

**Hon Kiri Allan**  
Minister of Justice

**Proactive release – Improving access to legal assistance for low income New Zealanders**  
Date of issue: 13 October 2022

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	<b>Improving access to legal assistance for low income New Zealanders</b> Cabinet paper Office of the Minister of Justice 16 June 2022	Withheld in part, Section 9(2)(h)
2	<b>Improving access to legal assistance for low income New Zealanders</b> Cabinet SWC Minute - SWC-22-MIN-0115 Cabinet Office 22 June 2022	Withheld in part, Section 9(2)(h)

## **In Confidence**

Office of the Minister of Justice

Chair, Social Wellbeing Committee

## **Improving access to legal assistance for low income New Zealanders**

### **Proposal**

- 1 This paper seeks approval to make changes to the *Legal Services Regulations 2011* (the Regulations) and the *Legal Services Act 2011* (the Act). The changes are necessary to implement Budget 2022 decisions to improve access to legal aid.

### **Relation to government priorities**

- 2 This initiative fulfils the Labour Party's 2020 Election manifesto commitment to continue making improvements to the justice system, so everyone has appropriate access to justice, including through legal aid and Community Law Centres.
- 3 This initiative also closely aligns with cross-agency work led by the Dr Deborah Russell, Parliamentary Undersecretary of Revenue, and the Department of Inland Revenue to reduce debt people owe to Government. The Ministry of Justice, the Department of Prime Minister and Cabinet, and the Ministry of Social Development are involved in this work.

### **Executive Summary**

- 4 Legal aid settings are outdated and difficult to access by low income New Zealanders, limiting the scheme's ability to provide legal services to people of insufficient means.
- 5 A review of legal aid in 2018 (the review) found that the settings have been largely unchanged since 2011 resulting in an estimated 100,000 people becoming ineligible for legal aid between 2013 and 2018. It also found that some of the settings, including the user charge put in place in 2013, disincentivised people from applying for legal aid, thus creating an additional barrier to accessing justice. Recent feedback from the judiciary and legal profession shows their high level of concern about these issues.
- 6 Budget 2022 provided funding for improvements to the scheme that address core issues that limit access to legal aid. These are:



- 6.1. removing the legal aid user charge, payable by most civil and family legal aid recipients
  - 6.2. removing interest on repayment of unpaid legal debt<sup>1</sup>
  - 6.3. increasing the income eligibility thresholds by 15% from 1 January 2023, making 93,000 more people eligible for civil and family legal aid in the first year,
  - 6.4. increasing the debt repayment thresholds by 16.5% for debt established from 1 January 2023, relieving financial pressures for around 16,000 low-income and vulnerable New Zealanders, and
  - 6.5. increasing the civil and family legal aid eligibility thresholds and debt repayment thresholds by an additional 1.9% per year with the last increase on 1 July 2025.
- 7 The eligibility thresholds determine an applicant's eligibility for legal aid based on their income. The repayment thresholds determine the repayment obligation for a person who has been granted legal aid, based on their income. Both thresholds vary, depending on whether the person applying for aid is single or partnered and whether they have dependents.
- 8 This paper seeks agreement to policy proposals to implement changes to improve access to legal aid. All of these changes require amendments to the Regulations in order to implement them. Changes are also required to the Act to repeal the provisions that mandates setting the user charge and interest on repayment to remove these disincentives and increase the access to legal aid in a more enduring way.
- 9 If the Committee agrees, my officials will begin work on the regulatory and legislative changes. I will be seeking Cabinet Legislation Committee approval on these changes in October 2022.

## Background

- 10 A major barrier preventing people with legal issues from accessing justice is the cost of legal advice and representation. One method of ensuring people can access the legal system is through the provision of Government-funded legal aid.
- 11 To qualify for legal aid, applicants must meet eligibility criteria set out in the Act and the Regulations, including an assessment of household income. Once an application for civil or family legal aid has been granted, most applicants are required to pay a user charge of \$50 to access the service.<sup>2</sup> Legal aid grants

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<sup>1</sup> This applies to civil, criminal and family legal aid.

<sup>2</sup> S18A, *Legal Services Act 2011*



may also be subject to repayment requirements, depending on the person's circumstances.<sup>3</sup> Where there is a repayment obligation, this may accrue interest.<sup>4</sup>

