

Rural Needs Impact Assessment Template

Step 1: Define the Issue

Rule 16 of The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 ("the 2009 Rules"), requires the Department of Justice (DoJ) to keep the general operation of the 2009 Rules under review. This is the second statutory review of the Rules.

In accordance with Rule 16¹, the objectives for the review are to consider:

- the levels of the prescribed fees and the rates of payment under the 2009 Rules (as amended); and
- whether or not these fees and rates of payment within the 2009 Rules are consistent with the requirements of Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order" – see below).

In addition, the DoJ has identified two further non-statutory criteria for inclusion, which are to:

- identify any potential omissions in the 2009 Rules; and
- determine whether the operation of the 2009 Rules can be enhanced to further improve control and forecasting of spending.

As outlined above, when reviewing the fees and rates of payment within the 2009 Rules the DoJ is required to ensure that they are consistent with the criteria set out in Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981¹, as follows:

- the time and skill which work of the description to which the rules relate requires;
- the number and general level of competence of persons undertaking work of that description;
- the cost to public funds of any provision made by the rules; and
- the need to secure value for money.

The definition of 'rural' commonly employed within Northern Ireland is based upon the Interdepartmental Urban-Rural Definition Group's statistical classification and delineation of settlements. Using this measure, it is accepted that settlements of less than 4,500 people are recognised as rural.

Any amendments to the 2009 Rules are intended to have a universal impact i.e. the remuneration scheme which operates under the Rules will not have a differential impact on the basis of location. Therefore, rural needs in general, and an individual assisted person's location in particular, are not considered to be of significant relevance to the policy in question. However, the 2009 Rules include mitigation measures (discussed below) to ensure a fair rural outcome, and the project aims to maintain this position.

Step 2: Understand the situation

No evidence to date has suggested that the policy has a negative or differential impact on assisted persons located in rural locations. The fees available under the 2009 Rules apply equally, irrespective of location, and the proposed changes arising from the review do not affect that policy. The views of rural stakeholders will be specifically requested within the consultation document issued, in order to identify evidence in this regard.

The 2009 Rules do contain some mitigation to take account of the location of legal representatives' office. Where a solicitor attends court other than his or her local court, a travelling allowance of £24.75 per hour is available to compensate them for the additional distance to be travelled. Similarly, counsel can avail of a travelling allowance of £12 per hour when they have to appear at a court which is more than 20 miles from the Head Post Office in Belfast. The LSA can also pay both branches of the profession an amount to cover any travelling expenses actually and reasonably and necessarily and exclusively attributable to these attendances.

Step 3: Develop and appraise options

The DoJ does not consider that there would be any barriers to, or additional costs associated with, delivery in rural areas under the 2009 Rules if amended as proposed by the review. The proposed changes to the Rules will potentially introduce new fees for all legal representatives, irrespective of their location.

The key issue which may arise for legal representatives operating under the 2009 Rules may be travel to court hearings and, as highlighted above, the Rules currently include mitigation against additional travel costs. The DoJ is of the view that this compensation for additional travel represents a fair rural outcome.

Step 4: Prepare for Delivery

Delivery of the amended scheme will be uniform throughout the jurisdiction, and it is not considered necessary to employ different solutions in different areas, particularly in light of the mitigation identified above.

Step 5: Implementation & Monitoring

Statistics in respect of the 2009 Rules will continue to be collected in order to gauge the impact of the scheme in all areas, including rural areas. No specific indicators or targets have been identified in respect of rural areas. Outcomes will be measured against the objectives of the review as set out above.

Step 6: Evaluation & Review

Following public consultation, and in particular if any amendments are made to the policy, the rural impact of the 2009 Rules may be reconsidered if additional information is forthcoming, alongside the other impact screenings and assessments completed for the policy.

Following completion, the Project will be subject to a Post Project Review, which will consider how the project was delivered, and a Post Project Evaluation, which will examine the Project's achievement against its objectives.

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