

Scottish Legal
Aid Board

**SLAB stakeholder
engagement: changes to
civil legal aid means
assessment
December 2025**

The Scottish Legal Aid Board

www.slab.org.uk

SLAB stakeholder engagement: changes to civil legal aid means assessment

Executive summary

SLAB has approval in principle from the Scottish Government to introduce the following changes to civil means assessment:

- a new standard personal allowance will be given to all applicants in the calculation of disposable income
- existing individualised discretionary allowances will no longer be given, other than in exceptional circumstances
- the calculation of the initial band of income contributions will be reduced to 25% of relevant disposable income (from 33%)
- all income contributions will be payable over 20 months (rather than from 12 to 48 months).

Our view is that overall, these changes will simplify the system and increase ease of access; reduce the administrative burden on applicants, solicitors, and SLAB; embed a more progressive system of contributions; and improve the rate at which SLAB collects contributions.

We are seeking stakeholder views on these changes with a view to understanding any unidentified impacts and refining them prior to implementation.

Why are we consulting?

- 1) As part of our ongoing work to review our policies and guidance, we identified areas of our decision making where change or improvement may be possible within the current statutory framework. Our assessment is that one such area is the processes and decisions involved in means assessment. We developed and appraised options and recommended change to the Scottish Government. We are now seeking input from stakeholders to review our assumptions.
- 2) We have recommended improvement to the means assessment process within civil legal assistance in relation to a) the calculation of disposable income and b) the calculation and collection of contributions and intend to implement these in 2026. Before doing so, we intend to gather and consider stakeholder views on these changes.
- 3) It is important to note that the changes described in this document have been under development for some time. We are keen to stress that these proposals are not intended as our response to the issues raised in either of the two recent parliamentary Committee reports, or by stakeholders in their evidence to those Committees. We will continue to review the full range of our policies in this area and

to seek improvements and simplification to civil means assessment wherever possible, both as part of our policy of ongoing policy review and within the context of SG's programme of legal aid reform.

Background to SLAB and civil means assessment

- 4) SLAB was set up in 1987 to manage legal aid in Scotland. We are a non-departmental public body responsible to the Scottish Government. Our core business is taking decisions in connection with applications for legal aid, and – where solicitors are responsible for taking decisions – to perform a checking and validation role. You can find out more about what we do on [our website](#).
- 5) Our powers, functions and duties are set out in the legal aid legislation. That legislation defines precisely how some elements of the legal aid regime must operate, but SLAB is also given discretion in relation to the operation of other elements. As a public body, we are also subject to a range of wider duties and requirements from a public finance perspective: for instance, best value and accountability for public funds. These help to shape how we apply the discretion given to us by the legal aid legislation itself.
- 6) Civil means assessment is an example of an area in which some aspects of our decision-making (e.g. on statutory allowances for some costs) are set out by the legislation, but we have a degree of flexibility around that. SLAB is responsible for developing policies and guidance¹ on how this discretion is used in our case-by-case decision-making.
- 7) Civil means assessment is a complex area comprised of a large number of sub-decisions which interact in a way that ultimately leads to an assessment of eligibility. For the purposes of this consultation, we are focussing on the assessment of disposable income, and in particular, our policy position on giving discretionary allowances for expenses that are not specifically identified by the legislation.

1) It has become clear to us that there are aspects of our decision-making which - while we are clear internally as to our policy position - are not adequately described in our published guidance materials, particularly on how we can use our discretion to provide flexibility: for instance, in dealing with exceptional circumstances such as domestic abuse. This has led to misunderstandings of our current practice, and we are working on updating the relevant guidance, which will be refreshed throughout 2026.

The SJSS Committee proposed that SLAB should raise awareness of how our discretion can be used: we hope the refreshed guidance will assist with this. We also note that we are specifically undertaking additional checking on applications to check for signs of domestic abuse, and that we are seeking to be clearer in the training we provide to solicitors that they should let us know if exceptional circumstances apply in which we might apply our discretion.

- 8) There is also a linkage between outcome of our financial eligibility assessment processes and the calculation of contributions. This is another area in which we believe positive change can be made, and which aligns with the broader benefits being sought from legal aid reform (for instance, simplification of the system and reducing the administrative burden on solicitors, applicants and SLAB).
- 9) The following section provides a brief tabular overview of the changes, which is followed by more detailed explanation of the proposals.

