



CHILDREN'S QUALITY ASSURANCE SCHEME

Advice & Assistance/ABWOR and legal aid applicant's online declaration form - revised guidance for peer reviewers

Updated November 2023

This guidance prescribes the required approach to the assessment of criteria 3 and the applicant's online Declaration Forms.

- For guidance on Declarations **pre Covid** (dated up to 15 March 2020) refer to sections 1 to 6 below.
- For guidance on Declarations **during the Covid pandemic** (from 16 March 2020 to 11 December 2022) please refer to [section 7](#).
- For guidance on Declarations from **12 December 2022 - 3 August 2023** please refer to [section 8](#).
- For guidance on Declarations **post Covid** (from 4 August 2023 to present) please refer to [section 9](#).

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Declarations predating Covid (prior to 16 March 2020)

1. Applicant online Declaration Form present but not signed and dated by the client and by the solicitor

Advice & Assistance/ABWOR and legal aid applicant online declaration forms must be signed and dated by both the client and the solicitor. Unless this is done there is no authority for the solicitor to submit the application to us for funding.

An Advice & Assistance/ABWOR grant is made by the solicitor when they are satisfied that the tests are met, and not when they submit the form to us. Completion of the declaration and online submission are both required stages of the application process. A declaration signed by both the solicitor and the client is evidence of a valid application and grant of Advice & Assistance/ABWOR.

A declaration form which is not signed by both the client and the solicitor results in a failed file. There is no discretion to be applied by the peer reviewer.

Children's legal aid

When making the online application the solicitor completes two tick boxes which states that:

- a) they hold a declaration form signed by the client and the date of signing, and
- b) they have also signed the declaration form and the date of signing.

In addition, the solicitor confirms that they hold the declaration form on file. Therefore, a declaration form which is not signed by both the client and the solicitor results in a failed file. There is no discretion to be applied by the peer reviewer.

The Quality Assurance Committee will apply its discretion in considering the overall outcome of the review. Where there appears to be a general issue with completion of declaration forms, the Committee will often ask the firm to comment before making a decision.

2. Applicant's online Declaration Form present and signed and dated by the client and the solicitor but otherwise blank

It is never acceptable to ask a client to sign a blank form which contains a declaration about its contents. This is a failed file. There is no discretion to be applied by the peer reviewer.

3. Applicant online Declaration Form present, signed by both client and solicitor, but incomplete

In this case, the peer reviewer has discretion as to whether the criterion passes or fails, and whether the file passes or fails. Not all the questions on the declaration forms are vital to the validity and integrity of the application process.

The material points are whether the client is identified, the nature of the matter is identified, the form shows sufficient information to assess financial eligibility (for A&A/ABWOR) as well as showing that the assessment has been properly made and recorded. This will be a matter of judgement for the peer reviewer.

If the declaration form is not sufficiently complete for a proper assessment and a grant to have been made, the reviewer may decide to fail that criterion. Where there is a part-complete declaration form, but financial details are available elsewhere in the file and there is evidence of assessment, you can use your discretion in assessing the criteria.

Incomplete declaration forms on files should always be drawn to the attention of the Quality Assurance Committee. This should be done in the section of the summary form "Overall areas of concern" as well as in the individual case comments.

4. Out of date or incorrect Declaration Form used

In this case the Peer Reviewer has discretion as to whether the criterion passes or fails.

This should not result in an automatic failure if all the relevant information is contained in the declaration and file to allow the solicitor to sufficiently assess eligibility. However, you may decide to fail if eligibility cannot be ascertained.

This should always be highlighted in the usual way in the Peer Reviewer's overall summary form.

5. Applicant online Declaration Form not present on the file at all

Although situations [1](#) and [2](#) above are automatic fails, the position is different where declaration forms are missing.

Where there is a materially defective declaration form on file a statutory requirement has not been complied with (for example, no signatures). However, where there is no declaration form at all, it is not possible to say definitively that the case should fail without further enquiry. We should bear in mind that in registering an application online the solicitor is making a declaration to SLAB that a copy of the declaration form has been completed and retained so it may be stored elsewhere.

It is sufficient for peer review purposes that **only a copy** of the applicant's online declaration form should always be on the file; the original declaration form may be held elsewhere in the office. We tell solicitors this when we notify them of the peer review and that the absence of the declarations may lead to further correspondence and a potential failure of that file.

The lack of a copy of the declaration form is not regarded as an automatic failure for the file; discretion can be applied, and it may be a criterion fail only or not a failure at all. For example, the absence of a declaration form on one file may be treated as a failure of the criterion but the absence of declarations forms on all files may imply a failure to comply with the procedure and the review may fail.

In those circumstances, the Committee would generally ask for an explanation from the solicitor and the solicitor may subsequently produce a copy of this/these to the Committee.

