



# Disability Equality Scheme Research

## Scottish Legal Aid Board

### Final Report

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## 1 Introduction

### Background

- 1.1 The Scottish Legal Aid Board (SLAB) is currently in the process of developing its Disability Equality Scheme. The Board has a duty to involve disabled people in the development of the scheme, and whilst it has plans for how to achieve this in the long term, it wants to gain insight into the priorities it should have for action at an early stage.
- 1.2 SLAB commissioned Blake Stevenson Ltd to carry out two focus groups, one with disabled people and one with a group of solicitors familiar with the legal aid system and with experience of advising disabled people. The aim of the focus groups was to gather views on which of the functions of the Board appear to be of greatest relevance to its disability equality public sector duty responsibilities.

### Methods

#### *Research with Solicitors*

- 1.3 Our initial investigations established that undertaking a focus group with legal aid solicitors within the short timescale for the research would have been extremely difficult due to the considerable demands upon solicitors' time and the fact that they may be called to court or have to deal with a particular client at very short notice.
- 1.4 Therefore it was agreed that we would undertake telephone interviews with a number of appropriate solicitors. We used our existing contacts in the Glasgow law centres to identify seven solicitors with experience of legal aid work and experience of disability law and working with disabled people and arranged telephone interviews with these solicitors.
- 1.5 Prior to each telephone interview we sent the solicitor a background sheet explaining SLAB's nine areas of work, and a list of the questions we wanted to discuss with them. A copy of the background sheet is attached at Appendix 1, and a copy of the telephone interview schedule is provided at Appendix 2.

### ***Focus Group with Disabled People***

- 1.6 We organised the focus group with disabled people through the Glasgow Centre for Inclusive Living, a user-led disability organisation. We carried out the focus group with disabled staff at the Centre. Focus group participants had a range of disabilities including physical disability, sensory impairment and epilepsy.
- 1.7 Prior to setting up the focus group with the Centre for Inclusive Living we had contacted a range of disability organisations to try and arrange the focus group with disabled people, including Glasgow Disability Alliance, the Edinburgh Disability Equality Forum, and Inclusion Scotland, however due to the short timescale for the research none of these organisations were able to assist.
- 1.8 At the focus group we distributed the background sheet explaining SLAB's areas of work, and asked participants to consider which areas they thought were priorities for disabled people applying for legal aid. We then went on to discuss the reasons behind their choices, and what action they thought SLAB should take in relation to these areas. The focus group schedule is attached at Appendix 3.

## 2 Research Findings

### Priority Areas for Action

2.1 We asked solicitors and disabled people to identify which three of the following nine areas of SLAB's work they thought were the most important to disabled people applying for legal aid:

- providing information about legal aid;
- registering and checking providers of legal aid;
- checking whether people are eligible for legal aid;
- administering the legal aid fund;
- providing legal assistance by employing solicitors;
- managing the 'duty solicitor' scheme;
- recruiting and employing people;
- providing corporate functions internally;
- providing advice to government and others on how legal aid is working.

2.2 There was a broad range of opinions amongst solicitors about which areas of SLAB's work are most important to disabled people applying for legal aid. No two solicitors selected the same three areas. Table 1 shows the number of solicitors who selected each area as a priority.

**Table 2.1**

Area of SLAB's work	Number of solicitors selecting this as a priority
Providing information about legal aid	5
Registering and checking providers of legal aid	4
Recruiting and employing people	3
Checking whether people are eligible for legal aid	2
Providing advice to government and others on how legal aid is working	2
Providing legal assistance by employing solicitors	2
Managing the 'duty solicitor' scheme	1
Administering the legal aid fund	1
Providing corporate functions internally	0

*\*One solicitor only selected two areas*

- 2.3 Table 2.1 shows that providing information about legal aid was seen by solicitors as the most relevant area of SLAB's work for disabled people applying for legal aid, followed by registering and checking providers of legal aid, and recruiting and employing people.
- 2.4 No solicitors thought that SLAB's internal corporate functions were particularly important to disabled people applying for legal aid, and only one solicitor thought that either managing the duty solicitor scheme or administering the legal aid fund were priorities for disabled people.
- 2.5 There was some correlation between the top three choices for solicitors, and the areas selected as priorities by the focus group with disabled people.
- 2.6 As with the solicitors, the focus group participants agreed that the provision of information about legal aid and its approach to recruiting and employing people are amongst the most important areas of SLAB's work for disabled people applying for legal aid.
- 2.7 However, the focus group participants also indicated that SLAB's internal corporate functions are important for disabled people – an area of work not seen as a priority by any of the solicitors interviewed.
- 2.8 Focus group participants thought that SLAB's roles in registering and checking providers of legal aid, and providing legal assistance by employing solicitors were closely linked, and also saw these as important areas.

