

Legal aid and low income

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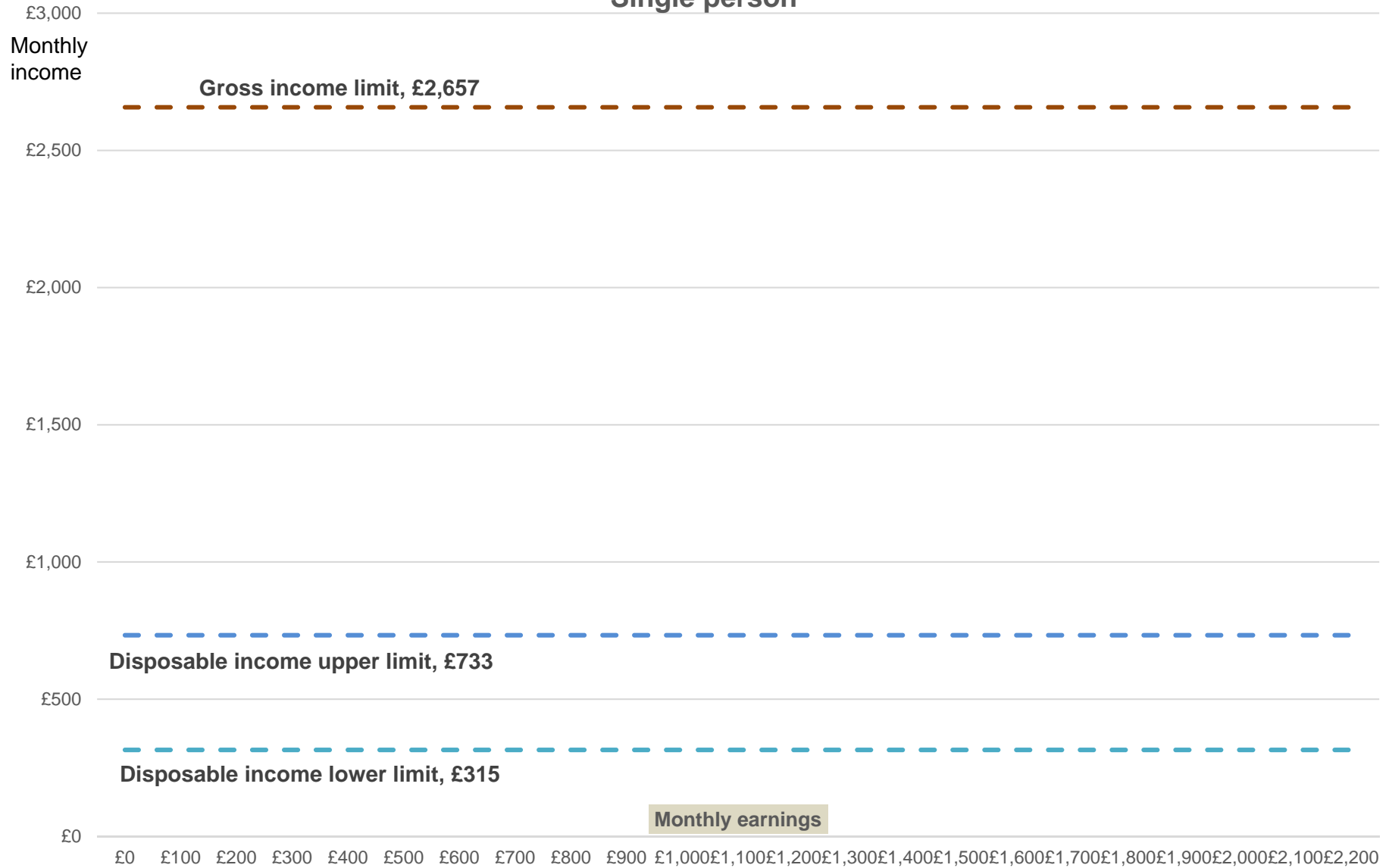
Overview

- **Who do Civil Legal Aid means regulations include and exclude, based on income?**
- **The Minimum Income Standard (MIS) as a benchmark for determining the affordability of justice**
- **Applying MIS to the means regulations**
- **The wider picture – trends in low income**