Proposed changes: overview

Assessment of disposable income	Current system	Proposed changes
Personal allowances	Statutory allowances given for the living costs of partners and dependents, but not for the applicant themselves.	New standardised personal allowance automatically provided to all applicants, with a higher allowance applied for applicants aged 60 or over. Additional 'premiums' are made where relevant, for applicants and members of their household who are carers or disabled. The statutory allowances for partners and dependents remain.
Why?	The current absence of a personal allowance for applicants and their personal living costs is an outlier compared to other means-tested benefits/services. Providing an individual allowance – without the need for applicants to specifically request it or provide any evidence to receive it – will enhance eligibility by providing a new deduction from disposable income.	
Statutory allowances	A range of statutory allowances for core expenses such as housing costs, work-related costs and council tax are given.	No change.
Discretionary allowances	We use discretion to allow for a range of non-statutory costs such as debt	The standard personal allowance – given automatically to all

	<p>repayments or costs relating to exercising contact. Applicants must specifically declare and verify each individual expense. This discretion is only exercised where specifically requested and relevant evidence provided.</p>	<p>applicants, without needing to be requested or any form of verification - replaces these discretionary allowances, which would no longer be given: discretionary expenses would no longer need to be declared or verified.</p> <p>In exceptional circumstances, a specific further allowance can be made for discretionary expenses on request to SLAB.</p>
<p>Why?</p>	<p>The current system, in which discretionary expenses must be individually declared, verified, and considered by SLAB is administratively burdensome and poses challenges for both applicants and SLAB.</p> <p>The reform simplifies the system and provides predictability by providing a standard personal allowance to every applicant, that does not depend on the line-by-line declaration and verification of actual expenses.</p>	<p>A small proportion of applicants will have discretionary expenditure that exceeds the size of the personal allowance and would therefore face higher contributions (mitigated somewhat by the change to contributions described below). However, the benefits to the broader cohort of applicants, solicitors and SLAB in terms of simplification justify this change being made. Discretion is retained for exceptional circumstances and will ensure that outcomes which are materially inequitable can be avoided.</p>
<p>Contributions</p> <p>Calculating the maximum income contribution</p>	<p>Before</p>	<p>After</p>
	<p>Multiple tapered bands based on total disposable income: initial contributory band (£3,521-£11,541 of disposable income) is set at rate of 33%.</p>	<p>No change to number of bands or thresholds between them; however, rate of initial band reduced to 25%.</p>
<p>Why?</p>	<p>There is scope to redesign the contributions system in a more progressive way: this change, combined with SDAs, means more people (particularly those in lower income</p>	

	<p>bands) are moved into non-contributory legal aid, and those who do have contributions will have lower total contributions.</p>	
Instalment periods	<p>Multiple bands with length of plan based on size of contribution: maximum instalment plan of 48 months. This is significantly in excess of the computation period (12 months) and average case lifetimes.</p>	<p>Single, standard-length plan of 20 months, regardless of size of contribution.</p>
Why?	<p>The rate at which SLAB collects contributions is limited because the collection period often outstrips the lifetime of a case: once a case is complete, the applicant's incentive to make further payment is removed, which reduces the amount of contributions collected and increases net costs to the Fund.</p> <p>By reducing the payment length, the extent to which this mismatch occurs is reduced somewhat: this ensures that persons with contributions are paying them as far as possible, which better protects the public purse and the funding of legal aid.</p> <p>A shorter payment period also means better alignment with the computation period, reducing the likelihood of situations where an applicant is several years into payment then faces a change in financial circumstances but where we are unable to redetermine their means.</p> <p>By making this change in combination with introducing the new personal allowance (SDAs) and reduced contribution rate for the initial income band, the extent to which monthly contributions are increased is mitigated somewhat.</p>	

Proposed change: discretionary allowances in the current assessment of disposable income

- 10) Alongside statutory deductions from income – which we cannot change – SLAB has the ability to develop policy on discretionary allowances.
- 11) The Act and Regulations do not specifically provide for an applicant-based allowance. Instead, we currently use discretionary powers to make allowances for costs an applicant may incur and meet, where those costs are deemed to be

reasonable. This is over and above certain deductions that are specified in the statutory framework (for example, housing-related costs). Such standard living cost deductions are stated for partners and children, but not for the applicant themselves. We believe that this absence of a standard personal allowance for the applicant is unusual in the context of other services or benefits which are subject to means assessment.