### **Importance of Priority Areas**

- 2.9 According to both solicitors and disabled people, the most important areas of SLAB's work for disabled people applying for legal aid are:
- the provision of information on legal aid;
  - recruiting and employing people; and
  - registering and checking providers of legal aid.
- 2.10 Disabled people also see SLAB's corporate functions as being important, and closely linked to its approach to recruitment and employment.

### ***Providing Information***

- 2.11 Both solicitors and disabled people think that the provision of information about legal aid by SLAB is very important, because disabled people may be in particular need of legal aid. In order for them to be able to receive this, and therefore be in a position to undertake a legal action, they need to have information about what legal aid is, how they can apply for it and what they may be entitled to.

### ***Recruitment, Employment and Corporate Functions***

- 2.12 Solicitors and disabled people agreed that SLAB's approach to recruitment and employment is very important for disabled people. However, the research participants gave a wide variety of reasons as to why they thought this issue was important:
- by employing and training disabled people SLAB would be building these people's capacity and skills;
  - if SLAB employs a number of disabled people then this is likely to make disabled people in general feel more comfortable and confident in using its services;
  - if SLAB is to give particular consideration to the needs of disabled people in carrying out its external duties then it should also do this internally;
  - SLAB should provide disability awareness training for all its staff – to make them aware of the particular needs of disabled people, and to help them better understand the complexities and challenges involved in undertaking legal work with disabled people.

- 2.13 Disabled people participating in the focus group made a link between SLAB's approach to recruitment and employment and its internal corporate functions. Participants indicated that for SLAB to successfully recruit and employ disabled people, its internal functions must be set up to support this, and SLAB's organisational culture needs to ensure that disabled staff feel safe and comfortable in declaring that they have a disability and seeking support with this.

### ***Registering and Checking Providers***

- 2.14 Four out of the seven solicitors who we interviewed indicated that SLAB's role in registering and checking providers of legal aid is particularly important to disabled people applying for legal aid, in order to ensure that high-quality services are in place and to provide assurances to potentially vulnerable disabled clients that a solicitor has been subject to the appropriate checks. One solicitor suggested that checks to ensure solicitors' services are accessible to people with disabilities could be linked to legal aid accreditation for a solicitors' practice.
- 2.15 Disabled people participating in the study agreed that SLAB's role in registering and checking providers of legal aid is an important issue for disabled people.
- 2.16 Focus group participants believe that SLAB has a duty to ensure that the solicitors to whom they provide legal aid take appropriate account of disability equality issues, for example putting in place measures such as disability awareness training. The focus group linked this issue to SLAB's function of providing legal assistance by employing solicitors, suggesting that in these situations SLAB has a duty to ensure that the solicitors it employs are aware of the particular needs of disabled people.

### ***Other Areas of SLAB's Work***

- 2.17 As described above, the solicitors that we interviewed had a broad range of opinions on which areas of SLAB's work are most important to people with disabilities applying for legal aid.
- 2.18 Two solicitors suggested that SLAB's function of checking whether people are eligible for legal aid is a priority for disabled people because this may determine whether or not they can afford to proceed with a particular legal matter.
- 2.19 A further two solicitors indicated that providing legal assistance by employing solicitors is an important issue, as some of this work is directly targeted at disabled people, who have often been under-represented in legal services in the past.

- 2.20 One solicitor thought that SLAB's administration of the duty solicitor scheme is particularly important to disabled people, as disabled people have particular rights when they are arrested and the police and duty solicitors may not be aware of these rights.
- 2.21 Finally, one solicitor said that the administration of the legal aid fund was highly relevant to disabled people, because there needs to be recognition in the provision of legal aid for the extra time and costs that can be involved for solicitors in undertaking legal work with disabled people.

