EXPLANATORY MEMORANDUM TO

The Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015

SR 2015 No. 203

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 36(3) and 38A of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order"), as amended by the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014, and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. These Rules make provision for the disclosure of information which is furnished to the Department of Justice (including the Director of Legal Aid Casework and staff in the Legal Services Agency, Northern Ireland), or any court, tribunal or other person or body, in connection with the case of a person seeking or receiving representation under a criminal aid certificate granted under Part 3 of the 1981 Order.

3. Background

3.1. The Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 ("the Act") will dissolve the Northern Ireland Legal Services Commission and transfer its functions and staff to an Agency within the Department of Justice on 1 April 2015.

3.2. The Act inserted a new provision, Article 38A, into the 1981 Order which will make it a summary offence to disclose information in connection with the case of a person seeking or receiving criminal legal aid, unless it is with the consent of the individual or it is otherwise permitted under these Rules.

3.3. There is currently no express enactment concerning criminal legal aid preventing the disclosure of such information, although the general provisions in the Data Protection Act 1998 and the Freedom of Information Act 2000 do apply. These Rules will provide for similar restriction on the disclosure of information in respect of applications for criminal legal aid as applies in respect of civil legal aid.

4. Consultation

4.1. The Department launched a consultation with key stakeholders on these Rules in September 2014. It received responses from the Attorney General for Northern Ireland, the Law Society of Northern Ireland and the Northern Ireland Human Rights Commission.

5. Equality Impact

5.1. The Rules have been screened for their equlaity impact and none was found.

6. Regulatory Impact

6.1. The Rules do not impose any restriction or burden on business. Consequently, an Impact Assessment is not required.

7. Financial Implications

7.1. There are no financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. These Rules are considered to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Similar provisions apply in England and Wales.

11. Additional Information

11.1. Not applicable