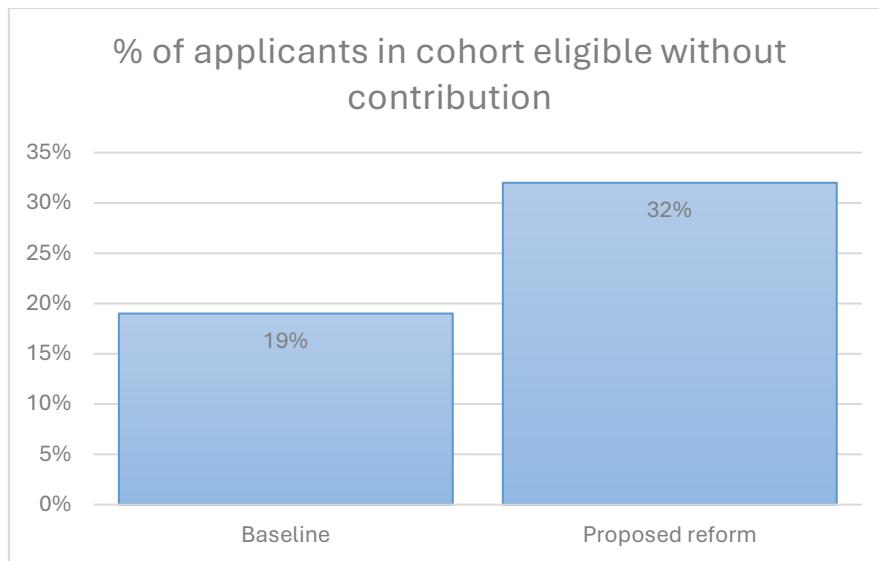
- 12) Over the years, our assessment of what is a reasonable allowance has been extended to take account of common circumstances applicants have to provide for outwith basic living costs. Amongst others, these include: travel costs for contact arrangements, minimum repayments on credit and store cards, and additional costs for heating and food if the applicant demonstrates they have an age, disability or other medical-related reason for incurring higher food or heating bills. These costs are only allowed where they are specifically declared: that is, not everyone will ask for or receive the benefit of us applying our discretion, even if they are potentially eligible to.
- 13) Although this approach allows a significant degree of discretion and flexibility, it also creates difficulties in terms of being able to clearly explain to applicants and the legal profession what we might take into account as an allowance of this type, and how it might be evidenced; particularly where an applicant might have multiple costs of this kind that require to be verified.
- 14) We are aware that some applicants can find it challenging to provide full verification of such costs and may feel that our requests for information are intrusive. Not only does this lead to some applicants not being given all of the allowances to which they might be entitled, but the complexity, uncertainty and difficulty in demonstrating entitlement may be leading some applicants to drop out of the assessment process, or puts them off starting it in the first place.
- 15) This results in a system which can be overly burdensome for applicants, solicitors and our assessment staff, with a need for multiple interactions, detailed declarations and verification of financial affairs at what may be a stressful time. These assessments also still leave a gap in terms of providing any allowance towards an applicant's basic day to day living costs.

Proposed change: standardised discretionary allowances

- 16) To address some of these issues, as described in our appearances at two Parliamentary committees, we are currently developing a set of standard allowances and premiums which would be applied in every instance without a need for this kind of detailed interaction, replacing the current complex process. Under this policy, a personal allowance (with the rate based on UK Government benefit applicable amounts) will be made for **all** applicants, without a need to give detailed information about actual non-statutory expenditure. This new personal allowance

would amount to around £4,000 for persons under pension age, and £10,000 for those above pension age.

- 17) All applicants will receive this amount, without having to specifically request that we use our discretion. Whilst the other specified statutory allowances or deductions for housing costs and similar will remain alongside this new personal allowance, the complex process by which individual non-statutory allowances are made on a case-by-case basis will no longer exist.
- 18) Alongside this, we will use our discretion to introduce additional 'premiums' for applicants with disabilities and applicants who are carers, which act as further allowances to reflect particular household circumstances.
- 19) Our view is that the introduction of SDAs will considerably simplify this part of the financial assessment process for applicants, solicitors and SLAB and provide greater predictability, as well as increasing ease of access to legal assistance for applicants. It will reduce the complexity of the assessment process and amount of information we would need to seek, the range of detailed guidance that solicitors would need to be aware of, or the amount of personal detail and information an individual needs to provide.
- 20) Our analysis - based on analysis of a year's cohort of previous applications - indicates that the provision of personal allowances will benefit the majority of applicants; around two thirds would have lower disposable income (and therefore a lower contribution) compared to the current arrangements, whilst a larger proportion of applicants would be eligible without being liable for a contribution (32% compared to 19%). At a population level, our modelling suggests an increase in eligibility for civil legal aid from 52% of the population to 57%.
- 21) Fewer than one in six applicants would have a higher total contribution under the new arrangements, whilst only a very small proportion of applicants – 1% - would be ineligible under the new system when they were eligible under the existing arrangements. Applicants falling into this group had considerably higher discretionary expenditure than the norm, as well as higher aggregate income.
- 22) The impacts of SDAs are summarised in the chart and table below:



SDA eligibility outcomes by frequency	% of applicants
No change: contributory to contributory	62.7%
<i>Within contributory to contributory: lower contribution</i>	51.8%
<i>Within contributory to contributory: higher contribution</i>	10.9%
No change: non-contributory to non-contributory	17.2%
Contributory to non-contributory	15.2%
Non-contributory to contributory	2.1%
No change: ineligible to ineligible	1.4%
Contributory to ineligible	1.2%
Ineligible to contributory	0.2%
NO CHANGE: TOTAL	18.6%
BETTER OFF: TOTAL	67.2%
WORSE OFF: TOTAL	14.2%

23) We acknowledge that the introduction of SDAs could potentially lead to difficulties for some applicants in particular circumstances: for instance, applicants facing the impact of leaving abusive relationships, such as economic abuse or coerced debt. In developing this proposal we have specifically considered how to retain a degree of discretion within our policy and guidance which allows for exceptional circumstances to be properly taken into account. Our published policy on

discretionary disregards of income specifically allows for these kinds of exceptional circumstances.

24) Overall, our assessment is that the introduction of SDAs will remove some of the complexity of current means assessment processes and benefit most applicants through the provision of a personal allowance, and the removal of the need to individually evidence discretionary expenditures. Whilst a proportion of applicants – particularly those with higher incomes and very high discretionary spend - may face higher contributions, our view is that on balance, this is a positive change that properly advantages those on lower incomes.