### **Action for SLAB**

- 2.22 Research participants suggested a number of different actions that SLAB should take in the areas of its work that are important for disabled people.
- 2.23 These are set out below, and are also included in a consolidated matrix in Appendix 4.
- 2.24 In terms of providing advice on legal aid, participants recommended that SLAB should:
- provide information in a range of suitable formats – for example Braille, large text, audio tape, very basic information leaflets, etc;
  - ensure that its website is suitable for people with different types of disabilities;
  - set up an easy-to-use, interactive tool on its website so people can calculate how much legal aid they may be entitled to;
  - disseminate information about legal aid through established disability organisations.
- 2.25 To ensure that its approach to recruitment and employment meets the needs of disabled people, participants suggested that SLAB should:
- provide disability equality training for all staff;
  - ensure that all staff recognise the extra time and costs involved for solicitors working with disabled people;
  - encourage and support disabled people to apply for posts that they may initially think they were not eligible for;

- provide information about job opportunities, the job interview process and other parts of the recruitment process in a range of suitable formats;
- review its policies in relation to recruitment and employment to ensure these sufficiently recognise and address the needs of disabled people;
- ensure that its premises are accessible to disabled people.

2.26 Participants in the disabled people's focus group stated that SLAB's internal corporate functions are closely linked to its recruitment and employment approach, and suggested that in taking forward these functions SLAB needs to be aware of the following issues:

- including disabled people in an organisation may require proactive measures to involve disabled people – such as establishing a disabled people's consultation reference group;
- for the Disability Equality Scheme to be effective it needs to be supported and promoted at a senior level within SLAB, and progress on the scheme needs to be monitored, evaluated and reported on a regular basis;
- when collecting data on applications for legal aid, take up of legal aid, and success of legal aid cases, SLAB needs to break the data down to identify how these issues are working for disabled people compared to the population as a whole;
- any new policy or procedure should be impact tested, to assess what specific impact it is likely to have for disabled people.

2.27 In relation to its role in registering and checking providers of legal aid, participants believed that SLAB could:

- check whether solicitors' services are accessible to people with a disability including, for example checking if home visits are available if solicitors' premises are not easily accessible, and linking these checks to legal aid accreditation;
- check whether solicitors have received training in disability issues;
- develop a register of solicitors with specialist expertise in working with disabled people and in disability law;
- become more involved in assessing and policing quality standards.

- 2.28 Disabled people participating in the focus group saw similarities between this function and SLAB providing legal assistance by employing solicitors. Research participants recommended that when SLAB is fulfilling this latter role it should ensure that its solicitors have received disability equality training. One solicitor also suggested that SLAB should seek to establish a new Part 5 legal aid project to take forward work on Part 2 of the Disability Discrimination Act.
- 2.29 Two solicitors said that it was important for SLAB to provide advice to government and other agencies on how legal aid is working. Research participants suggested SLAB might do this by:
- checking how many legal aid cases occur in relation to issues specifically affecting disabled people, for example in relation to the Disability Discrimination Act, and assessing this against anticipated demand; and
  - gathering grass-roots feedback from disabled people and solicitors, to find out if disabled people are using the legal aid system and with what effect, and identify what extra advice, information and services are needed for disabled people.
- 2.30 One solicitor suggested that SLAB's roles in managing the duty solicitor scheme and administering the legal aid fund are particularly important for disabled people. They suggested that SLAB should ensure that duty solicitors receive information and training on disabled people's specific rights and needs, and that SLAB should recognise the extra time and costs involved for solicitors undertaking work with disabled clients.
- 2.31 In terms of checking whether people are eligible for legal aid research participants simply stated that the financial criteria for accessing legal aid should not be set up in a way that makes it difficult for disabled people to access it.

### **Experiences of Working with SLAB**

- 2.32 Research participants generally had positive experiences to report of their previous dealings with SLAB.
- 2.33 They indicated that the process of applying for legal aid is clear and that clients are given a clear understanding of what they are entitled to.
- 2.34 One solicitor indicated the provision of legal aid funding for discrimination tribunals is extremely positive, making it easier for disabled individuals to take forward these cases, leading to an increase in case numbers and subsequent developments in case law.

- 2.35 Another solicitor highlighted actions that have been undertaken to identify abuses of legal aid in some fields, the effectiveness of some peer review systems, and the quality of a number of the Part 5 legal aid projects in Scotland. However, a separate solicitor suggested that the level of case work in Part 5 projects is not as high as it could be, and that this may deter some solicitors from applying for Part 5 posts.
- 2.36 Some interviewees indicated that there is a need for all SLAB staff to be made aware of the complexities and challenges involved in disability law cases, or in cases where the client is disabled. One solicitor stated that they had not been able to get legal aid forms in Braille in the past, although they highlighted that this was a number of years ago.
- 2.37 One solicitor stated that SLAB should campaign to have advice and assistance provided on a non-means tested basis in welfare cases, and non-means tested legal aid provided for mental health cases in the Sheriff Court.

