and excluding the missing cases to assess the possibility of differential impacts. Where missing cases are excluded from the analysis, this makes the assumption that defendants in the Crown Court and legal aid applicants for whom data is missing are distributed across the protected characteristic categories in the same proportion as the defendants and applicants for whom data was available. This type of analysis allows comparisons to be drawn with population data.

3. In making these comparisons, we have used, where possible, the characteristics of the England and Wales population aged 18 and over to provide adult population comparators, as youths under 18 are exempt from the CCMT scheme.

- For age and sex, these data are drawn from the Office for National Statistics (ONS) Mid 2010 population estimates.
- For race, data is drawn from ONS experimental Population Estimates by Ethnic Group in England and Wales for 2009.
- For disability, we have used as a comparator the estimates for the adult (aged 16 years and older) population of Great Britain during 2009/10 published by the Office for Disability Issues (ODI). Although this estimate includes 16 and 17 year olds who are not subject to CCMT scheme, this estimate is considered the best available.

4. The data used does not cover all of the protected characteristics. This EIA includes the available data on age, sex, race and disability.

## Annex B - Evidence

### *Potential Age Impacts*

1. Table 1 (Annex C) shows that 38 per cent of Crown Court legal aid clients who, as determined by the CCMT scheme, were liable to make monthly contributions from income in 2011/2012 were over 40 years of age. This age group is over-represented in comparison to all adults granted legal aid for representation in the Crown Court (23 per cent in 2011/12).
2. This evidence suggests that the proposals may be more likely to affect older Crown Court Legal Aid clients (aged 40 years and older). Individuals granted legal aid for representation in the Crown Court are younger than the adult population of England and Wales, where 79 per cent are aged 30 years and older.

### *Potential Disability Impacts*

3. Table 2 (Annex C) shows that 12 per cent of Crown Court legal aid clients who, as determined by the CCMT scheme, were liable to make monthly contributions from income in 2011/12 declared a disability (where disability was stated or known). By the same measure, 22 per cent of all those granted legal aid for representation in the Crown Court in 2011/12 declared a disability.
4. This evidence suggests that the proposals may be more likely to impact upon able-bodied Crown Court Legal Aid clients. The disability status of those granted legal aid for representation in the Crown Court is similar to that of the adult population of Great Britain; where 22 per cent have a disability. However, the proportion of clients for which disability status is unknown in the LSC data (28 per cent) means that these findings should be treated with caution.

### *Potential Race Impacts*

5. Table 3 (Annex C) shows that 17 per cent of Crown Court legal aid clients who, as determined by the CCMT scheme, were liable to make monthly contributions from income were Black, Asian or Minority Ethnic (where race was known). This compares with 23 per cent of all adults granted legal aid for representation in the Crown Court in 2011/12.

6. This evidence suggests that the proposals may have a greater impact upon Crown Court Legal Aid clients of White ethnicity, as these clients potentially affected are over-represented when compared to all adults granted legal aid in the Crown Court (87 per cent compared with 77 per cent). Against the different measure of the general population, BAME Crown Court clients are over-represented as against the general population where 11% of the adult population are BAME. However, the proportion of clients for which race is unknown in the LSC data (20 per cent) means that these findings should be treated with caution.

7. We acknowledge that in broad terms BAME Crown Court legal aid clients are over-represented when compared to the adult population of England and Wales; where 11 per cent of adults are BAME.

#### *Potential Sex Impacts*

8. Table 4 (Annex C) shows that 89 per cent of Crown Court legal aid clients who, as determined by the CCMT scheme, were liable to make monthly contributions from income were men (where sex was known). By the same measure, 89 per cent of all adults granted legal aid for representation in the Crown Court in 2011/12 were men.

9. The gender profile of both the clients potentially affected and the population from which they are drawn (i.e. all Crown Court legal aid clients) is similar, and so in this context the impact is unlikely to be differential. We acknowledge that men are over-represented in the Crown Court legal aid population when compared to the adult population of England and Wales where 49 per cent are men.

#### *Other protected characteristics*

10. Due to limitations in the available evidence we are unable to identify the potential for any differential impact in respect of Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Religion and Belief, and Sexual Orientation.

## Annex C - Evidence Tables

**Table 1: Age** – the characteristics of Crown Court legal aid clients, England and Wales, 2011/12, and population comparison

	18-20 yrs	21-29 yrs	30-39 yrs	40-49 yrs	50-59 yrs	60+ yrs
CC legal aid clients liable for income contributions, 2011/12	6%	33%	24%	21%	11%	6%
All crown court legal aid clients, 2011/12	16%	37%	24%	15%	6%	2%
<i>England &amp; Wales population</i>	<i>5%</i>	<i>16%</i>	<i>17%</i>	<i>19%</i>	<i>15%</i>	<i>29%</i>

**Source:** LSC Caseload data

**Source for population data:** Mid-2010 Population Estimates: England and Wales, Office for National Statistics

**Notes**

Calculated from total where legal aid aid clients aged over 18 and where age was known

**Table 2: Disability** – the characteristics of Crown Court legal aid clients, England and Wales, 2011/12, and population comparison

	Disability statement			Excluding not stated/unknown	
	Ill or Disabled	Not Ill or Disabled	Not stated/unknown	Ill or Disabled	Not Ill or Disabled
CC legal aid clients liable for income contributions, 2011/12	9%	68%	23%	12%	88%
All crown court legal aid clients, 2011/12	15%	56%	28%	22%	78%
<i>England &amp; Wales population</i>	<i>22%</i>	<i>78%</i>		<i>22%</i>	<i>78%</i>

**Source:** LSC Caseload data

**Source for population data:** Disability Prevalence Estimates 2009/10, Office for Disability Issues

**Notes**

Calculated from total where legal aid aid clients aged over 18 and where age was known

**Table 3: Race** – the characteristics of Crown Court legal aid clients, England and Wales, 2011/12, and population comparison

	Race			Excluding Unknown	
	White	BAME	Unknown	White	BAME
CC legal aid clients liable for income contributions, 2011/12	66%	13%	20%	83%	17%
All crown court legal aid clients, 2011/12	58%	18%	25%	77%	23%
<i>England &amp; Wales population</i>	<i>89%</i>	<i>11%</i>		<i>89%</i>	<i>11%</i>

**Source:** LSC Caseload data

**Source for population data:** Experimental Population Estimates by Ethnic Group in England and Wales for 2009, Office for National Statistics

**Notes**

Calculated from total where legal aid aid clients aged over 18 and where age was known



Crown Court means testing: the design of the scheme on implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 - Equality Impact Assessment

**Table 4: Sex** - the characteristics of Crown Court legal aid clients, England and Wales, 2011/12, and population comparison

	Sex			Excluding unknown	
	Female	Male	Unknown	Female	Male
Legal aid clients liable for income contributions, 2011/12	10%	78%	12%	11%	89%
All legal aid clients, 2011/12	10%	78%	12%	11%	89%
<i>England and Wales Population (18+)</i>	<i>51%</i>	<i>49%</i>		<i>51%</i>	<i>49%</i>

**Source:** LSC Caseload data

**Source for population data:** Mid-2010 Population Estimates: England and Wales, Office for National Statistics

**Notes**

Calculated from total where legal aid aid clients aged over 18 and where age was known