

Appendix B: consultation questionnaire

Respondent information

Name: X

Email address: X

Are you responding as an individual or an organisation? Organisation

If an organisation, please enter your organisation's name: Clan Childlaw

SLAB would like your permission to publish your consultation response. Please indicate your publishing preference below:

Publish anonymous response	X
Publish response with name	
Do not publish my response	

NOTE: If you are responding on behalf of an organisation, anonymous publishing refers only to your name, not your organisation's name. If this option is selected, organisation name will still be published.

We may wish to contact you again in the future, but we require your permission to do so. Are you content for SLAB to contact you again in relation to this consultation exercise?

Yes	X
No	

By submitting a response you give us permission to analyse and include your response in our results.

Specific consultation questions

For Q1 and Q2 detail, see 'Period of computation' section of document (page 12).

Question 1

Do you have evidence of any adverse impacts of our current assessment of computation period? (Please describe this evidence and the kind of impact it is.)

Question 2

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to computation period?

For Q3 and Q4 detail, see 'Aggregation' section of document (page 12-13).

Question 3

Do you have evidence of any adverse impacts of our current assessment of whether to aggregate or not? (Please describe this evidence and the kind of impact it is.)

Question 4

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to aggregation?

For Q5 and Q6 detail, see 'Disposable capital' section of document (page 13).

Question 5

Do you have evidence of any adverse impacts of our current assessment of disposable capital? (Please describe this evidence and the kind of impact it is.)

Question 6

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to disposable capital?

For Q7 and Q8 detail, see 'Assessing sources of income' section of document (page 14).

Question 7

Do you have evidence of any adverse impacts of our current assessment of sources of income? (Please describe this evidence and the kind of impact it is.)

About Clan Childlaw

1. **Clan Childlaw is Scotland's law centre for children and young people. We exist to protect and strengthen children's rights and improve their lives.**
2. **We are lawyers for children and young people. All our lawyers regularly represent children and young people in court, at Children's Hearings, and in important meetings. We protect the rights of the children we work with and make sure their voices are heard.**
3. **We provide an innovative, child-centred legal outreach service developed to meet the specific needs of children and young people. This gives practical effect to Article 12 of the United Nations Convention on the Rights of the Child, enabling children to participate in decision-making processes which affect them, and supporting and empowering them to take an active role in improving their life chances.**
4. **Our representation work provides access to justice for children and young people in relation to children's hearings and all matters of child and family law, and in relation to civil legal problems for children in care and care leavers, as well as social welfare law problems which young people encounter. Statistical evidence supports the view that young people are disproportionately affected by social welfare problems such as homelessness and mental ill health.**
5. **Legal aid services which facilitate early interventions in legal problems faced by children and young people can help prevent future, long term problems and may avoid life-long difficulties for the adults they become. Legal aid plays a vital role in ensuring legal representation for children and young people and so in reducing**

inequalities, upholding social justice and improving lives for children and young people.

Current System of financial assessment is not child friendly

- 6. The current system expects children and young people to use and understand forms and guidance and a complex system designed for use by adults. The system has not been adapted or adjusted to make it usable or suitable for children and young people. As a consequence, the legal aid system is currently extremely difficult for young people to use and understand, even with a solicitor to explain. Based on our experience, the complexities and barriers to legal aid deter children and young people from contacting solicitors, and those working with children and young people from referring them to legal aid solicitors. As a direct consequence of being required to understand and use an adult system, some children and young people are prevented from accessing legal aid services and do not get access to justice.**
- 7. There are different tests for each different type of children's legal aid, including financial tests assessing the child's income, savings and "any items of value you own", even where it is self-evident that the young person is not financially independent.**
- 8. The Financial Form 2 takes a long time to go through with child applicants and is extremely hard for them to understand. It is often completely irrelevant to their circumstances and adds to the experience for young people of a non-child centred legal system and process in Scotland.**
- 9. Many young people and children who require legal aid services are in crisis or have been and are leading chaotic lives. Many have been disadvantaged and/or have had their lives significantly disrupted. This makes it more difficult for this group to provide documentation/verification or to pay a contribution however small. Asking children and young people to provide documents, which they do not have, contributes to the difficulties in accessing legal advice and representation.**
- 10. The financial assessment forms are not written with children in mind. We regularly complete financial forms with our child clients as applicants for Civil Legal Aid. The majority being of school age have no income. Yet because they are not in receipt of a passport benefit, they must complete a Financial Form 2 which asks very detailed but irrelevant questions. This can be very confusing and distressing for our clients and becomes another layer to the challenge of being legally represented. The Financial Form is not user friendly to any school age child and contributes to the impression that the law and access to justice is not accessible for children and young people.**
- 11. In some situations, a parent's financial circumstances may be taken into account and that assessment and their willingness to pay a contribution may rule the child out of receiving legal aid. Many**

