



# EQUALITY IMPACT ASSESSMENT (EqIA)

## Summary results of the EqIA

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

A&A and distinct matters (civil).

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

Review of current policy.

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

Equalities considerations appear to be embedded into our policy here, but we currently lack specific information or evidence on the experiences of those affected by this policy that would give us greater confidence in our conclusions.

The current assessment suggests that the factors involved in our decision-making are either neutral in their impact (that is, with the ‘reasonably ancillary’ requirement), or may be positive from an equalities perspective by enabling particular circumstances associated with an applicant’s protected characteristics to be considered (that is, with uplifts from diagnostic to standard A&A).

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

We should be clear in our decision-making and external guidance that we will take equalities considerations into account and provide direction on the kinds of information which will assist in enabling us to make decisions where equalities issues are relevant to our policy position.

**Ongoing actions beyond implementation include:**

Not yet relevant.

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

Policy and Research Analyst, in conjunction with Head of Civil and Children’s Legal Assistance.

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

Director of Operations.

**Publication date (for completion by Communications):**

25/06/2024

<b>Document control</b>		
<b>Document control:</b>	A&A and distinct matters (civil) v0.3	
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<b>Review cycle:</b>	Every three years	
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V0.1	November 2022	First draft as considered by the GALA Review Group
V0.2	February 2024	Section 3 updated following consultation
V0.3	April 2024	Finalised clean version

## Step 1 - Framing the planned change

*Discussing step 1 and step 2 with the 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. You can use the information in your project specification, business case etc.**

SLAB's policy on distinct matters in civil A&A operationalises the requirements of the relevant Regulation, that is Regulations 8, 8A and 8B of the Advice and Assistance (Scotland) Regulations 1996. The purpose of a policy statement is to identify a test to be undertaken by decision-makers: in this case, whether the 'reasonably ancillary' requirement set out by Regulation 8A has been met, as well as how we approach uplifts from diagnostic interviews to advice and assistance, in line with Regulation 8B. Section D of the policy statement is set out below, for reference.

### **"Whether or not a matter is a civil matter and whether a matter is distinct"**

When determining whether or not a matter is a civil matter (Regulation 8(2)(a)) our policy - reflected in the requirements of the online system - is that solicitors must select a 'category code' for each matter. The category codes reflect our position as to whether or not a given subject matter is civil, criminal or children's advice and assistance, and as such, by selecting a category code, the solicitor confirms whether the matter is a civil matter. The solicitor must also provide specific details as to the 'subject matter' of the case.

Where we become aware that a solicitor has selected an incorrect category code - e.g. it appears the matter is actually children's in nature, not civil - this will lead us to reject the grant.

Each category code is identified (by SLAB) as either distinct or non-distinct within SLAB's system. As such, in the action of selecting a category code, the solicitor is also indicating whether the matter is a distinct or non-distinct matter, in line with Regulation 8(2)(b).

Our role is to check the information provided by the solicitor and determine whether or not the correct civil category code has been used and therefore that the matter is correctly identified as a) civil in nature, and b) distinct or not. We do this by checking that the information provided under 'subject matter' corresponds in a logical way to the category code selected. We will request further information or reject any applications where there appears to be an unexplained discrepancy.

**Whether multiple matters are ‘reasonably ancillary’ to each other, and as such, whether a single or multiple grants should be submitted**

Where a solicitor has provided advice on multiple matters to an applicant (which may happen concurrently, or over a period of time), our policy is that our system ‘holds’ such applications, in order to enable us to check whether the solicitor has applied the ‘reasonably ancillary’ test in a supportable way. This decision has direct implications for how many grants the matters should be submitted under (see Regulation 8A).

Our policy is that in determining whether or not matters are ‘reasonably ancillary’ to each other - subject to the exceptions below - we expect the solicitor to consider whether the multiple matters and the subjects and circumstances they relate to can logically be seen as part of a related group, such that they form part of a single overall case. If so, our view is they must be treated as reasonably ancillary and dealt with under a single grant.

