

## EQUALITY IMPACT ASSESSMENT (EqIA)

### Summary results of the EqIA

**Title of policy/practice/process/service:**

Direct disclosure of equalities characteristics from applicants.

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

Revision of existing policy.

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

We reviewed what SLAB seeks to learn as an organisation from the equalities monitoring questions that solicitors are asked to complete on behalf of applicants. We identified that completion rates have historically been low where answers to questions are not mandatory but also that SLAB's reasons for gathering equality monitoring information were not clear.

Although we identify that there may be positive impacts as a result of improved monitoring, these rely on solicitors and applicants being willing to participate in data gathering. The positive impacts are contingent also on our ability to effectively use the data in future monitoring and change projects.

**Summary of actions taken because of this assessment:**

Update of questions in line with 2022 Scottish Census for age, sex, race and disability.

Expansion of monitoring questions to include care experience across all aid types.

Clarification of reasons for seeking to gather data.

Review and update of guidance for completing the monitoring questions.

Specific review in relation to child applicants for legal assistance.

**Ongoing actions beyond implementation include:**

Use of applicant data in monitoring and review of the impact of operational decision making across the legal aid schemes.

Publication of aggregate applicant equalities information to encourage further disclosure of data.

Periodic review of possible impacts from the data we were not getting. If any issues were identified as a result of this, then there could be a reconsideration of what data should be collected.

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

Policy Projects Manager.

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

Director of Strategic Development.

Publication date (for completion by Communications):

29/09/2022

Document control		
Document control:	V1.0	
Date policy live from:	1 October 2022	
Review/ Approval Group:	Chief Executive	
Last reviewed:	28/9/2022	
Review cycle:	Three years from last review	
Document change log		
Version/ Author	Date	Comment
V0.1	August 2021	First draft for review
V0.2	December 2021	Second draft for review by Director of Operations
V0.3	December 2021	Third draft for review by Executive Team
V0.4	July-September 2022	Fourth draft following further discussion on analysis, feedback from stakeholders and operating the policy
V0.5	September 2022	Fifth draft updated following review and approval by Director of Strategic Development, submitted to Chief Executive
V1.0	September 2022	Version approved by Chief Executive.

## 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 Executive Team agreed that SLAB should redevelop the protected characteristics questions that are contained on the equalities card. The aim is to collect more and better quality information about applicants across the legal schemes, that will meet our needs as an organisation for undertaking equality impact assessments as part of strategic development.

### 1.2 Why is the change required?

The questions in the equalities card, that are then replicated in our Legal Aid Online system, need updated to reflect good practice. We also need to consider asking applicants about the full range of protected characteristics: the rationale for gathering data for all or a selection of protected characteristics needs to be clarified. Current response rates against the equalities questions in the Legal Aid Online (LAOL) system are low.

### 1.3 Who is affected by this policy/practice/process/service? Be clear about who the 'customer' is.

Applicants for legal assistance.

### 1.4 Policy/practice/process/service implementation date *e.g. project end date, date new legislation will take effect.*

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 EqIA for related policies might help you understand potential impacts, and/or your findings might be relevant to share. Refer to SLAB's business plan, our current equality outcomes or current project list etc.*

This project is linked to the ability to monitor and review our operational policies as are being developed in the Guidance on Administration of Legal Aid project ([www.slab.org.uk/news/legal-aid-framework-project-publishes-first-policies-and-decision-makers-guidance](http://www.slab.org.uk/news/legal-aid-framework-project-publishes-first-policies-and-decision-makers-guidance)).