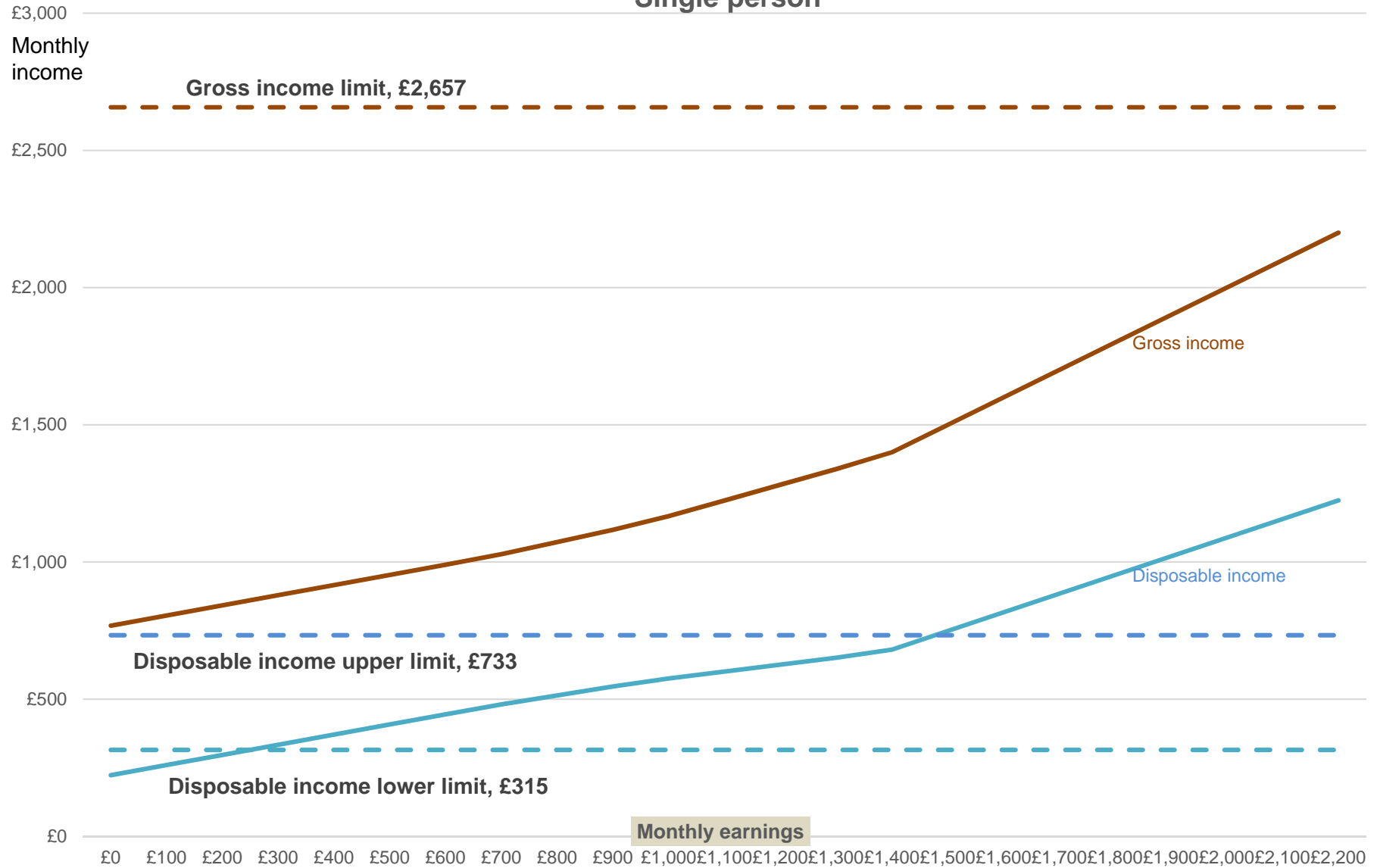
Who do Civil Legal Aid means regulations include and exclude, based on income?

Legal aid contribution to £500 a month legal costs, by monthly earnings

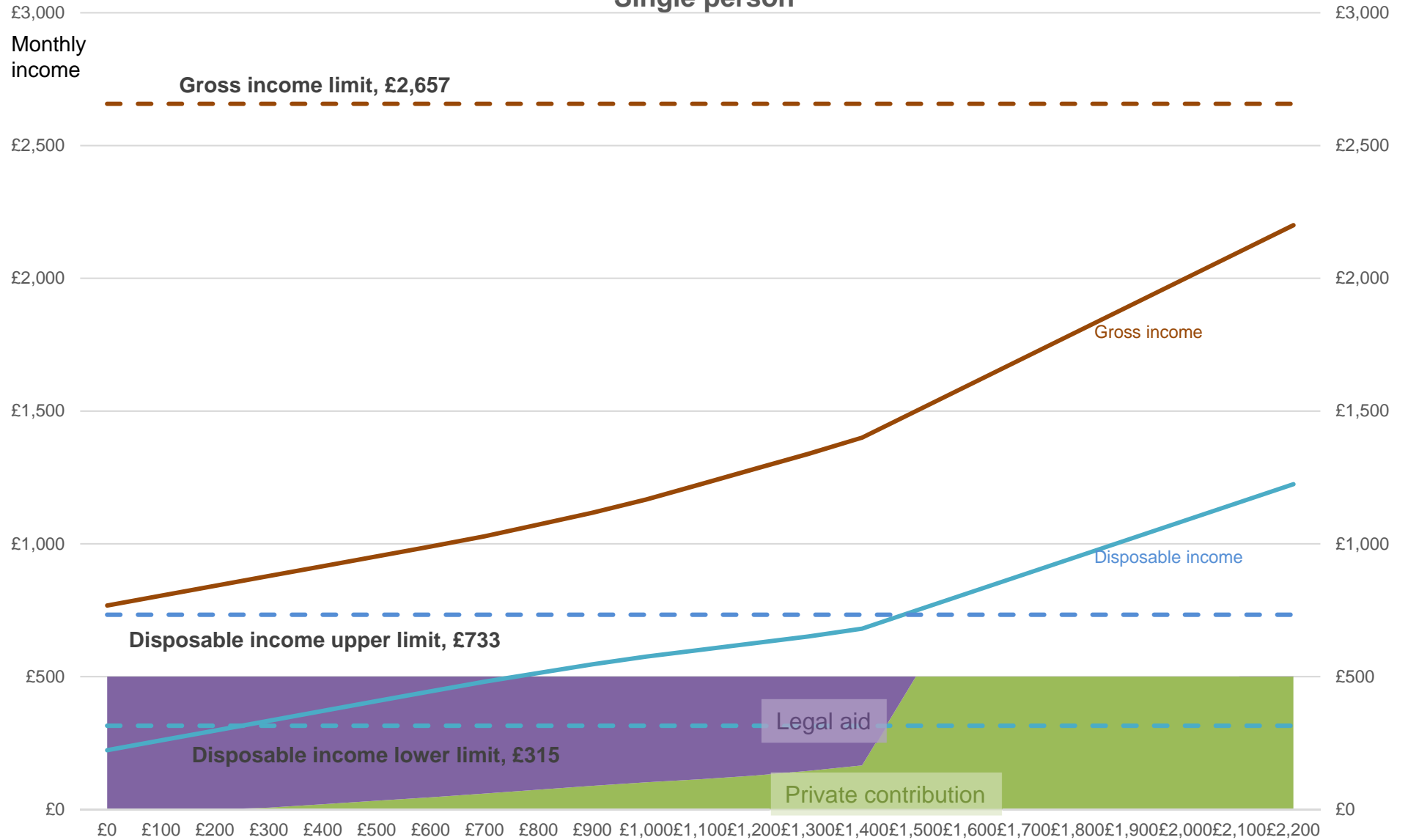
Single person



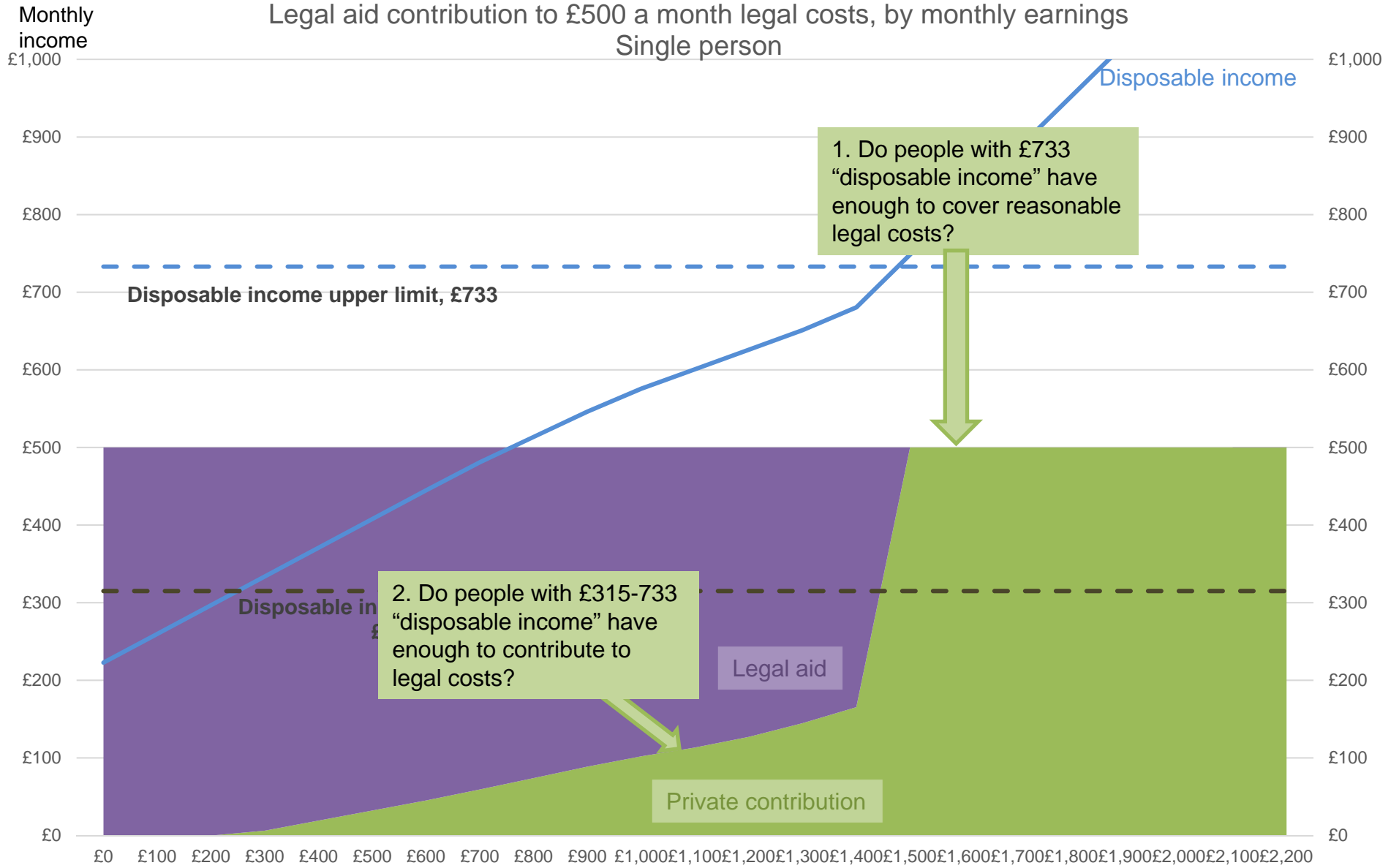
Legal aid contribution to £500 a month legal costs, by monthly earnings Single person



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Legal aid contribution to £500 a month legal costs, by monthly earnings Single person



A benchmark: the Minimum Income Standard

- A national benchmark of how much is needed for minimum living standard
- Based on regular research, with annual updates
- Independent – funded by Joseph Rowntree Foundation, conducted by Loughborough University
- Contemporary: based on what members of the public consider the minimum acceptable in the UK 2018

A benchmark: the Minimum Income Standard

Method:

- Deliberations by groups of members of the public
- Detailed discussion about what people need in their lives
- Building consensus – jury principle
- But not the product of any one group
- Budgets for different household types

A benchmark: the Minimum Income Standard

The standard it represents

Definition:

A minimum standard of living in the UK today includes, but is more than just, food, clothes and shelter. It is about having what you need in order to have the opportunities and choices necessary to participate in society

In: healthy diet, respectable clothing, moderate social activity, 1 week holiday in the UK, mobile phone, TV

Out: foreign holiday, i-phone, paid-for TV channels

A benchmark: the Minimum Income Standard

Adoption as a national standard

Basis for accredited Living Wage

Charity basis for means testing individuals in need

Supreme Court 2017 employment tribunals case

Supreme Court - employment tribunals

R (UNISON) v Lord Chancellor [2017] 3 WLR 409

Concluded fees unaffordable: require people to live below MIS threshold

Rejected Lord Chancellor's argument that some costs could be temporarily forgone: means "sacrificing ordinary and reasonable expenditure for substantial periods of time".

