

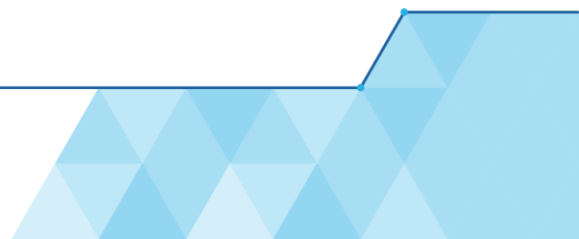


Ministry  
of Justice

# Lord Chancellor's Guidance for the Early Legal Advice Pilot

## Participant selection process

**Version 2:** updated 12 January 2023



# Introduction

The Early Legal Advice Pilot Scheme (ELAP) will pilot the funding of in-person or remote advice services for certain housing, debt and welfare benefit matters.

The pilot scheme was introduced by [The Early Legal Advice Pilot Scheme Order 2022](#) ("the Order"). This modified Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ("LASPO") to bring civil legal services for certain housing, debt, and welfare benefits issues "in scope" of legal aid for the purposes of the pilot scheme.

The pilot enables pre-selected pilot scheme participants to receive up to three hours of legal advice and assistance. They must live or habitually reside in Manchester or Middlesbrough City Council areas, have issues relating to housing, debt or welfare benefit matters, meeting the pilot eligibility rules to apply for assistance through the pilot.

The pilot scheme was launched as an initial five-month testing phase October 2022. It will gather key data about the target population, their legal problems and the support they require. The testing phase will be evaluated to understand how pilot scheme delivery is working and to capture the reflections and challenges of providers participating in the pilot. It will seek to measure how far outcomes improve for individuals seen under the pilot – such as whether this results in financial security, reduced distress and improved legal capability. Information from the testing phase will be used to help shape the pilot scheme going forward.

The Order states that individuals must be selected to participate in the scheme by a person appointed by the Lord Chancellor. This role is fulfilled by a consortium led by the National Centre for Social Research ("NatCen"), which is comprised of experts from WPI Economics, The Centre for Homelessness Impact and the Legal Education Foundation.

This Guidance sets out the selection process that will be used by NatCen. **This update (v2, January 2023) has been made to reflect the recommended change to include multiple referral routes into the pilot and increase access (remove randomisation).** Under the previous guidance, the only route to access the pilot scheme was through an offer to join from the Manchester or Middlesbrough local authorities.

# Recruitment of participants

The recruitment and selection of participants can be split into the following three stages.

**Please note that this participant selection process has been updated in January 2023 to reflect and respond to findings from initial pilot delivery.**

## Stage 1: Recruitment into the pilot

Participants will be recruited to the pilot through two routes. Route A is through a letter of invitation sent by their participating local council. Route B supplements this by recruiting participants through referrals by local providers and other services.

### *Route A: Receiving a letter of invitation*

Participants will be recruited to the pilot through letters sent out by Manchester City Council and Middlesbrough Council to those in council tax arrears (CTA).

People liable to pay council tax are defined in section 6 of Part 1 of the Local Government Finance Act 1992 as;

*(1) The person who is liable to pay council tax in respect of any chargeable dwelling and any day is the person who falls within the first paragraph of subsection (2) below to apply, taking paragraph (a) of that subsection first, paragraph (b) next, and so on.*

*(2) A person falls within this subsection in relation to any chargeable dwelling and any day if, on that day—*

*(a) he is a resident of the dwelling and has a freehold interest in the whole or any part of it;*

*(b) he is such a resident and has a leasehold interest in the whole or any part of the dwelling which is not inferior to another such interest held by another such resident;*

*(c) he is both such a resident and a statutory [F1, secure or introductory tenant] of the whole or any part of the dwelling;*

*(d) he is such a resident and has a contractual licence to occupy the whole or any part of the dwelling;*

*(e) he is such a resident; or*

*(f) he is the owner of the dwelling.*

The Local Authorities (LAs) determine who is in council tax arrears by the process outlined in Regulation 23 of The Council Tax (Administration and Enforcement) Regulations 1992. Those eligible to pay council tax but who miss a payment, are deemed in arrears.

Reminders are issued by LA councils about two weeks after a payment is missed. If it is not paid within seven days, the council will issue a 'final notice'. If, after the final notice, the council tax is not paid, councils will usually apply to the courts for permission to collect the debt, which is termed a 'liability order'.

In the Manchester City Council area, invitations to the pilot scheme will accompany the council's first reminder letters on council tax arrears. Integrated within the council's first reminder process, invitations will go out weekly, from the launch of the pilot until February 2023 (which allows time for the later batches of referred participants to seek advice).

In the Middlesbrough Council area, invitations to the pilot scheme will be sent by letter to those with a recent council tax arrears liability order. These invitations will be sent out by the council, separately to other correspondence, on a monthly basis, from the launch of the pilot until February 2023 (which allows time for the later batches of referred potential participants to seek advice). The council may additionally send pilot information and reminders by email or text, if appropriate.

