



Legal Aid  
Agency

# Disregard of payments from Infected Blood Support Schemes (and other specified compensation payments).

## Guidance for Providers

Compensation payments provided to claimants of certain compensation schemes paid as a result of state error or serious incidents such as a violent crime, terrorist action or a national emergency, can now be disregarded from civil legal aid eligibility assessments.

We have amended legal aid legislation to ensure that claimants of certain compensation schemes paid as a result of state error or serious incidents external to state action are not disadvantaged in applying for legal aid.

These changes start from **8 January 2021**.

## Disregarded Payments

The Civil Legal Aid (Financial Resources and Payment for Services) (Amendment) Regulations 2020 expands the list of payments that may be disregarded from the legal aid means test from 8 January 2021.

The new statutory instrument amends the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, providing for new disregarded payments under Regulation 24 (disregards when assessing gross or disposable income) and Regulation 40 (disregards when assessing disposable capital). The changes apply to all determinations (i.e. for new applications and reassessments) made on or after 8 January 2021.

Payments under the following schemes are to be disregarded from income and capital:

- Relevant Infected Blood Support Schemes –
  - England Infected Blood Support Scheme (EIBSS).
  - Wales Infected Blood Support Scheme (WIBSS).
  - Northern Ireland Infected Blood Support Scheme (NIBSS).
  - Scottish Infected Blood Support Scheme (SIBSS).
  - Payments by or under the earlier support schemes are also to be disregarded, namely the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Eileen Trust, MFET Limited, the Skipton Fund or the Caxton Foundation.
- Payments under the Vaccine Damage Payment Act.
- Compensation for person diagnosed with variant Creutzfeldt-Jakob disease (vCJD).

The payments listed above **must not** be included when assessing an individual's eligibility for legal aid; they are mandatory disregards.

In addition, the legislation provides for **discretion** to disregard (i.e. exclude) payments from the following schemes/trusts:

- the Criminal Injuries Compensation Schemes in Great Britain and Northern Ireland.
- the National Emergencies Trust.
- the We Love Manchester Fund.
- the London Emergencies Trust Fund.

## **Delegation**

**Responsibility for means assessment decisions for controlled work and family mediation is delegated to providers. Where eligibility is subject to a determination of financial eligibility, providers must exclude any payments that are listed as mandatory disregards above.**

**The usual evidence requirements will apply to these cases; payments that are disregarded should be verified as being from the relevant scheme(s), e.g. retain a copy of the award notification/letter.**