### **Promotion of Equality for Disabled People**

- 2.38 Research participants stated that by addressing disability equality issues within each area of their work SLAB would help to promote the equality of disabled people in a number of ways:
- providing job opportunities for disabled people;
  - improving disabled people's access to legal services in general;
  - becoming a model of good practice for dealing with disability equality issues and promoting the inclusion of disabled people.

### 3 Summary

- 3.1 The research with solicitors and disabled people identified that the following areas are priorities for SLAB in ensuring that its Disability Equality Scheme meets the needs of disabled people:
- the provision of information about legal aid;
  - recruiting and employing people;
  - internal corporate functions;
  - registering and checking providers of legal aid, including those solicitors employed directly by the Board.
- 3.2 Whilst these are the priorities, all areas of SLAB's work were seen as particularly important to disabled people by at least one research participant.
- 3.3 Research participants suggested a range of actions that SLAB may undertake in each area of its work, to ensure that it is geared to meeting the specific needs of disabled people. Suggested actions included:
- providing information on legal aid in a variety of formats;
  - disseminating information about legal aid through established disability organisations;
  - checking whether solicitors' services are accessible and suitable to people with a disability;
  - providing disability equality training for all SLAB staff;
  - providing information about job opportunities in SLAB in a range of formats; and
  - monitoring, evaluating and reporting on progress on the Disability Equality Scheme on a regular basis.
- 3.4 All the actions suggested by research participants are set out in a matrix in Appendix 4.
- 3.5 By undertaking these actions research participants stated that SLAB would be promoting the overall equality of disabled people in a variety of different ways.

## Appendix 1

### Scottish Legal Aid Board – Background Sheet

The Scottish Legal Aid Board is in the process of developing its Disability Equality Scheme. The Board addresses the needs of disabled people in all areas of its work. It is looking for ways to **stop discrimination** and to **promote equality**.

The Scottish Legal Aid Board would like your help in selecting which of these areas are most important to disabled people applying for legal aid.

This might mean that you think the Board should look at these areas first, or that these are the ones that the Board should do most about.

#### **The Scottish Legal Aid Board's areas of work are:**

**A. Provide information about legal aid.**

This includes information for solicitors, applicants for legal aid and the general public. Leaflets, a telephone helpline, the annual report and a newsletter for solicitors are some of the ways the Scottish Legal Aid Board provides information.

**B. Register and check providers of legal aid.**

Register solicitors who do legal aid work, and undertake regular checks to make sure it is being done properly.

**C. Check whether people are eligible for legal aid.**

Look at the financial situation of applicants, and whether there is a legal basis for the work they want a solicitor to do.

**D. Administer the legal aid fund.**

This includes making payments to solicitors and getting back money that is owed to the Scottish Legal Aid Board.

**E. Provide legal assistance, by employing solicitors.**

The Scottish Legal Aid Board employs some solicitors to provide legal assistance. This is a new scheme. We hope it will make it easier for people to find solicitors to do the work they want.

**F. Manage the 'duty solicitor' scheme.**

The 'duty solicitor' scheme means that a legal aid solicitor is available at all times in criminal courts.

**G. Recruit and employ people.**

As an employer the Scottish Legal Aid Board has to recruit new staff, develop and train existing staff and manage pay and other conditions (eg pension).

**H. Provide 'corporate functions' internally.**

Corporate functions include Information Systems, building management and so on. They enable other staff to do their work.



**I. Provide advice to Government and others on how legal aid is working.**

This includes research and financial reporting. It may result in changes to how legal aid is run.

## Appendix 2

### Solicitors' Telephone Interview Schedule

Of the nine areas of the Scottish Legal Aid Board's work listed on the Background sheet, which three do you think are most important to disabled people applying for legal aid?

Why did you select these particular areas? Why are these areas important?

What action should the Scottish Legal Aid Board take in relation to these areas?

Have you had any positive experiences with the Scottish Legal Aid Board in relation to the areas you have selected?