Supreme Court employment tribunals

R (UNISON) v Lord Chancellor [2017] 3 WLR 409

Precedent: in addressing access to justice in relation to affordability -

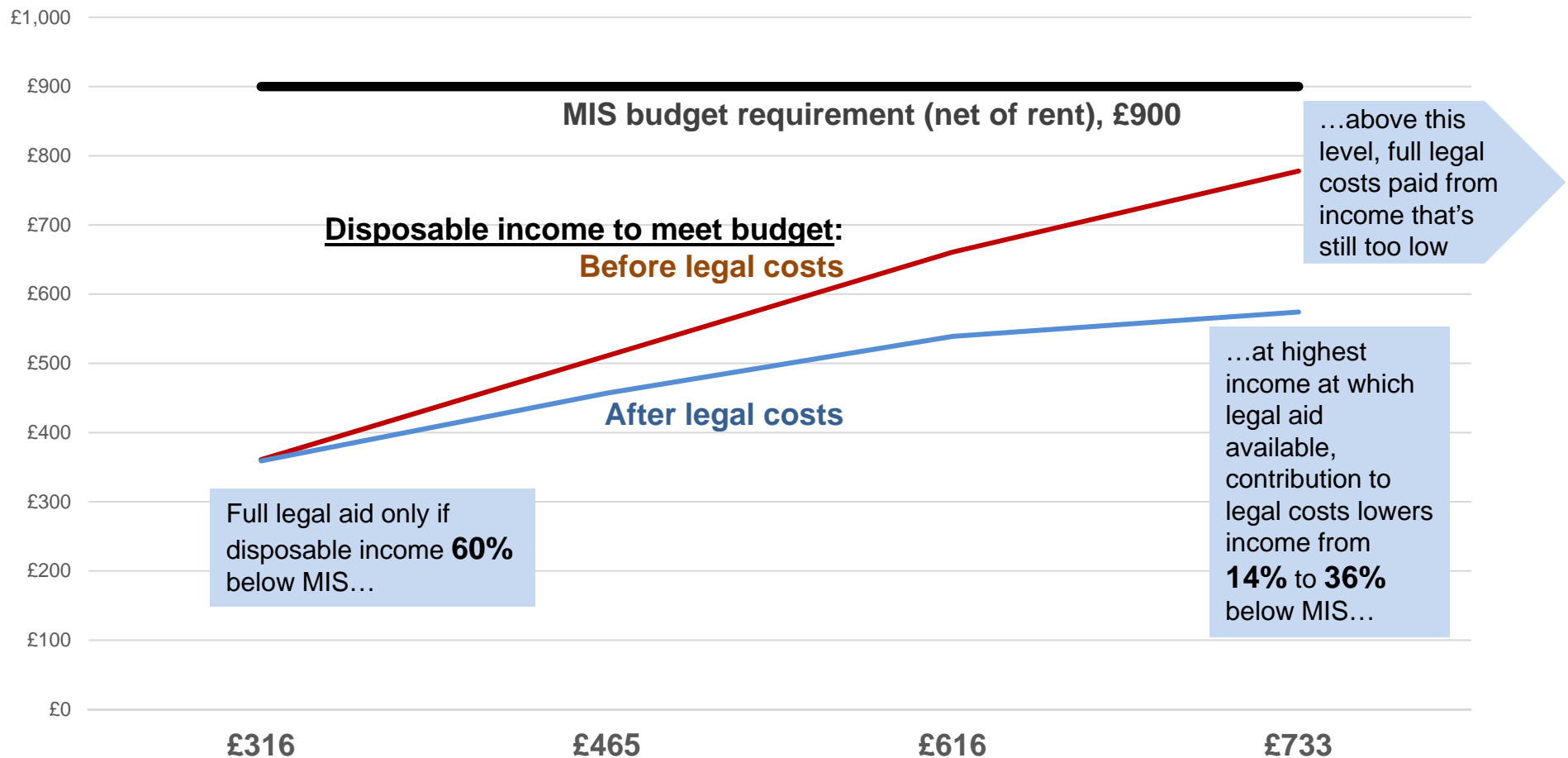
“Where households on low to middle incomes can only afford fees by sacrificing the ordinary and reasonable expenditure required to maintain what would generally be regarded as an acceptable standard of living, the fees cannot be regarded as affordable.”

