EQUALITY IMPACT ASSESSMENT (EqIA)

Summary results of the EqIA

Title of policy/practice/process/service:

Advice and Assistance (A&A): distinct matters (children's).

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):

The current policy does not explicitly take equalities issues into account, and there do not appear to be any equality implications in relation to the current policy position. The factors involved in our policy appear to be neutral from an equalities perspective. We received some external input on this policy as part of a consultation exercise, which highlighted potential difficulties around this policy position, which we are considering in terms of possible future changes, although it was not specifically suggested that the difficulties were specifically related to equality impacts. We will review this issue again in future as part of the standard policy review cycle, however.

Summary of actions taken because of this assessment:

We should be clear in our decision-making and external guidance that we will take equalities considerations into account and provide guidance as to the kinds of information which will assist in enabling us to make decisions where equalities issues are relevant to our policy position.

Ongoing actions beyond implementation include:

Not yet relevant.

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

Policy and Research Analyst, in conjunction with Head of Civil and Children's Legal Assistance.

Senior responsible owner 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):
25/06/2024

Document control		
Document control:		Advice and Assistance (A&A): distinct matters (children's) v0.3
Date policy live from:		Live
Review cycle:		Every Three Years
Document change log		
Version/Author	**Date**	**Comment**
V0.1	November 2022	First draft as considered by GALA Review Group
V0.2	March 2024	Section 3 updated following external consultation
V0.3	April 2024	Finalised clean version

Step 1 – Framing the planned change

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

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

SLAB's policy on distinct matters in children's A&A operationalises the requirements of the relevant Regulation, that is Regulation 8 of the Advice and Assistance (Scotland) Regulations 1996. The purpose of a policy statement is to identify a test to be undertaken by decision-makers: in this case, whether the solicitor has confirmed that the advice is children's in nature; whether the advice relates to one or more distinct matters, and as a matter of policy, whether the solicitor has dealt with multiple matters in line with our policy on number of grants to be made. Section D of the policy statement is set out below, for reference.

*"**Is it a children's matter?***

In line with Regulation 8(2)(a), when providing children's advice and assistance the solicitor is firstly to determine whether the matter on which advice is sought is children's in nature. Our policy is that our published list of category codes must be used to do this, with the solicitor selecting a code from the list to reflect the content of the advice being given and providing additional details as to subject matter: this act confirms that the advice is children's in nature.

Where we become aware that an incorrect category code has been used e.g. where the matter is actually civil rather than children's A&A, or the wrong children's category code has been used, we will reject such a grant.

Distinct matters

The solicitor is required by the Regulations to identify (with regards to SLAB's guidance) whether the matters on which advice is being sought are distinct or not.

Our policy is that by selecting a category code and setting out the issues on which advice is given, including specifying where it relates to a new stage in a case following a substantive decision in relation to a full compulsory order, each grant made by the solicitor will reflect their determination as to whether the advice being given is on a distinct matter.

Multiple matters and number of grants

Where an applicant seeks advice on multiple matters, our policy is that all matters which can logically be linked together should be advised upon under a single grant of advice and assistance.

However, we accept that separate grants for each matter should be made:

- Where the solicitor is acting for a relevant person with multiple children who have different fathers/mothers;
- Where the solicitor is acting for a relevant person with multiple children with different concerns or at different stages the proceedings.

If multiple grants were made where a single grant should have been submitted (or vice versa) we will reject these.

Fresh grants of A&A

Our policy is that if the solicitor is not providing ABWOR and has not done any work under the grant of A&A for the client for over a year, then the client should be admitted to A&A again (with a new distinct matter), rather than the solicitor seeking an increase on the original matter."

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

No change: this is a routine review of policy.

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

The ultimate customer is the client to whom legal services, supported through the Legal Aid Fund, are provided. In this policy area, the impacts of our position may be as likely to be felt by the solicitor, in particular, the policy sets the expectations and boundaries of how many grants we expect a solicitor to make, which will have implications for payment. The policy does not affect the advice the assisted person will receive. Whilst solicitors work with the policies and guidance we develop and may, as in this area, be affected by the policy, this will not be in relation to their protected characteristics.

1.4 Policy/practice/process/service implementation date? *Project end date, date new legislation will take effect.*

Policy is currently in effect.

1.5 What other SLAB policies or projects may be linked to or affected by changes to this policy/practice/process/service?
The EqIA for related policies might help you understand potential impacts, and/or your findings might be relevant to share.

The main related operational policies are those with regards to increases in a valid grant of advice and assistance.