- 12 The legal aid system has not undergone significant policy changes for over a decade. In 2018, the Ministry of Justice reviewed legal aid policy settings in its first of three-yearly (triennial) reviews as directed by Cabinet in 2015.<sup>5</sup>
- 13 The review highlighted the need for improvements to several aspects of the legal aid system. It found that:
  - 13.1. The user charge fee (introduced in 2013) and interest on legal aid debts (in place since 2011) disincentivise people from applying for legal aid and provide an additional barrier to accessing justice.
  - 13.2. Fewer people are eligible for legal aid than a decade ago. Estimates suggest that between 2013 and 2018 the number of people eligible decreased by an estimated 100,000.
  - 13.3. With low repayment thresholds, a great number of legal aid recipients are required to repay their grants thereby incurring a repayment obligation.
  - 13.4. Fees paid to legal aid lawyers (providers) are becoming increasingly out of date due to inflation and income progression. The hourly rate that legal aid providers are paid has remained static since 2008. This has resulted in fewer lawyers choosing to take on legal aid work, thereby reducing the pool of providers available to legal aid clients.
- 14 My officials consulted with targeted stakeholders during the review and have continued to invite and receive feedback in the intervening years. Concerns about the legal aid system have been raised by the legal profession and in comments made by the Chief Justice on behalf of the Heads of Bench. These comments echo the findings of the review and the need to address them urgently.
- 15 Funding was allocated in Budget 2022 to address some of the issues identified in the review. The funding package of \$148.7m will be used to update the legal aid policy settings relating to eligibility, repayment, and remuneration for legal aid lawyers.

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<sup>3</sup> ss 42 and 43 of the *Legal Services Act 2011* authorises the Commissioner to decide not to recover a debt or to write-off any or all amounts payable on a repayment obligation.

<sup>4</sup> If a person has not paid off their debt within 6 months of their debt being finalised, a 5% p.a. interest rate is charged. The Commissioner's authority to write off or to decide not to recover a debt also applies.

<sup>5</sup> CBC-15-MIN-0004 refers



- 16 The funding will improve access to justice for low income New Zealanders and ensure the scheme is resilient and sustainable. It will enable more people to access the scheme and receive legal advice to resolve their legal problems. It will also make repayments more equitable, by reducing requirements for low income and vulnerable New Zealanders.

### **I seek agreement to amend the Regulations**

- 17 I seek Cabinet approval to make changes to the Regulations to implement these proposals with effect from 1 January 2023. In order to maximise the benefit of the funding allocation, I intend for the changes to the Regulations to come into force before any changes to the Act.
- 18 Changes to the Act do not need to occur simultaneously with the changes to the Regulations in order for the changes brought about by the regulatory amendments to take effect.

### *I propose to raise the civil legal aid eligibility thresholds by 15% to improve the access to legal aid*

- 19 Eligibility for legal aid depends, in part, on the applicant's income. Income levels increase as the Labour Cost Index increases. When the legal aid eligibility threshold was set in 2008, they were based on the income required to access community service cards. While income levels have increased over time, the eligibility thresholds have remained the same, meaning legal aid becomes available to less and less people as incomes increase.
- 20 Data from the 2018 Census showed between 2013 and 2018 the number of people eligible for legal aid decreased by an estimated 100,000. In order to ensure that a greater number of low income New Zealanders can access legal aid when they are confronted with legal problems.
- 21 The last increase to the eligibility income thresholds was a 6.5% staged increase over 2016-2018. This increase did not make up for the full depreciation of the thresholds since they were set in 2008.
- 22 To address this, I propose to increase the civil legal aid<sup>6</sup> eligibility thresholds by 15%. This increase will take place on 1 January 2023. There will also be additional increases of 1.9% each in July 2023, July 2024 and July 2025. The additional increases of 1.9% per year, is based on the average of the annual increase in the Labour Cost index between 2008 and 2021.
- 23 The increase in the eligibility thresholds is projected to enable 93,000 more people to become eligible for legal aid in the first year. It is also estimated that

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<sup>6</sup> All references in this paper to civil legal aid include family legal aid unless otherwise specified.



there will be approximately an additional 4,500 legal aid grants per year, or an annual increase of 24% more than under the current thresholds.

- 24 For ease of reference the table in Appendix 1 sets out the current and proposed eligibility thresholds.

*I also propose to raise the legal aid repayment thresholds by 16.5% to reduce the debt obligation of legal aid users*

- 25 Similar to the eligibility thresholds, the legal aid repayment thresholds are based on a person's income. Applicants earning an annual income within a specified range are liable to repay up to a specified maximum amount.<sup>7</sup> As income levels increase over time, people on an increased, but still low, income will incur a repayment obligation.
- 26 I propose to increase the repayment thresholds by 16.5% for legal aid debt established from 1 January 2023. This is the first time that the repayment thresholds will be increased since 2008. I propose that the repayment thresholds also increase by an additional 1.9% each year in July 2023, July 2024 and July 2025.
- 27 This proposed increase will ensure that low income New Zealanders in need of legal assistance are not unnecessarily burdened with a repayment obligation when obtaining that legal assistance. 52,500 individuals currently owe legal aid debt to the Ministry of Justice totalling \$178m. It is estimated that by lifting the repayment thresholds, up to 16,000 people per year will receive lower initial repayment requirements.
- 28 This increase also contributes to one of the focuses of the debt to government work programme to prevent debt from occurring so that it does not create future problems for those in hardship.
- 29 The increases to the eligibility and repayment thresholds will account for most of the increase in inflation since 2008 and better achieve the policy intent at the time the thresholds were set in 2008.<sup>8</sup>
- 30 The additional increases of 1.9% annually, starting from 1 July 2023, are in place to allow for the thresholds to adjust as the wage inflation increases over the funded four-year period.
- 31 In appendix 2, tables 1 and 3 show the current repayment thresholds for single and partnered applicants, including any dependents. Tables 2 and 4 show the changes in these thresholds starting on 1 January 2023.

