EQUALITY IMPACT ASSESSMENT (EqIA)

Summary results of the EqIA

Title of policy/practice/process/service:

A&A/ABWOR and matters of Scots law: civil matters (excluding asylum and immigration)

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):

Internal discussions and consultation relating to this topic, suggest that there are no impacts of this policy which specifically relate to equalities considerations.

Summary of actions taken because of this assessment:

Our view is that no action is required because of this assessment.

Ongoing actions beyond implementation include:

No specific ongoing actions were identified because of this assessment.

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

Head of Civil and Children's Legal Assistance and Policy Projects Manager.

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:		A&A/ABWOR and matters of Scots law: civil matters (excluding asylum and immigration) V0.2
Date policy live from:		Live
Review cycle:		Every three years
Document change log		
Version/Author	**Date**	**Comment**
V0.1 JO	30/11/2022	First draft for review by GALA Review Group
V0.2 KF	28/02/2024	Draft updated following consultation

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.

For context, our policy in this area is set out below (excerpted from Section F of the associated policy statement):

"Our policy is to assess the information provided to determine if the matter being advised upon concerns the application of Scots law to a person's circumstances. We apply the following factor to come to our decision:

- whether the ultimate remedy can, in the ordinary course of events, be obtained by raising the matter before a court or tribunal sitting, territorially, in Scotland.

Where the factor is satisfied, we determine that this is advice on a matter concerning the application of Scots law to a person's circumstances. Our policy is that advice about the application of Scots law to a person's circumstances includes advising Scots law is not applicable and affords no remedy, as well as limited advice or assistance about where other help could be obtained.

Our policy is that for a tribunal to be considered as 'sitting in Scotland', the matter must be within the normal jurisdiction of a Scottish tribunal which is hearing the case, in which the applicant's remedy would automatically lie."

1.2 Why is the change required?

Routine review for the GALA project.

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

The ultimate customer is the client to whom legal services, supported through the Legal Aid Fund, are provided. Solicitors and advocates work with the policies and guidance we develop. They are affected by the policy but not in relation to their protected characteristics.

1.4 Policy/practice/process/service implementation date?

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?

This forms part of the suite of policies that form the basis for considering whether a grant made by a solicitor is valid.

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

The information you gather in this section will:

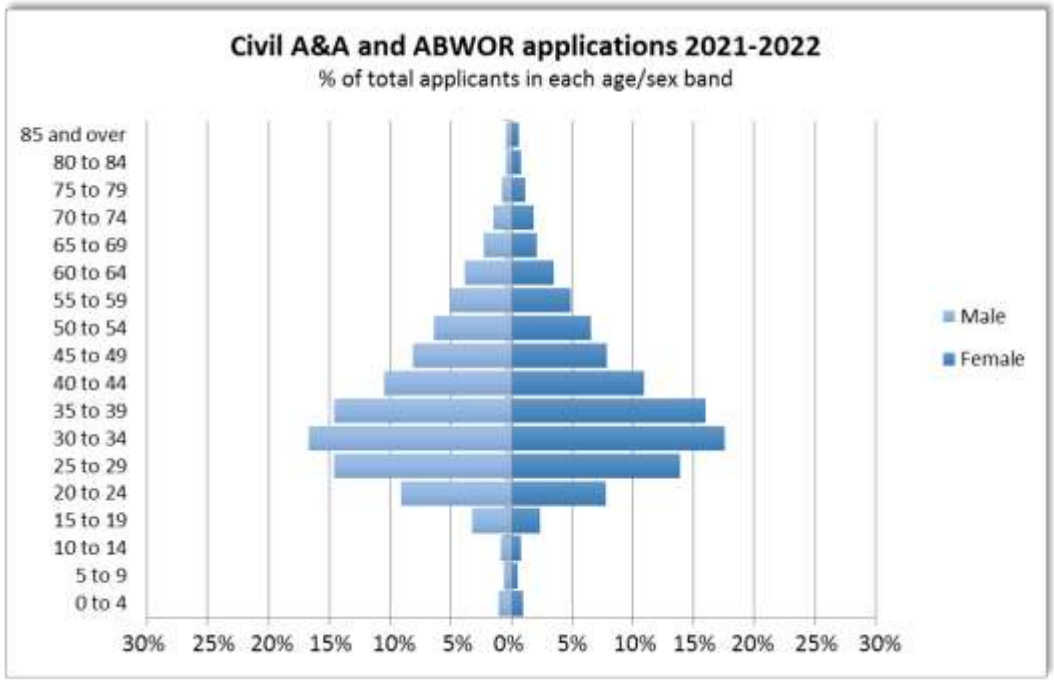
- *help you to understand the importance of your policy/practice/process/service for different equality groups,*
- *inform the depth of equality impact assessment you need to do (this should be proportional to the potential impact on equality groups), and*
- *provide justification and an audit trail 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	(1) Internal review of data and the legal aid landscape	The profile of applicants to the Legal Aid Fund is patterned by protected characteristics within different aid types (for example, between civil and criminal legal aid) and by case categories within those aid types (for example between those seeking to oppose interdict orders and those seeking divorce). 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 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. For example, we do not control which jurisdiction a matter falls into, nor who is prosecuted, referred to a children's panel, or who seeks a divorce. (1)

