



Ministry
of Justice

Minister Jane Hutt AS/MS Y
Counsel General Mick Antoniw AS/MS
Deputy Minister Julie Morgan
Welsh Government
Cardiff Bay
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Lord Bellamy KC
Parliamentary Under-Secretary of State
for Justice

Rt Hon David TC Davies MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

MoJ ref: ADR104883

18 April 2023

Dear Minister, Counsel General and Deputy Minister,

BASIC INCOME FOR CARE LEAVERS PILOT IN WALES

Thank you for your letter of 23 March on the Basic Income for Care Leavers pilot in Wales.

The fundamental principle of legal aid is that it is targeted at those who need it the most, and where people are able to afford to contribute to legal aid, they do so.

Broadly, means testing operates by comparing the value of individuals' means to the threshold value for the type of legal aid sought. If they have means above the upper threshold, they will not qualify for any financial support. If their means are below the lower threshold, they will get free legal aid. If their means are between the upper and the lower threshold, they may be asked to pay contributions. In assessments, certain payments are not to be included in the calculation and these are known as 'disregarded' payments. For a payment to be disregarded it needs to have been made to compensate for harm or for a specified purpose. For example, payments awarded as a result of the infected blood inquiry are disregarded.

As the purpose of your pilot is to provide its members with basic income for the general purpose of living costs rather than a specified one, we would consider this to be financial resource available for use on legal services. Where people earn income, we expect they will be able to use it for legal services. Our rationale for this approach is to ensure that limited legal aid resources are directed at those most in need of financial support.

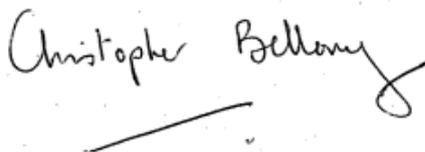
We are therefore not in a position to be able to exclude members of the Basic Income for Care Leavers in Wales pilot from the means assessments for legal aid. We note however, that depending on the income of individuals participating in the pilot, there are a range of possible outcomes from the means assessment described above. Receipt of income from the pilot does not mean they would be ineligible for legal aid; they may still qualify for means-free assistance or be asked to pay a contribution toward legal services.

Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Exceptional Case Funding Scheme only applies to areas where legal aid is not in scope. Therefore, if individuals enrolled in the pilot are seeking legal aid for proceedings which are in scope of legal aid, such as immigration, housing or criminal cases, the ECF scheme would not apply.

On the principle of the Universal Basic Income (UBI) the UK Government does not believe this is the right approach and there is sufficient broader support for care leavers through Universal Credit (UC). However, DWP have been working with you to ensure that BIP and UC are complementary. Under certain circumstances, BIP claimants may be able to top up their claim with UC.

This letter is copied to the Secretary of State for Work and Pensions.

Kind regards,

A handwritten signature in black ink that reads "Christopher Bellamy". The signature is written in a cursive style with a long horizontal stroke at the end.

LORD BELLAMY KC
Parliamentary Under-Secretary of State for Justice

A handwritten signature in black ink that reads "David Davies". The signature is written in a cursive style with a long horizontal stroke at the end.

Rt Hon David TC Davies MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru