

EQUALITY IMPACT ASSESSMENT (EqIA)

Summary results of the EqIA

Title of policy/ practice/ process/ service:

Accounts assessment

Is the policy new (proposed), a revision to an existing policy or a review of current policy?

A review of and a revision to a current set of policies.

Key findings from this assessment (or reason why an EqIA is not required):

The key finding is that equalities considerations are embedded into our accounts assessment policy and practices, where we have discretion to apply our own policy. The assessment and the consultation responses indicate that a key consideration is clear guidance for our decision-makers and for those submitting accounts. The findings will be carried into the development of Decision Makers Guidance and external guidance.

A new policy on interim fees was introduced in October 2022 to reflect legislative change. The positive impacts flowing from interim payments - assisting continuity of representation for vulnerable clients by supporting cash flow for legal businesses that would otherwise be at risk of going out of business - are unlikely to be widespread, but may have a significant impact on affected clients. The new policy allows more frequent fee claims. Additionally, the thresholds for outlays has decreased from £150 to £100 for an interim payment, meaning that firms can claim more easily for clients with communication support needs.

Summary of actions taken because of this assessment:

We should ensure that there is a clear process for solicitors whose client needs spoken language interpreting or translation for a “rarely encountered language” that needs to be paid above the standard rate or outwith standard terms available for spoken languages. We also need to monitor the spoken languages interpreters register to identify those leaving the register, as well as those joining, to give us better information about the supply of services at SLAB’s standard rates and terms.

We will monitor how the policy works in practice through ongoing review of decisions for those areas where we exercise our discretion.



Ongoing actions beyond implementation include:

Create system to monitor leavers, as well as joiners to the register for spoken language interpreters.

Develop decision makers’ guidance and external guidance for solicitors and counsel

Communicate with practitioners about the taxation standard

Set up and maintain discussion groups with stakeholders to maintain SLAB’s knowledge of ‘usual’ and ‘unusual’

Lead person(s) for this assessment (job title and department only):

Policy Projects Manager, in conjunction with Assistant Manager of Accounts and Senior Accounts Technical Specialist.

Senior responsible owner agreement that the policy has been fully assessed against the needs of the general duty (job title only):

Director of Corporate Services and Accounts

Publication date (for completion by Communications):

28/09/2022

Document control		
Document control:	V2.0	
Date policy live from:	Policy ongoing, confirmed as position February 2022.	
Review/ Approval Group:	GALA review meeting	
Last reviewed:	February 2022	
Review cycle:	Three years	
Document change log		
Version	Date	Comment
V0.1-V0.2	March - August 2021	Initial drafts as framing for discussion of key issues between policy and accounts colleagues
V0.3	October 2021	First full draft for review by accounts colleagues
V0.4	December 2021	Full draft for review by GALA Review meeting
V0.5	January 2022	Full draft for review by GALA Review meeting
V0.6	February 2022	Final draft for Chief Executive approval following review by GALA Review meeting
V1.0	February 2022	Final draft approved for publication

V1.1	September 2022	Revision to incorporate change to interim fees policy
V2.0	September 2022	Version as approved by GALA review meeting, with note of approval in Section 5.



Step 1 - Framing the planned change

Discussing step 1 and step 2 with the Corporate Policy Officer (Equalities) at an early stage will help identify appropriate evidence. This may include support from the wider Policy and Development team.

1.1 Briefly describe the aims, objectives and purpose of the policy/ practice/ process/ service.

The decisions grouped under the accounts assessment work for the GALA project are in Stream 4, where SLAB has identified that detailed work to review and potentially change policy is needed. There are a number of distinct pieces of work under this broad heading, with varying degrees of change contemplated.

The ultimate decision to be made in accounts assessment is how much to pay for work claimed on an account by a solicitor or counsel. This can be to pay in full, pay part of the account or pay nothing on the account.

The amount to be paid is determined by the type of case, the status of the person doing the work (solicitor, counsel or non-legally qualified staff), the client's circumstances, the cover in place, any standard rates set for outlays and the assessment of how the relevant fee table interacts with the work done.

Between aid types there are differently worded ways to apply the taxation standard of "agent and client, third party paying". SLAB applies the taxation standard in a common way across all aid types. How we apply the taxation standard is set out in our policy on reasonableness.

Accounts assessment covers all types of legal aid, advice and assistance, assistance by way of representation, specially urgent work and outlays incurred.

The accounts assessment area is comprised of 34 policy statements that cover general principles, particular fee tables or specific work items. The policy statements covered by this assessment are:

Parent policy

Reasonableness in the taxation standard policy



- i. Perusal
- ii. Meetings
- iii. Letters
- iv. Preparation
- v. Framing
- vi. Precognitions
- vii. Outlays
- viii. Printing and photocopying

Criminal Justice Scotland Act, Counter-Terrorism and Border Security

Couriers

Travel policy

Aggregation

Waiting

Apportionment

Waiting and Travel when court has risen for lunch

Criminal counsel fees

Civil counsel fees

Spoken language interpreting and translation

Additional fees

Court duty

Identification parade

Civil block fees

Civil exceptional case status

Legal research

Solemn block fees

Summary legal aid and criminal ABWOR fixed fees

Policy allowing detailed charging where a client is remanded in custody

Written representations replace appearance



Administrative work and expenses

Post-conviction additional work

A change in legislation in October 2022 meant that our policy on interim fees needed updated and a single policy could cover all aid types, replacing the following two policies:

Interim fees and outlays for criminal and contempt of court legal assistance

Interim fees and outlays for civil and children's legal assistance

1.2 Why is the change required?

We are reviewing our approach to accounts assessment as this is an area where we are aware of stakeholder perceptions of inconsistency and frustration with the process. Our aim is to clarify the assessment process, the factors we consider and the information we need in assessing accounts. We hope that this will help solicitors and advocates to frame accounts that are more likely to be paid in full, first time, thereby reducing some of the delay and frustration associated with the process. By being clearer about what we do, how and why, we hope to smooth the operation of the system for the benefit of the profession and our own staff.