In this situation it would be difficult for the Committee to know what mark would otherwise have been given to the files and the solicitor, especially where otherwise the work was of good quality. We do not want to fail solicitors on this point alone as this would generate unnecessary additional extended review. Please therefore give a mark in your comments section that you would have given had there been copies of the declaration forms on the files.

However, even where a file is not failed, lack of the applicant online declaration form on files should always be drawn to the attention of the Committee. This should be done in the "Overall areas of concern" section of the summary report form as well as in the individual case comments.

6. Altered Dates of signing on the Applicant's Online Declaration Form

From time to time, reviewers have raised the issue of dates of signature. The Committee is aware that there can be many reasons why dates of signing can be different, and this causes no problems or concerns. There may be sufficient information contained in the file or account for you to ascertain the stages which were followed.

However, if you have any concerns that you think the Committee should consider, you can include these in the summary report form under "Overall areas of concern".

Declarations during Covid: 16 March 2020 - 7 August 2023

Applicants' Signatures

We [issued guidance on 16 March 2020](#) in relation to applicants' signatures on declaration forms. This advised that applicants did not need to sign the declarations and reflected the increasing health concerns at the time over face-to-face meetings and sharing pens. This covered the applicants' signatures only; there was no change to the approach for solicitors' signatures.

Solicitors' Signatures

Different declaration form practises developed amongst solicitors and firms during the pandemic period due to the need to operate differently, without access to offices and without meeting clients in person.

Some confusion appears to have arisen for some solicitors who thought that our notification that the declarations did not need to be signed by applicants meant that they also did not need to sign them.

The following is acceptable for the signing of declarations by solicitors during the pandemic from March 2020:

1. Paper declaration forms signed by the solicitor and client.
2. Paper declaration forms signed only by the solicitor and the 'Covid' reason used instead of the client's signature.
3. Printed copies of the online application with a wet signature by the solicitor and the 'Covid' reason used instead of the client's signature (or with the client's signature).
4. Printed copies of the online application containing the name of the solicitor in the signature box, but *without a wet signature* by the solicitor and the 'Covid' reason used instead of the client's signature.

Note: Use of the term "online application" above covers A&A/ABWOR declarations (printable summary), or the copy of the application submitted in Legal Aid Online (LAOL).

Declarations 12 December 2022 - 3 August 2023

[Update published on 12 December 2022](#)

Applicants' Signatures

As above, we are still accepting applications with the applicant's signature signed 'Covid'.

Solicitors' Signatures

The unchanged position is that the Declaration form should be signed by the solicitor, however the following is acceptable from 12 December 2022 - 3 August 2023:

1. Paper Declaration forms signed by the solicitor and client.
2. Paper Declaration forms signed only by the solicitor and the 'Covid' reason used instead of the client's signature.
3. Printed copies of the online application with a wet signature by the solicitor and the 'Covid' reason used instead of the client's signature (or with the client's signature).

The only change here from [section 7](#) is that there should now always be a wet signature on the printable online application if no signed Declaration is present.

Declarations post-Covid: 8 August 2023 to present

Update published on 4 August 2023

Applicants' Signatures

With all the formal Covid restrictions now removed, a client must sign the declaration form when they are seen in person. A signature on the declaration is important as it provides assurance to us that the applicant understands the existence of, and has accepted, certain terms and conditions. An important element of this is that the applicant is also aware that there are consequences if they breach those terms and conditions, and their signature captures their acceptance of that.

In addition, the applicant's signature confirms:

1. The information they have provided is accurate (and not misleading).
2. The applicant knows that we will make further enquiries with other agencies, such as The Department for Work and Pensions (DWP), and they consent to those agencies responding to us.
3. The applicant understands the requirement to notify us about any changes in their financial circumstances.

However, if it is apparent from the file that the client was not present or there are other reasons why they could not sign the declaration then there must be evidence on the file that you have provided this information to SLAB for us to consider. This can still be noted on SLAB's online system and the specific Covid reason has now been changed to "Client not present and agrees with the declaration terms".

If it is clear from the file that the solicitor has confirmed with their client that they agree with the declaration terms, a solicitor can use the above reason for the time being where they are not seeing the client in person at the initial consultation.

A solicitor should use "Other" for all other reasons, with a full explanation given of the circumstances and these circumstances should be noted in the file.

Solicitors' Signatures

As [advised in December 2022](#), the current position remains that a solicitor should always sign declaration form or printable summary form.

In all types of children's legal aid, A&A and ABWOR files, a solicitor now has two choices for completion of the declaration. They can:

- use the paper declaration form that is printable from SLAB's website, *or*
- print out the LAOL declaration (known as a "printable summary" of the grant or application), and then add their "wet" signature and date of signing, even where this has been automatically populated by the system.