## 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).
All characteristics	<ol style="list-style-type: none"> <li>1. <a href="#">Evidence and the Public Sector Equality Duty (EHRC)</a></li> <li>2. <a href="#">Internal review of data and the legal aid landscape</a></li> <li>3. <a href="#">The public sector equality duty and data protection (EHRC)</a></li> </ol>	<p>The EHRC guidance states: “Deciding which gaps to prioritise will be challenging. You may receive conflicting views from representatives across and within the protected characteristics, and it is important that you balance these views and consider them alongside other relevant criteria.</p> <p>As a starting point, you should prioritise those gaps which are most relevant to your performance of the general equality duty.”</p> <p>Additionally: “This will be a challenging and complex exercise given the range of evidence you may need for all protected characteristics, and in particular the significant gaps that exist for certain groups such as gay, lesbian or transgender people. Remember that what you do will depend on the nature of your services, and should be proportionate to the size and significance of your evidence gaps and to the size of your organisation.”</p> <p>And further that “To build trust and confidence, you will need to ensure that everyone asked to supply information understands why you are collecting this information, how it will be used, and what you will do to protect confidentiality.” (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</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>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 have a responsibility to ensure that, in the performance of our functions, applicants are not treated unfairly as a result of their protected characteristics. (2)</p> <p>The EHRC guidance states: "Overall, public authorities should take a proportionate approach: they should always consider whether the same results could be achieved with fewer risks to privacy. They should also collect the minimum data required to achieve their objective.</p> <p>"In addition to equality information collected by the public authority itself, other sources of information may be relevant to understanding the impact of its functions on people with particular protected characteristics. Examples of these include: national studies, sector reports, and reports published by organisations such as the Equality and Human Rights Commission which offer expert advice and guidance." (3)</p>
Age	1. Internal review of equalities questions completion	Solicitors routinely submit data on the age of applicants through the LAOL system by completing a date of birth field. (1)