Civil legal aid and contributions

25) We have a degree of discretion in how contributions are calculated and collected. Contributions in civil legal aid are based on the respective levels of disposable income and capital. For income contributions, we currently have a tapered system by which the maximum contribution is calculated.

26) We are not making any changes to capital contributions, which are much more infrequent, and do not currently present us with the same issues.

27) We consider that there are a number of problems with the current income contributions system:

- Firstly, there is scope for the contributions system to be more progressive
- Secondly, we consider that our ability to collect contributions is limited by the long instalment periods: people's incentive to continue paying a contribution is reduced once their case concludes (often before the contribution is fully paid), whilst long instalment periods also mean significant misalignment with the computation period: this limits the extent to which changes to their financial circumstances can be taken into account.

28) Both of these issues can be addressed by changes to our policy in this area: the system can be made more progressive, and we may successfully collect a greater amount of the liable contributions. We note that as a public body, it is incumbent on SLAB to consider how best to recover public funds where possible, balancing this against the potential impacts on applicants.

Proposed changes to contributions

29) We plan to introduce the following changes to the calculation and collection of income contributions:

- A. The initial taper band (£3,521-£11,541) will see a reduction in the contributory rate from 33% to 25%, with the other bands remaining as they are;
- B. Revising the instalment period rules, so that **all** income contributions shall be collected over 20 months, regardless of size.

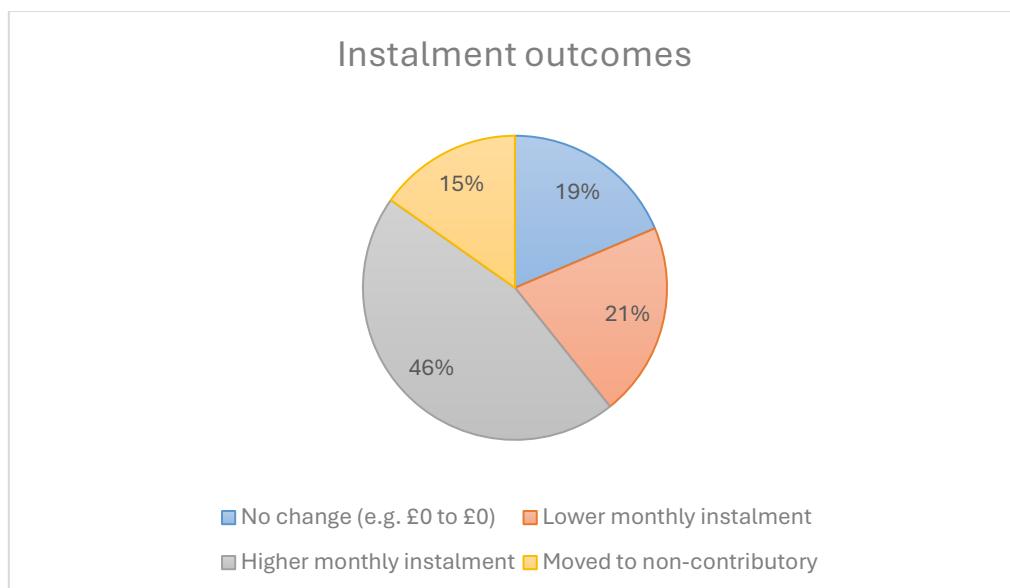
30) In combination with the introduction of SDAs, the total amount of contributions being sought will be reduced, with fewer people being asked to contribute. Those who are will generally be required to pay less in total, but do so more quickly.

31) **Impact on maximum contribution:** two thirds of the cohort (67%) would have a lower maximum contribution (of which 23% consequently move from contributory to non-contributory as a result of the SDA, with the remaining 77% seeing a lower contribution due to the lower initial band); 19% seeing no change (primarily people in non-contributory legal aid both before and after) and the remaining 14% having a higher maximum contribution or becoming ineligible (as a result of the SDAs change). The maximum contribution may never be reached, as the estimated case cost can often be lower than this amount.

