



EQUALITY IMPACT ASSESSMENT (EqIA)

Summary results of the EqIA

Title of policy/practice/process/service:

Prior and retrospective approval: expert witnesses (criminal legal aid).

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

Review of current policy.

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

For the purposes of identifying the impact of this policy, we have analysed our available applications data and reviewed external evidence. For the limited number of protected characteristics that we had applications data available for, there was no indication that the policy is having an adverse impact by protected characteristics.

Our view is that in large part, although an applicant's protected characteristics may be directly relevant to seeking an expert witness – and expert witnesses may play an important role in an applicant's defence where protected characteristics are relevant – this is in the context of their needs within their legal case, and this is how our policy operates. The applicant's protected characteristics are relevant only insofar as they are relevant to how their request for a particular expert witness could advance their case. There are many types of requests for expert witnesses in which an applicant's protected characteristics will have no relevance at all.

The merits test we apply in granting approval for an expert witness is a test of 'reasonableness'. This is a fairly wide test.

In our view, the degree of discretion available to us in this area and which we have incorporated into a broadly framed policy means that the current policy advances equality of opportunity across protected characteristics. The factors set out are wide enough to permit a wide range of issues potentially relating to applicants' protected characteristics to be considered.

Summary of actions taken because of this assessment:

No specific actions following this impact assessment have been taken given the conclusions reached. We will however continue to gather and analyse data to monitor the impact of this policy.

Ongoing actions beyond implementation include:

Ongoing actions include the gathering and analysis of data in relation to this policy. We intend to continue monitoring the grant rate in relation to protected characteristics where this is possible, to establish more information on the impact of this policy on assisted persons with equality related circumstances.

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

Head of Criminal Legal Assistance.

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

Director of Operations.

Publication date (for completion by Communications):

13/03/2026

Step 1: Scoping the work being assessed

1.1. Briefly describe the aims, objectives and purpose of the policy/practice/process/service.

SLAB's policy on prior and retrospective approval for expert witnesses sets out how SLAB operationalises the relevant Regulation – Regulation 14 of the Criminal Legal Aid (Scotland) Regulations 1996. A policy statement identifies a test that decision-makers must complete. In this case, the test is whether it is 'reasonable' to grant a request for the employment of an expert witness be granted.

Section D of the policy statement is:

"For the purposes of this policy, our definition of expert witness is as follows:

'An expert witness is one whose role is to speak primarily to opinion evidence, rather than to evidence of fact alone, and who has the knowledge, professional skills, and qualifications which enable them to give such an opinion (and/or undertake relevant associated steps).'

"This definition does not cover witnesses as to fact generally, for whom our prior approval is not needed.

"In assessing a request to approve use of an expert, we need to be satisfied that the use of the "expert" is reasonable in all the circumstances. SLAB will grant approval for the employment of an expert witness as reasonable where it is shown that:

- The proposed expert's field of expertise is relevant in terms of the subject matter upon which they are required to comment;
- The proposed expert has the necessary knowledge and experience;
- that their involvement may assist in advancing the case or in its resolution (including discontinuation of the proceedings); and
- that due regard to economy has been shown in the costs outlined.

"What work is covered by a grant for an expert witness?

Our policy is that requests to employ expert witnesses must provide a fully itemised breakdown of the work proposed and specific figures for the costs to be incurred.

"A grant request may be made for additional costs for work that has already been approved and commenced. For example, this could be where the expert has started the work required but additional

funds are requested to do the work. At that stage, our policy is that in some cases, we may advise that the additional funds are granted on the condition that no further expenditure will be made available to complete the work. We will however always consider situations where new information is available since the first instruction of the expert which require further comment, for instance further Crown disclosure.

“Where the costs exceed £2,000, our policy requires an application for prior approval for unusually large expenditure. A further application for approval is not required for experts’ associated costs where:

- we have provided approval for a report by an expert under a grant of criminal legal aid;
- the solicitor subsequently needs to cite that expert to give evidence in the court proceedings; and
- where those costs are less than £2,000.

“Our policy is that travelling expenses for expert witnesses shall be reimbursed at half the hourly rate. Where the work being undertaken appears likely to exceed the expenditure limit which we initially set, a further application for approval must be submitted prior to the expenditure being incurred.

“Retrospective requests for the approval of expert witnesses

For retrospective requests for experts, the first element of the test (set out in the Regulation) is whether approval would have been granted had it been sought timeously. SLAB’s policy is to apply the same test and factors to the request as if it had been received in time (i.e. those set out above).

“For the second element of the test, SLAB’s policy on ‘special reason’ is that where a solicitor can show that:

- they were prevented from making a timeous application for prior approval by circumstances which were beyond their control and these circumstances were ones which could not have been reasonably foreseen; or
- the circumstances were within the solicitor’s control, and ought to have been foreseen, but the oversight was nonetheless justifiable given the particular or unusual circumstances in which the expense was incurred

“This will generally be accepted as a special reason for late submission of a request for an expert. SLAB’s policy is that the particular circumstances described must amount to more than simply plain oversight or ignorance of the Regulation to constitute a ‘special reason’.”

1.2. Why is the policy/practice/process/service being examined?

Review of policy/process/service/practice.

1.3. Who is affected by this policy/practice/process/service?

The customer for the purpose of this policy is the assisted person, whose case an expert witness is being asked to speak to, and have some sort of impact on the outcome. The extent to which assisted persons (and by connection, their solicitors) can employ expert witnesses will be affected by how we set policy in this area.

We also note that expert witnesses themselves will be affected by the policy. We currently have no information as to the equality characteristics of expert witnesses granted and refused, and whether

the level of costs approved for expert witnesses vary by equality characteristics, for instance. However, it must be noted that we do not have any direct relationship with expert witnesses (as this is the solicitor's prerogative) – nor is there any obvious means of changing this.

1.4. Policy/practice/process/service implementation date.

Policy is currently live.

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

There is a relationship between prior (or retrospective) approval for the employment of an expert witness, and the task undertaken by Accounts.

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

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

General information about the policy/practice/process/service

This policy is about whether an assisted person in criminal proceedings will receive SLAB's approval to employ an expert witness. The role of the expert witness is to provide opinion evidence, supported by their specific knowledge, professional skills, and qualifications.

There is a wide range of expert types that could be relevant to criminal proceedings, and that expert witnesses may be instructed in a wide variety of criminal matters.