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>2. Internal research on data collection and use</p> <p>3. Evidence and the Public Sector Equality Duty (EHRC)</p> <p>4. Internal review of response rates to demographic questions</p> <p>5. Review of published EqlAs focussed on operational policies</p>	<p>This is a mandatory question as we routinely use date of birth in the operation of the schemes, for example in security checks. (2)</p> <p>The Equality and Human Rights Commission (EHRC) guidance does not consider this data as especially sensitive to collect. The EHRC guidance indicates that for children only age, disability, ethnic group and sex should be collected. The responses should be provided by the child/young person themselves, where possible. However, it may be necessary to get a proxy response from a parent or guardian if the child is under 12. The guidance suggest the same question wording can be used for children and adults. (3)</p> <p>Age is routinely provided by survey respondents to us via stakeholder surveys, with a high enough response rate to undertake analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (4)</p> <p>Our published EqlAs highlight that at both ends of the age spectrum, there can be an impact on the nature and manner of legal work required, or the ability of a person to participate in proceedings, which may be relevant to our decision-making on cases. (5)</p>
Disability	<p>1. Internal review of equalities questions completion</p> <p>2. Evidence and the Public Sector Equality Duty</p>	<p>The completion rate for this protected characteristic through the LAOL system is low. (1)</p> <p>The Equality and Human Rights Commission (EHRC) guidance does not consider this data as especially sensitive to collect. (2)</p> <p>We have evidence that people with disabilities may have problems accessing legal services and public services in general, in particular due to their communication support needs. (3)</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).
	<ul style="list-style-type: none"> <li>3. <a href="#">SLAB's Equality outcomes plan 2021-23</a></li> <li>4. Internal research on questions</li> <li>5. Internal review of response rates to demographic questions</li> <li>6. Review of <a href="#">published EqlAs focussed on operational policies</a></li> </ul>	<p>Our approach to this question asks about broad disability only (4) and needs to be updated in line with good practice. (2)</p> <p>Information about disability is routinely provided by survey respondents to us via stakeholder surveys, with a high enough response rate to undertake analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (5)</p> <p>Our published EqlAs highlight that for both physical and mental disabilities, there can be an impact on the nature and manner of legal work required, or the ability of a person to participate in proceedings, which may be relevant to our decision-making on cases. (6)</p>
Race	<ul style="list-style-type: none"> <li>1. Internal review of equalities questions completion</li> <li>2. <a href="#">Evidence and the Public Sector Equality Duty</a></li> <li>3. Perception and misperception of bias in human</li> </ul>	<p>The completion rate for this protected characteristic through the LAOL system is low. (1)</p> <p>The Equality and Human Rights Commission (EHRC) guidance does not consider this data as especially sensitive to collect. (2)</p> <p>We have evidence that people under this protected characteristic may have problems accessing legal services and public services in general, in particular where there is a need for spoken language interpreting and translation. (5)</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>judgment (Emily Pronin, 2006)</p> <p>4. Internal research on questions</p> <p>5. <a href="#">SLAB's Equality outcomes plan 2021-23</a></p> <p>6. Internal review of response rates to demographic questions</p> <p>7. <a href="#">Data collection and publication - ethnic group: guidance</a></p> <p>8. Review of <a href="#">published EqlAs focussed on operational policies</a></p>	<p>Race is a characteristic which may be inferred from an applicant's name and in-/out-group is a key factor in the literature around unconscious bias. (3)</p> <p>Our approach to this question is based on an old classification (4) and needs to be updated in line with good practice. (2)</p> <p>Race information is routinely provided by survey respondents to us via stakeholder surveys, with a high enough response rate to undertake basic analysis comparing white and non-white respondents. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (6)</p> <p>The Scottish Government's guidance and recommended question are identical to the question in Scotland's Census 2022. (7)</p> <p>Our published EqlAs highlight that for race, as it correlates to spoken languages and cultural background, there can be an impact on the nature and manner of legal work required, or the ability of a person to participate in proceedings, which may be relevant to our decision-making on cases. (8)</p>
Sex	<p>1. Internal review of equalities questions completion</p>	<p>Solicitors routinely submit data on the sex of applicants through the LAOL system. (1)</p> <p>The EHRC guidance does not consider this data as especially sensitive to collect. (2)</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).
	<ol style="list-style-type: none"> <li>2. Evidence and the Public Sector Equality Duty (EHRC)</li> <li>3. Sex, gender identity, trans status - data collection and publication: guidance</li> <li>4. Internal review of response rates to demographic questions</li> <li>5. Review of published EqlAs focussed on operational policies</li> </ol>	<p>Recent guidance for the public sector on how to collect data on sex has been issued by the Scottish Government. This provides standard, tested wording for gathering data on sex. (3)</p> <p>Information about a person's sex is routinely provided by survey respondents to us via stakeholder surveys, with a high enough response rate to undertake analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (4)</p> <p>Our published EqlAs highlight that for sex, aside from the potential consequences of menopause, there is no impact on the legal work required or the ability of a person to participate in proceedings. There is a difference in terms of whether a man or woman is a pursuer or defender, particularly in family cases. (5)</p>
Gender Reassignment	<ol style="list-style-type: none"> <li>1. Evidence and the Public Sector Equality Duty (EHRC)</li> </ol>	<p>EHRC guidance specifically cautions against asking people to disclose information in relation to gender reassignment, indicating instead that organisations could seek data from national organisations or reporting. (1)</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).