An update to the assessment was required due to legislative change in October 2022.

1.3 Who is affected by this policy/ practice/ process/ service?

The ultimate customer is the client to whom legal services, which are supported through the Legal Aid Fund, are provided.

Our assessment is that the other key group affected by the policy is limited to witnesses in relation to funding for travel, accommodation and associated expenses.

Solicitors and advocates work with the policies and guidance we develop. They are affected by the policy but not in relation to their protected characteristics.

1.4 Policy/ practice/ process/ service implementation date

01/10/2022



1.5 What other SLAB policies or projects may be linked to or affected by changes to this policy/ practice/ process/ service?

The main related operational policies are cost limit increases, prior approvals and the policies associated with payments due by the assisted person at the end of the case. Linked functions are finance, compliance and solicitor investigations.

Step 2: Consider the available evidence and data relevant to your policy/ practice/ process/ service

2.1 What information is available about the experience of each equality group in relation to this policy/ practice/ process/ service?

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Cross cutting	<ol style="list-style-type: none"> 1) SLAB equality outcomes research 2) Internal review of data and the legal aid landscape 3) Inclusive language: external and internal guidelines 4) Vulnerable clients article - Lawyers Defence Group 	<p>A common theme across almost all groups when discussing their needs after an appointment was the need for a summary of discussions to be prepared and shared with them. (1)</p> <p>The profile of applicants to the Legal Aid Fund is patterned by protected characteristics within different aid types (for example, between civil and criminal legal aid) and by case categories within those aid types (for example between those seeking to oppose interdict orders and those seeking divorce). However, we have no control over who applies to the Fund, which operates on an eligibility rather than an entitlement basis. Solicitors are the key intermediaries who decide which clients and which cases they take on. The aggregate position is the result of complex interactions between societal trends, changes in wider justice sector processes, individual firms' appetite to undertake legally aided work for a particular case or client, and the actual legal issue at play. We also have no control over the different fee tables which apply. Where there are detailed fees, there will be more abatements, as we are required to assess each letter or meeting. This can be contrasted to inclusive or fixed fees, where we pay on the basis of a case reaching a particular stage or for a whole case, no</p>

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
		<p>matter the duration. We do have a responsibility to ensure that applicants are not treated unfairly as a result of their protected characteristics. Our assessment officers need to be told by solicitors and advocates how someone's protected characteristics affect the provision of the legal services they require: we will not know and cannot assume what that impact will be at the individual case level. (2)</p> <p>Language used to describe different equality groups can be stigmatising. (3)</p> <p>There may be a broad range of adjustments and understandings that may be required to assist vulnerable clients across different and intersecting characteristics- which could be hampered by a transfer to a new solicitor. (4)</p>
Age	<p>1) SLAB's applicants surveys</p> <p>2) SLAB administrative data on applicants, 2019-20</p> <p>3) Scottish Survey Core Questions</p> <p>4) Healthy ageing in Scotland</p> <p>5) Attention and ageing</p> <p>6) Attention spans for children</p>	<p>SLAB's applicant surveys show that 37% of applicants for criminal legal aid were under 35, with 39% aged over 45.</p> <p>For civil legal aid, 28% of applicants were under 35, with 39% aged over 45. (1)</p> <p>SLAB's administrative data shows that 39% of civil legal aid applicants were aged 45+, with 36% aged under 35. Those aged under 35 made up 56% of summary criminal applicants, 61% of solemn criminal applicants and 54% of criminal appeal applicants. In children's legal aid, 62% were aged under 35. (2)</p> <p>This is in the context of national data, which has 29% of people aged under 35 and 56% aged over 45. (3)</p> <p>The incidence and severity of disability increases as we age. (4)</p> <p>The ability to process complex tasks slows as we age. (5)</p> <p>Attention spans for children increase as they reach 18. (6)</p> <p>Age is the most important factor in relation to cognitive decline. (7)</p>

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
	7) Age and cognitive decline	
Disability	1) SLAB equality outcomes research 2) SLAB applicants survey data and Scottish Survey Core Questions 3) BSL interpreting landscape review 4) Findings from internal BSL interpreting policy review 5) Adults with incapacity and cases related to the mental health tribunal 6) Housing and disabled people: Britain's hidden crisis	<p>For people with experience of poor mental health, stress in formal situations was a common theme and, for some, the ability to retain information was a daily challenge due to the nature of their conditions. There was also a desire for a greater understanding of mental health. This group did not want to be patronised as a result of, or defined by, their mental health condition and they want service providers to understand the range of conditions, how these differ and how these differences may impact the way a person engages with a service.</p> <p>Access was the most prevalent theme for people with learning or physical disabilities. This was discussed in a number of forms - making contact with a service, getting information or understanding discussions. The group were also explicit in their desire not to be defined by their disability. They expressed a need for service providers to take time to understand an individual's requirements and consider how best to interact with them. The other important theme was that appropriate consideration is given to engaging with carers and support workers. These interactions can be complex, as it cannot always be assumed that a carer or support worker is known to, or trusted by, an individual.</p> <ul style="list-style-type: none"> • People with disabilities face a number of communication barriers, which differ depending on the nature of the disability. Website accessibility is also crucial for those who may need to undertake significant planning to get to an appointment.

