



Legal Aid
Agency

Help us say yes webinar: Non-Means Tested Applications

National Crime Applications Team (NCAT)

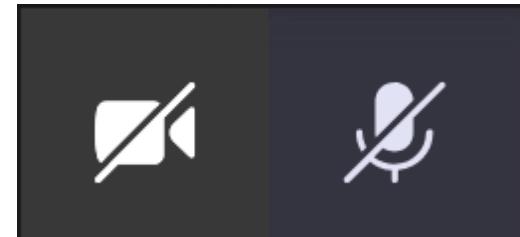
02 February 2023

Technical tips for this webinar

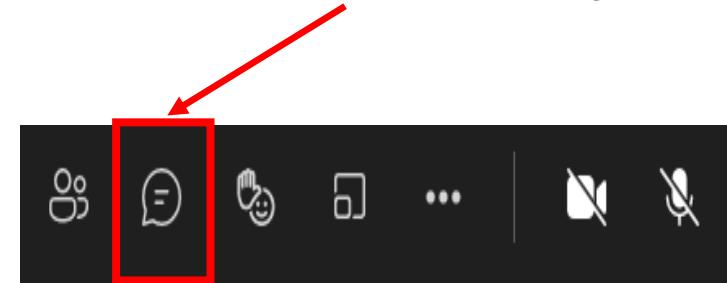
1. Please put yourself on mute during the webinar
2. You can ask us questions at the end of each session through the 'meeting chat'
3. Click on the 'meeting chat' to ask a question
4. You can keep the meeting chat open throughout to view other people's questions
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Content

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- Evidence requirements**
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Purpose:

Purpose of the webinar:

- **To assist you in submitting a fully completed non means tested application to reduce rejects and delays**



By the end of the session you will have an understanding of:

- Form completion
- The different types of non-means applications
- Evidence requirements for:
 - Contempt
 - Breach of anti-social behaviour Crime & Policing Act 2014
 - Applying for prior authority
 - Requesting a cost increase
- The most common reject reasons and how to avoid them

Who we are



National criminal applications team (NCAT)

On 01 April 2022, the national crime team (NCT) and the crime applications team (CAT) were merged. They are now referred to as the national criminal applications team (NCAT).

- The merger has been a long-term plan since the transfer of grant in 2013. Pre-2013 CRM14 applications were processed by HM courts, with the national courts team processing complex CRM14/15 and CRM16 applications. The national courts team also provided guidance, and a customer service line, for courts and providers. When this work was transferred to the LAA, national courts team rebranded to national crime team
- National criminal applications team has two sections:
 - Category 1 (NCAT1): Process employed, unemployed and passported benefits applications.
 - Category 2 (NCAT2): Process CRM 14 applications, CRM16 applications, self-employed applications, including directorships, and non-means tested applications
 - (The team presenting the webinar are NCAT2)
- CAT2 consist of the following:
 - 1 team manager, 3 supervisors, 1 technical lead, 3 senior caseworkers and 24 caseworkers
 - The caseworkers are based in Nottingham, Liverpool and Birmingham

Breakdown of statistics by month:

Non-means tested applications: October 2022		Total
Total applications		320
Number rejected		72
Reject rate		22.5%
Initial applications submitted as means tested in error		107

Non-means tested applications: November 2022		Total
Total applications		339
Number rejected		69
Reject rate		20.4%
Initial applications submitted as means tested in error		103

Non-means tested applications: December 2022		Total
Total applications		286
Number rejected		55
Reject rate		19.2%
Initial applications submitted as means tested in error		102

Form Completion



CRM 14: Non-means tested funding form:

In June 2016 the CRM14 eForm portal was updated to accommodate non-means tested applications.

- A fully completed form for a non-means tested application is therefore different in a number of ways .
- The most important step, when submitting a non-means tested application, is answering **question 3** correctly (see below):
 - By selecting **No** to the question concerning means testing, all the means information will be removed from the form, and your application will be directed to a specialist queue processed by non-means tested trained caseworkers.