	<ol style="list-style-type: none"> <li>2. <a href="#">Civil legal aid applicants survey</a></li> <li>3. <a href="#">Sex, gender identity, trans status - data collection and publication: guidance</a></li> <li>4. <a href="#">Internal review of response rates to demographic questions</a></li> <li>5. <a href="#">Review of published EqlAs focussed on operational policies</a></li> </ol>	<p>Our survey work indicates a low proportion of applicants will be part of this equality group, making analysis difficult to undertake. (2)</p> <p>Recent guidance for the public sector on how to collect data on gender identity and trans status has been issued by the Scottish Government. This provides standard, tested wording for gathering data on gender identity and trans status. (3)</p> <p>Information about a person’s gender reassignment status is not now routinely sought in stakeholder surveys. In the past, with a high response rate, the volume of responses meant we could not undertake meaningful analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (4)</p> <p>Our published EqlAs highlight that for gender reassignment, there is no impact on the legal work required or the ability of a person to participate in proceedings. There may be a correlation between this characteristic and disabilities, but the characteristic in itself does not intersect with our operational policies. (5)</p>
Sexual orientation	<ol style="list-style-type: none"> <li>1. <a href="#">Evidence and the Public Sector Equality Duty (EHRC)</a></li> <li>2. <a href="#">Civil legal aid applicants survey</a></li> </ol>	<p>EHRC guidance specifically notes that people may feel uncomfortable disclosing information in relation to sexual orientation, suggesting that disclosure rates will increase as trust is established. (1)</p> <p>Our survey work indicates a low proportion of applicants will be part of this equality group, making analysis difficult to undertake. (2)</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>3. Internal review of response rates to demographic questions</p> <p>4. Review of published EqlAs focussed on operational policies</p>	<p>Information about a person’s sexual orientation is not now routinely sought in stakeholder surveys. In the past, with a high response rate, the volume of responses meant we could not undertake meaningful analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (3)</p> <p>Our published EqlAs highlight that for sexual orientation, there is no impact on the legal work required or the ability of a person to participate in proceedings. There may be a correlation between this characteristic and disabilities, but the characteristic in itself does not intersect with our operational policies. (4)</p>
Religion or Belief	<p>1. Evidence and the Public Sector Equality Duty (EHRC)</p> <p>2. Perception and misperception of bias in human judgment (Emily Pronin, 2006)</p> <p>3. Civil legal aid applicants survey</p> <p>4. Internal review of response rates to</p>	<p>Religion or belief is noted in the EHRC guidance as a characteristic which can be sensitive to collect and where varying levels of commitment to different religions or beliefs can make it difficult to interpret any information gathered. For example, between someone who loosely identifies as a Christian and a person for whom Christianity influences most or all aspects of their lives. (1)</p> <p>Religion or belief is a characteristic which may be inferred from an applicant’s name and in-/out-group is a key factor in the literature around unconscious bias. (2)</p> <p>Our survey work indicates that a spread of denominations and religions, as well as no religion, could be expected to be a feature of our applicant population. (3)</p> <p>Information about a person’s religion is not now routinely sought in stakeholder surveys. In the past, with a high response rate, the volume of responses meant we could not</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>demographic questions</p> <p>5. Review of <a href="#">published EqlAs focussed on operational policies</a></p>	<p>undertake meaningful analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (4)</p> <p>Our published EqlAs highlight that for religion, as it intersects with race and correlates to spoken languages, there can be an impact on the nature and manner of legal work required, or the ability of a person to participate in proceedings, which may be relevant to our decision-making on cases. (5)</p>
Pregnancy or maternity	<p>1. <a href="#">Evidence and the Public Sector Equality Duty (EHRC)</a></p> <p>2. Internal review of response rates to demographic questions</p> <p>3. Review of <a href="#">published EqlAs focussed on operational policies</a></p>	<p>EHRC guidance does not highlight pregnancy or maternity as sensitive data to collect. (1)</p> <p>This protected characteristic is included in our external surveys of applicants in terms of whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (2)</p> <p>Our published EqlAs highlight that for pregnancy or maternity, there can be an impact on the nature and manner of legal work required, mainly linked to travel, which may be relevant to our decision-making on cases. (3)</p>
Marriage or civil partnership	<p>1. <a href="#">Equality Act 2010</a></p> <p>2. Internal review of response rates to</p>	<p>This is a characteristic which is protected only in relation to discrimination and is not subject to the wider needs of the general duty. (1)</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).
	demographic questions	This protected characteristic has limited provisions and is not included in our external surveys of applicants or solicitors. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the other protected characteristics. (2)
Care Experienced ( <i>corporate parenting duty</i> )	<ol style="list-style-type: none"> <li>1. Review of surveys</li> <li>2. Solicitor feedback</li> <li>3. Internal review of response rates to demographic questions</li> </ol>	<p>We routinely ask in surveys whether applicants are care experienced, although we do not specify the statutory cut-off age of 26 (after which age our duties do not have effect). Those who have experienced care make up between 5% and 20% of applicants, depending on the service and aid type. (1)</p> <p>Some applicants may be upset by the question, given the subject of their case. (2)</p> <p>Information about a person’s care status is routinely provided by survey respondents to us via stakeholder surveys, with a high enough response rate to undertake analysis. We ask about whether it had an effect on their experience in relation to the subject of the survey, alongside the protected characteristics. (3)</p>