While in some instances, an expert will be instructed to speak quite directly to an applicant (or possibly other party's) protected characteristics – we expand on this below – it is important to note that this is by no means necessarily the case: there are various types of experts whose expertise will be entirely unrelated to equalities concerns (for instance, whose expertise relates to more technical knowledge).

We anticipate that some case types are more likely than others to involve expert witnesses in the first place: our applications data indicates that experts are instructed in a greater proportion of solemn cases than summary cases: this likely reflects the greater complexity and seriousness of cases prosecuted at solemn level and an accompanying need for additional expertise.

In terms of subject matter, the types of cases most likely to involve experts include murder/culpable homicide, sexual offences, embezzlement/fraud cases (at solemn level), road traffic cases (at solemn level), and extradition cases.

Our high-level data on expert witness requests

In 2024-25:

- there were **3,559 requests for the approval** of expert witnesses in the 2024-25 data we considered (of which 55% were for solemn cases, and 45% were for summary cases)¹
- the **overall grant rate** was **96%** for requests for expert witnesses
- **4%** of requests were **refused**.

Note that one applicant can submit more than one request, for expert witnesses. The figures analysed are per requests, not per individual applicant.

Table 1: Types of expert witnesses sought

A breakdown of the types of expert witnesses sought is shown below, illustrating the variety of types of experts that can be instructed, as well as differences in their proportion of the total number of requests. Psychiatrists are, by some way, the single most sought expert.

Type of expert	Percentage of requests
Psychiatrist	38.27%
(blank)	10.62%
Psychologist	10.01%
Other	8.95%
Mobile Phone Expert	8.21%
Other Medical	5.24%
Accountant	3.47%
Forensic Report(alcohol)	3.44%
DNA Analyst	2.20%
Pathologist	2.04%
Consultant Physician (Other)	1.62%
Forensic Report(drugs)	1.14%
Mental Health	0.98%
Drugs Analysis	0.87%
Firearms Expert	0.79%
Accident Reconstruction	0.53%
Blood Analysis	0.50%
Fingerprint	0.29%
Handwriting Expert	0.19%
Child Psychologist	0.16%
Veterinary Surgeon	0.16%
Child Psychiatrist	0.13%
Consultant Physician (alcohol)	0.08%
Ballistics Expert	0.05%
Mechanic	0.03%
Expert Solicitor	0.03%
Grand Total	100%

Discussions with operational colleagues

For further context on the operation of this policy, we note that operational staff made some

¹ Note that we have excluded a smaller number of requests on which no decision had been reached by the end date. For instance, applications with the status ‘under consideration’, which amounted to 4.7% of the total.

observations in drafting this EqIA. They indicated that one reason requests may be refused is because of the comparative costs of the specific expert witness sought, not about qualifications or how they would advance the case. For example, an applicant's request could be refused because they seek to instruct an expert based in London, where we are aware that there is an alternative expert with suitable expertise based in Scotland who could be approached at lower cost. In such cases the solicitor could make another request for a different expert witness. To our knowledge, there is no reason to believe that the requirement that an expert witness is competitively priced has an undue impact regarding equalities.

Operational staff also suggested that a further reason that requests for expert witnesses may be refused is where the solicitor seeks to instruct an expert to "prove" evidence in the negative. For example, a forensic expert may be asked to speak to an *absence of fingerprints* on a weapon. In practice, our policy is that such requests could be refused on the basis that they do not advance the case, or that the costs appear disproportionate to what the evidence offers to advancing the case. Again, we have no evidence that suggests such an approach to refusals has a negative impact with regards to equalities.

External findings on general information

Most of the evidence available on free-to-access platforms review what an expert witness is, why they are needed, and the qualifications needed for specific kinds of experts. There is seemingly little about the case types they speak to, and by extension the protected characteristics their clients might have.

Our website guidance sets out some examples of the kinds of expert witnesses that appear in criminal proceeding and the types of issues they may be speaking to (all these types of experts are seen in [Table 1](#)):²

- A. a psychiatrist providing an assessment of an accused person's fitness to plead
- B. a drugs expert to comment on whether a quantity of drugs recovered is consistent with supply
- C. a computer expert to comment on how images were downloaded
- D. a doctor to comment on whether an injury is consistent with the alleged mechanism of infliction.

Clearly, the type of expert sought will relate to the nature of the issues they may speak to in the proceedings. The types of issues at play in the proceedings may also vary by the general subject matter of the case (for instance, a drugs expert for a drugs case, or a computer expert in certain types of sexual offences cases). We recognise that there may also be a link between case types and the protected characteristics of the applicants involved in them (as well as the experts sought): we expand on this further below, where we are able to make such a link.

Age

Our data suggests there is no basis to conclude that different age groups experience any of these processes differently based on our policy position.

Statistics

SLAB's data

Discussions with Operational staff / guidance (2).

² [Type of expert witnesses and their qualifications – Scottish Legal Aid Board.](#)

Table 2: Survey of criminal applicants age range

Note that the base number for criminal applications is 384.

Age range	Percentage (and number) of criminal applications
18-24	15% (59)
25-34	22% (83)
35-44	25% (96)
45-54	24% (91)
55-64	10% (37)
65+	5% (18)

The age and maturity of an applicant could be relevant to a defence – though it is not necessarily the case that this would always need an expert to speak to it.

The disclosure rate by age was over 99%. The profile of applicants/assisted persons requesting approval for expert witnesses is quite similar to that seen in the survey of criminal applicants above, that is, clustered around the middle age bands.

As mentioned earlier, one applicant can submit more than one request for expert witnesses. This is reflected in the figures analysed, which are per requests, not per individual applicant.

Observations from Table 2

At face value, the age bands of 25-34, 35-44, and 45-54 have markedly higher application rate than the other bands.

The difference between the 24% of applicants being 45-54 but only being 17.09% of requests might suggest that those applicants make fewer requests each than those in the 25-34 and 35-44 bands.

It is unclear what this could suggest about the policy, or the kinds of cases that the 45-54 age band are involved in, as opposed to the 25-34 and 35-44 bands.