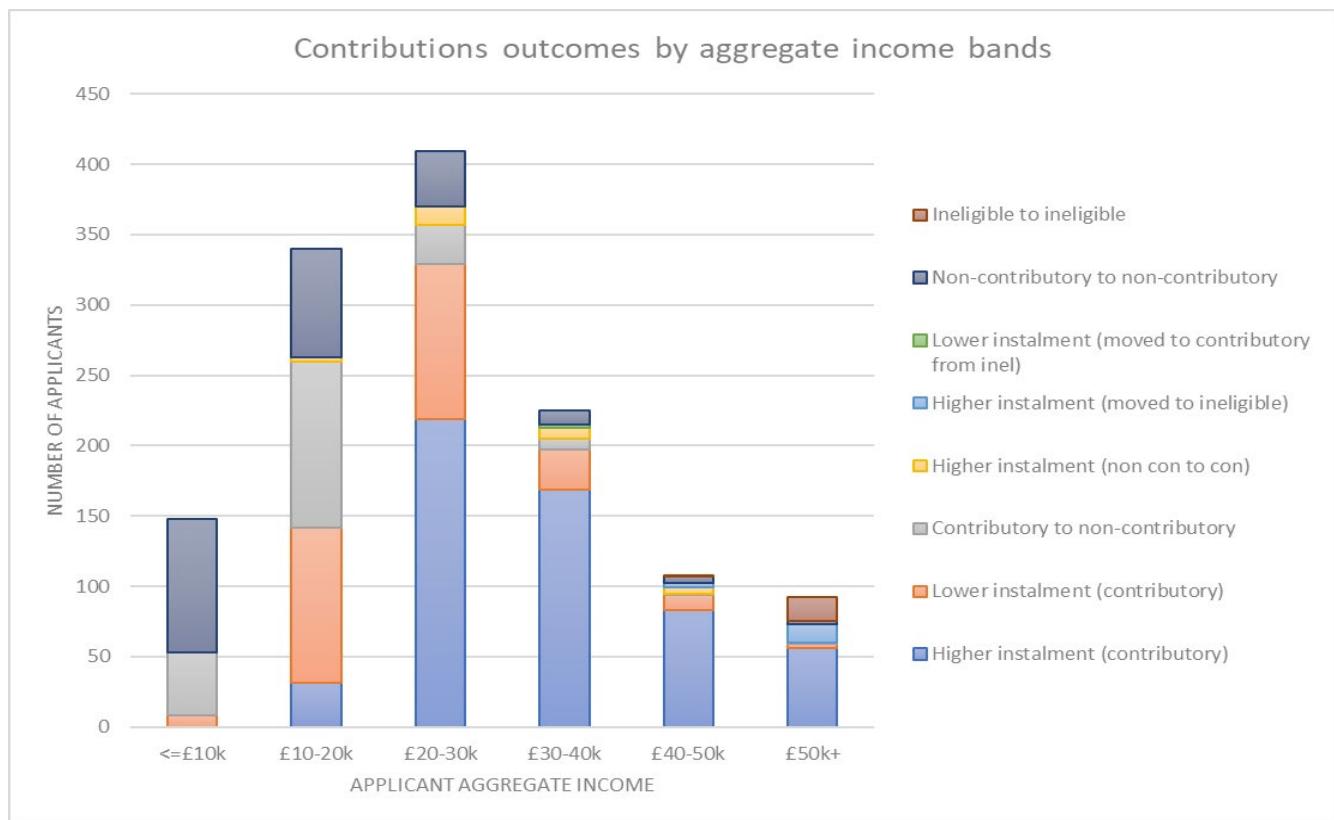
Impact on monthly cons

32) The other impact of the contributions change is on the amounts which applicants are asked to pay on a monthly basis. Historically, all contributions were payable in ten monthly instalments. We then moved to extend the repayment periods for all, ranging from 12 months to 48 months. Due to the bandings in place, this can mean that some people with lower disposable incomes, and so lower overall contributions, can end up paying higher monthly instalments than people whose contribution falls on the other side of a band boundary. This means that the system is not as progressive as it could be.

33) The chart below illustrates that the combined effect of introducing SDAs, reducing the initial contribution rate and moving all contributions to repayment over 20 months is that more people have either a lower instalment (including those who move to non-contributory legal aid) or experience no change (mostly because they had no contribution either before or after) than have a higher instalment.



34) The following charts and table illustrate the nature of these changes by applicant aggregate income bands.