**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.**

The policy will be important for equality groups in relation to whether and how we collect information to support our strategic development.

**2.3 Outcome of step 2 and next steps. Complete the table below to inform the next stage of the EqIA process. Consult with the project group and/or Corporate Policy Officer (Equalities) on completing this section.**

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 EqlA 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 EqlA
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 EqlA

### 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

Our own employed solicitors in Civil Legal Assistance Office, Public Defence Solicitor Office and Solicitor Contact Line - December 2021 and ongoing to August 2022. We spoke to a number of external solicitors who had achieved higher response rates for the equalities questions during March and April 2022.

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

We plan to discuss with the Law Society of Scotland how best to support solicitors to complete the monitoring questions with their clients.

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

Our employed solicitors fed back that the guidance provided looked useful in assisting them to understand why SLAB would be collecting data. They provided comment on whether children should be asked the monitoring questions, which led to evidence gathering, amendment of the policy statement and equality impact assessment. External solicitors who had achieved high response rates advised that the key action they took was to ask the questions and to provide reassurance on why the data was being collected, if there was any concern. Most people were willing to provide data and, where someone was not willing, this did not cause any problem in the solicitor-client relationship.

Our employed solicitors had a mixed experience of piloting the new equalities questions, due to their position as a frontline service, but the guidance drafted was well received.

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

*You must consider the three aims of the general duty for each protected characteristic. The following questions will help:*

- **Is there potential for discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010? How will this be mitigated?**
- **Is there potential to advance equality of opportunity between people who share a characteristic and those who do not? How can this be achieved?**
- **Is there potential for developing good relations between people who share a relevant protected characteristic and those who do not? How can this be achieved?**

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

*In the tables below, record the impact of the policy/practice/process/service, as it is planned or as it operates, might*

have on each equality characteristic and describe what changes in policy/practice/process/service or actions will be required to mitigate that impact. Copy any actions across to the project action log.

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			<p>Collecting data on age will assist us in fulfilling our equalities duties by allowing us to identify key issues, take evidence based decisions on strategic developments (including the setting of our equality outcomes) and assess performance.</p> <p>This data is essential to allowing us to administer the legal aid schemes and is based on solicitor completion of date of birth on behalf of the client. We do not plan to change our approach to collection.</p> <p>The guidance makes clear that solicitors should not routinely ask children under 12 the equalities questions.</p> <p>As we age, this correlates with increased instances of disability and communication needs, which are relevant to our main functions of deciding on case-by-case legal aid. Younger people have different communication needs and cognitive abilities, again relevant to our main function.</p>
potential for developing good relations	X			
potential to advance equality of opportunity	X			



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			Collecting data on sex will assist us in fulfilling our equalities duties by allowing us to identify key issues, take evidence based decisions on strategic developments (including the setting of our equality outcomes) and assess performance.  The question will reflect SG guidance.  We know that the sex of pursuers and defenders is patterned by case type in civil matters (for example in family cases) and across aid types (with more men accessing criminal legal aid), which are relevant to our main functions of deciding on case-by-case legal aid.
potential for developing good relations	X			
potential to advance equality of opportunity	X			

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			Collecting data on disability will assist us in fulfilling our equalities duties by allowing us to identify key issues, take evidence based decisions on strategic developments (including the setting of our equality outcomes) and assess performance.
potential for developing good relations	X			
potential to advance equality of opportunity	X			

				<p>We will update our disability question to align with best practice. This will be the 2022 Scottish Census questions, as they have been subject to extensive consultation and involvement.</p> <p>Disability may affect the nature and manner of legal work required, which is relevant to our core function of making decisions on case-by-case legal aid. Disability may additionally impact communication needs, which are relevant to how we communicate with applicants and also our decisions on legally aided cases.</p>
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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>Collecting data on race will assist us in fulfilling our equalities duties by allowing us to identify key issues, take evidence based decisions on strategic developments (including the setting of our equality outcomes) and assess performance.</p> <p>We will update our questions to align with best practice, covering nationality and ethnicity. These will be the 2022 Scottish Census questions, as they have been subject to extensive consultation and involvement.</p> <p>Race is correlated with different spoken languages and cultural backgrounds, which may affect the need for communications support, the nature and manner of legal work required: these are</p>

				core to our main function of making decisions on case-by-case legal aid.
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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	<p>As noted in the EHRC Technical guidance, good practice for this protected characteristic is to seek national level data.</p> <p>There is no evidence of differential experience in relation to our main function. Where we have sought data on this characteristic in the past, it has not been possible to analyse.</p> <p>Monitoring gender reassignment can be a sensitive issue and stakeholders may not see the relevance to SLAB's work, undermining our efforts to collect data across the most relevant characteristics.</p>
potential for developing good relations			X	
potential to advance equality of opportunity			X	
potential for developing good relations	X			
potential to advance equality of opportunity	X			