3) Is this application subject to the usual means / passported test?

Yes  No

This box should only be ticked 'No' for proceedings that are exempt from the usual means test (please see Criminal Legal Aid Manual).

This should be ticked 'Yes' for passported and youth clients where the proceedings are subject to the means test.

Form Completion: Additional guidance:

Case Type:

- This section can be left blank

The court hearing the case:

- Please specify the court hearing the case, for example county court / high court
- Please be aware that there are no specific county or high courts in the drop-down list, only a generic county court or high court.
- The evidence attached to the eForm will allow the caseworker to identify the specific court

Interests of justice 1:

- Please use this section to confirm the nature of the proceedings your client is applying for legal aid for.

Interests of Justice 2:

- Please use this section to explain why the case meets the interest of justice (IOJ) test

CRM 14: Non-means tested funding: Additional guidance continued:

Contempt / breach of ASBCPA / other court venues:

- The applicants' details
- Their current residence
- The case details:
 - Charges
 - Dates
 - Court venue
- The interest of justice reasons
- All evidence of the breach / contempt allegations / original injunction or order

Please note: The message facility and IOJ2 section can be used to add further information and / or clarification if needed.

CRM14: Form completion: Non-means tested:

Please be aware of the limitations when selecting a court venue for work outside the magistrates' court and Crown Court.

- No specific higher court venues are available. However, you can select a generic court venue from the drop-down list as follows:
 - County court
 - High court
 - Family court
 - Court of protection
 - Chancery division
- The evidence you provide allows the caseworker to identify the specific venue for inclusion on the representation order.

Different types of non-means tested proceedings



Non-means tested funding:

The decision for non-means tested funding is **not** based on your clients' financial circumstances. The decision concerns the nature of the proceedings themselves. Any case that starts in a magistrates' court will always be means tested.

- Please refer to the following guidance: [Criminal legal aid - Non-means tested funding \(justice.gov.uk\)](https://www.gov.uk/government/publications/criminal-legal-aid-non-means-tested-funding). This guidance contains information to help you verify if a case is non-means tested.
- The list below is just a sample of the most common case types:
 - Crown Court breach (summons direct to crown court)
 - Vary Crown Court order (no existing representation order for the original case)
 - Confiscation proceedings (no existing representation order for the original case)
 - Applications for certain prescribed proceedings
 - Sentence review hearings (no existing representation order for the original case)
 - Contempt of court (breaches of civil orders / injunctions)
 - Breaches of ASBCPA 2014 injunctions

Please note: Links to further guidance on these case types, and other potentially non-means tested cases, are available at the end of this presentation

Evidence requirements



Non-means tested funding: Evidential requirements:

The following are the evidence required for non-means tested applications:

- Contempt of court / breach of anti-social behaviour crime & policing act injunctions (ASBCPA)
 - On occasions there will be limited evidence available for these cases.
 - **Please note:** We require proof of the allegations being laid against your applicant as we **do not** have access to the court system

Suggested evidence is any combination of the following:

- The original injunction / order
- Schedule of breaches
- Witness statements
- Contempt application N244
- Letters or emails from court / local authority / prosecutor
- Other court papers

Please note: There is an upload limit on an eForm so not all papers in a trial bundle are necessary. The main requirements would be the original injunction / order, schedule of breaches and witness statements.

- Any eForm submitted without evidence for these cases will be returned to you.