To demonstrate that matters are **not** reasonably ancillary (and that therefore, the work is to be carried out under separate grants), the solicitor must be able to show any of the following exceptions applies:

- That the subject matters are completely unrelated, and do not logically form part of a single case;
- That further advice is being provided under a separate grant because of change in the opponent’s position which has brought about a material change in the case: for instance, an additional action being raised by the opponent which is not procedurally connected to the subject of the initial grant;
- In cases where further advice is being provided under a separate grant after a period of time has passed, that there has been some other material change in the circumstances of the case which suggests that the further advice essentially forms part of a new case which may give rise to separate proceedings.

If our view is that advice given in relation to a particular matter under a separate grant ought to have been seen as reasonably ancillary to an existing matter but was not treated as such, we may reject the application and have it added as an ancillary matter to the original application.

**Determining whether or not to treat a non-distinct matter as distinct, upon application by the solicitor**

Where the solicitor applies to us to have a non-distinct matter treated as distinct (Regulation 8B(4)), we take into account the following factors:

- The potential impact on the applicant, including the value of any claim or the matters under dispute;

- If there are any novel or complex legal issues associated with the case, the issue appears to be of wider public interest, and/or if it appears likely there may be a future application for legal aid;
- The availability of other sources of advice able to assist in dealing with the issue (including whether the advice is locally available, and whether it would be practically available in reasonable timescales); and
- Whether further advice appears reasonable with regards to the ability of the assisted person to take further action without help from a solicitor: this will include the relevance and impact of their protected characteristics or other vulnerability on their ability to understand the issues, as well as the length of time the solicitor requires to properly assist them.

We may be satisfied on one of these factors alone: we do not require all to be satisfied for a grant to be made.”

### **1.2 Why is the change required? *Legislative, routine review etc.***

No change: this is a routine review of policy.

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

The ultimate customer is the client to whom legal services, supported through the Legal Aid Fund, are provided. In this policy area, the impacts of our position are more likely to be felt by the solicitor: in particular, the policy sets the expectations and boundaries of how many grants we expect a solicitor to make. To some extent, the policy does affect the extent of the advice which may be provided. Whilst solicitors work with the policies and guidance we develop and may - as in this area - be affected by the policy, this will not be in relation to their protected characteristic.

### **1.4 Policy/practice/process/service implementation date? *Project end date, date new legislation will take effect.***

Policy is currently in effect.

### **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.***

The main related operational policies are those with regards to increases in a valid grant of advice and assistance.

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

The information you gather in this section will:

- help you to understand the importance of your policy/practice/process/service for different equality groups,
- inform the depth of equality impact assessment you need to do (this should be proportional to the potential impact on equality groups), and
- provide justification and an audit trail behind your decisions, including where it is agreed an equality impact assessment is not required.

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

*Stay focused on the topic and scope of your policy/practice/process/service. Does the policy/practice/process/service relate to an area where there are already known inequalities? Refer to the EqlA guidance for sources of evidence.*

*Remember, this step in the EqlA process is NOT about the impact your policy has on equality groups and what we need to do to mitigate those. That assessment is done under Step 4.*

*Note: If you proceed to a full EqlA you should continue to add to this section as you develop the policy/practice/process/service, come across new evidence and/or undertake a consultation.*

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>
Cross-cutting considerations	(1) <a href="#">Franklyn et al, 'Key Findings from the Legal Problem and Resolution Survey, 2014-15</a>	The profile of applicants to the Legal Aid Fund is patterned by protected characteristics within different aid types and by case categories within those aid types. We have no control over who applies to the Fund, which operates on eligibility rather than entitlement basis. Solicitors are the key intermediaries who decide which clients and cases they take on. The aggregate position of who applies is the result of complex interactions between societal trends, changes in wider justice sector