<sup>7</sup> See Schedule 2 of *Legal Services Regulations 2011*

<sup>8</sup> Accounting for the 6.5% increase in the thresholds from 2016/18.



*Removing the user charge and interest rate on repayment of legal aid debt will improve access to justice*

- 32 The 2018 review of legal aid found that the user charge fee and interest on repayment of legal aid debt disincentivises people from applying for legal aid and provides an additional barrier to accessing justice.
- 33 I propose that the Regulations be amended to remove the user charge fee for civil and family legal aid granted from 1 January 2023.
- 34 I also propose that the interest rate be removed for legal aid debts effective from 1 January 2023.
- 35 These proposed changes will remove an immediate barrier to accessing legal aid. Removing the user charge and the interest on repayment will reduce the annual Government revenue by \$0.6m and \$0.37m respectively. However, this change will exempt approximately 7,400 people per year from paying an initial charge to receive aid and anyone receiving legal aid will not have to pay the additional cost of interest.
- 36 These amendments will improve the ability of low income New Zealanders to access legal aid, and simultaneously contribute to lowering debt to government and long-term financial hardship.

**I seek agreement to amend the Act**

- 37 I seek your agreement to remove the user charge and interest on repayment of legal aid debt permanently by repealing the mandating provisions in the Act.
- 38 Amending the Regulations will ensure that the user charge and interest on repayment is not charged on legal aid granted from 1 January 2023. Taking the further step to also amend the Act provides greater certainty for legal aid users and will improve access to legal aid in a more enduring way.
- 39 Repealing these provisions from the Act has the dual effect of supporting the debt to government work and the manifesto commitment to improve access to justice.
- 40 I propose for these changes to follow the standard legislative process.

**The hourly rate of legal aid lawyers will be increased by 12% on 1 July 2022**

- 41 There is funding allocated in Budget 2022 to increase the hourly rate of private legal aid lawyers by 12% on 1 July 2022. No legislative changes are required to enable this increase. This increase does not apply to Public Defence Service lawyers who are paid a salary to provide criminal legal aid services.



- 42 Legal aid is only effective if there are a sufficient number of lawyers available to provide legal aid services and meet the demand on the service. Increasing the hourly rate is an improvement to the scheme that can help sustain the pool of lawyers and incentivise younger lawyers to become legal aid providers.
- 43 An Access to Justice survey, conducted by the NZLS in 2021 highlighted that remuneration is affecting the attractiveness of legal aid work. Of the approximately 2989 legal aid lawyers surveyed, 76% indicated that the main reason why they do legal aid work is because they want to help people who cannot afford legal representation. However, 24% of the lawyers surveyed indicated an intention to do less or no legal aid work over the 12 months from the survey.
- 44 Those with no interest in undertaking any or further legal aid work cited inadequate remuneration and administrative burden as key barriers.<sup>9</sup>
- 45 Tables setting out the current and new legal aid providers' hourly rates are provided in appendix 3 for Ministers' information. This change will be implemented operationally by the Legal Services Commissioner.

#### **These changes form an interlinked package**

- 46 Packaging these elements together recognises that eligibility, repayment requirements and remuneration (not requiring legislative change to implement but included as part of the Budget 2022 funding) are all interlinked priorities in updating the legal aid settings. While remuneration is significant for providers, increasing eligibility is equally significant for the people receiving the service. Adjusting the repayment requirements provide significant relief from the burden of debt upon vulnerable people.
- 47 Changes to each priority will also flow onto the others. For example, increasing eligibility requires increasing remuneration to ensure enough providers are incentivised to take up the additional cases.

#### **The impact of these changes will be monitored**

- 48 Officials will look at ways to monitor the effect of the changes once they have been implemented and to report on it. Any monitoring and reporting will involve:
- 48.1. Financial monitoring, to ensure expenses are tracking as expected,

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<sup>9</sup> New Zealand Law Society Access to Justice Survey 2021 <https://www.lawsociety.org.nz/about-us/significant-reports/access-to-justice-survey-report-2021/>



- 48.2. Monitoring case volumes as well as debt established, to determine whether the changes have delivered the expected increases for accessing the scheme, and
- 48.3. Provider monitoring, to see if the remuneration increases are having an impact upon the number of providers retained and the volume of legal aid cases they take.
- 49 Monitoring the impact of the changes will provide a useful foundation for the next triennial review of legal aid in 2024.