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
	<p>7) Disabled people's travel behaviour and attitudes to travel 8) Communication support and disabilities, UK govt 9) Capital District Health Authority guidance; Anxiety: The Cognitive Perspective 10) Inclusive Justice: Findings and recommendations EHRC. UK 11) Autism & CJS: training for CJS professionals</p>	<ul style="list-style-type: none"> • For people with experience of poor mental health, the biggest communication challenge is needing to frequently explain not only the reason for the appointment, but details of their condition or diagnosis. Other barriers faced by this group at this stage relate to difficulties around understanding or retaining information. <p>The first common theme to emerge when discussing the appointment itself was a difficulty filling in forms. This could be due to language, understanding or accessibility issues. Another common theme across people with disabilities and people from ethnic minority backgrounds was a concern around confidentiality in relation to extended family or support workers attending appointments. The third theme to emerge when discussing the appointment was the need to ensure the best use of the time available and to allow more time, if needed. Some flexibility in the structure and length of appointments would benefit most of the groups we talked to, albeit in different ways. (1) SLAB's surveys of legal aid applicants and direct service clients across both civil and criminal areas show a high prevalence of declared disability (between 43% and 54%) as compared to the general population (26% in Scottish Survey Core Questions 2019). (2) For British Sign Language (BSL) interpreters, the 2019 landscape review identified a general fragility in supply and availability of interpreters across Scotland. (3) The BSL rates set by the Legal Aid Agency and in the Police Scotland framework are higher than for equivalent rates for spoken language interpreting. Overall spend on BSL interpreting in 2020 was around £13,000 as compared to around £1.5 million on spoken language interpreting. As with other outlays, we do not set a standard rate for BSL interpreters' costs. (4) Specific case types where legal aid funding is provided are focussed on people who have, or are ascribed with having, a disability. (5)</p>

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		<p>People with disabilities are less likely to be able to leave their homes and be able to travel autonomously. (6) (7)</p> <p>By making it clear that we can fund adjustments for people with disabilities, they know that we wish to include them in legally aided service provision. (8)</p> <p>People experiencing mental health problems can make concentrating and remembering things difficult, as well as heightened stress levels, which may be an issue for interacting with SLAB. Anxiety can and stress can exacerbate problems with reading comprehension. (9)</p> <p>UK research suggests that accused people with a cognitive impairment, mental health condition and / or neuro-diverse condition form a significant proportion of the criminal justice population, and that they may need support to help them effectively participate (10). A solicitor who the accused has a pre-existing relationship with, or who has had specialist training (e.g. relating to autism (11)) may be better placed to provide this support.</p>
Race	<p>1) SLAB equality outcomes research</p> <p>2) SLAB applicants survey data and Scottish Survey Core Questions</p> <p>3) Immigration and asylum overview</p> <p>4) Findings from internal spoken language interpreting</p>	<p>Access issues were the most prevalent concerns for people from ethnic minority backgrounds. These were primarily linked to language and communication, with participants highlighting the difficulties faced by those with poor or no English. These included the challenges of making phone calls or appointments, of explaining a situation, of filling in forms or understanding background materials. There were also discussions around the inherent assumptions which are made about service users' knowledge and the need for service providers to understand cultural differences and sensitivities.</p> <p>The first common theme to emerge when discussing the appointment itself was a difficulty filling in forms. This could be due to language, understanding or accessibility issues. Another common theme across people with disabilities and people from ethnic</p>

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
	<p>and translation review</p> <p>5) Good practice guide to working with interpreters</p> <p>6) Census results</p> <p>7) SCILT: Languages in Scotland</p> <p>8) Complex post-traumatic stress disorder in asylum seekers and victims of trafficking: treatment considerations</p> <p>9) NHS: Symptoms of post-traumatic stress disorder</p>	<p>minority backgrounds was a concern around confidentiality in relation to extended family or support workers attending appointments. The third theme to emerge when discussing the appointment was the need to ensure the best use of the time available and to allow more time, if needed. Some flexibility in the structure and length of appointments would benefit most of the groups we talked to, albeit in different ways.</p> <p>(1)</p> <p>SLAB's survey data indicates that the proportion belonging to the White ethnic group for criminal legal aid applicants (97%) and PDSO clients (93%) is similar to the general population (95% in Scottish Survey Core Questions 2019). Civil legal aid applicants (89%) and CLAO contacts and clients (86%) are less likely to belong to the White ethnic group. (2)</p> <p>People who have immigration and asylum cases are more likely to need spoken language interpreting and translation, as a result of their nationality, ethnicity and race. (3)</p> <p>For spoken language interpreting and translation, a clear policy exists that sets out standard rates and terms surrounding what that covers or excludes. The issues raised by solicitors around availability of language interpreters at SLAB rates are for more rarely encountered spoken languages. In these instances, the standard rate for spoken language interpreting can be overridden. Otherwise, if a claim is received above the standard rate, the cost is restricted to standard rates and terms. The level of SLAB's standard hourly rates for spoken language interpreters appear to be competitive when compared to the Scottish Government's framework, as well as to the Legal Aid Agency's rates. New interpreters continue to join the register. At present we do not track who leaves the register. Issues raised by interpreters with SLAB are around</p>