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	<p>(2) <a href="#">Pleasence et al, Paths to Justice: a past, present and future roadmap, 2013</a></p> <p>(3) <a href="#">Moorhead et al, 'A trouble shared legal problems clusters in solicitors' and advice agencies, 2006</a></p>	<p>processes, individual firms' appetite to undertake legally aided work for a particular case or client, and the actual legal issue at play. Some of the evidence is general in nature. There is little specific evidence we have been able to find which would tell us about the experiences of different protected characteristic groups with regards to, for example, numbers of distinct matters or uplifts to A&amp;A from a diagnostic interview.</p> <p>Research in relation to civil legal issues has found that there can be links between legal problems which results in what is termed as 'clustering' of legal issues. The Legal Problem and Resolution Survey, 2014-15 reported that "the experience of multiple problems was relatively common, particularly among groups that may be considered to be vulnerable to disadvantage. Around a half of adults who experienced at least one problem had experienced more than one problem during the 18 month period (20% of adults with problems had experienced two problems, 9% had experienced three problems, and 22% had experienced four or more problems)." (1) This may be patterned by protected characteristic, as noted in the Paths to Justice 2013 report; "demographic characteristics have been shown to be associated with both justiciable problem experience and advice seeking behaviour." (2) As Moorhead et al set out; "evidence supports the view that clients' legal needs and social needs are complex and intersectional: their social and legal problems interrelate and amplify." (3)</p> <p>This may be relevant in the context of what we might expect to see in terms of grants of A&amp;A for multiple matters, or in relation to what we mean by 'reasonably</p>

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>														
		ancillary’. Some research indicates that ‘clustering’ may also be patterned by certain protected characteristics: see section on Disability.														
Age	<p>(1) Internal SLAB data, 2021-22</p> <p>(2) <a href="#">Plesence et al, 2015, ‘How people understand and interact with the law’</a></p> <p>(3) <a href="#">Attention and ageing</a></p>	<p>The chart below sets out a breakdown of civil A&amp;A by age of applicants, for the purposes of general context. It does not specifically set out data with regards distinct/non-distinct matters or on diagnostic uplifts.</p> <div data-bbox="864 552 1921 1015" data-label="Figure"> <p>The bar chart displays the percentage of civil A&amp;A cases across six age bands. The y-axis represents the percentage from 0.00% to 40.00%. The x-axis lists the age bands. The 25-34 age band has the highest percentage at approximately 31%.</p> <table border="1"> <thead> <tr> <th>Age Band</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>&lt;=24</td> <td>~13%</td> </tr> <tr> <td>25-34</td> <td>~31%</td> </tr> <tr> <td>35-44</td> <td>~26%</td> </tr> <tr> <td>45-54</td> <td>~15%</td> </tr> <tr> <td>55-64</td> <td>~9%</td> </tr> <tr> <td>65+</td> <td>~6%</td> </tr> </tbody> </table> </div> <p>(1)</p> <p>A 2015 report on how people interact with the law based around the concept of ‘legal capability’ with regards to, for example, knowledge of rights and legal empowerment, found “there were significant differences in the percentages of respondents of different ages in the lower and higher capability groups... the higher capability group was disproportionately made up of 45 to 59 year olds, while youngest (25 to 34 year olds and, particularly, 16 to 24 year olds) and oldest respondents (aged 75 or older) appeared more often in the lower capability group.”</p> <p>(2)</p>	Age Band	Percentage	<=24	~13%	25-34	~31%	35-44	~26%	45-54	~15%	55-64	~9%	65+	~6%
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Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>
		<p>As such, to some extent an applicant’s age may reflect their legal capability, which may in turn be relevant to their ability to take further action without help from a solicitor.</p> <p>The ability to process complex tasks slows as we age. (3)  The evidence set out here may be relevant to our policy on diagnostic uplifts because it may be relevant to showing an applicant would be unable to deal with legal issues without help from a solicitor.</p>
Disability	<p>(1) <a href="#">Plesence et al, 2015, ‘How people understand and interact with the law’</a></p> <p>(2) <a href="#">Capital District Health Authority guidance; Anxiety: The Cognitive Perspective</a></p> <p>(3) <a href="#">SLAB equality outcomes research</a></p> <p>(4) <a href="#">Franklyn et al, ‘Key Findings from the Legal Problem</a></p>	<p>Pascal’s 2015 study on how people understand and interact with the law found that “41.6 per cent of low capability respondents reported a long-term illness or disability compared to 24.8 per cent of high capability respondents, while 36.4 per cent of low capability respondents self-reported a stress-related illness compared to 21.4 per cent of high capability respondents.” (1)</p> <p>People experiencing mental health problems can find concentrating or remembering things difficult, as well as experience heightened stress levels, which may be an issue for participating in tribunal proceedings. Anxiety and stress can exacerbate problems with reading comprehension. (2)</p> <p>For people with experience of poor mental health, stress in formal situations was a common theme throughout the conversations. This could manifest itself in tension whilst waiting for a service or appointment, and in making it challenging to absorb and retain information. For some, the ability to retain information was a daily challenge due to the nature of their conditions. (3)</p> <p>This evidence suggests that an applicant’s disability may be relevant to our policy because it may mean that applicants with disabilities may find it more challenging to</p>