Are legal services affordable in these terms? If one were to say:

“Where households on low to middle incomes can only afford **the cost of civil justice** by sacrificing the ordinary and reasonable expenditure required to maintain what would generally be regarded as an acceptable standard of living, **access to civil justice** cannot be regarded as affordable...”

Applying MIS to the means regulations

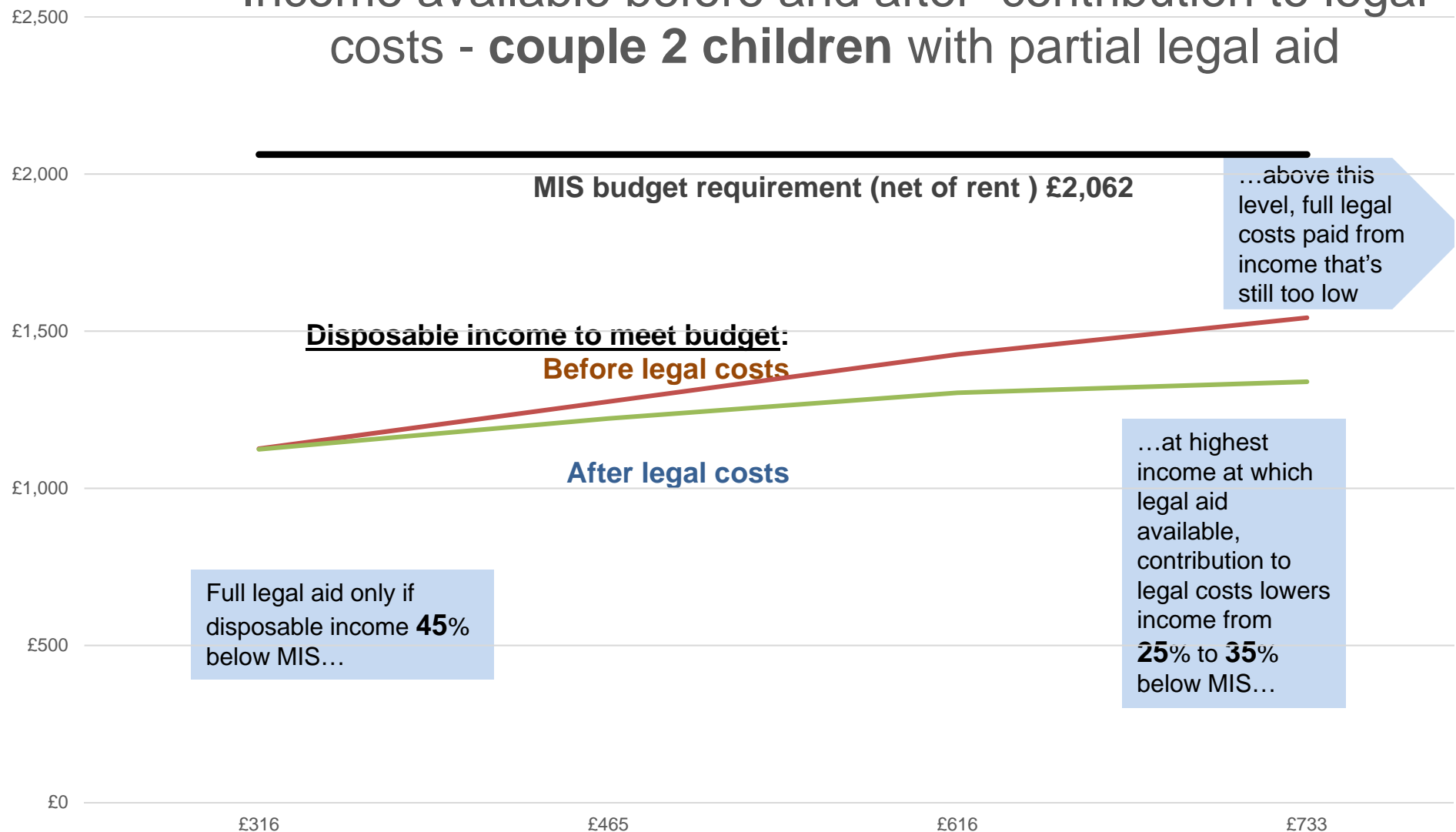
Income available before and after contribution to legal costs - single person with partial legal aid