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		<p>getting payment from solicitors. Overall, the supply of spoken language interpreters does not appear to be a problem at SLAB rates. (4)</p> <p>Spoken language interpreting will mean that a meeting is longer than otherwise would be the case. (5)</p> <p>The main intersection between race and accounts assessment is in English language comprehension and potential requirements for translation or interpreting services.</p> <p>The relevant results from the 2011 census are:</p> <p style="padding-left: 40px;">“The proportion of the population aged 3 and over reported as not being able to speak English well or at all was 1.4% overall, and 11% for those born outside the UK. This proportion generally increased with age of arrival into the UK: for those who arrived aged under 16 it was 5% while for those who arrived aged 65 and over it was 31%.</p> <p style="padding-left: 40px;">The proportion of Scotland’s population aged 3 and over who could speak, read and write English was 94%. This proportion was lowest for those born in the EU Accession countries (75%) or in the Middle East and Asia (89%).” (6)</p> <p>The most commonly spoken languages in Scotland other than English are Polish, Urdu, Scots, Punjabi and Arabic. (7)</p> <p>Asylum seekers experience high levels of traumatic events pre-, post- and during migration. Exposure to such traumatic events can lead to the development of a wide range of mental health difficulties, such as post-traumatic stress disorder (PTSD), which includes symptoms of re-experiencing the trauma through flashbacks or nightmares, avoidance of reminders and hyperarousal. (8) Post-traumatic stress disorder’s symptoms include: avoidance - avoiding certain people or places that</p>

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		remind you of the trauma, or avoiding talking to anyone about your experience; hyperarousal - feeling very anxious and find it difficult to relax, leading to irritability, angry outbursts and difficulty concentrating; mental or physical health problems. (9)
Sex	<p>1) SLAB applicants survey data and Scottish Survey Core Questions</p> <p>2) SLAB administrative data on applicants</p> <p>3) Symptoms of the female menopause</p> <p>4) Symptoms of the 'male menopause'</p> <p>5) Carers - OneScotland</p> <p>6) Scottish Health Survey 2019</p>	<p>SLAB's survey data indicates that the proportion of women accessing CLAO's services (60%) and civil legal aid in general (64%) is higher than in the general population (52% in Scottish Survey Core Questions 2019). For criminal legal aid (26%) and PDSO clients (26%), the proportion of women is much lower than the general population. (1) Our administrative data aligns with this split by criminal and civil aid types. Applicants for children's legal aid are 62% female. (2)</p> <p>Most women will experience some symptoms around the menopause. These can include problems with memory and concentration, anxiety and difficulty sleeping. (3)</p> <p>Some men develop depressions and other physical and emotional symptoms when they reach their late 40s to early 50s, with symptoms including difficulty sleeping, poor concentration and short-term memory. (4)</p> <p>Women are more likely than men to be the primary carers for children and to be lone parents. (5)</p> <p>There are few significant differences between the mental health and wellbeing of men and women in Scotland. In terms of general health, men self-reported better health than women. Men were more likely to have a range of long term conditions than women. (6)</p>

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Gender Reassignment	1) SLAB applicants survey data and Scottish Survey Core Questions 2) Trans mental health study 3) Stonewall survey of LGBT mental health	SLAB's survey data for civil and criminal applicants indicates around 1% of applicants have a different gender identity to the one they were born with, as compared to less than 1% in the Scottish Survey Core Questions 2019. (1) Some sources suggest gender reassignment is correlated to higher levels of mental ill health. (2) (3)
Sexual orientation	1) SLAB equality outcomes research 2) SLAB applicants survey data and Scottish Survey Core Questions 3) Stonewall survey of LGBT mental health	The overarching theme to emerge from the gay, lesbian and bisexual group was the frequent assumption made by professionals or service providers that people are heterosexual. This group noted their discomfort at having to correct a professional who had made an assumption about their sexuality, and the discomfort of professionals who have been corrected. (1) SLAB's survey data for CLAO contact and client, PDSO clients, civil and criminal applicants indicates that a similar proportion of applicants identify as Lesbian, Gay, Bisexual or Other, as compared to around 3% in the Scottish Survey Core Questions 2019. (2) Some sexual orientations are correlated to higher levels of mental ill health. (3)
Religion or Belief	1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's survey data for civil applicants indicates that fewer applicants declared "No religion" (38%) as compared to the general population (54%) in the Scottish Survey Core Questions 2019. Similar proportions of applicants identified as belonging to the Church of Scotland (around 23%), the Roman Catholic Church (around 14%) and as

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
	2) Scottish Surveys Core Questions	“Other Christian (around 7%). Civil applicants were more likely to be from other faiths (10%) as compared to the general population (4%). (1) As noted in evidence for race (sources 6 and 7), English language proficiency is patterned by ethnicity and country of birth. The proportion of people in Scotland identifying a Muslim or ‘other’ religion overall is 3.6% but they make up 34.6% of people living in Scotland who were born outside the UK or EU27. Roman Catholics make up 13.6% of the population overall, but account for 39.6% of the population born in the EU27. (2)
Pregnancy or maternity	1) NHS advice on travel during pregnancy 2) Mental health and pregnancy	Some pregnant women may not be able to travel long or short distances. (1) Pregnancy can be correlated to mental health problems such as depression, post-traumatic stress disorder, panic disorder or obsessive compulsive disorder. (2)
Marriage or civil partnership	No relevant evidence	Not relevant to this policy: marriage or civil partnership is engaged for employment purposes
Care Experienced (<i>corporate parenting duty</i>)	1) SLAB applicants survey data and collated statistics accessed from Who Cares? Scotland 2) SLAB care experience literature review	Surveys indicate that PDSO clients (4%) and criminal legal aid applicants (8%) are more likely than the general population to be currently looked after. The proportion for civil legal aid applicants and CLAO contacts and clients are similar to the general population. Both the PDSO (8%) and criminal applicants (13%) surveys showed higher levels of people being previously looked after as compared to civil applicant (3%) and CLAO (6%) surveys. Surveys of people in custody (40%) and prison (25%) indicate high proportions of care experienced people involved in the criminal justice system. (1) Being care experienced is linked to higher levels of mental ill health. (2)

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
	3) Children’s Social Work Statistics 2018. Additional Table 2.4 4) Scope	In Scotland in 2018, 13% of ‘looked after’ children who had an outcome from their assessment were assessed as having a disability (6). This compares to 8% of all children in the UK 2017/18 (7).