Non-means tested funding: Evidential requirements continued:

The following are the evidence required for non-means tested applications:

- **Crown court breaches / variation of a crown court order** (no existing representation order):
 - If you are applying for breach of a crown court order, where the client has been summoned directly to the crown court, or want to vary a crown court order in cases where the client does not have a representation order for the substantive case:
 - No evidence required

Please note:

- The correct crown court should be selected on the IOJ1 screen
- CRM14: Post submission evidence should not be used to submit the evidence for contempt / breach
- ASCCPA: Evidence must be attached to the eForm before submission to avoid a reject

Common reject reasons



Non-means tested funding: Most common reject reasons:

Please note: Applications will be returned if:

- They are not non-means tested
- No evidence has been provided for contempt / breach cases
- A variation, or Proceed of Crime application (POCA) proceedings, covered by an existing representation order
- The proceedings are not in relation to a criminal offence



Avoiding rejects: Additional guidance:

Please note:

- A client who has not been charged with a criminal offence cannot be granted criminal legal aid:
 - Has your client been charged with a criminal offence?
- Non-means testing has nothing to do with your clients' financial circumstances
- Any case that is in the magistrates' court, or started in the magistrates' court, and gets sent to Crown Court, will always be means tested
- As you may be submitting the application after the case has been committed:
 - Please ensure **all** additional information is included in the **IOJ2** section on the eForm, this will assist our caseworkers to determine the position and process the form accurately

Avoiding rejects: Additional guidance continued:

Please note:

- Only breaches of ASBCPA, or gang related injunctions (Gangbos), are considered criminal:
 - The initial applications are funded by civil legal aid
- Evidence is mandatory in all contempt / breach of ASBCPA applications:
 - If the evidence is not submitted the application cannot be processed
 - If there is limited evidence, please explain the reason why when you submit the form
- Section 6 of the Criminal Legal Aid Manual (CLAM) gives details of when an existing representation order will cover incidental proceedings
- Section 22 of the CLAM gives specific guidance on Proceeds Of Crime Act proceedings
- Section 25 of the CLAM gives details of prescribed Proceedings

Non-means tested applications: Youths:

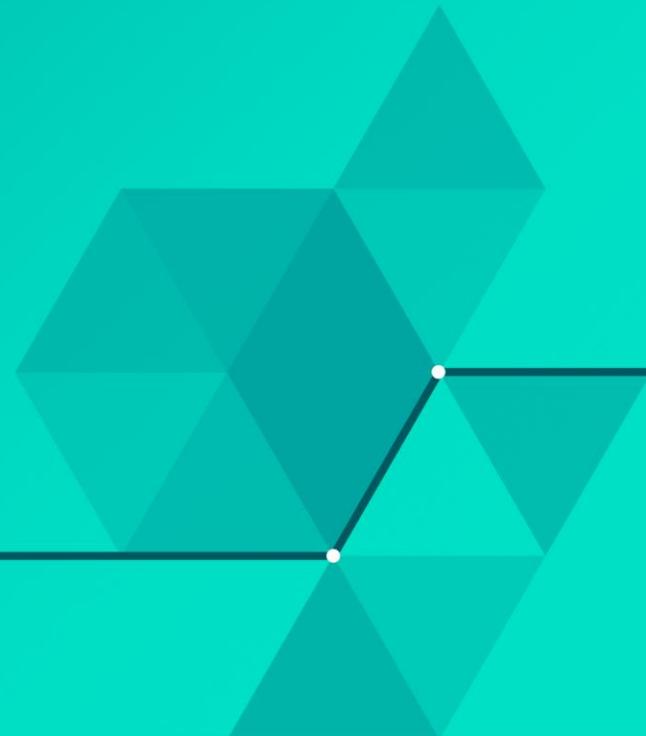
As it is the case type determines if a matter is non-means tested, an application for a client who is under 18 should not automatically be submitted as non-means tested

Check the nature of the proceedings.

For example, where a breach of ASBCPA or contempt matter is being heard in the youth court you should still select **No** to means testing as the offence is non-means tested

If your client is charged with theft and is being dealt with in the youth court you would tick yes to means testing as the offence is subject to means testing, even though a youth is passported on means.

Costs limitations, prior authorities and further breaches



Contempt of court and ASBCPA breaches:

Cost limitations:

- All representation orders issued for contempt matters will have an initial cost limit of £1574.06.
- You can apply to extend this limit at any time before the case concludes.
- Any request must be made before the work has been undertaken.