Table 3: Requests for experts by age band, broken down against summary and solemn applications

Age band	Percentage of total requests for experts	Percentage of total summary applications	Percentage of total solemn applications
<=24	15%	16%	20%
25-34	29%	30%	32%
35-44	28%	31%	29%
45-54	17%	15%	13%
55-64	8%	6%	5%
65+	4%	1%	1%
Grand Total	100%	100%	100%

The highest percentages sit with the 25-34 and 35-44 age bands. Both age bands percentage of requests comfortably sit at least 10% higher than for the other age bands. This is broadly in line with the profile of applicants for summary and solemn legal aid, however, as [Table 3](#) shows, the proportion of requests for experts from people aged 55-64 and 65+ is somewhat larger than their proportion of solemn and summary applications.

Comparing the number of requests for experts against the number of applications for criminal legal aid shows that although the two oldest age bands are responsible for only a small proportion of the *total* requests for experts, these age bands have the highest *proportion* of requests for experts when compared to the number of applications. In solemn legal aid, while overall, the ratio is 2,064 experts to 9,609 applications (which we could express as 21.5%) for people in band 55-64, the figure is 34%, and for people aged 65+ the figure is 75.6% (96 requests for experts versus 127 solemn applications). This may suggest that our policy on expert witnesses is particularly important for those in older age groups, perhaps given variation in subject matter.

It is clear that there is a degree of variation in subject matter by age – with those in the 65+ band much less likely to be involved in assault or offensive behaviour cases, but proportionately more likely to be involved in sexual offence cases (which – as noted above – are considerably more likely to involve seeking an expert witness).

In terms of how that relates to experts, a comparatively large proportion of requests from applicants aged >=24 were for psychologists. Perhaps unsurprisingly, this youngest age band were also the most likely to seek a mobile phone expert. In terms of other points that stand out, applicants aged 55-64 were somewhat more likely to seek to instruct a psychiatrist (though less so a psychologist). Ages 55-64 and 65+ were comparatively more likely to seek an expert accountant.

We explore why this may be the case at the external evidence section of this protected characteristic.

Table 4: Grant rate for expert witnesses by age band

Age band	Granted	No decision	Refused	Grand Total
<=24	91.85%	5.03%	3.12%	100%
25-34	92.36%	4.75%	2.89%	100 %
35-44	91.39%	4.93%	3.68%	100%
45-54	92.04%	4.21%	3.74%	100%
55-64	93.40%	3.13%	3.47%	100%
65+	90.51%	4.38%	5.11%	100%
Grand Total	91.97%	4.61%	3.41%	100%

Table 4 shows that the grant rate for expert witnesses is very similar across the age bands. Our assessment is that this suggests there is no basis to conclude that there is any problematic differential impact which arises from our policy position.

Data relevant to the policy

In the UK, evidence suggests that people in their 20s are most likely to be convicted of crimes, as the “peak age for criminal convictions is 21-25 for males and 26-30 for females.”³ We could infer from this that this age bracket is also more likely to be involved in criminal proceedings – possibly with the need to instruct an expert – in the first place. This aligns with the data in [Table 3](#) which shows that those aged between 25-44 are responsible for the largest numbers of requests for prior approval under this policy.

³ [Who commits crime? – Impact of crime on victims, offenders and their families – BBC Bitesize.](#)

Despite the data we set out above, noting that proportionately and those in older age bands are more likely to seek an expert, the higher total volume of requests coming from this lower age bracket simply reflects age patterns of those involved in criminal proceedings more broadly.

The intersection of age with other protected characteristics may also be relevant to requests for expert witnesses. For instance, in developing this EqIA, Operational colleagues noted the following as an example:

A social worker could, in some scenarios, be instructed as an expert witness to talk about a specific child they have been involved with in their social work. An example would be in extradition cases where an accused person does not consent to extradition and is the parent of a child with additional high needs relating to disability, therefore the family’s social worker may provide information about how removing the person would impact the child and their specific needs.

Disability

There are various types of expert witnesses which may be used to speak directly to the nature or extent of an applicant’s disability, for example psychologists or medical professionals. Such expert input would be in the context of how the evidence being given is relevant to the legal issues at hand in the case. This is clearly supported by the applications data, in which requests for psychiatrists and psychologists make up very nearly half of all requests for experts (49%). Clearly, the relevance of mental health issues to a defence means that the impact of this policy on this protected characteristic will be highly important.

We note that a smaller proportion of requests relate to other medical witnesses (other medical, consultant physician) and disability could perhaps be relevant here but may not necessarily be.

Statistics

- **SLAB’s data**

The disability disclosure rate in the prior approval data was 38%. This very high level of non-disclosure will mean that the true picture is obscured, which should be borne in mind when considering our conclusions.

Table 5: Grant rate for expert witnesses by disability statuses

Disability status	Percentage of requests for expert witnesses
Disability	35.44%
No disability	64.56%
Grand Total	100%

Notwithstanding the point made above regarding disclosure, where disability status was disclosed, the percentage of applicants who declared a disability appears somewhat high; the equivalent level in the most recent Scottish Household Survey question data (2023) for a ‘limiting long-term physical or mental health condition’ was 28% of the population. This suggests this policy may be particularly important for this group. Our assessment is that this may reflect broader patterns of disability within the criminal justice system (see external evidence below). More specifically, this may also reflect the potentially critical importance of suitable expert evidence for defences in which the applicant’s disability is a part.

Perhaps unsurprisingly, amongst applicants who declared a disability, a higher proportion of requests for experts were for psychiatrists, psychologists, and mental health experts (63% of the total, compared to 41% for applicants without disabilities).

Table 6: Grant rate for expert witnesses by disability status

Disability status	Granted	No decision	Refused	Grand Total
Disability	93.25%	3.57%	3.17%	100%
No disability	91.83%	4.58%	3.59%	100%
Grand Total	92.33%	4.22%	3.45%	100%

The grant rate by disability status is very similar to age. Our view is that the Table 6 does not suggest that the policy position is having a detrimental impact in relation to this protected characteristic. However, we note again the low disclosure rate with regards to this protected characteristic, and we will continue to monitor this area in future.

Discussions with operational colleagues

For further context on the operation of this policy, operational staff made some observations in drafting this EqIA about requests which may be relevant to applicants’ mental health, such as psychiatric expert witnesses. Namely, they advised that there must be some sort of link, relevance, or explanation basis established for us to grant such an expert witness (as with any other type of expert). Crucially, our view is that it is important to be clear that this does not rely on a previous formal diagnosis being provided to us to support the request.

For example, a grant may be refused where a solicitor makes a request for such an expert witness and asks for their client to be psychologically examined without any explanation for why that is relevant to the case. Our view is that it is reasonable to refuse such an application where there appears to be no clear reason for the request, even where mental health issues (and therefore ostensibly a link to the protected characteristic of disability) are mentioned.