children are in contention with those who have a duty to financially support them. Some are not safe with those who financially support them or their families. Many will not seek legal advice under legal aid if that means having to disclose to their parent or caregiver that they have done so. It discriminates against this group to expect them to disclose to family or care providers that they are seeking legal advice, and to make a child rely on adult family members or authority figures to provide information or corroboration in order to get legal assistance.

Our suggestions on how to improve financial assessment of Child Applicants

12. **Applicants under the age of 18 in the following groups should automatically qualify for legal aid under the means assessment: those who are in full time education, care leavers, young people looked after by the local authority and young people in receipt of income benefits. A form 2 should not be required for these applicants.**
13. **Failing that, should a form 2 still be required for the above groups, a child friendly form should replace the existing form 2 for these applicants. The form should use accessible language and ask relevant questions.**
14. **A young person's signature should provide authorisation for the Board to seek verification direct from any relevant bodies. The onus for obtaining information should shift to the Board rather than remain with the young person.**
15. **There should be no contributions payable for under 18s unless they are financially independent.**
16. **Where an applicant is financially independent and under 18 they should be directed to free support to assist them with obtaining and providing verification and other documentation, or legal aid should be paid for the firm's time spent gathering this information.**
17. **Applicants under 18 should be given extended time and multiple opportunities to provide verification or alternatives.**

Question 8

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to sources of income?

Please see response above to question 7. The current process and forms make no adjustments to take into account when an applicant is a child or young person.

For Q9 to Q15 detail, see 'Change proposal - introduction of cost of living allowances' section of document (pages 17 - 20).

Question 9

What are your views on the proposal being considered to introduce standard allowances that reflect average costs of living into our means assessment?

Question 10

Do you have evidence to indicate that a change from individualised assessment of certain costs to standard allowances set to cover a wider range of costs may result in any unintended adverse consequences?

Question 11

Can you identify additional benefits or risks to either retaining the individualised assessment option or the standard allowance option?

Question 12

What types of circumstances, expenditures, goods and services do you think should be considered reasonable to make an allowance for when determining disposable income?

Question 13

Are there any circumstances, expenditures, goods and services you do not think should be considered reasonable to make an allowance for when determining disposable income?

Question 14

If we were to move to a standard allowance structure, what model/s for constructing the allowances do you think might be appropriate?

Question 15

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to this change option to introduce standard allowances?

For Q16 to Q18 detail, see 'Other change options for consideration - housing and travel policy' section of document (pages 21 - 22).

Question 16

What are your views on the proposed change to allow housing costs that an applicant is liable for but not paying to be deducted from the disposable income total?

Question 17

Do you have evidence to indicate this change to our housing policy may be unnecessary or result in any unintended adverse consequences?

Question 18

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to this change to our housing policy?

For Q19 to Q21 detail, see 'Change to work related costs' section of document (pages 23 - 24).

Question 19

What are your views on the proposed change to deduct the HMRC standard rate of 45p per mile for an applicant's travel to work?

Question 20

Do you have evidence to indicate this change to our travel to work policy may be unnecessary or result in any unintended adverse consequences?

Question 21

Do you have any experience or evidence to indicate there are equalities considerations we should take into account in relation to this change to our travel to work policy?