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>
	<p><a href="#">and Resolution Survey, 2014-15</a></p> <p>(5) <a href="#">Plesence et al, Paths to Justice: a past, present and future roadmap, 2013</a></p>	<p>deal with their problem without a solicitor. This would be relevant to the part of this policy dealing with uplifts from diagnostic to standard A&amp;A.</p> <p>With regards to experience of multiple legal matters, the findings of the Legal Problem and Resolution survey included that “among those with problems, the following groups were particularly likely to experience four or more problems... those with a longstanding limiting disability or illness (32%).” (4)</p> <p>Plesence et al also note that there is now “significant literature” setting out the relationship between “the clustering of justiciable problems and problems (such as morbidity/disability) more generally” and that “disability and poor health are associated with a wide range of justiciable problems.” (5)</p>
Race	<p>(1) <a href="#">SLAB equality outcomes research</a></p> <p>(2) <a href="#">Genn et al, 2006, Tribunals for Diverse Users</a></p> <p>(3) <a href="#">Byrom et al, 2021, Understanding the impact of COVID-19 on tribunals: the experiences of tribunal judges</a></p> <p>(4) <a href="#">Census results</a></p>	<p>SLAB’s recent equality outcomes research indicated that ethnic minority applicants for legal aid may face issues 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, explaining a situation, filling in forms or understanding background materials. 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. (1)</p> <p>A 2006 study of ethnicity in the context of tribunal proceedings concluded that “there were significant differences in the extent to which users from different ethnic backgrounds were able to participate in hearings. South Asian users and those from other non-European ethnic groups were consistently judged to be less able to understand questions put to them than Black African/Caribbean users or White users,</p>

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>
	(5) <a href="#">SCILT: Languages in Scotland</a>	<p>whether or not an interpreter was being used at the hearing” and that while “differences in ability do not correspond neatly with ethnic categories, the relationship between ethnicity and social exclusion suggests that lower levels of ability will be more common among certain Minority Ethnic groups.” (2)</p> <p>A study in relation to digital hearings and employment tribunals found that “whilst respondents considered that remote hearings had reduced psychological barriers to attending hearings for some, these barriers had been amplified for others: particularly those with [...] English as an additional language.” (3)</p> <p>While this study concerned employment tribunals rather than children’s hearings, in the context of race, given the intersection with language, this could be relevant to our considerations of whether the applicant is able to take further action themselves without recourse to a solicitor. It is also important to note that these issues may not be necessarily relevant outside of tribunal settings and as such, this data is provided for context until more directly relevant research or data is found.</p> <p>The main intersection between race and accounts assessment is in English language comprehension. The relevant results from the 2011 census are:</p> <ul style="list-style-type: none"> <li>• “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%.</li> <li>• “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%).” (4)</li> </ul>

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>						
		The most spoken languages in Scotland other than English are Polish, Urdu, Scots, Punjabi and Arabic. (5)						
Sex	(1) Internal SLAB data, 2021-22	<p>The table below provides a breakdown of applicants for A&amp;A by sex in 21-22, for the purposes of context: it does not specifically set out information with regards distinct matters. (1)</p> <table border="1" data-bbox="869 552 1128 667"> <thead> <tr> <th>Sex</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>Male</td> <td>47%</td> </tr> <tr> <td>Female</td> <td>53%</td> </tr> </tbody> </table>	Sex	%	Male	47%	Female	53%
Sex	%							
Male	47%							
Female	53%							
Gender Reassignment		No evidence found.						
Sexual orientation		No evidence found.						
Religion or Belief	<p>(1) <a href="#">Byrom et al, 2021, Understanding the impact of COVID-19 on tribunals: the experiences of tribunal judges</a></p> <p>(2) <a href="#">Census results 2011</a></p>	<p>In line with the evidence set out above for race, (1) and (2), English language proficiency is patterned by ethnicity and country of birth, as well as religion. 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 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)</p> <p>Language proficiency may be relevant to our consideration of whether the applicant is likely to be able to take further action themselves without using a solicitor, in the context of uplifts from a diagnostic interview.</p>						
Pregnancy or maternity		No evidence found.						