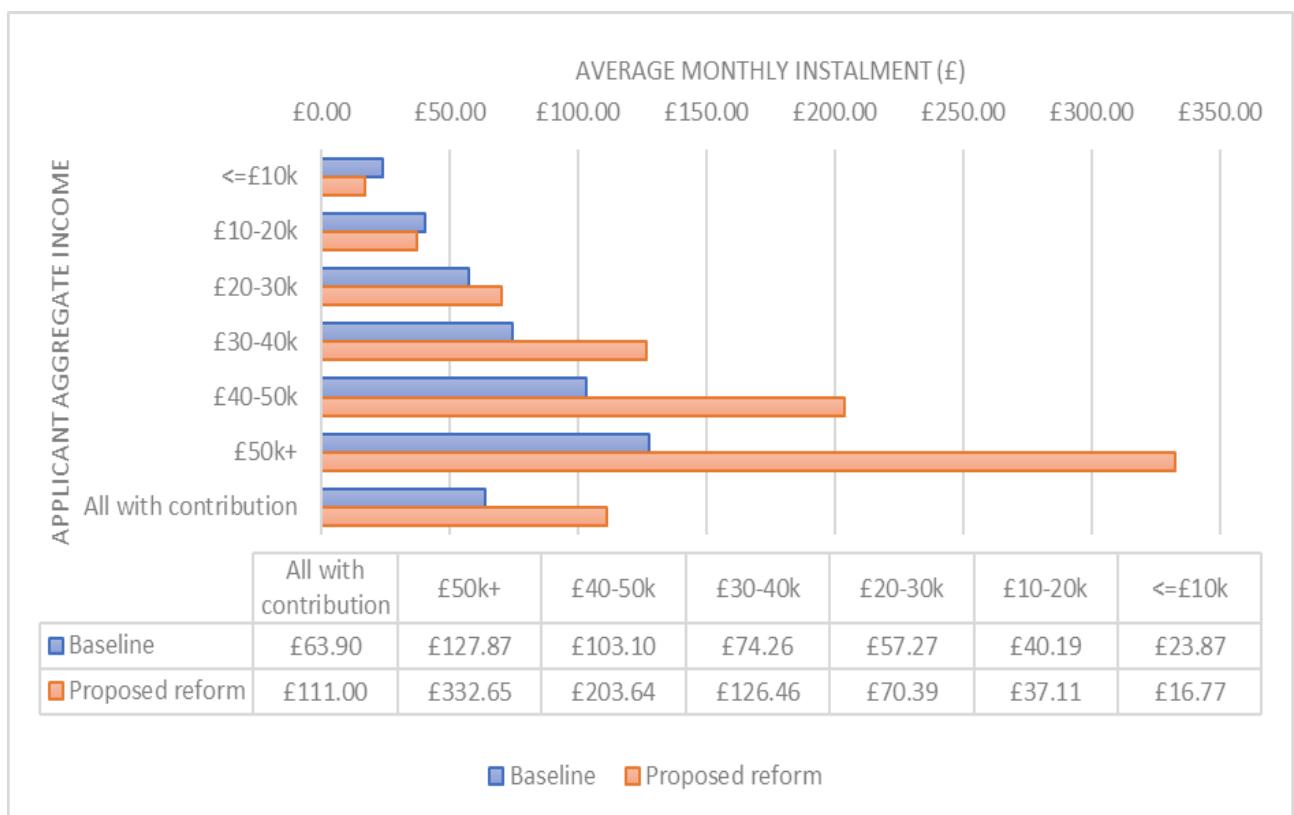


Applicant outcomes	Applicant aggregate income					
	<=£10k	£10-20k	£20-30k	£30-40k	£40-50k	£50k+
Higher monthly instalment	0%	9%	54%	75%	77%	61%
Lower instalment	5%	33%	27%	12%	10%	3%
Moves from contributory to non-contributory	30%	35%	7%	4%	1%	1%
Moves from non-contributory to contributory legal aid (higher instalment than baseline)	0%	1%	3%	4%	4%	0%
Moves from contributory legal aid to ineligible (higher instalment)	0%	0%	0%	0%	3%	14%
Moves from ineligible to contributory (lower instalment)	0%	0%	0%	1%	0%	0%

Non-contributory to non-contributory (no change)	64%	23%	10%	4%	5%	2%
Ineligible to ineligible (no change)	0%	0%	0%	0%	1%	18%

35) The chart and table above shows that (reading down the column) for applicants in the lowest aggregate income bands, the most common outcome was that they had no contribution both under the baseline and the proposed change; but the second most frequent outcome for this group was being moved from contributory to non-contributory legal aid. For the £10-20k band, less than 10% would have a higher instalment: the most common outcome was moving from contributory to non-contributory legal aid, followed by having a lower instalment.

36) For those in the middle of the bands (the largest band by number of applicants, £20-30k), the most common outcome was a higher instalment compared to the baseline, though around two fifths of applicants in this band would either see no change or a lower instalment. For applicants in the highest aggregate income band, a considerably larger proportion would have either a higher monthly instalment or see no change (remaining ineligible both before and after).



37) Similarly, the chart above indicates that the largest increases in the average size of monthly instalments are amongst applicants in the highest income bands, with the lower income bands seeing lesser increases.

38) The statutory framework obliges us to assess and collect contributions, and our wider duties of best value and proper stewardship of public funds require us to put arrangements in place to minimise levels of unpaid contributions where these are assessed as properly due. Our view is that better alignment between instalment periods and the typical lifetime of cases, with fewer contribution instalments scheduled for payment after (and sometimes long after) a case might be expected to end, will increase the collection rate and maximise the benefit of scarce public resources by focusing them on those with least ability to pay.

39) We recognise that this change means that some applicants will pay a larger amount on a monthly basis, and in some cases for those generally on the highest incomes, potentially a considerable amount more: we appreciate that nobody wishes to face higher payments. However, we note that many applicants will also have no or a lower total maximum contribution; some will have a lower monthly payment; and would also stress the broader benefits in terms of the improved progressivity of the system, an anticipated increase in collection rate and better (though not full) alignment with the computation period.

40) As with our policy on discretionary disregards and standard allowances, we recognise that there may be some circumstances in which we ought to apply our discretion to provide flexibility within the framework above (for instance, to provide a longer instalment period), though again, we anticipate this would only be for exceptional circumstances. Our published policy will be clear on this point.

Conclusion: invitation to respond

41) This is an opportunity for stakeholders to provide input that will enable us to check our assumptions and understand possible impacts before we implement the changes. We would welcome your input on this topic.