We note that if such a request was ‘continued’ by decision-makers for the solicitor to provide further information, our practice is to take a flexible approach to the information we require as far as possible. For instance, even if we are provided with relatively limited additional information as to the relevance of the mental health issues, we may nonetheless grant if there was contextual detail available to us that demonstrated a link (for instance, it was an assault in a psychiatric unit).

In summary, whilst it is possible for us to refuse a request where mental health issues are mentioned, our view is that the application of this policy does not involve an unjustifiable burden for applicants with mental health/psychiatric conditions who do not have a formal diagnosis. Our view is we take a flexible and proportionate approach. This would also be true for any of the other protected characteristics, as relevance to our policy factors must be demonstrated for a grant to be made.

- **Data relevant to the policy**

The high rate of applicants with disabilities under this policy might reflect higher rates of certain types of disability within the criminal justice system. This rate may also be tied more specifically to persons with disabilities being more likely to seek an expert witness because their disability is relevant to their defence.

Data from the 2022 Scottish Census and a Family Resources Survey for 2022-23 found that the percentage of Scottish people with a disability was between 21.4% and 27%.⁴ The UK House of Commons research puts that number at 28% of the population in Scotland.⁵ As such, the 35.44% of requests for expert witnesses being made by those with a disability is – as noted above – higher than any of these estimates.

Expert witnesses may be requested to speak to the nature or extent of an applicant’s disability in criminal proceedings. For example, a person with a disability might apply for an expert witness to support a defence of diminished responsibility: “Psychiatric evidence is crucial for the defence of diminished responsibility and is sometimes admitted in relation to loss of control”.⁶

Disability can be an important aspect of criminal proceedings and one that may require addressing by an expert witness.

Evidence on different disabilities

- **Physical disabilities**

No specific evidence found.

- **Learning disabilities**

Data suggests that evidence about an applicant’s mental health can often be highly relevant to proceedings. In the US, psychological evaluations and descriptions of a disability can address matters such as competency, criminal culpability, and other matters about whether such a disability could have had a causal or contributory role in alleged criminal actions.⁷ We infer that this is likely the case in Scotland as well.

Overall, it appears clear from our consideration of external evidence that a learning disability may have a relevance to a defence in criminal proceedings, and relatedly, that expert witnesses may be important for persons with this condition.

- **Mental health**

External evidence indicates that mental health issues are particularly prevalent amongst people involved in the Scottish criminal justice system. For instance, whilst it is estimated that, in the general population in Scotland, 25% of people are affected by mental health challenges, in the prison population this increases to 76%.⁸

We appreciate that the applicant group affected by this policy is *not* the prison population – however, we anticipate that there may be similarities that make this data point useful context.

A review of judicial perspectives on sentencing by the Scottish Sentencing Council found that:

⁴ Scottish Government (2025), [Data about disabled people in Scotland - Disability Equality Plan Executive Summary](#).

⁵ House of Commons Library (2025), [UK disability statistics: Prevalence and life experiences](#).

⁶ Nathan, R., & Medland, S. (2016), [Psychiatric expert evidence and the new partial defences of diminished responsibility and loss of control](#), *BJ Psych Advances*, 22(4), 277–284.

⁷ Berryessa, C. M. (2017), Educator of the court: The role of the expert witness in cases involving autism spectrum disorder, *Psychology, Crime & Law*, 23(6), 575-600.

⁸ Next Chapter Scotland (2025), [Mental Health](#).

“Most sentencers said it was very common for the mental health of individuals accused or convicted of offences to be raised in court.

“This aligns with the available evidence on the prevalence of mental health issues in the offending population, although this is primarily based on research in prisons, with there being little evidence on the prevalence of such issues in respect of those who receive non-custodial disposals.”⁹

In terms of the importance of experts with regards to mental health, the same report noted that “court reports on mental health issues are [...] fundamentally important in informing judicial decision-making. The main expert reports relied on specifically in relation to mental health are psychiatric reports, psychological reports, and, to a lesser extent, mental health officer reports and GP reports.” (ibid).

Mental health issues can be a contributing factor in themselves for offending behaviour (ibid). This may be directly relevant to this policy, insofar as expert witnesses may be called to give evidence on this question (or on the possible impacts of a prison sentence on the applicant given their mental health issues, for example).

In such cases, the request for an expert witness would be directly related to the applicant’s protected characteristics.

The Scottish Sentencing Council review notes that:

“Nearly all sentencers the Council engaged with had experienced delays in obtaining specialist reports about mental health and they commonly referred to these when discussing other matters.

“Sentencers said it can sometimes take several months to receive reports, and that qualified experts will often decline when asked to provide a report. Some said these problems arise ‘all the time’ and have existed ‘for many years’.”¹⁰

The review went on to note that “a lack of funding to pay for assessments and reports was also noted as contributing to delays: the defence may have difficulties securing funding through legal aid, the court may be reluctant to call for reports due to the cost, and experts may decline to prepare them due to the level of fees”.¹¹

Given the data above on the very high grant rate, in the absence of further evidence on this point – for instance, evidence that showed that although the grant rate is high, our decision-making was unduly slow – we are not inclined to agree that our policy position is a main contributor in such delays to the extent that it can be shown to have negative impacts on persons sharing this protected characteristic.

Sex

Statistics

- **SLAB’s data**

⁹ Scottish Sentencing Council (2024), at 17, [Judicial Perspectives on Mental Health and Sentencing Issue Paper](#).

¹⁰ Scottish Sentencing Council (2024), at 23.

¹¹ Scottish Sentencing Council, at 24.

Table 7: Percentage of applications by sex

Sex	Percentage of requests for expert witnesses (summary)	Percentage of applications for summary legal aid (2024-25)	Percentage of requests for expert witnesses (solemn)	Percentage of applications for solemn legal aid (2024-25)
Female	24%	21%	8%	10%
Male	66%	79%	83%	90%
Prefer not to say	10%	N/A	9%	N/A
Grand Total	100	100%	100%	100%

In the applications data we considered, the disclosure rate for the protected characteristic of sex was 84%.

A large majority of requests for expert witnesses at both summary and solemn level were from male assisted persons. This is very much in line with the profile of applicants for both types of criminal legal aid as the table shows above. Our view is this simply reflects the profile of people involved in criminal proceedings, and not (in particular) a position which presents barriers to more requests from female applicants.