2.2 Using the information above and your knowledge of the policy/ practice/ process/ service, summarise your overall assessment of how important and relevant the policy/ practice/ process/ service is likely to be for equality groups.

2.3 Outcome of step 2 and next steps. Complete the table below to inform the next stage of the EqIA process.

Outcome of Step 2 following initial evidence gathering and relevance to equality characteristics	Yes/ No (Y or N)	Next steps
There is no relevance to equality or our corporate parenting duties	N	Proceed to Step 5: agree with decision makers that no EqIA is required based on current evidence
There is relevance to some or all of the equality groups and/ or our corporate parenting duties	Y	Proceed to Step 3: complete full EqIA
It is unclear if there is relevance to some or all of the equality groups and/ or our corporate parenting duties	N	Proceed to Step 3: complete full EqIA



Step 3 - stakeholder involvement and consultation

This step will help you to address any gaps in evidence identified in Step 2. Speaking to people who will be affected by your policy/ practice/ process/ service can help clarify the impact it will have on different equality groups.

Remember that sufficient evidence is required for you to show ‘due regard’ to the likely or actual impact of your policy/ practice/ process/ service on equality groups. An inadequate analysis in an assessment may mean failure to meet the general duty.

The Policy and Development team can help to identify appropriate ways to engage with external groups or to undertake research to fill evidence gaps.

3.1 Do you/did you have any consultation or involvement planned for this policy/ practice/ process/ service?

Yes

3.2 List all the stakeholder groups that you will talk to about this policy/ practice/ process/ service.

We held stakeholder discussions with solicitors, advocates, auditors of court and law accountants.

A written consultation was issued to these groups, as well as representative organisations for the most relevant equalities groups. The [consultation](#) ran from 24 September to 10 December.

3.3 What did you learn from the consultation/ involvement? Remember to record relevant actions in the assessment action log.

Research work in Section 2 “[SLAB equality outcomes research](#)” was specifically an involvement exercise to assist in framing our equality outcomes, this highlighted the potential for SLAB’s outcome that focusses on funding for adjustments on race/disability: “Equality outcome 1: People with disabilities and people who speak languages other than English can access our services and funding of appropriate communication support with ease.”

We held discussions with key stakeholders in advance of the written consultation. These are summarised in Appendix B of the [written consultation document](#). The main aspect discussed in relation to equality groups was how SLAB would deal with those areas of law where longer meetings are the norm - would these be considered 'usual' in that area.

In response to the written consultation, the key concern was about how the policy works in practice where legal services provided that are 'unusual' (e.g. in length of letter, duration of meeting, or provision of confirmatory letters) but needed due to the person's protected characteristics. The implications of the taxation standard that SLAB needs to apply was apparently not well understood by respondents, such as those who argued for an approach where individual entries in an account did not need to be justified: this would be contrary to the third party paying standard, where the need for each item of work must be evidenced by the solicitor or counsel. Our view is that communication about the taxation standard to solicitors and keeping up to date with practice to inform 'usual' and 'unusual' will be key to tackling these concerns. The policies themselves and the proposals were sound from an equalities point of view.

There was also concern about how clawback and contributions interact with cases that cost more due to a person's protected characteristics. This is being explored through separate work.

SLAB undertook detailed analysis of the written consultation and will respond to the main themes of the written consultation.

Step 4 - Impact on equality groups and steps to address these

4.1 Does the policy/ practice/ process/ service have any impacts (whether intended or unintended, positive or negative) on any of the equality characteristics?

All characteristics where an impact	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential to advance equality of opportunity	X			For all protected characteristics where there is a possible discriminatory impact, we will highlight in external guidance what kinds of adjustments are possible and what kinds of evidence is needed to justify these, in line with the taxation standard we are required to apply. We will highlight to decision makers the range of ways that protected characteristics can affect the service someone needs.

Age	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impact	Negative impact	No impact	
potential for discrimination	X			There is potential for discrimination if no deviation was allowed in the funded legal services. For example, older people are more likely to experience conditions that affect their ability to travel to a solicitor (therefore requiring the

				<p>solicitor to travel to them) or to easily process and recall complex information (therefore requiring a confirmatory letter of the advice provided). Younger people up to age 18 have shorter attention spans and may therefore need a number of shorter meetings or breaks within meetings. These may not be ‘usual’ services provided by solicitors to clients, but we can pay for them on receipt of a detailed narrative. We have included a specific factor to take account of client vulnerabilities in our policies for detailed fees, where ‘unusual’ work is undertaken. Inclusive fees do not specify what service is required to be delivered, giving leeway for practitioners to adjust their service as needed. Where a significant amount of additional work is required for a client, there is the ability for solicitors to apply for their work to be funded on a detailed fee basis, or in civil legal aid to receive add-on inclusive fees, to allow fair remuneration for the work carried out.</p> <p>Interim payment options are open to all firms and where this assists businesses to maintain operations, those clients who are vulnerable due to their age benefit from continuity of representation.</p>
potential for developing good relations			X	
potential to advance equality of opportunity	X			Actions as set out in ‘All characteristics’ table.