Appendix A: questions for consideration

We have set out a number of prompts for consideration below: we would welcome views on these questions.

1. Do you have any evidence or experience in relation to individuals who's financial (or other) circumstances may mean that these proposals would have a particularly positive or negative impact on them?
2. Do you have evidence or experience in relation to how the proposals might impact either positively or negatively on equality groups, or care experienced young people?
3. Do you agree with the range of benefits we have identified? Are there other separate benefits for applicants/clients and for solicitors?
4. Can you identify any additional risks, issues or unintended consequences with regards to the proposals that we ought to take into account?
5. Do you have any views on how the proposals will or should operate in the context of other elements of SLAB's means assessment processes – particularly in relation to areas where SLAB has discretion?
6. Do you have any specific suggestions for how the proposals could be amended or improved?

Should you wish to respond to any or all of these questions in writing, please provide your response via [this online form](#) by **5pm on 13/02/2026**. Alternatively, should you wish to respond by email, please send your response to our consultations inbox, at consultations@slab.org.uk.

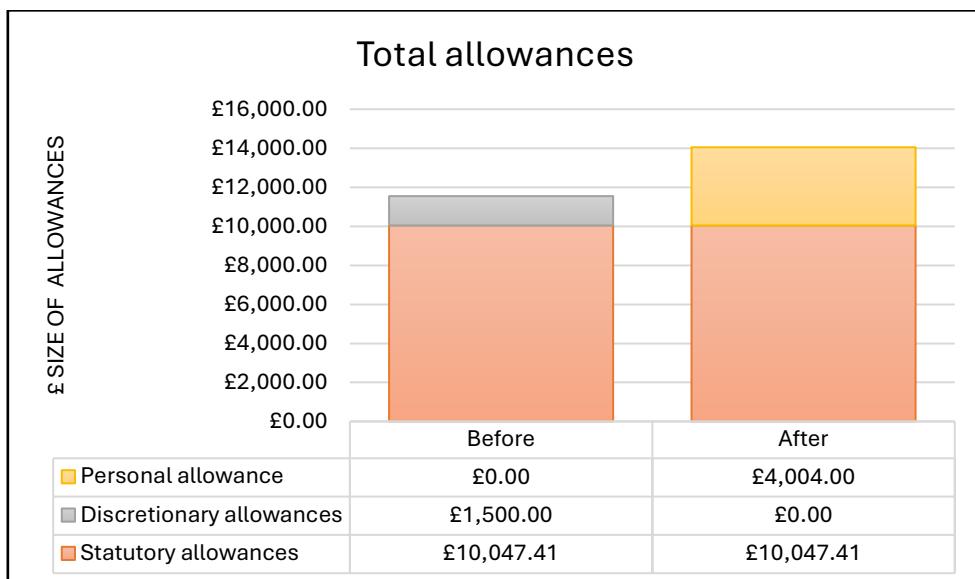
Appendix B: case studies

Case study A

Applicant A has fairly low disposable income of £5,168.53: under the existing arrangements, they would have a maximum contribution of £543.68, resulting in 30 instalments of £18.12 each.

They currently have £1,500 of expenses (in the form of debt) allowed via discretionary disregards, which would no longer be given under the proposed change. However, as a result of being provided with the additional £4004 personal allowance, the total allowance they are given is larger than under the baseline, and they therefore move from contributory to non-contributory eligibility. As the chart shows, the statutory allowances do not change.

Our modelling showed that – like this case study - 15% of the cohort would move from contributory to non-contributory legal aid as a result of the proposed changes. The average aggregate income of applicants in this group was £15,515.53.



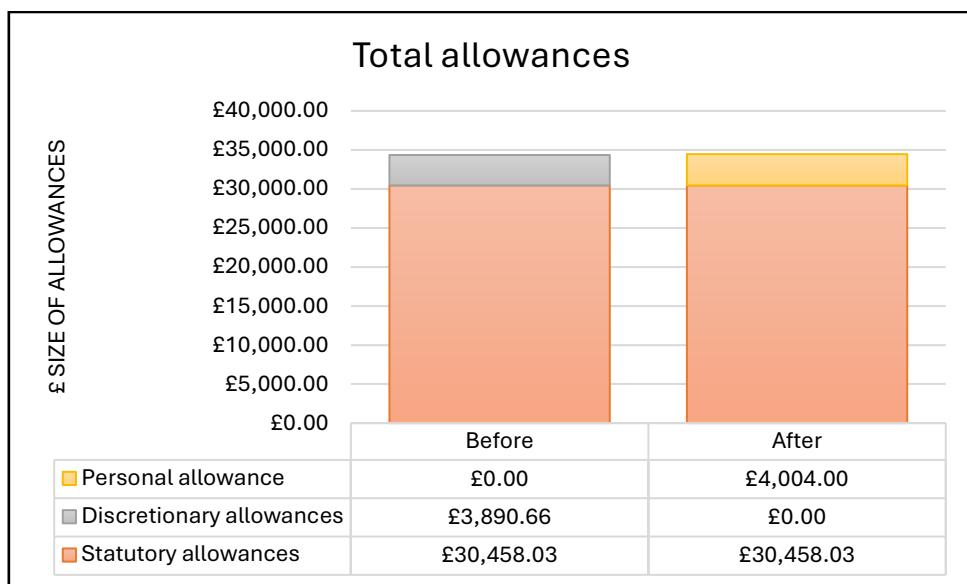
Case study B

Applicant B has somewhat higher disposable income of just over £10,000. Under current arrangements, this gives them a maximum contribution of £2,175.08, to be paid in 48 instalments of £45.31.

