

EQUALITY IMPACT ASSESSMENT (EqIA)

Summary results of the EqIA

Title of policy/ practice/ process/ service:

Section 31 Procedure

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

Review and revision of current policy

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

Equalities impacts are limited due to the specialised/particular nature of the procedure

Summary of actions taken because of this assessment:

Adjustment of the procedure to include monitoring impacts going forward

Ongoing actions beyond implementation include:

Monitoring impacts

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

Solicitor, Legal Services

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

Principal Legal Adviser

Publication date (for completion by Communications):

04/10/2021

Step 1 - Framing the planned change

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

1.1 Briefly describe the aims, objectives and purpose of the policy/ practice/ process/ service. *You can use the information in your project specification, business case etc.*

Under Section 31 of the Legal Aid (Scotland) Act 1986, SLAB may exclude a solicitor or advocate from providing legal aid where there is good reason to do so. This arises infrequently but when it does arise, it usually is based on behaviours such as alleged misconduct or incompetence.

The Section 31 Procedure is a procedure setting down the administrative process and procedure for handling cases where SLAB is considering exclusion. The final determination and decision making is carried out by a committee of the Board. The procedure details the administrative steps and process followed prior to and at the points where the committee considers the case.

The decisions which the section 31 committee makes are case and person specific and are concerned ultimately with whether or not a solicitor or advocate can provide legal aid. The decision to exclude does not remove the right of practice.

The section 31 policy, since its inception, has incorporated provision to invite respondents to make SLAB aware of relevant protected characteristics to support any reasonable adjustments to the procedure. Such adjustments could and would be made to the documentary elements of the procedure, to timescales, and to the nature and format of any hearings. The procedure is very flexible. The section 31 committee ultimately making exclusion decisions is also able to give full regard to equality where made, or are, known in both evaluations/assessments and decisions. The committee can also have regard to wider equalities impacts of its decision both in relation to

the respondent and the service the respondent provides. The latest review has added monitoring of equalities elements and issues to the procedural operation.

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

There has been a routine review, as well as a change to roles in the operation of the procedure

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

Principally the policy affects any solicitor or advocate who by virtue of misconduct, incompetence or otherwise presents as potentially for consideration for exclusion from providing legal aid.

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

August 2021

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

None

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

2. 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.

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 (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Age	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1) Centre for Policy on Ageing - Rapid review 2016 (2) No equality data is available in relation to advocates in Scotland.	(1) 32% of all solicitors in Scotland are aged between 26 and 35, 26% are between 36 and 45, 23% are between 46 and 55 and 15% are between 56 and 65.. (2) The percentage of individuals with a disability increase with age. See 'Disability' for specific consideration of evidence for that group.

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Disability	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1) Citizen's Advice - reasonable adjustments. No data exists relating to advocates.	(1) Approximately 5% of the solicitor population surveyed by the LSS reported as having a disability. This figure may be higher as some solicitors may have opted not to respond. The most common disabilities reported included long term illness or condition, physical disability, stress/ anxiety, deafness or partial hearing loss, learning difficulty or another mental health condition.
Race	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1) No data exists relating to advocates.	(1) Approximately 88% of the solicitor population is white, with 3.38% of the population BAME and the rest opting not to say or "other."

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Sex	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1) Scotland's Carers report - Scottish Government (2)	(1) 55% of the solicitor population is female, with the remaining 45% male. (2) 41% of carers are men and 59% are women. Working age women are much more likely to be carers than men.
Gender Reassignment	No evidence exists pertaining to this protected group.	
Sexual orientation	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1)	(1) 85% of solicitors reported as straight, with approximately 4% reporting as gay/lesbian and 3% as LGBTQ+

Equality characteristics	Evidence source (e.g. web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/ practice/ process/ service? Lack of evidence may suggest a gap in knowledge/ need for consultation (step 3).
Religion or Belief	https://www.lawscot.org.uk/research-and-policy/equality-and-diversity/research/lawscotpop/ (1) .	46.5% of solicitors have stated that they do not have a religious belief, with 37.55% stating they are Christian, 12.69% preferring not to say, 1.39% Islam etc
Pregnancy or maternity	NHS info - pregnancy and common symptoms (1) https://www.laleche.org.uk/breastfeeding-public-spaces/ (2)	Back pain and limitations to mobility are common during pregnancy.(1) According to the Equality Act of 2010, treating a woman unfavourably because she is breastfeeding a child of any age is considered sex discrimination.(2)
Marriage or civil partnership	n/a	n/a
Care Experienced (<i>corporate parenting duty</i>)	No evidence exists relating to care experienced.	n/a

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.