Sex	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination	X			<p>There is potential for discrimination if no deviation was allowed in the funded legal services. For example, symptoms associated with the male or female menopause may result in lack of concentration and recall, affecting what legal services need to be provided to individuals. A letter confirming the advice provided may be needed, or a series of shorter meetings.</p> <p>These may not be 'usual' services provided by solicitors to clients, but we can pay for them on receipt of a detailed narrative. We have included a specific factor to take account of client vulnerabilities in our policies for detailed fees, where 'unusual' work is undertaken. Inclusive fees do not specify what service is required to be delivered, giving leeway for practitioners to adjust their service as needed. Where a significant amount of additional work is required for a client, there is the ability for solicitors to apply for their work to be funded on a detailed fee basis, or in civil legal aid to receive add-on inclusive fees, to allow fair remuneration for the work carried out.</p> <p>Interim payment options are open to all firms. Vulnerable clients can include those who experience domestic abuse, most of whom are women: where interim payments assist businesses to maintain operations this change could facilitate greater opportunity for continuity of representation.</p>

potential for developing good relations			X	
potential to advance equality of opportunity	X			Actions as set out in 'All characteristics' table.

Disability	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination	X			There is potential for discrimination if no deviation was allowed in the funded legal services. For example, symptoms associated with mental ill health may result in lack of concentration and recall, affecting what legal services need to be provided to individuals. A letter confirming the advice provided may be needed, or a series of shorter meetings. Other examples include that we can fund communication in different formats if required as a result of a person's physical disability, or allow for longer meetings if that would allow a solicitor to explain a situation clearly to a person with learning disabilities. Where a client with a disability is housebound or cannot otherwise travel to a solicitor's office, we can fund travel to their home by the solicitor. We can also fund a solicitor's reasonable waiting time where a client forgets an appointment with a solicitor.

				<p>These may not be ‘usual’ services provided by solicitors to clients, but we can pay for them on receipt of a detailed narrative. We have included a specific factor to take account of client vulnerabilities in our policies for detailed fees, where ‘unusual’ work is undertaken.</p> <p>Inclusive fees do not specify what service is required to be delivered, giving leeway for practitioners to adjust their service as needed. Where a significant amount of additional work is required for a client, there is the ability for solicitors to apply for their work to be funded on a detailed fee basis, or in civil legal aid to receive add-on inclusive fees, to allow fair remuneration for the work carried out.</p> <p>There would be potential for discrimination if we did not fund British Sign Language (BSL) interpreting, or set a standard rate from which solicitors could not deviate. BSL interpreting is covered by our general outlays policy, which allows for reasonable remuneration for the service with no set rate. We are aware that BSL costs are likely to be higher than for spoken language interpreting, which is factored into our assessment of whether a particular charge is reasonable.</p> <p>There would be potential for discrimination if we did not fund communication support professionals, such as BSL interpreters, as this mitigates the potential impact of extended family or support workers attending appointments where confidentiality can be an issue.</p>
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				<p>The threshold for interim payments for outlays has been lowered which will assist firms who serve clients with communication support needs.</p> <p>Interim payment options are open to all firms and where this assists businesses to maintain operations, those clients who are vulnerable due to their disability could benefit from greater opportunity for continuity of representation.</p>
potential for developing good relations			X	
potential to advance equality of opportunity	X			<p>Actions as set out in ‘All characteristics’ table.</p> <p>We are aware of the general fragility in supply and availability of BSL interpreters in Scotland, therefore did not set a standard rate which may reduce the number of interpreters willing to work for legally aided clients.</p>

Gender Reassignment	Place ‘X’ in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	The limited evidence for this protected characteristic does not highlight any impact in itself on the legal service people

potential for developing good relations			X	require: impacts are due to the intersectionality with mental health.
potential to advance equality of opportunity			X	

Race	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination	X			<p>There is potential for discrimination if we did not fund spoken language interpreting and translation for those who need it. This directly assists people to engage with the legal services they need. This funding for professional services also mitigates the potential impact of extended family or support workers attending appointments where confidentiality can be an issue.</p> <p>There is potential for discrimination if no deviation was allowed in the funded legal services. For example, in asylum cases the client may have severe post-traumatic stress disorder (PTSD) associated with the circumstances of their leaving their home country: longer meetings, or a series of longer meetings, may be needed to build trust and deal with the impact of symptoms associated with PTSD, such as avoidance and hyperarousal. In these and other types of</p>