They currently have £3,890.66 of expenses allowed via discretionary allowances – higher than the average for people liable for contributions under the baseline – which would no longer be given under the proposed change. Nonetheless, the

personal allowance is larger, and in combination with the changes to contribution tapering, leads to a lower maximum contribution of £1,619.45. The change in instalment periods means this is a smaller contribution, but to be paid more quickly, over 20 months rather than 48, leading to a higher monthly contribution payment of £80.97.

Our modelling showed that – like this case study – 34% of the cohort would have a lower maximum contribution, but a higher monthly contribution as a result of the proposed changes. The average aggregate income of applicants in this group was £26,470.80.



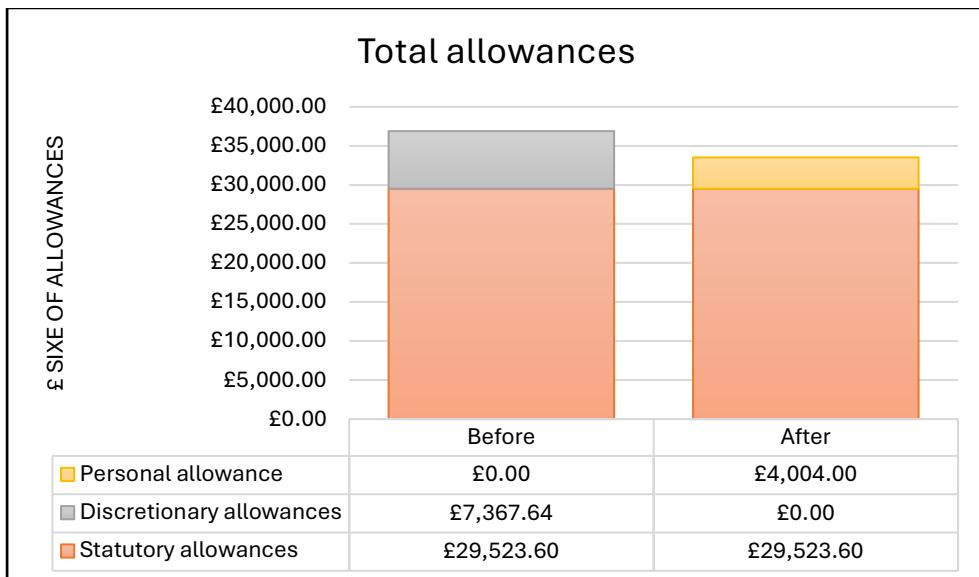
Case study C

In this case study, under the baseline, the applicant has quite high disposable income of just over £20,000. Under current arrangements, this gives them a maximum contribution of £9,008.94, to be paid in 48 instalments of £187.69.

The applicant has £7,367.64 of expenses allowed via discretionary allowances across 5 separate headings, all to be individually verified: this total is significantly higher than the average. In this case, the size of the discretionary allowances is larger than the personal allowance, and as such, under the proposed changes, the applicant has higher disposable income of £23,366.64.

This, in turn, leads to a higher maximum contribution of £11,731.39, despite the change to tapering. Given the larger contribution is also to be paid in a shorter period (20 months), the size of the monthly contribution increases to £586.57 per month.

Our modelling showed that – like this case study - 14% of the cohort would have both a higher maximum contribution and a higher monthly contribution as a result of the proposed changes. The average aggregate income of applicants in this group was £40,539,30.



Other scenarios:

- **Persons under the contributions threshold in both the before and after position:** that is, who would see no change in outcomes². Applicants in this category comprised around 19% of the total in our modelled cohort, with an average aggregate income of around £14,000.
- **Persons for whom a full discretionary income disregard would be retained:** we recognise that in some exceptional circumstances, there are good reasons to allow for a specific disregard beyond the standard personal allowance. In particular, our view is that it is important to have this flexibility for cases involving domestic abuse and coerced debt.
- **It is important to keep the scale of these changes in perspective:** a large majority of persons who apply for civil legal aid are not subject to detailed financial assessment – and therefore to this change – at all.
 - Applicants who are passported (44% of grants in 024/25), and

² Though they would go through a more streamlined process under the proposed reforms by no longer being required to verify each line of discretionary expenditure.

- Applicants who are eligible for non-means tested legal aid (for instance, in relation to some types of AWI application) – 46% grants in 2024/25.
- Thus, only a small minority of applicants – 10% of grants in 2024/25 – went through the kind of detailed means assessment that would be impacted by the changes described in this paper.