## **Consultation**

*The 2018 legal aid review, which underpins these changes, involved targeted stakeholder consultation*

- 50 The 2018 legal aid review involved targeted consultation with the Legal Services Commissioner and staff; Crown Law Office; Department of Corrections; Ministry of Business, Innovation and Employment – ACC, Government Centre for Dispute Resolution and the Refugee Status Unit; Ministry of Education; Ministry of Social Development – Office for Disability Issues and Oranga Tamariki; Ministry for Pacific Peoples; Ministry for Women; New Zealand Police; and Te Puni Kōkiri.
- 51 The following stakeholders from the legal profession were also consulted; the Public Defence Service, New Zealand Law Society, Criminal Bar Association, and Community Law Centres o Aotearoa.
- 52 Officials had initial conversations with a representative of Te Hunga Rōia Māori o Aotearoa, the Māori Law Society; some members of this group then provided feedback either as individuals, via several South and North Island forums that the Ministry of Justice held with legal aid lawyers, or via Community Law Centre feedback. Officials also met with the Regional Māori Warden co-ordinators.
- 53 Officials sought further feedback from the legal profession in 2021. Feedback was received from representatives of the legal profession including the NZLS, the Bar Association, the Auckland District Law Society and the South Auckland Bar Association. A common sentiment across the profession was the low remuneration, which has implications on the ability to retain lawyers under current settings. There were also concerns with the low eligibility thresholds.
- 54 The Chief Justice and Heads of Bench were also consulted. They reiterated the need to set eligibility thresholds realistically and to ensure that legal aid settings do not deter claimants from proceeding with their case, nor should taking up the case drive them into debt.



- 55 Stakeholder feedback was supportive of the proposals to increase eligibility and reduce debt in order to improve access to justice for those on low incomes.

*Agencies were consulted on this Cabinet paper*

- 56 The following agencies have been consulted in developing this Cabinet paper: Crown Law Office; Department of Corrections; Inland Revenue Department, Ministry of Business, Innovation and Employment – ACC, Government Centre for Dispute Resolution, and the Refugee Status Branch; Ministry of Education; Ministry of Social Development – Office for Disability Issues and Oranga Tamariki; Ministry for Pacific Peoples; Ministry for Women; New Zealand Police; Te Puni Kōkiri; and the Treasury.
- 57 The DPMC have been informed.

### Financial Implications

*The proposals in this paper are funded through Budget 2022*

- 58 The overall financial implication of the proposed changes is \$148.7m over the four-year period. These costs will be met by the additional funding for legal aid allocated from Budget 2022.
- 59 The overall package also includes a component targeted at increasing remuneration for legal aid providers (\$16.491m p.a.). As the remuneration part of the package does not require legislative or regulatory change to implement, I have included this detail only for completeness.<sup>10</sup>
- 60 The financial implications for the specific changes outlined in this paper are contained in the table below.

Proposals that need Cabinet approval	Cost for 4-year period (\$m)					Impact of the additional expenditure
	22/23	23/24	24/25	25/26 and outyears	Total for 4 Year period	
Increasing eligibility thresholds for civil and family legal aid by 15 % on 1 January 2023, then	\$7.05	\$14.36	\$14.64	\$14.92	\$50.98	An additional c.4,500 legal aid grants per year (an annual increase of 24%)

<sup>10</sup> The remuneration component increases legal aid providers' hourly rate by 12% (at a cost of \$16.5m a year; \$66m over 4 years). A full wage inflation increase since 2008 would have been 23%, which would cost \$31.6m a year (\$126.4m over 4 years).



1.9% p.a. thereafter						
Increasing debt repayment thresholds by 16.5 % in January 2023, then 1.9% p.a thereafter	\$3.66	\$7.46	\$7.60	\$7.74	\$26.47	Approximately 16,000 people will receive a lower, or no, repayment obligation for their legal aid.
Removing the interest rate charged on legal aid debt	\$0.3	\$0.6	\$0.6	\$0.6	\$2.1	This will reduce revenue to Government by \$0.6m p.a.
Removing the user charge of \$50 for civil and family legal aid	\$0.18	\$0.37	\$0.37	\$0.37	\$1.29	Will remove an immediate barrier to accessing legal aid, meaning that c.7,400 people per year will not have to pay the charge.

### Treaty of Waitangi

- 61 The proposals to increase eligibility, remove the user charge, and reduce legal aid debt aim to reduce existing barriers to legal aid that were identified during the review.

### Human rights

- 62 The New Zealand Bill of Rights Act 1990 affirms the right of a person charged with an offence to consult and instruct a lawyer,<sup>11</sup> and receive free legal assistance if the interests of justice require and the person does not have sufficient means to access that assistance.<sup>12</sup>
- 63 The funding through Budget 2022 will remove barriers for low-income New Zealanders to realising and protecting their human rights.

