

EXPLANATORY MEMORANDUM TO
THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012
(COMMUNITY CARE) REGULATIONS 2014

2014 No. 1562

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument prescribes clinical commissioning groups as a “relevant person” providing community care services under LASPO following the abolition of Primary Care Trusts. This means that legal aid is available for community care services as provided by clinical commissioning groups.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The scope of civil legal services provided in relation to community care is set out in paragraph 6 of Part 1, Schedule 1 of LASPO. In order to constitute “community care” for legal aid purposes, the service has to be provided under one of the enactments listed in paragraph 6(3) and by a relevant person listed under the same paragraph.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 Primary Care Trusts were abolished under the Health and Social Care Act 2012 and replaced by clinical commission groups providing services under the enactments listed at paragraph 6(3) of Part 1, Schedule 1 to LASPO. As clinical commissioning groups are not listed as a “relevant person”, any service provided by this group cannot constitute “community care” as detailed in LASPO.

7.2 However, further relevant persons can be prescribed, through paragraph 6 of Part 1, Schedule 1 to LASPO. This instrument prescribes clinical commissioning groups and ensures that, subject to a means a merits test, legal aid is available, in relation to services provided, or arranged to be provided, by such groups. We have retained the reference to Primary Care Trusts for any historic cases for which legal aid is still provided.

8. Consultation outcome

8.1 We have not consulted on the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Community Care) Regulations 2014, because we are reflecting an administrative change as a result of the abolition of Primary Care Trusts. Through paragraph 6 of Part 1, Schedule 1 to LASPO we have the powers to prescribe additional persons by way of regulations, and we are now exercising that power.

9. Guidance

9.1 Guidance is not being prepared specifically for this instrument on the basis that this instrument will not implement a change in policy, but is designed to reflect the abolition of Primary Care Trusts and the introduction of clinical commissioning groups.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies other than where it affects a contractual relationship between the Legal Aid Agency and providers of legal aid services. Legal aid practitioners currently conducting the work will continue to be able to do so as a result of this instrument with remuneration arrangements remaining unchanged.

10.2 The impact on the public sector from this instrument is expected to be minimal. The instrument maintains the existing availability of civil legal aid.

10.3 An Impact Assessment has not been prepared for this instrument as it makes only a minor change to LASPO to maintain the existing availability of civil legal aid.

11. Regulating small business

11.1 The legislation applies to small business only insofar as it affects the contractual relationship between the Legal Aid Agency and providers of legal aid services.

11.2 The Ministry of Justice has not taken any specific steps to minimise the impact of the requirement on firms employing up to 20 people.

12. Monitoring & review

- 12.1 The operation of and expenditure on the legal aid scheme is continually monitored by the Ministry of Justice and the Legal Aid Agency. The Ministry of Justice will conduct a post-implementation review of LASPO between three to five years after implementation. This review will also consider the operation of the secondary legislation, including this SI.

13. Contact

- 13.1 Benjamin English at the Ministry of Justice (Tel: 020 3334 4487 or email ben.english@justice.gsi.gov.uk) can answer any queries regarding the instrument.