Equality characteristics	Evidence source (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? <i>Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</i>
Marriage/civil partnership		No evidence found.
Care Experienced ( <i>corporate parenting duty</i> )	(1) <a href="#">SLAB care experience literature review</a>	A SLAB review of relevant literature suggests that being care experienced is linked to higher levels of mental ill health (1).  This suggests an intersection between care experience and disability, which may be relevant to our policy as set out above.

**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.**

This policy is not an in/out point determining eligibility, though it will affect every civil advice and assistance case. The potential impact of whether matters are treated as distinct includes the number of contributions an assisted person may be liable for: the more grants submitted, the greater the number of potential contributions.

The evidence indicates that incidence of multiple legal issues may be patterned by protected characteristic group. However, for the purposes of our policy (that is, whether those multiple matters are distinct or not, and whether they are to be dealt with by single or multiple grants in line with the ‘reasonably ancillary’ test) we treat applicants identically: the applicant’s protected characteristics are not relevant to how we check the decision the solicitor has made. When considering whether matters are reasonably ancillary, our policy focuses primarily on looking at the subject of the various matters and their relationships, rather than on the individual characteristics of the applicant. The protected characteristic should have no bearing on how we expect solicitors to approach the task of deciding how many grants to submit the matters under.

In relation to the part of the policy where we are responsible for taking the decision (approving uplifts to standard A&A from a diagnostic interview), in this area our policy does specifically take an applicant’s protected characteristics into account if it can be shown they have a bearing on their ability to understand the issues and potentially take it forward themselves.

**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.*

<b>Outcome of Step 2 following initial evidence gathering and relevance to equality characteristics</b>	<b>Yes/ No (Y or N)</b>	<b>Next steps</b>
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 published a consultation covering this policy area on our website, with responses open to all. A link to the consultation was also provided to all solicitors registered to provide legal aid as part of a broader mailshot to the profession.

### 3.3 What did you learn from the consultation/involvement?

*Remember to record relevant actions in the assessment action log.*

In autumn 2023, we undertook a public consultation concerning our policies on A&A and ABWOR. This included a specific question regarding the equalities implications of our policies. One response focused specifically on the implications of our policy position regarding fresh grants of A&A in the context of immigration and asylum work. Our view is that the consultation response suggests the protected characteristics of race/nationality, and possibly disability, are particularly relevant.

The response suggested that there are provisions in the Illegal Migration Act which, if commenced, would make SLAB's position on fresh grants challenging for practitioners working with a vulnerable client group: in particular, many fresh grants could potentially be required, which can be difficult to arrange (such as for clients living in hotels or potentially sharing rooms). We are grateful for this submission and have considered it carefully.

Our assessment is that until the relevant provisions of the Illegal Migration Act are commenced, the issues are hypothetical and as such, we do not intend to make any changes to our policy. We intend to keep a watching brief on the Illegal Migration Act and its provisions, as well as any Scottish Government responses, to ensure our policy position remains appropriate. We will also review the current policy position in line with the usual standard review cycle.

### 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 the policy/practice/process/service might have on each equality characteristic, as it is planned or as it operates, 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.*

Cross-cutting: all protected characteristics	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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	We acknowledge that at a societal level, some protected characteristic groups may be more or less likely to apply for A&A. We have no control over this and in individual cases, this societal fact has no bearing on our decision-making in relation to how we approach the test at hand. As such, we do not believe there is any potential for discrimination here.
potential for developing good relations			X	None.
potential to advance equality of opportunity	X			The purpose of our policy on the 'reasonably ancillary' requirement is to encourage solicitors to deal with related matters under a single grant where possible. One impact will reduce the number of contributions applicants with multiple matters are liable for. Given the evidence suggests number of legal matters may be patterned by protected characteristics, this appears to be a positive policy position compared to, for example, taking a more permissive approach which might mean larger numbers of grants and therefore contributions.