<sup>11</sup> S 24 (c) New Zealand Bill of Rights Act 1990

<sup>12</sup> S 24 (f) New Zealand Bill of Rights Act 1990



## **Legislative implications**

- 64 My proposed reform package includes a mix of legislative, regulatory, and operational amendments.
- 65 Changes to the Regulations will be needed to prescribe the new civil eligibility thresholds and repayment thresholds, and to remove the user charge and interest on repayment of legal aid debt. I expect these to be in force by 1 January 2023.
- 66 Changes to the Act will be required to remove the provisions that mandate prescribing a user charge and interest rate on repayment of legal aid debt. The changes to the Act do not need to occur simultaneously with the changes to the Regulations in order for the regulatory amendments to take effect.
- 67 Amendments to the Act will come into force following the standard legislative process.
- 68 For completeness, the operational amendment (to increase the hourly rates for legal aid lawyers) will be implemented by the Legal Services Commissioner.

## **Impact analysis**

- 69 The Regulatory Impact Analysis (RIA) requirements apply to the proposals in this paper. A Regulatory Impact Statement (RIS) is attached.
- 70 A Quality Assurance Panel from the Ministry of Justice has reviewed the Regulatory Impact Assessment prepared by the Ministry of Justice and considers the information and analysis partially meets quality assurance criteria.
- 71 As noted in the analysis, evidence of problems with legal aid are well documented and confirmed by a range of stakeholders. The analysis is constrained by the existing legal assistance framework and the funding available to improve the system.
- 72 The Government's preferred approach is unlikely to fully address the problems identified by stakeholders but will significantly alleviate the current pressures on the legal aid system. The proposed new reporting measures will help inform the next review of legal aid policy settings scheduled for 2024.

## **Climate Implications of Policy Assessment**

- 73 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.



## **Population Implications**

- 74 The package I am proposing in this paper will largely benefit low-income people for whom the legal aid scheme is targeted. Within the range of low-income New Zealanders, are several minority population groups that are disproportionately affected by the current policy settings.
- 75 Māori, Pasifika, disabled people and women comprise a high proportion of those affected by barriers to accessing justice, particularly cost barriers. Ministry of Justice data shows that a significantly larger amount of legal aid grants are made in regions with proportionately higher Māori and Pasifika populations. Data from the 2018 Census shows that disabled people are significantly more likely to live in low-income households and experience poverty.
- 76 Findings from the Legal Needs Among Low-Income New Zealanders survey (2018) show that people with a long-term health problem or disability are more likely to have experienced a legal problem within the past two years. Compared to civil and criminal legal aid grants, which are mostly received by men, family legal aid grants are more often received by women (Ministry of Justice figures, 2021).

## **Publicity**

- 77 Changes to legal aid settings were announced as part of Budget 2022. Further detail on these changes will be publicised as part of the proactive release of Budget 2022 documents.
- 78 I will also proactively release this paper, subject to any redactions as appropriate under the Official Information Act 1982, within 30 business days of decisions being confirmed by Cabinet or earlier if possible.

## **Next steps**

- 79 Subject to your agreement to the proposals in this paper, I will issue drafting instructions to the Parliamentary Counsel Office reflecting your decisions.
- 80 I will bring a paper to Cabinet Legislation Committee in October 2022 to seek agreement to the changes.



## Recommendations

The Minister of Justice recommends that the Committee:

1. **Note** that Budget 2022 has provisioned funding to change legal aid settings as follows:
  - 1.1. Remove the user charge legally aided people must pay to access most family and civil legal aid,
  - 1.2. Remove the interest rate on legal aid debt,
  - 1.3. Increase the eligibility and repayment thresholds legal aid applicants, and
  - 1.4. Increase the hourly rate paid to legal aid lawyers, effective 1 July 2022.
2. **Note** that these issues were originally raised in the 2018 triennial legal aid review and have worsened in intervening years.

### *Regulatory and legislative proposals*

3. **Agree** that the *Legal Services Regulations 2011* be amended to:
  - 3.1. Remove the user charge for legal aid granted from 1 January 2023,
  - 3.2. Remove the interest rate on legal aid debts effective from 1 January 2023,
  - 3.3. Increase income eligibility thresholds for civil and family legal aid by 15% on 1 January 2023, then 1.9% p.a thereafter, with the last increase on 1 July 2025, and
  - 3.4. Increase debt repayment thresholds by 16.5% for legal aid debt established from 1 January 2023, plus 1.9% p.a. thereafter, with the last increase on 1 July 2025.
4. **Agree** that the provision in the *Legal Services Act 2011* that mandates the setting of a user charge is repealed.
5. **Agree** that the provision in the *Legal Services Act 2011* that mandates charging interest on repayment of legal aid debt is repealed.