In terms of the types of expert sought, the applications data indicates differences by sex. A considerably higher proportion of requests from women were for psychiatrists (47% of total requests from female applicants versus 36% from male applicants) and to a lesser extent for forensic alcohol experts (7% versus 3%). For men, a noticeably higher proportion of requests was comprised of mobile phone experts (10% versus 2% for women), and DNA experts (3% versus 0.2%). Both were particularly important in sexual offence cases, where applicants are overwhelmingly male.

Table 8: Grant rate for expert witnesses by sex

Sex	Granted	No decision	Refused	Grand Total
Female	91.94%	4.23%	3.83%	100.00%
Male	92.49%	4.43%	3.08%	100.00%
Prefer not to say	90.85%	4.58%	4.58%	100.00%
Grand Total	92.24%	4.41%	3.34%	100.00%

Again, as per the other protected characteristics considered, the grant rate for expert witnesses does not appear to vary significantly by sex. Given this and in the absence of any broader evidence to the contrary, our view is that the policy is not having an undue impact on equalities with regards to this protected characteristic.

- **Data relevant to the policy**

Evidence on women

In 2019-20, key differences in the characteristics of women prisoners compared to men are:¹²

¹² Scottish Government (2022), Safer Communities Directorate Women in the justice system: evidence review, [Patterns of offending and the justice system response](#).

- a more steeply peaked age distribution around ages 30-44 (59% versus 46%), and men have larger proportions in both younger (under 30) and older (45+) age bands
- higher proportions are married (23% versus 15%), and women in prison were less likely to be single (70.5%) or divorced/separated (4.4%) than men (78.7% and 5.7% respectively)
- slightly more identifying as Asian, and fewer as African, Caribbean or Black
- slightly higher rates of self-reported disability (10% versus 9%).

The Equality and Human Rights Commission found that:¹³

- female prisoners experience higher rates of mental ill health than male prisoners, but experience poorer access to treatment
- modelling of the prison population found that the estimated prevalence of long-term mental health conditions, self-harm, and anxiety are higher for women than men.

These pieces of data suggest that in our criminal justice system, there are intersections between identifying as a woman and mental health challenges, and between sex and ethnicity. This could have intersections with the type of crime women are at proceedings for, and therefore the kind of experts they make requests for. However, this is as far as our inferences can go. In our view, this data does not suggest that actioning this policy creates any inequalities for women, even where there is suggestion of intersection with other protected characteristics like ethnicity and mental health or ability challenges.

Evidence on men

External evidence reflects the point in our data that a large majority of requests were from male applicants. UK Government data from 2023 asserts that the overwhelming majority of those in the criminal justice system that year were men: “22% of individuals dealt with by the Criminal Justice System were female, and 78% were male.”¹⁴

Women were typically dealt with for less severe offences at court. This is supported by our applications data: whilst three quarters of requests for experts from women came from within summary proceedings, for men, the equivalent figure was only 43%. Whilst the ratio of requests for experts to applications was higher for women than for men in summary cases, at solemn level, the ratio was higher for men.

Data from England and Wales supports this distinction: of all female defendants prosecuted at court, 14% were prosecuted for indictable offences compared to 26% of male defendants in the latest year.”¹⁵

Drug possession crimes are also predominantly committed by males. The [Women in the justice system: evidence review](#) shows that in both 2018-19 and 2019-20, the vast majority (85%) of drug possession crimes were committed by males or all male groups. Whilst there are several types of experts that may be relevant to this type of case seen in our data, for example forensic analysis, these are unlikely to be directly related to the applicants’ protected characteristic of sex, even if a greater proportion of expert requests from men do relate to these types of expert.

¹³ Equalities and Human Rights Commission (2023) [Justice and personal security: Scotland](#), at 2.

¹⁴ Ministry of Justice (2025), [Statistics on Women and the Criminal Justice System 2023](#).

¹⁵ Ministry of Justice (2025), [Statistics on Women and the Criminal Justice System 2023](#).

The accused in sexual offences are overwhelmingly male; the proportion of sexual offence cases in which an expert is sought is higher than the average; there are particular types of experts which are more prevalent in these cases (for example mobile phone experts). Again, however, whilst men may be more likely to seek approval for unusual work in some circumstances, there is no direct link to their protected characteristic of sex.

Race

Again, our decision-making here would be in the context of how that evidence is relevant to legal issues at hand in the case, rather than reflecting the applicant’s race in and of itself.

Statistics

- **SLAB’s data**

In our applications data for expert requests, the disclosure rate for race was 61%, which should be borne in mind when considering our assessment.

Table 9: Request rate for expert witnesses by race

Race	Percentage of requests for expert witnesses
White majority	30%
White minority	1%
Non-white ethnic minority	2%
Prefer not to say	66%
Grand Total	100%

The table above shows that we have a very high rate of ‘prefer not to say’ (PNTS) for this protected characteristic. This accounts for each of the other categories, in particular White majority, appearing to be under-represented compared to population level figures: the Scottish Survey Core questions data for 2023 shows a combined total for the White majority groups being >85%, for instance.

The high rate of PNTS makes it challenging to draw any conclusions about the profile of persons requesting approval for expert witnesses. However, we are not at present sighted to any evidence suggesting that persons from particular groups face specific barriers to applying caused by our policy position.

Table 10: Grant rate for expert witnesses by race

Race	Granted	No decision	Refused	Grand Total
White majority	91.79%	4.32%	3.89%	100%
White minority	85.00%	5.00%	10.00%	100%
Non-white ethnic minority	92.73%	5.45%	1.82%	100%
Prefer not to say	92.38%	4.20%	3.41%	100%
Grand Total	92.15%	4.28%	3.58%	100%

The grant rate for all groups within this protected characteristic is high. However, the rate for white minority applicants is somewhat lower than for the others. The numbers involved for this group are too small for us to test whether this difference is statistically significant, however. Whilst the refusal rate for this group appears at least double for all the others, our current assessment is that this is

accounted for by very low numbers and is unlikely to reflect a systematic impact of our policy position.

