



Legal Aid
Agency

Revisions to the list of payments to be disregarded from gross and disposable income for both civil and criminal legal aid financial determinations

Guidance for Providers

Version	Issue Date	Last Review Date	Owned By
1.	July 2016	July 2016	Service Development

From 28 July 2016 there are changes to the list of payments to be disregarded from the calculation of gross income and disposable income, for both civil and criminal legal aid financial determinations.

The Civil and Criminal Legal Aid (Financial Eligibility and Contributions) (Amendment) Regulations 2016 [“the 2016 Amendment Regulations”] adds to the list of disregarded income to **include the following new payments:**

- Budget Advances;
- Payments on Account of Benefit;
- Transfer Advances of Universal Credit; and
- Welsh Independent Living Grant.

What are these payments?

Payments on account of benefit (PABs) and budget advances made under Parts 2 and 3 of the Social Security (Payments on Account of Benefit) Regulations 2013 replaced social fund crisis loans and budgeting loans, which were disregarded payments for civil and criminal legal aid. Like the benefits they replaced, PABs and budget advances are typically made to cover short term crises and to pay for essential items (such as clothes and furniture); these payments must be disregarded.

In addition, an advance payment of universal credit made under Regulation 17 of the Universal Credit (Transitional Provisions) Regulations 2014 must be disregarded. An advance payment can be requested during the first assessment period of universal credit, by a person who is being transferred from a legacy state benefit, to bridge the gap until the first pay day of the award. The main award of universal credit is dealt with as a passporting benefit under civil and criminal legal aid.¹

¹ Universal Credit passports an individual through the income test only for civil legal aid, capital must still be assessed.

The UK-wide independent Living Fund (ILF) was closed on 1 July 2015. Local authorities in England are now responsible for care provision, with each authority having received a monetary transfer from the ILF. The Welsh Independent Living Grant (WILG) was introduced by the Welsh Government from March 2016 and replaces the ILF for people in Wales. Payments from the WILG are to be disregarded for the purposes of the income level assessment in the same way as payments from the ILF.

These changes will ensure that persons in receipt of the new payments above², are not disadvantaged when applying for civil or criminal legal aid.

Other miscellaneous changes – Universal Credit and Personal Independence Payments in Northern Ireland

The 2016 Amendment Regulations also makes changes to civil and criminal legal aid financial regulations, in readiness for the introduction of Universal Credit and Personal Independence Payments to Northern Ireland, further to the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 3) Order 2016.

In 2013 Universal Credit was added to the list of passporting benefits under the civil and criminal scheme, and Personal Independence Payments (PIPs) were added to the list of disregarded income. As these benefits are to be rolled out to Northern Ireland during 2016-2017, this amendment ensures that recipients of PIPs and Universal Credit in Northern Ireland are treated in the same way as their counterparts in the rest of the UK if they make a legal aid application in England and Wales.

² As made under the statutory instrument listed or under the equivalent Northern Ireland instrument.