Not particular important. Awareness and response to awareness are key in specific cases, but beyond that there is no substantial or widespread equalities impact.

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

Outcome of Step 2 following initial evidence gathering and relevance to equality characteristics	Yes/ No (Y or N)	Next steps
There is no relevance to equality or our corporate parenting duties	N	Proceed to Step 5: agree with decision makers that no 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.

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

No

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

n/a

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

n/a

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

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

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

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

In the tables below, record the impact of the policy/ practice/ process/ service, as it is planned or as it operates, might have on each equality characteristic and describe what changes in policy/ practice/ process/ service or actions will be required to mitigate that impact. Copy any actions across to the project action log.

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

potential to advance equality of opportunity			X	
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Sex	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination		X		The procedure may impact on females disproportionately on the basis that they are, in the majority of instances, primary carers. Therefore, it may be more difficult for female care givers to dedicate time to attend hearings or participate in the procedure. This is mitigated by the procedure being flexible and hearings can be arranged remotely and at varying times of the day so as to allow individuals with child/elder care responsibilities an optimal opportunity to attend proceedings.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Disability	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or
	Positive impacts	Negative impacts	No impact	

				record your justification to not make changes despite the potential for adverse impact.
potential for discrimination		X		To mitigate the potential for negative impacts, the policy is supportive of reasonable adjustments and a flexible approach to the section 31 procedure to accommodate accessibility and effective participation. In terms of hearings, unless by video, these would be held at our Thistle House offices which are equipped for accessibility. The policy will provide for the monitoring and logging of equalities impacts.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

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

potential to advance equality of opportunity			X	
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Race	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Religion or Belief	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination		x		The procedure may cut across some non-Christian religious holidays and festivals, which may impact upon attendance/participation. We will mitigate this by providing the opportunity to notify SLAB of their preferences in terms of hearings/meetings in order that such a consequence can be avoided.

potential for developing good relations			X	
potential to advance equality of opportunity			x	

Sexual Orientation	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Pregnancy & Maternity	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. E.g. to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination		X		Pregnant solicitors and those who have recently given birth may find it difficult to attend in-person meetings. Solicitors and advocates have the opportunity to advise SLAB of their

				personal circumstances in order that the procedure can be adapted to respond to their needs. Again, hearings can be accommodated remotely etc in order to mitigate any issues faced by someone who is pregnant or on maternity leave and who is breastfeeding.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

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

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

No further impacts in other areas of section 31 procedure have been identified.

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
	No major change

X	Adjust the policy/ practice/ process/ service The policy has been adjusted in include monitoring.
	Continue the policy/ practice/ process/ service with adverse impact
	Stop and remove the policy/ practice/ process/ service

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

You **must** discuss the findings of this assessment with senior decision makers during the lifetime of the project/ review and before you finalise the assessment. Relevant groups include, but are not limited to, a Project Board, Executive Team or Board members. EqlA should be on every project board agenda therefore only note dates where key decisions have been made (e.g. draft EqlA sign off, discussion about consultation response).

- 4.1 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.

Executive Team - August 2021

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.

- 4.1 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.

There are no outstanding actions

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

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

Measure	Lead department/ individual	Reporting (where/ frequency)
Section 31 Procedure Equalities Monitoring Log	Legal Services - Solicitor	Principal Legal Adviser - six monthly
Section 31 Procedure Equalities Monitoring Report	Principal Legal Adviser	E.T. Annually

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

01/07/2024

Step 7 - Assessment sign off

All equality impact assessments must be signed off by the Executive Team, even where an EqlA is not required. Note the relevant meeting date here:

20/08/2021

Approved: the Chief Executive's Office will pass the assessment to Communications for publication on our website. All assessments must be published on SLAB's website as early as possible after the decision is made to implement the policy/ practice/ process/ service.

Not approved: you must review this assessment in line with the Executive Team's comments.