- **Data relevant to the policy**

SLAB's most recent criminal applicant survey reported the following breakdown by ethnic origin:

Q17 What is your ethnic group? Base: 377	
Prefer not to say	1% (n=3)
A. WHITE	
Scottish	86% (n=323)
Other British	7% (n=26)
Irish	1% (n=2)
Gypsy/Traveller	-
Polish	1% (n=4)
Any other white ethnic group	2% (n=9)
B. MIXED OR MULTIPLE ETHNIC GROUPS	
Any mixed or multiple ethnic groups	0% (n=1)
C. ASIAN, ASIAN SCOTTISH OR ASIAN BRITISH	
Pakistani, Pakistani Scottish or Pakistani British	-
Indian, Indian Scottish or Indian British	-
Bangladeshi, Bangladeshi Scottish or Bangladeshi British	-
Chinese, Chinese Scottish or Chinese British	-
Other	0% (n=1)
D. AFRICAN, CARIBBEAN OR BLACK	
African, African Scottish or African British	1% (n=4)
Caribbean, Caribbean Scottish, or Caribbean British	-
Black, Black Scottish or Black British	0% (n=1)
Other	0% (n=1)
E. OTHER ETHNIC GROUP	
Arab	0% (n=1)
Other	-

An applicant's race or national identity could be relevant to whether we would grant an expert witness as there may be certain types of cultural issue that a country expert could speak to, for instance – including in relation to the impacts of extradition to a particular country.

In that instance an expert may be instructed to speak to legal aid penal conditions in the country in question. For example, Operational colleagues had suggested that in an extradition case of a foreign national, a constitutional lawyer from that country may give evidence on the possible impact on their rights. Similarly, an academic or justice expert on prison conditions and human rights might speak to the conditions the court could expect in prisons in their country of origin that the accused might face if extradited.

That expert would have to speak to specific prisons, or specific conditions that the accused may encounter, rather than the justice or prison system in that country in general terms. That is, whilst race/nationality might have a degree of relevance to requesting counsel in such cases, it is not sufficient for an applicant simply to state that they are from country X in the absence of salient supporting information demonstrating the need for an expert.

In practice, review of the data indicates that a large proportion of requests for experts in extradition requests are for psychiatrists (25%); psychologists (18%); and other medical professionals (18%). Whilst there was a sizeable proportion of experts labelled 'other' (c30%), it is not clear with the level of detail currently available what these were and how far they would relate to the protected characteristic of race within this particular case type.

The Equality and Human Rights Commission in 2023 published that some ethnic minority groups experience higher incarceration rates. Scottish Government analysis estimated incarceration rates in 2021-22 for people who identified as 'African, Caribbean or Black' (8.2 per 1,000), 'Mixed or Multiple ethnicity' (4.5 per 1,000) and 'Other ethnicity' (7.2 per 1,000) was significantly higher than for people who identified as 'White' (3.2 per 1,000).¹⁶

We note again that limitations with the applications data available to us make it challenging to draw any conclusions about how far over-representation in the criminal justice system more broadly is or is also not reflected in the profile of those making requests for expert witnesses.

In terms of examples of how an applicant's race may have a relevance in applications for expert witnesses, Operational colleagues advised that experts, usually academics, may be instructed to speak about cultural background matters that could be relevant to the case.

Colleagues noted that such evidence would likely only be considered discussions of mitigation in court, not as a defence per-se. For example, as part of mitigation, such an expert may speak to the accused's alleged behaviour, such as approaches to discipline or family dynamics where the accused actions may have been informed by their cultural norms and beliefs.

However, in practice, given the data available to us, it is not possible to draw robust conclusions about any patterning of case type – and relatedly, expert type – by different ethnic groups.

Evidence on different ethnicities

No specific evidence found.

Evidence on people whose first language is not English

No specific evidence found.

It is important to note that interpreters and translators are not considered expert witnesses and do not fall under the ambit of this policy (and therefore this EqIA).

Gender reassignment

Statistics

- **SLAB's data**

No specific data available for this protected characteristic.

- **Data relevant to the policy**

Evidence on trans people

No specific evidence found.

¹⁶ Equality and Human Rights Commission (2023), [Justice and personal Security: Scotland](#).

Sexual orientation

Statistics

- **SLAB's data**

No specific data available for this protected characteristic.

- **Data relevant to the policy**

Evidence on gay men

No specific evidence found.

Evidence on gay women/lesbians

No specific evidence found.

Evidence on bisexual people

No specific evidence found.

Religion or belief

Statistics

- **SLAB's data**

No specific data available for this protected characteristic.

- **Data relevant to the policy**

Evidence on different religions

No specific evidence found.

Pregnancy or maternity

Statistics

- **SLAB's data**

No specific data available for this protected characteristic.

- **Data relevant to the policy**

Evidence on pregnancy and maternity

No specific evidence found.

Marriage/civil partnership (only applies to policies related to employment)

Statistics

- **SLAB's data**

N/A for the purposes of this EqIA.

- **Data relevant to the policy**

Evidence on marriage and civil partnership

N/A.

Care Experienced

Statistics

- **SLAB's data**

SLAB's most recent criminal applicant survey reported the following breakdown of applicants by care status:

Q19 Are you currently, or have you ever been, 'looked after' by a Local Authority? By this we mean: subject to a supervision order with no condition of residence; with foster carers or prospective adopters, in a residential care home, in a residential school or a secure unit. Which of the following applies to you? Base: 340	
Currently 'looked after' by a Local Authority	8% (n=28)
Have previously been 'looked after' by a Local Authority	13% (n=45)
Never been 'looked after' by a Local Authority	68% (n=232)
Prefer not to say	10% (n=35)

Turning to the expert approvals data specifically, in comparison to the (older) data seen in the criminal applicant survey above, there is a much higher rate of PNTS (85%), and considerably lower rates of applicants indicating they had experience of care. This is also in the context of a large gaps in disclosure of this characteristic in the first place, with 38% missing.

Table 11: Request rate for expert witnesses by care experience status

Care experience status	Percentage of total requests for experts
Currently "looked after" by a Local Authority	0.73%
Have previously been "looked after" by a Local Authority	1.51%
Never been "looked after" by a Local Authority	12.26%
Prefer not to say	85.50%
Grand Total	100%

The figures above suggest that care experienced people may be slightly over-represented in terms of requests for expert witnesses, given that those who have been in care make up only around 0.5% of the general population. Given the limitations of the applications data, however, we are unable to draw any robust conclusions about the profile of applications with regards to this characteristic. In any event, we expect that the high levels reflect involvement in criminal proceedings generally, rather than a specific importance with regards to this characteristic per-se.