*Drafting instructions and resolving outstanding issues*

6. **Invite** the Minister of Justice to issue drafting instructions to Parliamentary Counsel Office, reflecting the decisions made on the recommendations in this paper;
7. **Authorise** the Minister of Justice, in consultation with other Ministers as appropriate, to resolve any outstanding policy issues arising from, or associated with, decisions made further to the recommendations in this paper;
8. **Authorise** the Minister of Justice to make decisions about minor, technical or administrative matters as required to finalise amendments to the Regulations and Act **Section 9(2)(h)** **[REDACTED]**.

Authorised for lodgement

Hon Kiri Allan

Minister of Justice



## Appendix 1: Current and proposed eligibility thresholds

Status	Current income threshold	Proposed income threshold on 1 January 2023	On 1 July 2023	On 1 July 2024	On 1 July 2025
Single applicant, no dependents	\$23,820	\$27,393	\$27,913	\$28,444	\$28,984
Single applicant + 1 dependent & partnered applicant, no dependents	\$37,722	\$43,380.30	\$44,205	\$45,044	\$45,900
Single applicant + 2 dependents & partnered applicant + 1 dependent	\$54,245	\$62,381.75	\$63,567	\$64,775	\$66,005
Single applicant + 3 dependents & partnered applicant + 2 dependents	\$61,642	\$70,888.30	\$72,235	\$73,608	\$75,006
Single applicant + 4 dependents & partnered applicant + 3 dependents	\$68,882	\$79,214.30	\$80,719	\$82,253	\$83,816
Single applicant + 5 dependents & partnered applicant + 4 dependents	\$77,002	\$88,552	\$90,235	\$91,149	\$93,696
Partnered applicant + 5 dependents	\$84,126	\$96,745	\$98,593	\$100,456	\$102,365
Every additional dependent	+ \$7,124	+ \$8,192			



## Appendix 2: Current and proposed repayment thresholds for single and partnered applicants

Table 1: Current repayment thresholds for single applicants

Single Applicants										
Maximum Repayment amount	No Children (\$)		1 Child (\$)		2 Children (\$)		3 Children (\$)		4+ Children (\$)	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
<b>\$0</b>	\$ -	\$ 14,364	\$ -	\$ 26,676	\$ -	\$ 28,944	\$ -	\$ 31,104	\$ -	\$ 33,156
<b>\$1,300</b>	\$ 14,365	\$ 17,928	\$ 26,677	\$ 33,372	\$ 28,945	\$ 36,072	\$ 31,105	\$ 38,772	\$ 33,157	\$ 41,364
<b>\$2,860</b>	\$ 17,929	\$ 19,980	\$ 33,373	\$ 34,128	\$ 36,073	\$ 36,828	\$ 38,773	\$ 39,420	\$ 41,365	\$ 42,120
<b>\$4,420</b>	\$ 19,981	\$ 21,924	\$ 34,129	\$ 34,884	\$ 36,829	\$ 37,476	\$ 39,421	\$ 40,176	\$ 42,121	\$ 42,768
<b>\$5,980</b>	\$ 21,925	\$ 23,976	\$ 34,885	\$ 35,532	\$ 37,477	\$ 38,232	\$ 40,177	\$ 40,824	\$ 42,769	\$ 43,524
<b>\$7,540</b>	\$ 23,977	\$ 26,028	\$ 35,533	\$ 36,288	\$ 38,233	\$ 38,880	\$ 40,825	\$ 41,580	\$ 43,525	\$ 44,172
<b>\$10,000</b>	\$ 26,029	\$ 27,540	\$ 36,289	\$ 37,260	\$ 38,881	\$ 43,416	\$ 41,581	\$ 49,572	\$ 44,173	\$ 55,620

Table 2: Proposed repayment thresholds starting 1 January 2023 – 16.5% increase

Single Applicants (Thresholds starting 1 January 2023)										
Maximum Repayment amount	No Children (\$)		1 Child (\$)		2 Children (\$)		3 Children (\$)		4+ Children (\$)	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
<b>\$0</b>	\$ -	\$ 16,734	\$ -	\$ 31,078	\$ -	\$ 33,720	\$ -	\$ 36,236	\$ -	\$ 38,627
<b>\$1,300</b>	\$ 16,735	\$ 20,886	\$ 31,079	\$ 38,879	\$ 33,721	\$ 42,024	\$ 36,237	\$ 45,170	\$ 38,628	\$ 48,189
<b>\$2,860</b>	\$ 20,887	\$ 23,277	\$ 38,880	\$ 39,759	\$ 42,025	\$ 42,905	\$ 45,171	\$ 45,924	\$ 48,190	\$ 49,070
<b>\$4,420</b>	\$ 23,278	\$ 25,542	\$ 39,760	\$ 40,640	\$ 42,906	\$ 43,660	\$ 45,925	\$ 46,805	\$ 49,071	\$ 49,825
<b>\$5,980</b>	\$ 25,543	\$ 27,932	\$ 40,641	\$ 41,395	\$ 43,661	\$ 44,540	\$ 46,806	\$ 47,560	\$ 49,826	\$ 50,706
<b>\$7,540</b>	\$ 27,933	\$ 30,323	\$ 41,396	\$ 42,276	\$ 44,541	\$ 45,295	\$ 47,561	\$ 48,441	\$ 50,707	\$ 51,461
<b>\$10,000</b>	\$ 30,324	\$ 32,084	\$ 42,277	\$ 43,408	\$ 45,296	\$ 50,580	\$ 48,442	\$ 57,751	\$ 51,462	\$ 64,797