				In relation to diagnostic interviews, the policy involves a factor specifically geared at considering whether an applicant's protected characteristics may impact on their ability to deal with their legal issues. If relevant information is provided to us, in principle, any protected characteristic could be relevant here. Decision-makers' guidance and external guidance for solicitors will specify how this factor is to be considered, and what information to provide.
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Age	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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	None.
potential for developing good relations			X	
potential to advance equality of opportunity	X			As set out in table 2, there are various ways in which an applicant's age may be relevant to their ability to understand and deal with their legal issues. We have included a specific factor which enables this to be considered in relation to diagnostic interview uplifts. Decision-makers' guidance and external guidance for solicitors will specify what kinds of information may be relevant to addressing this factor.

Sex	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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	None.
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. For example, 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				None.
potential for developing good relations				
potential to advance equality of opportunity				As set out in table 2, there are various ways in which disability could have an impact on an applicant's ability to understand and deal with their legal issues. We have included a specific factor which enables this to be considered in relation to diagnostic interview uplifts. Decision-makers' guidance and external guidance for solicitors will specify what kinds of information may be relevant to addressing this factor.

Gender reassignment	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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 potential differential impacts with regards to how this policy would be experienced.
potential for developing good relations			X	
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. For example, 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	None.
potential for developing good relations			X	
potential to advance equality of opportunity	X			As set out in table 2, there are various ways in which race, particularly in the context of language ability, could have an impact on an applicant's ability to understand and deal with their legal issues. We have included a specific factor which enables this to be considered in the context of diagnostic interview uplifts. Decision-makers' guidance and external guidance for solicitors will specify how this balancing/considering is approached and what information to provide.

Religion or Belief	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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	None.
potential for developing good relations			X	
potential to advance equality of opportunity	X			The evidence for this protected characteristic does not highlight any impact on how this policy may be experienced. Impacts are due to the intersectionality with ethnicity, nationality and spoken language, as set out in table 2. We have included a specific factor which enables this to be considered in the context of diagnostic interview uplifts.

Sexual Orientation	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, 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 with regards to how this policy would be experienced.
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. For example, 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 with regards to how this policy would be experienced.

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. For example, 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. For example, 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 how these applicants experience these cases and this policy will flow from the intersectionality with mental health and age. Our policy incorporates a specific factor which may enable these to be considered.
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?**

The assessment so far indicates that an important consideration may be ensuring that guidance for decision-makers and solicitors is clear, so that we may take equalities issues into account. The guidance should address the kinds of information we would expect to see in this regard. This will be considered further at Decision-makers Guidance drafting stage.

**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
X	<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.

**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 (for example 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.**

Discussions with key staff involved in making these decisions indicated that there is limited data available in relation to this decision set, and that there are essentially two key elements here:

1. how distinct and non-distinct matters are dealt with in the context of the reasonably ancillary requirement;
2. how uplifts from diagnostic to standard A&A are dealt with.

In terms of how the former decision is made, it was stated that equalities considerations should not arise here, but in relation to diagnostic uplifts, equalities considerations do come into play as a matter of our discretion.

## 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.*

No ongoing actions at present.

### 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,*
- *identify where the measure will be reported to ensure any issues can be acted on as appropriate.*

Measure	Lead department/ individual	Reporting (where/ frequency)
<b>Internal data</b> Analysis showing number of applicants who have multiple matters by protected characteristics and subject matters; breakdown by distinct and non-distinct; any rejections in relation to number of grants made;	<b>AMI (data extraction) with Policy (analysis)</b> Suggest this should be explored as part of business impact assessment regarding recording, and options for	Head of Civil and Children's Legal Assistance (yearly).

numbers of requests for uplifts, broken down by subject matter, protected characteristics and grant/refusal.	gathering this information in a manageable way	
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### 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 three years from the policy/practice/process/service implementation date.*

02/11/2025.

### Step 7 - Assessment sign off and approval

*Once final consultation has been undertaken with Corporate Policy Officer (Equalities), all equality impact assessments must be signed off by the relevant Director or Senior Responsible Owner (SRO), even where an EqlA is not required. The Chief Executive must approve all equality impact assessments. Note the relevant dates here:*

**Director/SRO sign off:** 02/11/2022.

**Chief Executive approval:** 02/11/2022.

*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.*