Research by the Howard League found that “looked-after children are disproportionately criminalised compared to other children, particularly those living in residential care [...] They are less likely to receive support from family members or another trusted adult at the police station, which can adversely affect them.”¹⁸

This could suggest that people with experience of care are particularly likely to be involved in criminal proceedings, though not necessarily to make requests for expert witnesses.

¹⁷ SLAB criminal applicant survey 2018-19.

¹⁸ Howard League for Penal Reform (2019), [Representing looked-after children at the police station: a step-by-step guide for lawyers](#).

- **Data relevant to the policy**

Evidence on care experienced people

There is a body of evidence which clearly sets out the extent to which care experienced people are over-represented in Scotland’s criminal justice system. For instance, “Who Cares?” report that:¹⁹

“Care leavers are overrepresented in the criminal justice system in Scotland, with a third of those surveyed in HMYOI Polmont in 2015 self-reporting as care experienced. In 2014, 50% of prisoners in Scotland identified as having been in care at some point in their life and a report published in 2013 identified that a third of young offenders had experienced living in care. Furthermore, statistics reveal that although those who have been in care only make up an estimated 0.5% of the general population, they make up 33% of Scotland’s youth offender population and 31% Scottish adult prisons.”

We also recognise the broad external evidence available concerning societal outcomes for people with experiences of care: for instance, a Scottish Government paper on outcomes noted that “across the available evidence, care experienced children and young people experience markedly poorer health and wellbeing outcomes than the general population. Elevated risks were observed for mortality, psychiatric admission, self-harm, substance use, and hospitalisation”.²⁰ This may be relevant in terms of intersectionality between care experience and mental health issues (where experts may be particularly relevant, as noted above).

We are not aware of instances in which an expert witness has been specifically instructed to speak about an applicant’s experience of care in and of itself. However, our experience suggests that an expert witness speaking to an applicant’s mental health may well address an applicant’s experience of care as part of the assessment they provide, where they believe there is an intersection between the applicant’s psychological needs and experiences of care. Given external evidence on the prevalence of mental health issues amongst those with experience of care, it may be that persons with experience of care are more likely to interact with this policy because of that intersection with mental health issues.

2.2. Using the information above and your knowledge of the policy/practice/process/service, summarise your overall assessment of how important and relevant it is likely to be for equality groups.

Where an applicant’s defence involves an argument which relates directly to their protected characteristics (for instance mental illness in the context of disability), our policy on the employment of expert witnesses able to provide evidence on these issues will be highly relevant and important: this is reflected in the high volume of requests for psychiatrists (for example). However, it must be noted that there are many types of experts for which an applicant’s protected characteristics are unlikely to be of any relevance: for instance, firearms experts or pathologists.

There may be a greater prevalence of requests for expert witnesses by applicants from certain protected characteristic groups (particularly disability). Some protected characteristic groups are also more likely to instruct particular types of experts, in ways that will tend to interact with case

¹⁹ Who Cares? Scotland (2018), [Report on the Criminalisation of Care Experienced People](#).

²⁰ Scottish Government (2025), [Longitudinal quantitative evidence review for Keeping The Promise: health and wellbeing of care experienced children and young people](#).

subject matter and procedure type (for instance men being more likely to instruct mobile phone experts in the context of being more likely to be involved in sexual offence cases).

Our policy with regards to the employment of expert witnesses focusses on:

- A. **The qualifications and experience of the expert witness themselves:** the applicant's equalities considerations do not appear to be obviously relevant to the decision we make here (that is, whether the expert can appropriately speak to the issues in question).
- B. **Whether the use of the expert is likely to advance the case or bring about its resolution:** this will include whether the use of the expert appears to be relevant to the applicant's defence. Where an applicant's protected characteristics clearly form part of a potential defence, and an expert is to speak to the same, we would be likely to grant sanction. This is a broad factor in terms of what we may be willing to consider and if an applicant can show that an expert is required to give evidence which is relevant to the case, and which may advance the case, then we will consider this positively – including where evidence relates to any of the protected characteristics.
- C. There may be occasions where an **applicant requests the employment of an expert witness to speak to their protected characteristics, but it is unclear to us that such an expert is relevant/required:** for instance, requests for a psychiatrist where the applicant has no prior diagnosis or history of treatment. However, we would always consider the full circumstances of the request. Our view is that it is reasonable to expect at least some information to justify a request, including where it ostensibly relates to an applicant's protected characteristics: given the grant rates, our view is that there is no evidence to suggest a problematic impact arising from this position.
- D. **Due regard for economy:** we recognise that there may be occasions where an applicant wishes to instruct an expert to speak to some defence involving their protected characteristics, but where few experts may be available and potentially at high cost (for instance, a specific country expert). However, where the applicant has demonstrated that use of said expert is likely to fulfil B. above, we would be unlikely to refuse such an application.

Thus, our assessment is that equalities considerations are clearly relevant to this policy, and that the policy may be particularly important for some groups.

We are not currently aware of evidence that suggests applicants from specific equality groups are more or less likely to be granted sanction for an expert witness under our current policy – the data we have available indicates the grant rate is high across the board. Arrangements to address this knowledge gap are set out in [Section 6](#).

2.3. Outcome of Step 2 and next steps. Select the outcome below to inform the next stage of the EqIA process.

Please select your decision: Proceed to Step 3 - complete full EqIA.

Please outline the reasoning behind your decision:

Given the conclusion above as to the relevance of this policy to protected characteristic groups, a full EqIA is required.

Step 3: Stakeholder involvement and consultation

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

No.

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

N/A.

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

N/A.

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

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

Cross-cutting

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

Our view is that outcomes of this policy will primarily be driven by issues at play in the case as well as the qualifications and pricing of the expert, rather than by the applicant's protected characteristics in and of themselves (even where the expert may be speaking directly to those). There are a range of expert witnesses who may be instructed to speak to issues which are related to an applicant's protected characteristics, however: psychiatrists and psychologists are particularly prevalent amongst the requests.

We reiterate that our decision-making in relation to any specific request for an expert witness is driven by how such an expert could advance the case and their qualifications. The applicant's protected characteristics will only be directly relevant to such considerations if they are seeking an expert to opine on the applicant's protected characteristic and how it would affect their ability to parent.

SLAB has a wide degree of discretion available in terms of its policy on prior approval for expert witnesses. The factors that appear in the agreed policy are broadly framed. Our assessment is that they are framed in such a way that – where relevance to the factors is demonstrated – issues relating to any of the protected characteristics with regards to possible need for expert witnesses can be considered. By incorporating such a degree of flexibility, our view is that the policy position advances equality of opportunity.