Table 3: Current thresholds for partnered applicants

Partnered Applicants (current thresholds)										
Maximum Repayment amount	No Children (\$)		1 Child (\$)		2 Children (\$)		3 Children (\$)		4+ Children (\$)	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
<b>\$0</b>	\$ -	\$ 23,004	\$ -	\$ 26,784	\$ -	\$ 28,944	\$ -	\$ 31,104	\$ -	\$ 33,156
<b>\$1,300</b>	\$ 23,005	\$ 28,728	\$ 26,785	\$ 33,480	\$ 28,945	\$ 36,180	\$ 31,105	\$ 38,880	\$ 33,157	\$ 41,472
<b>\$2,860</b>	\$ 28,729	\$ 31,104	\$ 33,481	\$ 35,748	\$ 36,181	\$ 38,448	\$ 38,881	\$ 41,148	\$ 41,473	\$ 43,740
<b>\$4,420</b>	\$ 31,105	\$ 33,372	\$ 35,749	\$ 38,124	\$ 38,449	\$ 40,716	\$ 41,149	\$ 43,416	\$ 43,741	\$ 46,008
<b>\$5,980</b>	\$ 33,373	\$ 35,748	\$ 38,125	\$ 40,392	\$ 40,717	\$ 42,984	\$ 43,417	\$ 45,684	\$ 46,009	\$ 48,276
<b>\$7,540</b>	\$ 35,749	\$ 38,016	\$ 40,393	\$ 42,660	\$ 42,985	\$ 45,252	\$ 45,685	\$ 47,952	\$ 48,277	\$ 50,544
<b>\$10,000</b>	\$ 38,017	\$ 39,420	\$ 42,661	\$ 43,416	\$ 45,253	\$ 49,572	\$ 47,953	\$ 55,620	\$ 50,545	\$ 61,776



Table 4: Proposed thresholds for partnered applicants (starting 1 January 2023) – 16.5% increase

Partnered Applicants (Thresholds starting 1 January 2023)										
Maximum Repayment amount	No Children (\$)		1 Child (\$)		2 Children (\$)		3 Children (\$)		4+ Children (\$)	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
<b>\$0</b>	\$ -	\$ 26,800	\$ -	\$ 31,204	\$ -	\$ 33,720	\$ -	\$ 36,236	\$ -	\$ 38,627
<b>\$1,300</b>	\$ 26,801	\$ 33,468	\$ 31,205	\$ 39,004	\$ 33,721	\$ 42,150	\$ 36,237	\$ 45,295	\$ 38,628	\$ 48,315
<b>\$2,860</b>	\$ 33,469	\$ 36,236	\$ 39,005	\$ 41,647	\$ 42,151	\$ 44,792	\$ 45,296	\$ 47,938	\$ 48,316	\$ 50,957
<b>\$4,420</b>	\$ 36,237	\$ 38,879	\$ 41,648	\$ 44,415	\$ 44,793	\$ 47,434	\$ 47,939	\$ 50,580	\$ 50,958	\$ 53,599
<b>\$5,980</b>	\$ 38,880	\$ 41,647	\$ 44,416	\$ 47,057	\$ 47,435	\$ 50,077	\$ 50,581	\$ 53,222	\$ 53,600	\$ 56,242
<b>\$7,540</b>	\$ 41,648	\$ 44,289	\$ 47,058	\$ 49,699	\$ 50,078	\$ 52,719	\$ 53,223	\$ 55,864	\$ 56,243	\$ 58,884
<b>\$10,000</b>	\$ 44,290	\$ 45,924	\$ 49,700	\$ 50,580	\$ 52,720	\$ 57,751	\$ 55,865	\$ 64,797	\$ 58,885	\$ 71,969