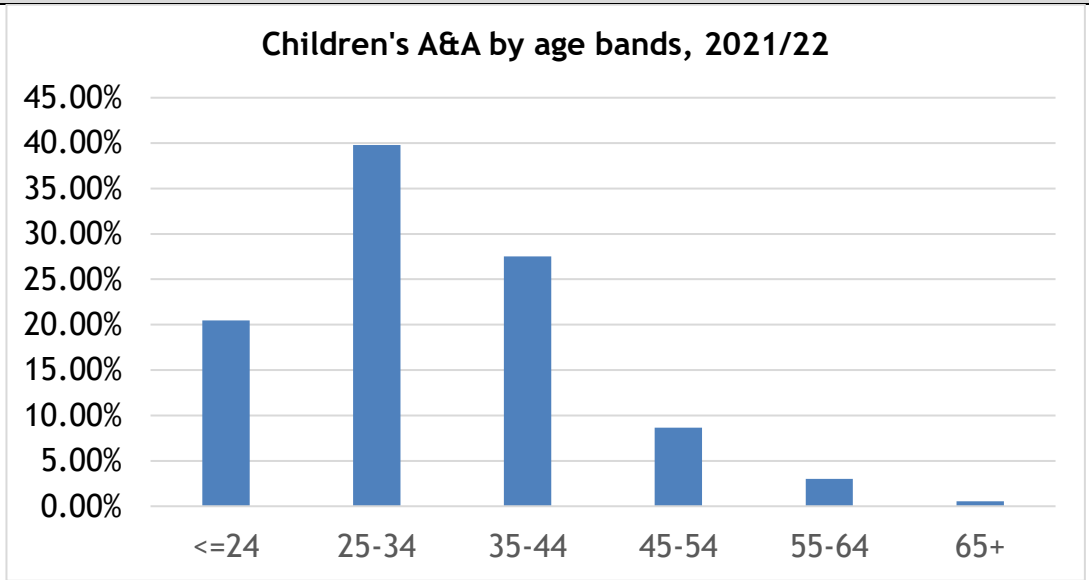
Step 2: Consider the available evidence and data relevant to your policy/practice/process/service

The information you gather in this section will:

- *help you to understand the importance of your policy/practice/process/service for different equality groups,*
- *inform the depth of equality impact assessment you need to do (this should be proportional to the potential impact on equality groups), and*
- *provide justification and an audit trail behind your decisions, including where it is agreed an equality impact assessment is not required.*

2.1 What information is available about the experience of each equality group in relation to this policy/practice/process/service?
Stay focused on the topic and scope of your policy/practice/process/service. Does the policy/practice/process/service relate to an area where there are already known inequalities? Refer to the EqIA guidance for sources of evidence. Remember, this step in the EqIA process is NOT about the impact your policy has on equality groups and what we need to do to mitigate those. That assessment is done under Step 4.
Note: If you proceed to a full EqIA you should continue to add to this section as you develop the policy/practice/process/service, come across new evidence and/or undertake a consultation.

Equality characteristics	Evidence source (web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/practice/process/service? *Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).*
Cross-cutting considerations	The profile of applicants to the Legal Aid Fund is patterned by protected characteristics within different aid types and by case categories within those aid types. We have no control over who applies to the Fund, which operates on eligibility rather than entitlement basis. Solicitors are the key intermediaries who decide which clients and cases they take on. The aggregate position of who applies is the result of complex interactions between societal trends, changes in wider justice sector processes, individual firms' appetite to undertake legally aided work for a particular case or client, and the actual legal issue at play. Some of the evidence is general in nature. There is little specific evidence we have been able to produce which would tell us about the experiences of different protected characteristic groups with regards to, for example the proportion of applicants with multiple children's legal matters and, in terms of internal data, whether those are dealt with by single or multiple grant; and whether this is patterned by protected characteristics or not. Whilst we are aware that in the context of civil law, there is a body of evidence around the 'clustering' of multiple legal issues, and the equalities groups most likely to experience multiple legal issues, we are not currently aware of any research or data indicating a similar phenomenon in the context of children's legal issues.	
Age	(1) **SLAB Internal data, 21-22**	The chart below sets out data in relation to the age of applicants for children's A&A in 2021-22. It is provided for broad context and does not set out specific data on distinct matters.