Age

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

The policy is used to instruct experts who may be speaking to the relevance of an applicant (or other party's) age in some circumstances – for instance, child psychologists (though these were infrequent). It may be that some of the various health-related experts would speak to how an applicant's age is relevant to the context of the case.

We note that the subject matter of cases and to a limited extent the types of expert sought do vary by age. However, analysis of the applications data indicated that there is no relationship between age and grant rate for expert witnesses, suggesting the policy position does not have a problematic impact with regards to age.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Disability

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

It is clear from reviewing the applications data that use of expert witnesses in relation to what could be considered applicants' disabilities is frequent: for instance, the instruction of psychiatrists and perhaps the various types of medical experts. The data also indicates that applicants with disabilities are slightly more likely to be granted use of an expert witness than those who are not; this suggests that for applicants with disabilities, at least, our current policy position does not lead to adverse impacts, but has a positive impact in which the bar to accessing expert witnesses is not unduly high.

Whilst we are aware of some external evidence suggesting there are particular systemic barriers for people with disabilities in arranging expert testimony, that does not appear to be clearly borne out by this data; more broadly, difficulties with the availability of expert witnesses cannot necessarily be seen as the result of our policy position rather than other external factors.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Sex

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We note in section 2 that our applications data shows that whilst there does appear to be difference in the types of cases taken by men and women (and therefore possibly in the types of witnesses required), there is no significant difference in the grant rate for expert witnesses by sex. Therefore, it appears reasonable to assume no adverse impact relating to our decision-making under this policy.

We noted a degree of variation in the types of expert sought by sex, which appeared to relate to the subject matter of cases. We did not see any evidence that the access to expert witnesses is more challenging for either men or women, and nor are we currently aware of any specific instances in which our policy has resulted in a problematic barrier for women as a result of their protected characteristics.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Race

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We set out the limited range of evidence available to us in relation to race in section 2, which included a degree of variation in the grant rate. With the data currently available to us, we are unable to determine whether there are any specific links between this protected characteristic and the types of expert sought (including in particular case types, such as extradition which could potentially be of particular relevance). We are not currently aware of any evidence that shows specific barriers for any of the groups within this protected characteristic arising because of our policy position.

It is important to bear in mind that interpreters are not subject to our policy on expert witnesses, approval not being required.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Gender reassignment

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We did not find any evidence that indicated a specific relevance of expert witnesses with regards to this protected characteristic, or which suggests that applicants are more or less likely to seek and to be granted use of an expert witness depending on their gender reassignment status. However, nor are we aware of any current issues. There are no known adverse impacts to be mitigated.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Sexual orientation

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We did not find any evidence that indicated a specific relevance of expert witnesses with regards to applicants' sexual orientation, or which suggests that applicants from particular sexual orientations are more or less likely to seek and to be granted use of an expert witness. However, nor are we aware of any current issues. There are no known adverse impacts to be mitigated.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Religion or Belief

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We did not find any evidence that indicated a specific relevance of expert witnesses with regards to applicants' religion or belief, or which suggests that applicants from particular religious backgrounds are more or less likely to seek and to be granted use of an expert witness. However, nor are we aware of any current issues. There are no known adverse impacts to be mitigated.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Pregnancy & Maternity

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

We did not find any evidence that indicated a specific relevance of expert witnesses with regards to applicants' pregnancy or maternity status, or which suggests that applicants who are pregnant are more or less likely to seek and to be granted use of an expert witness. However, nor are we aware of any current issues. There are no known adverse impacts to be mitigated.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

Marriage & Civil Partnership (only applies to policies related to employment)

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: No impact.

This protected characteristic is not relevant to our assessment of this operational decision-making policy.

Care experience

Potential for discrimination: No impact.

Potential for developing good relations: No impact.

Potential to advance equality: Positive impact(s).

As noted above, whilst we are aware of evidence that shows that people with experience of care are over-represented in the criminal justice system, we found no specific evidence or data that allows us to see a clear linkage between applicants with this protected characteristics requests for expert witnesses, and grant rate.

We recognise that intersectional consideration of care experience and mental health issues may mean that this policy does have a particular importance for some people with experience of care. In broad terms, however, nor are we aware of any current issues. There are no known adverse impacts to be mitigated.

Our assessment is that the factors set out within the policy are broad enough to allow for issues relating to any protected characteristic to be considered where relevance can be demonstrated, and that this means that the policy has a positive impact with regards to equality of opportunity.

4.2. Which actions have you taken as part of this assessment?

Please select the outcome of the assessment: Confirm that the policy/practice/process/service described in section 1.1 was robust.

Please explain the changes that have been made: Given the assessment above, our view is that no changes are required to this policy.

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

5.1. Record details of the groups you report to about this policy/practice/process/service and impact assessment. Include the date you presented progress to each group and an extract from the minutes to reflect the discussion.

Discussions with lead Operational staff on 28/01/2026 and consideration by senior leadership staff at GALA Review Meeting on 26/02/2026.

Step 6: Post-implementation actions and monitoring impact

6.1. Record any ongoing actions below

No ongoing actions at present.

6.2. Note here how you intend to monitor the impact of this policy/practice/process/service on equality groups

Measure	Lead department or individual	Reporting (where and frequency)
Suggested lines of inquiry for measures include internal data: analysis of number of requests, grants and refusals for use of expert witnesses by assisted person protected characteristic – broken down by type of expert and by type of offence, if possible.	AMI (data extraction) with Policy (analysis): suggest this should be explored as part of business impact assessment regarding recording, and options for gathering this information in a manageable way.	Suggest yearly – to Head of Criminal Legal Assistance.
External data: seek further specific context on the equalities characteristics of persons proceeded against in the criminal courts (rather than convicted or imprisoned) for use as a comparator.	Policy with input from Criminal team: suggest this should be explored as part of business impact assessment generally, and options for gathering this information in a manageable way.	One-off or as new data becomes available: to Head of Criminal Legal Assistance.

6.3. EqIA review date

Should be reviewed as part of the post-implementation review of the policy/practice/process/service. The date should not exceed three years from the implementation date.

26/02/2029.

Step 7: Assessment sign off and approval

Director/SRO sign off: 26/02/2026.

Chief Executive approval: 26/02/2026.