

EQUALITY IMPACT ASSESSMENT

SUMMARY

Title of policy, project or function:

CLAO Business Plan

Is the policy, project or function new (proposed) or already exists?

New

Has a screening exercise been carried out before this full assessment?

No

Key findings from the assessment:

The assessment of equalities impact for the Business Plan has focused on the strategic changes being suggested. The main shift in emphasis is from CLAO being a provider of last resort to being a provider of first resort, which will significantly alter the contact handling process. The core casework subjects will remain the same. Our analysis and wider research evidence suggests that the core casework subjects of housing and debt/money are areas where those with disabilities and those from minority ethnic groups are likely to be over-represented. Shifting from a public facing open-door approach to more focussed referral routes should assist those who struggle with service engagement generally to access legally aided casework services from CLAO.

The shift in contact handling procedures should not have a negative effect on access to legally aided casework services more generally for those with protected characteristics in the areas which CLAO serves. Research has shown that at each additional step to advice, a proportion of people suffer from referral fatigue and stop seeking assistance. Our analysis of CLAO's contact handling information, alongside AA/ABWOR and civil applications data, shows that between 1/5 and 1/3 contacts in any given period come from solicitors in private practice; overall there is no measurable connection between CLAO's presence and enhanced take-up of legally aided work by local solicitors in private practice.

Contact handling research conducted in early 2017, obtained a small sample of 46 respondents. This included analysis by protected characteristics. No differences in experience by protected characteristics were found except with regards to gender, where male respondents were less likely to be satisfied than females across a range of indicators.

Actions as a result of the assessment:

We will look to make the equalities grouping in the CLAO database consistent with those in SLAB's civil applicants survey and the administrative information requested from applicants / assisted persons more generally.



Further client and contact satisfaction work will be undertaken to understand any impacts of the change in process.

Ongoing consideration of the operational impact of implementation will be part of the CLAO Business Plan implementation project. An update to the 2012 operational EqIA is required to reflect current practice.

Date impact assessment published:

08/10/2018

Lead official(s) responsible for assessment:

John Osborne

Department:

Strategic Development Directorate

Name of sponsor/ Director who has signed off that the policy/ function has been sufficiently assessed against the needs of the equality duty:

Anne Dickson, Director of Strategic Development

Date of sign off:

5th September 2018

Step 1 - Examine the information available to assess likely impact of the function/ policy on different equality groups

Describe the policy, project or function. What does it aim to do? What and who will it affect?

The review of the CLAO recommended the following remit for the CLAO network. The remit was formulated in recognition of SLAB being subject to a number of specific duties as a public body (which may be related to inequalities), including the public sector equality duties and corporate parenting obligations.

The remit, purpose and outcomes provide a framework for the range of CLAO activities (direct casework, referral, second tier advice, training, partnership projects, testing for SLAB/SG and children's duty services) to be directed towards addressing local needs by using the full resources of the network. National priorities can also be addressed through project work when necessary. Identifying priorities and allocating resource to address these will be done through the business planning process.

Recommended remit for CLAO

- I. CLAO shall continue to work within the current demand led legal aid system. However, as a finite publicly funded resource it should be targeted at priority activity that is responsive to local people's needs.

Recommended renewed purpose and outcomes

- II. The CLAO's purpose is to contribute to a fairer Scotland by providing and supporting services to resolve or pre-empt legal problems, in a manner which works towards tackling inequalities.
- III. The CLAO will work in partnership with others to deliver a range of activities to support this purpose. The CLAO's work will focus on identifying and addressing legal needs at the earliest appropriate stage to avoid problems escalating both for particular individuals, particular groups of individuals and within the wider community.
- IV. The CLAO will operate a prioritisation framework to ensure that services are targeted towards assisting those individuals and groups of individuals facing the most significant barriers to their access to advice and legal services and where intervention will contribute towards tackling inequalities.
- V. The CLAO aims to address the following outcomes under this purpose:

- a) Contribute to a positive impact on the life chances of people within the community by providing direct casework services to resolve legal problems at the earliest appropriate stage by applying available resources within the CLAO prioritisation framework
- b) Achieve changes in policy and practice designed to pre-empt or minimise problems arising for people through reporting, collaborative working and where necessary the application of high quality legal advice and representation
- c) Facilitate appropriate and effective access to publicly funded solicitor services where necessary and other advice and support that will reduce or resolve problems
- d) Provide a high quality, continuously improving, sustainable and efficient service, with a dedicated, skilled staff team

A key theme that recurred throughout the review was prioritisation and the need to clear space to focus on development activity whilst maintaining direct provision of casework. The renewed purpose implies that particular types of cases or groups of people may be prioritised for admission to the casework service over others. In order to take this forward, the CLAO Head of Service, in consultation with the Strategic Development Directorate, will pilot the use of a prioritisation framework to govern admission to the casework service.

The business plan as developed will mainly change the contact handling process, with casework subject matters remaining constant: but people who are eligible for assistance should get admitted faster.

Core casework areas:

- Housing/homelessness
- Debt/money
- Mental health (Inverness office)
- Family law public (Inverness and Aberdeen offices)

Especially Housing/homelessness and debt are associated with tackling inequalities & those with protected characteristics being more vulnerable to these. There is a lot of evidence that mental health and associated issues are linked to higher problem incidence.

Local experience indicates need for CLAO to assist with public family law.

1.1 What is known about each of the equality groups who might use or be affected by this policy?

Data from contact handling and SLAB's wider application information indicates that the contact handling process has not resulted in any measurable impact on local private provision. Core areas for solicitors in private practice, like private family law, have seen bigger decreases than other parts of the country: but we have seen a big rise in the volume of contacts for this subject area.

Research into civil law problems in England & Wales concludes that: "As has been observed previously, people vulnerable to social exclusion (e.g. lone parents [[90% female](#)], those on benefits, those who have a long-term illness or disability and victims of crime) report problems more often than others." ([report](#))

Race: Support improved living conditions in cohesive communities (source - Is Scotland Fairer? Report)

People from ethnic minorities were affected by a range of detriments in terms of an adequate standard of living:

- They were more likely to be living in relative poverty after housing costs.
- They were more likely to have significant experience of living in overcrowded households.
- Children living in households headed by someone from an ethnic minority were more likely to live in relative poverty after housing costs.
- They were likely to report receiving lower levels of support from family, friends and neighbours compared with White people.

1 in 3 people from a minority ethnic group experienced civil law problems over a five year period compared to 1 in 4 for the general population. The prevalence of civil law problems among a booster sample survey of people belonging to ethnic minority groups in Glasgow West was significantly higher than other groups in Scotland at 36%. [The Experience of Civil Law Problems in Scotland 1997-2004](#)



Sex (gender): there are differences in experiences for this group for domestic abuse, homelessness (Scottish Government statistics as source), divorce (legal aid as source), contact (legal aid as source).

Incidents of domestic abuse recorded by the police in Scotland with a female victim and a male perpetrator represented 79% of all incidents of domestic abuse in 2014-15 where gender information was recorded. Since 2005-06 this percentage share has fallen from 87%. The proportion of incidents with a male victim and a female perpetrator (where gender was recorded) has increased from 11% in 2005-06 to 18% in 2014-15. [Domestic abuse recorded by the police in Scotland, 2014-15](#)

[Link homelessness / low income and domestic abuse](#)

Homelessness [SG 2015/16 overview]: Almost a third of applications were from those aged 25 to 34 years (32% male and 31% female). The proportion of total applicants for those aged 34 and under for males was 57%, and 65% for females. This has slightly decreased over time by a few percentage points (from 63% males and 69% for females in 2002-03 for example). There were 20% of applications from single parent households, most of which were from females (79% of single parent applications)

69% of those in secure care at this date were boys. [Scottish Government, Additional Tables that accompany the Children's Social Work Statistics 2014-15 publication](#)

Gender reassignment: gender reassignment intersects with disability (see below evidence); higher incidence of domestic abuse (Trans UK survey)

Disability: physical accessibility, clear communication, mental health/disability and homelessness (source: SG equality evidence finder); Disabled people remained more likely to live in poverty than non-disabled people. Their level of material deprivation (the 'mean deprivation score') is also higher than for non-disabled people. (source: EHRC report "Is Scotland Fairer?")