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		There is potential for negative impact if we are unable to monitor decision making affected by inference of religion from someone's name. This is partially offset by the decision to collect nationality

				data, which intersects with religious background. Monitoring religion or belief can be a sensitive issue and stakeholders may not see the relevance to SLAB's work, undermining our efforts to collect data across the most relevant characteristics.
potential for developing good relations			X	We have limited ability to take action that develops good relations, so any negative impacts are likely to be very minor and more likely no impact.
potential to advance equality of opportunity		X		There is potential that we will not be able to maximise opportunities, although this is partially offset by the decision to collect nationality data, which intersects with religious background. Where we have sought this data in the past, no useful analysis was possible due to the number of responses. Monitoring religion or belief can be a sensitive issue and stakeholders may not see the relevance to SLAB's work, undermining our efforts to collect data across the most relevant characteristics.

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	EHRC guidance specifically notes that people may feel uncomfortable disclosing information in relation to sexual orientation, suggesting that disclosure rates will increase as trust is established. However, we have little ability to develop such a relationship with applicants. Our ability to do any analytical work with responses on applicant data is likely to be limited due to the very large proportion who are likely to declare as heterosexual, as
potential for developing good relations			X	
potential to advance equality of opportunity			X	

				we have experienced when we have gathered this information in the past.
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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	As a transient characteristic, whilst it has relevance in SLAB's context in relation to particular types of decisions (such as on allowing travel by a solicitor), the overall relevance to our functions and decisions is very limited.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

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	A common feature of civil applications is the breakdown of marriage or civil partnership and we wouldn't expect this to be a factor that would bear on decision-making. This is a characteristic which is protected only in relation to discrimination and is not subject to the wider needs of the general duty.
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			Collecting data about care status will assist us in fulfilling our duties to: <ul style="list-style-type: none"> <li>• Be alert to matters which, or which might, adversely affect the wellbeing of care experienced children and young people</li> <li>• Assess the needs of those children and young people for services and support it provides</li> <li>• Promote the interests of those children and young people</li> <li>• Take such action as we consider appropriate to help care experienced children and young people make use of services, and access support, which we provide.</li> </ul>
potential for developing good relations	X			
potential to advance equality of opportunity	X			

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

- August 2021: specific wording for purpose needs to be agreed, with potential for knock on impact to performance framework project.
- June 2022: update to guidance to reflect that children under 12 should not be asked the monitoring questions.

**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><b>No major change</b> 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><b>Adjust the policy/practice/process/service</b> 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><b>Continue the policy/practice/process/service with adverse impact</b> 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><b>Stop and remove the policy/practice/process/service</b> 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. EqIA should be on every project board agenda therefore only note dates where key decisions have been made (e.g. draft EqIA 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.*

- June 2019: Executive Team discussion and agreement of applicant monitoring questions, based on assessment of EHRC technical guidance in the context of SLAB's functions.

- October 2021: The Executive Team were in agreement that the reason for collecting applicant data was for both the purpose of strategic development and the monitoring of decision making. However, it was agreed that it was not for the purpose of performance management of the teams making the decisions.
- December 2021: The EqIA was also approved in principal subject to the addition of a line stating that the data we were not getting would be monitored and if any issues were identified as a result of this then there could be a reconsideration of what data should be collected.
- June 2022: Discussion between Policy Project Manager and Director of Strategic Development on equalities observations raised by client legal services colleagues in relation to a number of protected characteristics.
- August 2022: Review by Director of Strategic Development identified areas for further development in the evidence section to clarify our approach.
- September 2022: Review and approval by Director of Strategic development, following August update.

## **Step 6 - Post-implementation actions and monitoring impact**

*There may be further actions or changes planned after the policy/practice/process/service is implemented and this assessment is signed off. It is important to continue to monitor the impact of your policy/practice/process/service on equality groups to ensure that your actual or likely impacts are those you recorded. This will also highlight any unforeseen impacts.*

**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.*

Update of equalities card to reflect new questions.

**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)
Proportion of applicants declaring data against each characteristic	Equalities team, relying on data from AMI	Annually as part of equalities input to annual report

### 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.*

19/09/2025

### 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 EqlA 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: 22/09/2022**

**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.*