Have you had any negative experiences with the Scottish Legal Aid Board in relation to the areas you have selected?

Is there any way in which the selected areas could be used to promote equality of those with disabilities?

Is there anything else the Scottish Legal Aid Board should do to improve the functioning of the selected areas for other disabled people?

### Appendix 3

## Disabled People Focus Group Schedule

- Round table introduction
- Description of research and how the focus group data will contribute to it
- Hand out Background sheet to participants and ask them to read it

Of the nine areas of the Scottish Legal Aid Board's work listed on the Background sheet, which three do you think are most important to disabled people applying for legal aid? (*Agree 3-4 areas amongst group*)

Why did you select these particular areas? Why are these areas important?

What action should the Scottish Legal Aid Board take in relation to these areas?

Have you had any positive experiences with the Scottish Legal Aid Board in relation to the areas you have selected?

Have you had any negative experiences with the Scottish Legal Aid Board in relation to the areas you have selected?

Is there any way in which the selected areas could be used to promote equality of those with disabilities?

Is there anything else the Scottish Legal Aid Board should do to improve the functioning of the selected areas for other disabled people?

## Appendix 4

## Suggested Actions for SLAB

SLAB's Area of Work	Suggested Actions for SLAB from Research Participants
Providing information about legal aid	<p>Provide information in a range of suitable formats – for example Braille, large text, audiotape, very basic information leaflets, etc.</p> <p>Ensure that its website is suitable for people with different types of disabilities.</p> <p>Set up an easy-to-use, interactive tool on its website to allow people to calculate how much legal aid they may be entitled to.</p> <p>Disseminate information about legal aid through established disability organisations.</p>
Registering and checking providers of legal aid	<p>Check whether solicitors' services are accessible to people with a disability including, for example, checking if home visits are available if solicitors' premises are not easily accessible, and link these checks to legal aid accreditation.</p> <p>Check whether solicitors have received training in disability issues.</p> <p>Develop a register of solicitors with specialist expertise in working with disabled people and in disability law.</p> <p>Become more involved in assessing and policing quality standards.</p>
Checking whether people are eligible for legal aid	<p>Ensure that the financial criteria for accessing legal aid should not be set up in a way that makes it difficult for disabled people to access it.</p>
Administering the legal aid fund	<p>Ensure all staff recognise the extra time and costs involved for solicitors undertaking work with disabled clients.</p>
Providing legal assistance by employing solicitors	<p>Ensure that its solicitors have received disability equality training.</p> <p>Establish a new Part 5 legal aid project to take forward work on Part 2 of the Disability Discrimination Act.</p>
Managing the 'duty solicitor' scheme	<p>Ensure that duty solicitors receive information and training on disabled people's specific rights and needs.</p>

SLAB's Area of Work	Suggested Actions for SLAB from Research Participants
<p>Recruiting and employing people</p>	<p>Provide disability equality training for all staff.</p> <p>Ensure that all staff recognise the extra time and costs involved for solicitors working with disabled people.</p> <p>Encourage and support disabled people to apply for posts that they may initially think they were not eligible for.</p> <p>Provide information about job opportunities, the job interview process and other parts of the recruitment process in a range of suitable formats.</p> <p>Review its policies in relation to recruitment and employment to ensure these sufficiently recognise and address the needs of disabled people.</p> <p>Ensure that its premises are accessible to disabled people.</p>
<p>Providing corporate functions internally</p>	<p>Undertake proactive measures to involve disabled people – such as establishing a disabled people's consultation reference group.</p> <p>Ensure that the Disability Equality Scheme is supported and promoted at a senior level.</p> <p>Monitor, evaluate and report on progress on the Disability Equality Scheme on a regular basis.</p> <p>When collecting data on applications for legal aid, take up of legal aid, and success of legal aid cases, break the data down to identify how these issues are working for disabled people compared to the population as a whole.</p> <p>Conduct an impact assessment of any new policy or procedure to assess what specific impact it is likely to have for disabled people.</p>

<p>Providing advice to government and others on how legal aid is working</p>	<p>Check how many legal aid cases occur in relation to issues specifically affecting disabled people, for example in relation to the Disability Discrimination Act, and assess this against anticipated demand.</p> <p>Gather grass-roots feedback from disabled people and solicitors, to find out if disabled people are using the legal aid system and with what effect, and identify what extra advice, information and services are needed for disabled people.</p>
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