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).*
Age and sex	(1) Administrative data (internal)	 Our administrative data shows that people granted civil A&A and ABWOR are more likely to be female (53%) and that the majority fall into the 25-44 age bands (57%).
Disability	(1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's surveys of civil legal aid applicants and direct service clients show a high prevalence of declared disability (between 43% and 54%) as compared to the general population (26% in Scottish Survey Core Questions 2019). (1)

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).*
Race	(1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's survey data indicates that civil legal aid applicants (89%) and CLAO contacts and clients (86%) are less likely to belong to the White ethnic group than the general Scottish population. (1)
Gender Reassignment	(1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's survey data for civil and criminal applicants indicates around 1% have a different gender identity to the one they were born with, as compared to less than 1% in the Scottish Survey Core Questions 2019. (1)
Sexual orientation	(1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's survey data for CLAO contact and clients and civil applicants indicates that a similar proportion of applicants identify as Lesbian, Gay, Bisexual or Other, as compared to around 3% in the Scottish Survey Core Questions 2019. (1)
Religion or Belief	(1) SLAB applicants survey data and Scottish Survey Core Questions	SLAB's survey data for civil applicants indicates that fewer applicants declared 'No religion' (38%) as compared to the general population (54%) in the Scottish Survey Core Questions 2019. Similar proportions of applicants identified as belonging to the Church of Scotland (around 23%), the Roman Catholic Church (around 14%) and as 'Other Christian' (around 7%). Civil applicants were more likely to be from other faiths (10%) as compared to the general population (4%). (1)
Pregnancy or maternity		No evidence found.
Marriage/civil partnership		Not relevant to this policy.
Care Experienced	(1) SLAB applicants	Surveys indicate that the proportion of people currently looked after for civil legal aid applicants and CLAO contacts and clients is like the general population. Civil applicant

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).*
(corporate parenting duty)	survey data and collated statistics from Who Cares? Scotland	(3%) and CLAO (6%) surveys include an estimate of how many people were previously looked after, but no comparable national data has been found. (1)

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.

The evidence and our knowledge of the policy suggests that this policy is not relevant for equality groups.

2.3 Outcome of step 2 and next steps. Complete the table below to inform the next stage of the EqIA process.

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	Y	Proceed to Step 5: agree with decision makers that no EqIA is required based on current evidence
There is relevance to some or all of 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 of the equality groups and/or our corporate parenting duties	N	Proceed to Step 3: complete full EqIA

Note: whilst step 2.3 suggests that a full EqIA is not required, we have nonetheless completed a full assessment, including steps 3 and 4 below. This reflects the fact that we consulted on this policy, alongside the full range of A&A/ABWOR policies, and wish to record the outcome of that consultation.

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 a consultation covering this policy area on our website, with responses open to all. A link to the consultation was also provided to all solicitors registered to provide legal aid as part of a broader mailshot to the profession.

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. The consultation documents were publicly available on SLAB's website. The consultation received three responses, all of which came from solicitor firms.

We note that whilst this particular policy fell within the scope of that consultation, none of the comments received were directly relevant to this policy area; as such, our assessment for the purposes of this EqIA has not changed following the consultation exercise.

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.

Per the table below, our view is that this specific policy is unlikely to have any specific impacts, negative or otherwise, on any of the equality characteristics.

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	
potential for developing good relations				
potential to advance equality of opportunity				

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

Our view is that nothing in the assessment suggests that there are specific equality impacts for this policy.

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.

In December 2022, with the policy and EqIA having been developed over the previous month with input from senior operational staff, the EqIA was then considered at the GALA Review Meeting. Following discussions, it was then by the review group.

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.

N/A.

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)
No specific measures identified given lack of impact.	n/a	n/a

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.

14/12/2025.

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: 14/12/2022.
Chief Executive approval: 14/12/2022.

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.