The prevalence of civil legal problems is higher for disabled people at 32% as opposed to 23% in the general population. In addition, only 37% of disabled people had solved their problems whereas 51% without a disability had succeeded in resolving their problems. (Scottish Criminal Justice Survey 12/13)



Sexual orientation: higher risk of poor mental health for LGBT people (source: EHRC report “Is Scotland Fairer?”)

Pregnancy and maternity: adoption / permanency, contact, domestic abuse, employment

<http://www.nhs.uk/conditions/pregnancy-and-baby/pages/domestic-abuse-pregnant.aspx>

Age: young people and homelessness (esp. care leavers), higher risk of poor mental health for people aged 25-34 (source: EHRC report “Is Scotland Fairer?”)

Homelessness is biased towards younger age groups. For example, 11% of main applicants assessed as homeless or potentially homeless were aged 16 to 19 years old. However only 1% of households in Scotland are headed by someone aged 16 to 19 years old. Similarly, 20 to 24 years olds make up 18% of cases assessed as homeless or potentially homeless, but only 4% of households are headed by someone in this age group. [Source: HL1 Dataset as at 5 December 2014 and [NRS Household Projections for Scotland, 2012-based \(25 July 2014\)](#)]

People aged over 60 are less likely to have experienced civil legal problems in the last three years than those in other age brackets (11% of those aged over 60 [1.37 probs], compared to 18% of those aged 16-24 [1.72], 29% of those aged 25-44 [1.61], and 24% of those aged 45-59 [1.49]). <http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid/Age/AgeCrimeJust>

Concerns were raised that people with dementia or another cognitive impairment were being confined to hospital wards to safeguard their physical health without any underlying legal process (Scottish Law Commission, 2014). Furthermore, some people in residential facilities were subject to considerable restriction in their daily lives. The Scottish Law Commission (2014) called for an authorisation process and proposed some reforms. (source: EHRC report “Is Scotland Fairer?”)

Religion and belief: no evidence of potential issue found - except where experiencing direct/indirect discrimination

Marriage and civil partnership: divorce / dissolution can only affect this group



Contact handling research conducted in early 2017, obtained a small sample of 46 respondents. This included analysis by protected characteristics. No differences in experience by protected characteristics were found except with regards to gender, where male respondents were less likely to be satisfied than females across a range of indicators.

1.2 Are there any gaps in understanding of your policy/ function in relation to equality groups? *You should think about opportunities to fill any gaps in evidence through your consultation plans for the policy/ function at Step3.*

There are gaps in the administrative data available from the CLAO, due to the way the database has been constructed. CLAO staff report that all their clients have vulnerabilities.

The information we have from the CLAO feedback forms suggests that, compared to the general population of civil legal aid applicants who responded to the last applicant survey, a higher proportion of people with disabilities receive help from the CLAO. No difference seen in gender make up. Comparisons on other protected characteristics were unreliable as the groups do not match up.

We have consulted with local groups, including those representing people with protected characteristics, as part of the review which preceded the business planning process.

Step 2 - Impacts on priority characteristics and suggested steps to address these

Does the policy/ function have any impacts (whether intended or unintended, positive or negative) on any of the equality groups? Describe for each group the ways in which the policy, as it is planned or as it operates, might have negative and/ or positive impacts. You should answer these three questions for each group:

- 1) Is there potential for discrimination?
- 2) Is there potential for developing good relations?
- 3) Is there potential to advance equality of opportunity?

For all Protected Characteristics:

Is there any potential impact? Yes

Please explain your answer:

The shift in contact handling procedures should not have a negative effect on access to legally aided casework services for those with protected characteristics in the areas which CLAO serves. We do not expect there to be discrimination in how the new process operates.

Research has shown that at each additional step to advice, a proportion of people suffer from referral fatigue and stop seeking assistance. By reducing these steps, there is potential to advance equality of opportunity. The new process is designed so that access to the CLAO service is simplified and expedited for those matter types that are deemed core. CLAO's referral and signposting service will remain core so people contacting CLAO in relation to non-core matters will still be provided with some form of assistance in resolving their issue.