“Disposable income” according to Means Regulations

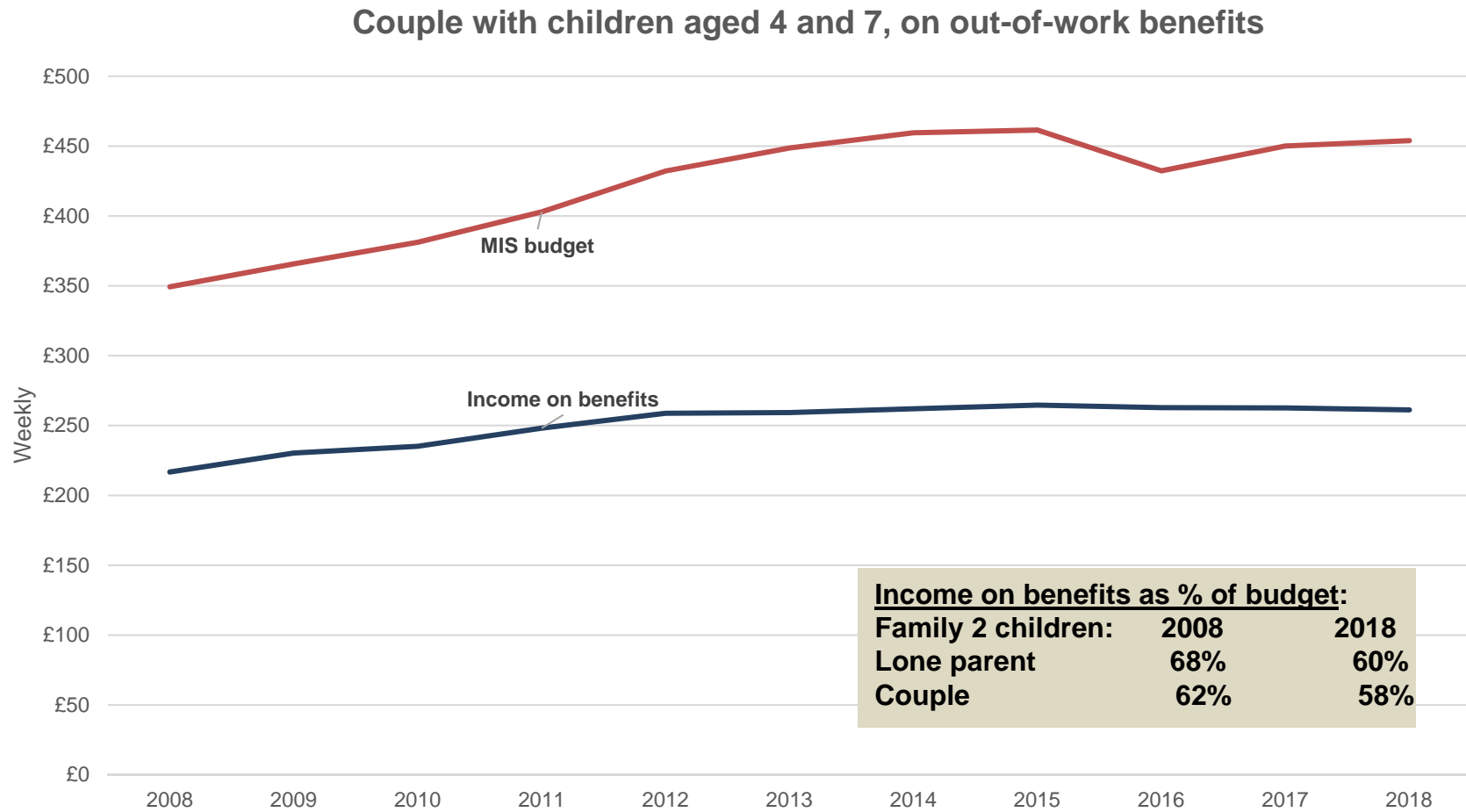
Applying MIS to the means regulations

Income available before and after contribution to legal costs - **couple 2 children** with partial legal aid