				<p>cases, where spoken language interpreting is required this will increase the length of meetings.</p> <p>These longer meetings may not be ‘usual’ services provided by solicitors to clients, but we can pay for them on receipt of a detailed narrative. We have included a specific factor to take account of client vulnerabilities in our policies for detailed fees, where ‘unusual’ work is undertaken.</p> <p>Inclusive fees do not specify what service is required to be delivered, giving leeway for practitioners to adjust their service as needed. Where a significant amount of additional work is required for a client, there is the ability for solicitors to apply for their work to be funded on a detailed fee basis, or in civil legal aid to receive add-on inclusive fees, to allow fair remuneration for the work carried out.</p> <p>Interim payment options are open to all firms and where this assists businesses to maintain operations, those clients who are vulnerable due to their lack of understanding of English or familiarity with local culture, could benefit from greater opportunity for continuity of representation.</p> <p>The threshold for interim payments for outlays has been lowered which will assist firms who serve clients who required spoken language interpreting or translation.</p>
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potential for developing good relations			X	
potential to advance equality of opportunity	X			<p>Actions as set out in ‘All characteristics’ table.</p> <p>Our review of spoken language interpreting policy found that there was a healthy incoming supply of interpreters to join the register on the standard rates and terms provided in our policy. We will track leavers from the register in future to help us understand changes in the numbers of interpreters and if our rates are becoming uncompetitive.</p> <p>Our review found that improvement could be made to how transparent the process was for agreeing a rate or terms that deviated from the standard, where that was needed. We will implement a clear process via a letter of comfort for legal aid cases.</p> <p>We will highlight in communications and guidance that interpreters and translators can be paid through interim payment schemes before the end of a case, to mitigate the impact of interpreters raising with SLAB that payment from solicitors can sometimes be delayed.</p>

Religion or Belief	Place ‘X’ in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	

potential for discrimination			X	The evidence for this protected characteristic does not highlight any impact in itself on the legal service people require: impacts are due to the intersectionality with ethnicity, nationality and spoken language.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Sexual Orientation	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	The limited evidence for this protected characteristic does not highlight any impact in itself on the legal service people require: impacts are due to the intersectionality with mental health.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Pregnancy & Maternity	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	

potential for discrimination	X			<p>There is potential for discrimination if no deviation was allowed in the funded legal services. For example, pregnant women may not be able to travel to a solicitor’s office, but we can fund travel to their home by the solicitor. Where a pregnant woman is experiencing mental health problems, these may result in lack of concentration and recall, affecting what legal services need to be provided. A letter confirming the advice provided may be needed, or a series of shorter meetings.</p> <p>These may not be ‘usual’ services provided by solicitors to clients, but we can pay for them on receipt of a detailed narrative. We have included a specific factor to take account of client vulnerabilities in our policies for detailed fees, where ‘unusual’ work is undertaken.</p> <p>Inclusive fees do not specify what service is required to be delivered, giving leeway for practitioners to adjust their service as needed. Where a significant amount of additional work is required for a client, there is the ability for solicitors to apply for their work to be funded on a detailed fee basis, or in civil legal aid to receive add-on inclusive fees, to allow fair remuneration for the work carried out.</p>
potential for developing good relations			X	

potential to advance equality of opportunity	X			Actions as set out in 'All characteristics' table.
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Marriage & Civil Partnership	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	Not relevant to be considered for this policy.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Care experienced young people	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination	X			The evidence for care experienced young people suggests that impacts on the legal services they require will flow from the intersectionality with mental health and age.

				Interim payment options are open to all firms and where this assists businesses to maintain operations, those clients who are vulnerable due to their being care experienced could benefit from greater opportunity for continuity of representation.
potential for developing good relations			X	
potential to advance equality of opportunity	X			Actions as set out in ‘All characteristics’ table.

4.2 Describe how the assessment so far might affect other areas of this policy/ practice/ process/ service and/ or project timeline?

The assessment so far indicates that a key consideration is clear guidance for our decision-makers and for those submitting accounts. The findings will be carried into the development of Decision Makers Guidance and external guidance.

We should also ensure that there is a clear process for solicitors whose client needs interpreting or translation for a “rarely encountered language” that needs to be paid above the standard rate or outwith standard terms available for spoken languages. We also need to monitor the spoken languages interpreters register to identify those leaving the register, as well as those joining, to give us better information about the supply of services at SLAB’s standard rates and terms.

4.3 Having considered the potential or actual impacts of your policy/ practice/ process/ service on equality groups, you should now record the outcome of this assessment below. Choose from one of the following (mark with an X or delete as appropriate):

Please select (X)	Implications for the policy/ practice/ process/ service
	<p>No major change Your assessment demonstrates that the policy/ practice/ process/ service is robust. The evidence shows no potential for unlawful discrimination and that you have taken all opportunities to advance equality of opportunity and foster good relations, subject to continuing monitoring and review.</p>
X	<p>Adjust the policy/ practice/ process/ service You need to take steps to remove any barriers, to better advance equality of to foster good relations. You have set actions to address this and have clear ways of monitoring the impact of the policy/ practice/ process/ service when implemented.</p>
	<p>Continue the policy/ practice/ process/ service with adverse impact The policy/ practice/ process/ service will continue despite the potential for adverse impact. You have justified this with this assessment and shown how this decision is compatible with our obligations under the public sector equality duty. When you believe any discrimination can be objectively justified you must record in this assessment what this is and how the decision was reached.</p>
	<p>Stop and remove the policy/ practice/ process/ service The policy/ practice/ process/ service will not be implemented due to adverse effects that are not justified and cannot be mitigated.</p>

Step 5 - Discuss and review the assessment with decision makers and governance structures

You **must** discuss the findings of this assessment with senior decision makers during the lifetime of the project/ review and before you finalise the assessment. Relevant groups include, but are not limited to, a Project Board, Executive Team or Board



members. EqlA should be on every project board agenda therefore only note dates where key decisions have been made (e.g. draft EqlA sign off, discussion about consultation response).

5.1 Record details of the groups you report to about this policy/ practice/ process/ service and impact assessment.
Include the date you presented progress to each group and an extract from the minutes to reflect the discussion.