<table>
<tr><th>Equality characteristics</th><th>Evidence source (web link, report, survey, complaint)</th><th>What does the evidence tell you about the experiences of this group in relation to the policy/practice/process/service? Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).</th></tr>
<tr><td></td><td></td><td> 
</td></tr>
<tr><td>Disability</td><td></td><td>No evidence found.</td></tr>
<tr><td>Race</td><td></td><td>No evidence found.</td></tr>
<tr><td>Sex</td><td>(1) SLAB Internal data, 21-22</td><td>The table below sets out the sex of applicants for children’s A&A in 2021/22, and is supplied for context only: it does not specifically address numbers of distinct matters/grants etc.
<table>
<tr><th>Sex</th><th>%</th></tr>
<tr><td>Male</td><td>34</td></tr>
<tr><td>Female</td><td>65</td></tr>
<tr><td>Other/blank</td><td>1</td></tr>
</table></td></tr>
<tr><td>Gender Reassignment</td><td></td><td>No evidence found.</td></tr>
</table>

Equality characteristics	Evidence source (web link, report, survey, complaint)	What does the evidence tell you about the experiences of this group in relation to the policy/practice/process/service? *Lack of evidence may suggest a gap in knowledge/need for consultation (step 3).*
Sexual orientation		No evidence found.
Religion or Belief		No evidence found.
Pregnancy or maternity		No evidence found.
Marriage/civil partnership		No evidence found.
Care Experienced *(corporate parenting duty)*		No evidence found.

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

As reflected by table 2.1, we have been unable to find relevant internal or external evidence on the relevance of this policy for equality groups, and whether there is likely to be any differential outcomes patterned by protected characteristics.

However, it appears unlikely that an applicant's protected characteristics would have any bearing on our decision-making in this area. In relation to basic determinations as to whether advice is distinct or not, and whether it is children's in nature, these are essentially administrative processes (that is, selection of a category code) on which equalities are unlikely to have any bearing. As noted above, in the context of children's legal issues, we are not currently aware of any evidence suggesting that applicants from particular equality groups are more or less likely to have multiple legal matters, and whether multiple matters are likely to be linked or not. In any case, the protected characteristics of an applicant should have no bearing on how we expect solicitors to approach the task of deciding how many grants to submit the matters under.

Overall, our position is that whilst it appears unlikely that negative equality outcomes could arise because of this policy, the lack of current evidence in this area means we cannot be clear at present as to whether this policy is of relevance or important to any or all the equality groups.

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

Outcome of Step 2 following initial evidence gathering and relevance to equality characteristics	**Yes/ No (Y or N)**	**Next steps**
There is no relevance to equality or our corporate parenting duties	N	Proceed to Step 5: agree with decision makers that no EqIA is required based on current evidence
There is relevance to some or all the equality groups and/or our corporate parenting duties	N	Proceed to Step 3: complete full EqIA
It is unclear if there is relevance to some or all the equality groups and/or our corporate parenting duties	**Y**	Proceed to Step 3: complete full EqIA

Step 3 – stakeholder involvement and consultation

This step will help you to address any gaps in evidence identified in Step 2. Speaking to people who will be affected by your policy/practice/process/service can help clarify the impact it will have on different equality groups.
Remember that sufficient evidence is required for you to show 'due regard' to the likely or actual impact of your policy/practice/process/service on equality groups. An inadequate analysis in an assessment may mean failure to meet the general duty.
The Policy and Development team can help to identify appropriate ways to engage with external groups or to undertake research to fill evidence gaps.

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

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

We published our consultation on our website and provided all solicitors on our mailing lists with a link. We received three responses, all from solicitor firms.

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

In autumn 2023, we undertook a public consultation concerning our policies on A&A and ABWOR. This included a specific question regarding the equalities implications of our policies. One response focused specifically on the implications of our policy position regarding fresh grants in the context of children's work. Whilst the consultation response does not specifically link this to any specific differential impacts by protected characteristic, it could be assumed that the protected characteristic of age would be relevant here.

One response suggested that in providing legal assistance to children, the number of fresh grants that are required at different points in proceedings is unduly onerous and disproportionate and identifies various scenarios in which fresh grants are required, potentially within short timescales. We are grateful for this submission and have considered it carefully. We acknowledge that the requirements around fresh grants can seem unduly burdensome, and that grants covering more work could be preferable to the current position. This is an issue which we are already exploring as part of ongoing work considering potential reforms to case-by-case legal assistance funding.

Fresh grants in the context of A&A are a function of our policy on distinct matters, where we have a measure of discretion. However, our view is that the consultation response may be more relevant to our policy on fresh grants of ABWOR. It is important to note that we have no discretion in that area: change to the rules would require amendment of the relevant Regulations.

At the current time, alongside continuing to explore options for change in this area as part of our broader work on reform, we intend to note this issue as one for re-consideration when this policy is reviewed in line with our usual policy review cycle.