To extend this:

- Email: Nationalcrimeteam@justice.gov.uk
- Please include your clients name and CNTP number in the heading.
- Provide details of:
 - The work completed
 - What further work is required
 - The new limit requested

Prior authority to instruct an expert:

As these are in relation to non-means tested cases and therefore do not have a MAAT reference you cannot request a prior authority through the CRM4 portal.

To request a prior authority:

- Email: Nationalcrimeteam@justice.gov.uk
- Please include your clients name and CNTP number in the heading
- Provide the quote from the expert and the reasons why the require expert needs to be instructed
- If there is an agreed joint instruction with the prosecution, please confirm this and the amount your client is liable to pay

Further Breaches of the same injunction:

This will depend on whether the committal hearing has been dealt with at the point a further breach is alleged.

Committal already dealt with:

A fresh application is required, accompanied by evidence of the alleged breach in the usual way

Committal not yet dealt with:

If an amended schedule of breaches is issued and the further breaches are to be dealt with at the same time as the current matter, the further breach/breaches can be added to the existing representation order

You should send an email to Nationalcrimeteam@justice.gov.uk include the clients name and CoNTemPt (CNTP) number in the heading, with evidence of the further allegations and request that the representation order is amended accordingly

Gang related injunctions:

Gang related injunctions (Gangbo) guidance:

- **Please note:** Proceedings relating to gang-related injunctions under s.34 of the Policing & Crime Act 2009 **are not a criminal matter**, as your client has not been charged with a criminal offence
 - Only breaches of these injunctions, prescribed as criminal proceedings by virtue of section 14(h) of LASPO 2012 and regulation 9(v) of the Criminal Legal Aid (General) Regulations 2013

If you require representation, to respond to a gang-related injunction, you need to make a civil application (please see slide 29 for link to guidance)

- Access to the client and cost management system (CCMS) portal can be arranged through your contract manager:
 - **Please note:** Civil applications are means and merit tested, and full justification will be required.

The same process also applies to the initial proceedings for an Anti-Social Behaviour Crime and Policing Act 2014 Injunction.

Additional guidance / contact us



Helpful links / contact us:

Non-means tested guidance:

It is vital that you correctly identify if a case is non-means tested before you submit the eForm:

- Sections 6 and 25 of the Criminal Legal Aid Manual (CLAM): [Criminal Legal Aid Manual \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- Guidance on the training and support website: [Criminal legal aid - Non-means tested funding \(justice.gov.uk\)](https://justice.gov.uk)

Additional guidance links:

- [Criminal Legal Aid Manual \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- [Rejects guidance - a guide to reducing CRM14 rejects \(justice.gov.uk\)](https://justice.gov.uk)

- [Criminal legal aid - Non-means tested funding \(justice.gov.uk\)](https://justice.gov.uk)
- [Change in financial circumstances - a guide to reporting a change correctly \(justice.gov.uk\)](https://justice.gov.uk)
- [Application by person with legal aid to change solicitor - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Contact us:

- Email: Nationalcrimeteam@justice.gov.uk

IT Issues:

- Online Support Team on 0300 200 2020 (option 3)
- Email: Online-Support@justice.gov.uk

Our training website:

LAA Training Website

- [Course: Crime applications \(justice.gov.uk\)](#)
- [Injunctions to prevent gang-related violence and drug-dealing activity – Application and billing guidance for providers \(justice.gov.uk\)](#)



Online Support Webchat

- Use Webchat for help with IT system issues

Webinar Recordings

- Our 'Help Us Say Yes' webinars focus on areas where there have been issues or high enquiry levels
- Popular sessions are posted on the training website: [Ministry of Justice](#)

Our communications channels:

Legal Aid Bulletin

- A fortnightly e-alert with links to relevant pages
- Join our thousands of subscribers



Social Media

- Follow us on Twitter
- Get help from our customer service twitter account
- Read our blog



LAA Portal

- We post the status of our online systems on the portal's home page



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