We reported to the Legal Assistance Policy Committee on 21 March 2021, which comprises senior decision makers and SLAB Board members, on the overall approach to reasonableness in the taxation standard. This highlighted that a person's vulnerabilities, including any arising from a protected characteristic, was a specific factor taken into consideration when considering what charges to allow and at what level - where we have discretion.

Colleagues from the equalities team and accounts team discussed key issues drawn from a review of the draft EqlA and accounts assessment documentation on 26 May 2021, this covered: the evidence needed to accept a higher charge related to a person's protected characteristic; how we need to be careful in use of language in the "usual/ unusual" framing; who is eligible for payments for adjustments from the Legal Aid Fund; how higher rates for rarely encountered spoken languages can be accommodated in our interpreting and translation policy; how travel by the solicitor to a vulnerable person may be accommodated; and the way in which the relationship between SLAB and solicitors means we have no control over the services provided.

A further meeting between the equalities and accounts teams to clarify further who is eligible for payments for adjustments from the Legal Aid Fund was held on 23 June 2021, to include ordinary and professional witnesses.

These key equalities issues were submitted for discussion at the GALA Review meeting, comprising senior decision makers at SLAB, on 28 July 2021.

We reported to the Legal Assistance Policy Committee, on 6 September 2021 to seek their advice on the written consultation document. This included specific reference to and questions on equalities considerations.

In December 2021, policy and accounts team colleagues discussed the part-completed EqlA with a focus on the measures and actions that will be required to implement the policy.

The part-completed EqlA was provided to the GALA Review meeting in December 2021 for their review. It was noted that if particular equalities groups appear underrepresented in Legal Aid it was not within our control but we can have appropriate policies in place to recognise the characteristics of those who do get legal aid. We may want to make it clear that the only basis



on which we can apply a policy which enables us to recognise the needs of specific groups is for solicitors to provide that information. This section should make it clear that we need solicitors to provide the information so that we can determine if certain charges in the account are a result of particular client needs. The evidence sources within the EqIA were noted and it was agreed that there was a lot of material that would be useful for others in SLAB in relation to our evidence on our user groups. The data sources are to be saved down to the EqIA folders, announced and made accessible to managers. The EqIA is to be updated to ensure it reflects specifically that the solicitor is an intermediary between SLAB and the client and SLAB does not have a mechanism to identify equality characteristics without being informed by the solicitor.

The full final EqIA was discussed at the GALA review meeting on 2 February 2022. The EqIA was approved subject to minor amendments to style and an additional action to consider how we can best assist solicitors and counsel in providing the required equalities related information for our assessment.

The changes made to the EqIA to reflect a new interim fees policy were discussed at the GALA review meeting on 27 September 2022. These reflected the positive - if marginal - impacts of interim fees on certain equality groups. The GALA review meeting members were content with the updated assessment.

Step 6 - Post-implementation actions and monitoring impact

6.1 Record any ongoing actions below. This can be copied from the project action log or elsewhere in this assessment and should include timescales and person/ team responsible. If there are no outstanding items please make this clear.

Create system to monitor leavers, as well as joiners to the register for spoken language interpreters.

Develop decision makers' guidance and external guidance for solicitors and counsel, which draws on the evidence and analysis in the EqlA

Consider how we can best assist solicitors and counsel to provide the required equalities related information for our assessment, with the least burden

Communicate with practitioners about the taxation standard

Set up and maintain discussion groups with stakeholders to maintain SLAB's knowledge of 'usual' and 'unusual'

6.2 Note here how you intend to monitor the impact of this policy/ practice/ process/ service on equality groups. In the table below you should:

- list the relevant measures,
- Identify who or which team is responsible for implementing or monitoring any changes
- Where the measure will be reported to ensure any issues can be acted on as appropriate.

Measure	Lead department/ individual	Reporting (where/ frequency)
Review cases covered by detailed fees to monitor consistency in the application of usual/ unusual	ICQU	Annually, reporting to Executive Team
Review cases covered by detailed fees to monitor consistency in the application of the factor	ICQU	Annually, reporting to Executive Team

“whether the client’s particular vulnerabilities impacted on work required”		
Review any cases where payment for British Sign Language interpreting is sought but costs are abated, to identify any issue in the application of our general outlays policy to this activity	Accounts managers	Annually, reporting to Executive Team
Review any cases where payment or letter of comfort for spoken language interpreting / translation is sought but letter is refused or cost is abated, to identify any issue in the application of the spoken language interpreting and translation policy	Accounts managers	Annually, reporting to Executive Team
Monitor number, average cost and total cost of adjustments funded under the travel policy covering standard rates for expenses	Accounts managers	Annually, reporting to Executive Team
Review complaints about accounts assessment to identify any equalities issues	Accounts managers	Annually, reporting to Executive Team
Monitor number of additional fees granted or refused where a protected characteristic is cited as the reason for additional work being required	Accounts managers	Annually, reporting to Executive Team

6.3 EqlA review date. This EqlA should be reviewed as part of the post-implementation review of the policy/ practice/ process/ service. The date should not exceed 3 years from the policy/ practice/ process/ service implementation date.



01/10/2025

Step 7 - Assessment sign off and approval

All equality impact assessments must be signed off by the relevant Director or Senior Responsible Owner (SRO), even where an EqIA is not required, and be reviewed by the Director of Strategic Development for quality assurance purposes. The Chief Executive must approve all equality impact assessments. Note the relevant dates here:

Director/ SRO sign off: 23/09/2022

Chief Executive approval: 28/09/2022

All full equality impact assessments must be published on SLAB's website as early as possible after the decision is made to implement the policy, practice, process or service.