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

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

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

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

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

Cross-cutting: all protected characteristics	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	We acknowledge that at a societal level, some protected characteristic groups may be more or less likely to apply for A&A. We have no control over this and in individual cases, this societal fact has no bearing on our decision-making in relation to how we approach the test at hand. As such, we do not believe there is any potential for discrimination here.
potential for developing good relations			X	None.
potential to advance equality of opportunity	X			The purpose of our policy on dealing with multiple matters is to encourage solicitors to deal with related matters under a single grant

				where possible. One impact of this will be to reduce the number of contributions applicants with multiple matters are liable for. However, in the children's context, it is not clear that number of matters is patterned by protected characteristics, and as such, the equalities implications of this policy are unclear. It is also not clear if an alternative policy position would have a positive impact or negative impacts that require mitigation.

Age	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	None.
potential for developing good relations			X	None.
potential to advance equality of opportunity	X			As per 'Cross-cutting' table, above.

Sex	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	None.
potential for developing good relations			X	

potential to advance equality of opportunity			X	

Disability	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	None.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Gender reassignment	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	The limited evidence for this protected characteristic does not highlight any potential differential impacts with regards to how this policy would be experienced.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Race	**Place 'X' in the relevant box(es)**	**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your

	Positive impacts	Negative impacts	No impact	justification to not make changes despite the potential for adverse impact.
potential for discrimination			X	None.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Religion or Belief	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	None.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

Sexual Orientation	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	The limited evidence for this protected characteristic does not highlight any impact with regards to how this policy would be experienced.

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

Pregnancy & Maternity	**Place 'X' in the relevant box(es)**			**Describe the changes or actions (if any) you plan to take.** For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	**Negative impacts**	**No impact**	
potential for discrimination			X	The limited evidence for this protected characteristic does not highlight any impact with regards to how this policy would be experienced.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

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

Care experienced young people	Place 'X' in the relevant box(es)			Describe the changes or actions (if any) you plan to take. For example, to mitigate any impact, maximise the positive impact, or record your justification to not make changes despite the potential for adverse impact.
	Positive impacts	Negative impacts	No impact	
potential for discrimination			X	None.
potential for developing good relations			X	
potential to advance equality of opportunity			X	

4.2 Describe how the assessment so far might affect other areas of this policy/practice/process/service and/or project timeline?

The assessment so far indicates that we have very limited evidence in this area as to the experience of equality groups.

A key further step should be to attempt to address the evidence gap, so that we might increase our confidence in our current conclusion that this policy area is not one in which equalities issues are engaged or where there are likely to be negative equality outcomes.

4.3 Having considered the potential or actual impacts of your policy/practice/process/service on equality groups, you should now record the outcome of this assessment below.
Choose from one of the following (mark with an X or delete as appropriate):

Please select (X)	Implications for the policy/practice/process/service
X	**No major change**

	Your assessment demonstrates that the policy/practice/process/service is robust. The evidence shows no potential for unlawful discrimination and that you have taken all opportunities to advance equality of opportunity and foster good relations, subject to continuing monitoring and review.

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

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

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 key decision-making staff indicated that there is limited data currently available in relation to this decision set, and that the key element of the policy is around how multiple matters are dealt with. It was suggested that equalities considerations are not relevant to the decision-making itself here, but that the impact of the policy could be positive in terms of avoiding multiple contributions for applicants.

Step 6 – Post-implementation actions and monitoring impact

There may be further actions or changes planned after the policy/practice/process/service is implemented and this assessment is signed off. It is important to continue to monitor the impact of your policy/practice/process/service on equality groups to ensure that your actual or likely impacts are those you recorded. This will also highlight any unforeseen impacts.

6.1 Record any ongoing actions below.

This can be copied from the project action log or elsewhere in this assessment and should include timescales and person/team responsible. If there are no outstanding items, please make this clear.

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. *In the table below you should:*

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

Measure	Lead department/ individual	Reporting (where/ frequency)
Internal data Analysis showing number of applicants who have multiple matters by protected characteristics and subject matters; any rejections in relation to number of grants made.	**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.	Head of Civil and Children's Legal Assistance (yearly).

6.3 EqIA review date.

This EqIA 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 policy/practice/process/service implementation date.

12/03/2027.

Step 7 – Assessment sign off and approval

Once final consultation has been undertaken with Corporate Policy Officer (Equalities), all equality impact assessments must be signed off by the relevant Director or Senior Responsible Owner (SRO), even where an EqIA is not required. The Chief Executive must approve all equality impact assessments. Note the relevant dates here:

Director/SRO sign off: 12/03/2024.
Chief Executive approval: 12/03/2024.

All full equality impact assessments must be published on SLAB's website as early as possible after the decision is made to implement the policy, practice, process or service.