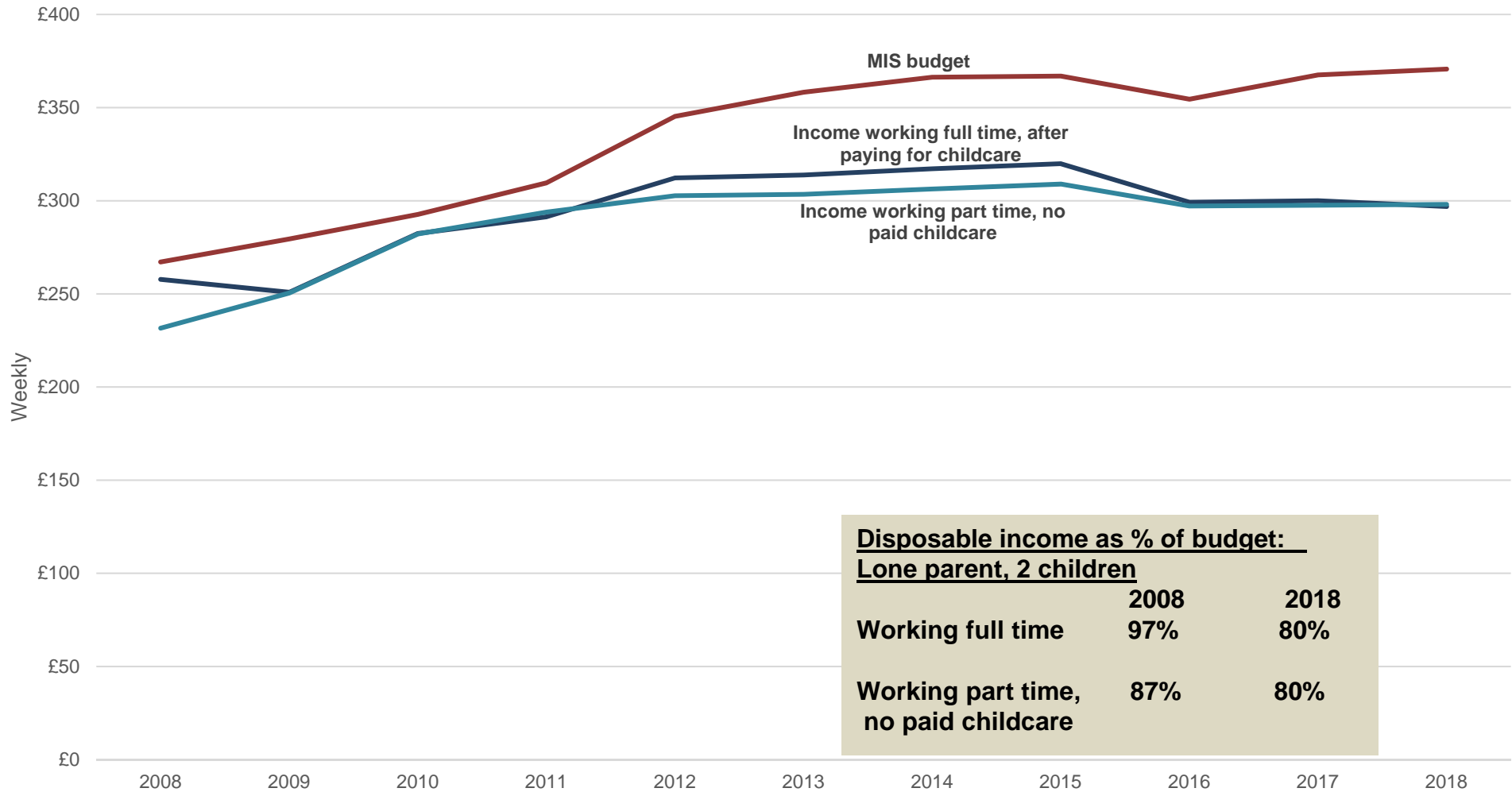
“Disposable income” according to Means Regulations

Trend in low income over time



Trend in low income over time

Lone parent working full time on minimum wage



<u>Disposable income as % of budget:</u>		
<u>Lone parent, 2 children</u>		
	2008	2018
Working full time	97%	80%
Working part time, no paid childcare	87%	80%

Trend in low income over time

Chance of being in household
with income below MIS:

	2008/09	2016/17
Whole population	26%	30%
Parent	32%	37%
Lone parent working full time	28%	45%

Conclusions

- Some people with too little to make ends meet are denied legal aid
- Others with *much* too little are eligible for partial legal aid – but unlikely to afford contributions
- Freezing of legal aid limits mirrors benefits freeze
- But a big increase in means tested levels would now be needed to make a difference

Further detail

*Priced out of Justice? Means testing
legal aid and making ends meet*

Law Society, 2018

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