The invitation letter will include the following:

- A summary of the pilot, its purpose, offer and the process for those interested in participating
- An invitation to fill in a survey, online or via telephone, to check their eligibility to take part in the pilot
- A summary of key points on the pilot, including why they have been contacted, the background for ELAP and what taking part in the pilot will involve
- Clarity on data confidentiality and security and a link to a full privacy notice on the pilot, produced by NatCen. (This is further to a privacy notice that providers will also give to clients).

#### *Route B: Invited through referrals by local providers and services*

Participants can additionally be recruited to the pilot through direct referrals from local legal aid providers and local service providers in the pilot areas who are likely to interact with ELAP-eligible advice seekers (such as telephone helpline staff, food banks or other legal services advisors). An advice seeker who approaches one of these services will be referred to the pilot if they are identified as eligible.

Information on ELAP will be provided to those with an in-scope legal need, habitually residing in a pilot area, and not eligible to access existing legal aid services. Those seeking advice will receive the following information from the referring services:

- A summary of the pilot and its offer;
- Details on how to fill in the survey, online and by telephone, to check their eligibility to take part in the pilot.

#### **Stage 2: Filling in the survey**

Individuals who have received an invitation or referral into the pilot and wish to take part will be directed to complete a survey, managed by NatCen. They will access the survey through a link provided in their invitation, or by calling the provided Freephone number.

The start of the survey will present key information on the pilot. This includes summary information on the pilot and its purpose, and links to webpages with further information and the full privacy notice, which will highlight the voluntary nature of participation. This will be provided to individuals before they are asked to answer any questions.

The survey will contain initial screening questions, which will seek to confirm that participants habitually reside in a pilot area and whether the individual has an in-scope legal need. Specifically, individuals eligible for the pilot will both:

- Reside in the Manchester or Middlesbrough local authority area. Invitations to participate in the pilot through Route A will have been sent only to eligible addresses in

these areas. The survey will also ask all participants if their area of residence is within a pilot area.

- Have a legal issue relating to welfare, debt or housing issues. This will be checked within the survey by asking a series of detailed questions adapted from the [Legal Needs Survey](#) covering problems or disputes to do with debt, housing and welfare benefits.

If individuals who have received an invitation do not indicate in the survey that they have at least one of the listed in-scope problems, they will be screened out of the pilot and thanked for their time.

If individuals are eligible to take part in the pilot, they will be asked whether they agree to take part and told what taking part involves. If they agree, they will be asked some further questions about their legal needs, life situation and demographics characteristics. This will include up-to-date contact details and information about where to go next. At the end of the survey the participant client access code will be given, which is required to show providers when approaching them for ELAP legal advice. These details will also be confirmed shortly afterwards, for those with email addresses, and by letter otherwise.

### **Stage 3: Approaching legal service providers in the area**

Participants may then contact a pilot provider if they wish to seek advice through the pilot scheme. It is up to participants to make contact with providers.

Those participants who contact providers to arrange advice sessions will be asked by the provider they contact to give them their 'client access code', provided from the survey. Providers will cross-check the 'client access code' using an online platform hosted by NatCen. This online portal will confirm if the code is valid and if the participant already has an appointment booked with another provider. Pilot scheme participants may only be assisted by the provider under the pilot once per invite (i.e. under a single 'client access code').

Providers will check that the individual resides in the one of the two pilot areas and will check that the individual has a legal problem that falls within the scope of the pilot, in accordance with the Order and paragraphs 16.26 to 16.28 of the 2018 Standard Civil Contract ELAP Specification: Category Specific Rules for further details on the work that is within the scope of the pilot.

Once eligibility has been confirmed the pilot scheme participant can be given up to 3 hours of legal advice and assistance (not representation) within the categories of housing, debt and welfare benefits by providers. Advice can be split across a number of sessions but must be no more than 3 hours in total. Advice may be delivered in person or remotely in accordance with the pilot scheme participants preferences. A provider will deliver advice or assistance to pilot scheme participants, to help them improve their circumstances.

Clause 16.36 of the 2018 Standard Civil Contract ELAP Specification: Category Specific Rules states '*An individual may be selected to participate in the Pilot Scheme on more than one occasion and on each occasion a pilot scheme participant is selected and provides evidence of eligibility a separate Matter Start may be commenced pursuant to Paragraph 16.14 and further Pilot Fees are payable.*' This intends to capture the very unlikely scenario that a second invite (with a second client access code) is sent to the same individual. This is unlikely given the short term timeframe of the testing phase of the pilot and the mechanism by which individuals are selected. However, should this unlikely scenario occur an individual may be advised for a second time under the pilot scheme.

If an individual claims to be a part of the pilot scheme, but they do not have a valid 'client access code', or presents a valid 'client access code' but has already received advice under the pilot from another provider, they will not be taken on under the pilot. The provider will determine this, and if it is the case, such individuals will be informed.

Participants are not excluded from approaching and using other 'business as usual' legal services.

This participant selection process is being monitored and evaluated to ensure it is suitable and might be further updated in due course where the need arises.