Our analysis of CLAO's contact handling information, alongside AA/ABWOR and civil applications data, shows that between 1/5 and 1/3 contacts in any given period come from solicitors in private practice; overall there is no measurable connection between CLAO's presence and enhanced take-up of legally aided work by local solicitors in private practice.

The change in contact handling procedures has been piloted with further baseline data being produced, which should include information relevant to groups with protected characteristics.

Operational processes will be reviewed as part of the implementation of the business plan deliverables.

Review of the operational EqIA from 2012 has resulted in a number of action points which are noted in that document and collated at the end of this assessment.

Where there is potential for indirect/ direct discrimination, what can you do to reduce or eliminate this risk?

The shift in prioritising core over non core matter types has been transitioned to in advance of the mid May 2017 go live date and although there have not been any obvious issues in relation to direct or indirect discrimination revealed during the transition period the new contact handling process will be monitored as the operational phase progresses.

Do you need to make changes to your policy or function on the basis of this assessment?

No change in policy is recommended at this stage.

From review of 2012 initial EqIA, the following actions arise:

1. Update the operational EqIA to align with business plan approach

Contact handling research suggests that male contacts were less satisfied than females across a range of measures, although this was based on a small sample of 46 people. Further research into client and contact experience should be conducted to explore whether this is a real difference and, depending on the results, what may be causing it.

Further work is planned for 2018, covering both clients and contacts. This is currently being procured.

What is the likely impact of these changes on the plans for the policy/ function? (resources, cost, timings etc.)

Having reviewed the implementation of the plan, no policy change is required.



Step 3 - Consultation and stakeholder engagement

Do you/did you have any consultation/ involvement planned for the policy/ function?

Yes

What do you hope to achieve from your consultation/ involvement?

This is formulated in the stakeholder engagement and communications plan. It is based on the premise of establishing a flow of work to the CLAO that is consistent with the core matter types that have been identified for the specific CLAO offices and clarifying with stakeholders what the role of CLAO is and the extent to which its service can assist stakeholders. The intention is to ensure that people receive the most appropriate route to the resolution of their problem and that only those who CLAO can help should be referred to them.

List the main stakeholder agencies that you intend to or have already discussed this policy with. Give details of any equality groups represented.

A range of local solicitors, public sector authorities, advice sector agencies, local advocacy organisations (including mental health advocacy) and SLAB staff have been consulted as part of the review.

Further stakeholder agencies have been identified in the plan for the implementation project and include: The Law Society of Scotland, Local bar associations and solicitors; Advice agencies/advocacy services/third sector; NHS Trusts/local authorities; courts tribunals/SCRA; MSPs/councillors



Step 4 - Discuss and review the assessment with decision makers and governance structures

You must discuss the results with senior decision makers before you finalise the assessment.

Give details of the governance structures you will report, or have already reported, to about this assessment.

A paper on key equalities considerations was discussed at the CLAO business plan development project board on 10 August 2016. The interim EqIA has been tabled for discussion at the 31 October 2016 CLAO business plan implementation project board.

The updated version of the EqIA will be considered by the Business Plan Implementation Project Board at its meeting on 18 June 2018.

If you have presented the results of the assessment to the groups you have listed above please include the date you presented to each group listed.

See above.

Will there be any changes made to the plans for the policy/ function or actions as a result of this assessment?

Yes

If yes, give details of likely changes and actions arising from this assessment.

We will look to make the equalities grouping in the CLAO database consistent with those in SLAB's civil applicants survey and the administrative information requested from applicants / assisted persons more generally.

The source for "special needs notes" will be clarified in the deliverable relating to consistent recording of information on the CLAO database.

Ongoing consideration of the operational impact of implementation will be part of the CLAO Business Plan implementation project.



Step 5 - Publication and review of EQIA

All assessments must be published as early as possible after the decision is made to implement a new policy or function.

Date of publication:

08/10/2018

Review date:

01/05/2019