### Appendix 3 – Current and new legal aid hourly rates

Table 1 – Current rates

Criminal				
		Level of Experience		
Provider Approval Level	Other	Level 1 (\$/hr)	Level 2 (\$/hr)	Level 3 (\$/hr)
PAL 1		\$ 92	\$96	\$106
PAL 2		\$ 96	\$120	\$124
PAL 3		\$ 116	\$124	\$134
PAL 4		\$130	\$ 144	\$159
Court of Appeal / Supreme Court		\$130	\$ 144	\$159
Travel Time	\$ 63			
Supervised Providers	\$ 92			
Qualified legal executives	\$ 82			
Non-qualified legal executives & paralegals	\$ 72			
Law Clerks	\$ 72			
Family & Civil				
		Level of Experience		
Provider Approval Level	Other	Level 1 (\$/hr)	Level 2 (\$/hr)	Level 3 (\$/hr)
FC 1 (other Tribunal & Judicial Authority)		\$ 92	\$ 116	\$ 124
FC 2 (District Court, Family Court)		\$ 106	\$ 120	\$ 134
FC 3 (High Court)		\$ 120	\$134	\$ 149
FC 4 (Court of Appeal / Supreme Court)		\$ 130	\$ 144	\$ 159
Court of Appeal / Supreme Court		\$ 130	\$ 144	\$ 159
Travel Time	\$63			
Supervised Providers	\$92			
Employment advocates	\$82			
Qualified legal executives	\$82			
Non-qualified legal executives & paralegals	\$72			
Law Clerks	\$72			

Table 2 – New rates (12% increase on 1 July 2022)

Criminal				
		Level of Experience		
Provider Approval Level	Other	Level 1 (\$/hr)	Level 2 (\$/hr)	Level 3 (\$/hr)
PAL 1		\$ 103	\$108	\$119
PAL 2		\$108	\$134	\$139
PAL 3		\$130	\$139	\$150
PAL 4		\$146	\$161	\$178
Court of Appeal / Supreme Court		\$146	\$161	\$178
Travel Time	\$63			
Supervised Providers	\$103			
Qualified legal executives	\$82			
Non-qualified legal executives & paralegals	\$72			
Law Clerks	\$72			
Family & Civil				
		Level of Experience		
Provider Approval Level	Other	Level 1 (\$/hr)	Level 2 (\$/hr)	Level 3 (\$/hr)
FC 1 (other Tribunal & Judicial Authority)		\$103	\$130	\$139
FC 2 (District Court, Family Court)		\$119	\$134	\$150
FC 3 (High Court)		\$134	\$150	\$167
FC 4 (Court of Appeal / Supreme Court)		\$146	\$161	\$178
Court of Appeal / Supreme Court		\$146	\$161	\$178
Travel Time	\$63			
Supervised Providers	\$103			
Employment advocates	\$82			
Qualified legal executives	\$82			
Non-qualified legal executives & paralegals	\$72			
Law Clerks	\$72			





# Cabinet Social Wellbeing Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Improving Access to Legal Assistance for Low Income New Zealanders

Portfolio Justice

On 22 June 2022, the Cabinet Social Wellbeing Committee:

#### Background

- 1 **noted** that Budget 2022 provided funding to change legal aid settings as follows:
  - 1.1 remove the user charge legally aided people must pay to access most family and civil legal aid;
  - 1.2 remove the interest rate on legal aid debt;
  - 1.3 increase the eligibility and repayment thresholds legal aid applicants;
  - 1.4 increase the hourly rate paid to legal aid lawyers, effective 1 July 2022;
- 2 **noted** that the above issues were originally raised in the 2018 triennial legal aid review and have worsened in intervening years;

#### Regulatory and legislative proposals

- 3 **agreed** that the Legal Services Regulations 2011 be amended to:
  - 3.1 remove the user charge for legal aid granted from 1 January 2023;
  - 3.2 remove the interest rate on legal aid debts effective from 1 January 2023;
  - 3.3 increase income eligibility thresholds for civil and family legal aid by 15 percent on 1 January 2023, then 1.9 percent per annum thereafter, with the last increase on 1 July 2025;
  - 3.4 increase debt repayment thresholds by 16.5 percent for legal aid debt established from 1 January 2023, plus 1.9 percent per annum thereafter, with the last increase on 1 July 2025.
- 4 **agreed** that the provision in the Legal Services Act 2011 that mandates the setting of a user charge is repealed;
- 5 **agreed** that the provision in the Legal Services Act 2011 that mandates charging interest on repayment of legal aid debt is repealed;

**Drafting instructions and resolving outstanding issues**

- 6 **invited** the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office to make the necessary amendments for the decisions in paragraphs 3 to 5 above;
- 7 **authorised** the Minister of Justice, in consultation with other Ministers as appropriate, to resolve any outstanding policy issues arising from, or associated with, the above decisions;
- 8 **authorised** the Minister of Justice to make decisions on minor, technical or administrative matters as required to finalise amendments to the Legal Services Amendment Bill, <sup>Section 6(2)(h)</sup> [REDACTED]

Rachel Clarke  
Committee Secretary

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**Present:**

Rt Hon Jacinda Ardern  
Hon Chris Hipkins  
Hon Carmel Sepuloni  
Hon Andrew Little  
Hon Poto Williams  
Hon Peeni Henare  
Hon Willie Jackson  
Hon Kiri Allan  
Hon Aupito Williams Sio  
Hon Meka Whaitiri  
Hon Priyanca Radhakrishnan

**Officials present from:**

Office of the Prime Minister  
Office of the Chair  
Officials Committee for SWC