



Consultation on Advice and Assistance (A&A) and ABWOR

Appendix: consultation questionnaire

The closing date for this consultation is 5pm on Monday 6 November.

If you have any questions about this consultation, please email us at consultations@slab.org.uk.

Respondent information

Requested anonymity.

Specific questions

Q1: What are your views on the current operation of the A&A/ABWOR regime?

a: Are there any areas which are particularly problematic, and if so, why? Do you have any evidence of any adverse impacts of our assessment processes/policies in these areas?

Children's AA is problematic. Different grants of AA cover are required throughout the case. If a child is removed by the granting of a child protection order that is your first grant, then another grant is needed for the second day hearing and a third grant for the 8th working day hearing. This is all within the space of normal 8 days. Each time you have to complete of new and if the client has more than 1 child all the names and dates of birth have to be retyped. This takes time for which we are not remunerated.

ABWOR is of course available but subject to SLAB approval for attendance at hearings. Unlike criminal practitioners who can meet a client and tender a plea and claim a block fee for perhaps 30 mins work, we are required to prepare time and line accounts, justify how many pages we are reading etc More often than not we are concerned with the removal of children from the care of a parent, and it is the start of proceedings that have lifelong consequences. Proper remuneration for this is not being given.

Q2: Are there any specific changes you would propose to the operation of A&A/ABWOR, including with regards to financial assessment? (Please let us know if you are referring to a specific aid type - e.g. civil, criminal - or making a general observation)

Consideration of block fees for children's ABWOR at a level consistent with that of criminal cases which are often of lesser consequences.

In civil cases where a recovery has been made, an option should be available to charge the client a private fee a put in a nil claim on the AA certificate rather than having at present to tell clients that firms will not take on this work on legal aid basis, even when it would be appropriate for AA cover to be sought to assess what the case may be worth

Q3: Do you have any evidence or experience which suggests that any of our policies/practices in this area may impact negatively on particular equality groups or care-experienced young people?

Fewer solicitors are willing to take on children's panel work due to the lack of remuneration. This can result in lifelong repercussions. Challenging social work views as to whether a child needs compulsory care should be seen as a vital resource.

I have recently successfully opposed the establishment of a grounds of referral for lack of care. A single mother who was having a child with known health issues was persuaded to grant a s25 agreement at birth. Her contact was gradually reduced, and she was told by social work she had to work with them and there was no need for a solicitor. After over 6 months by which time her contact was reduced to fortnightly, she sought legal advice. We revoked the s25 and the social work department sought and were granted a CPO on basis mum had never had the child in her care. Social work were not independent. At proof, by which time the child was 18 months old the sheriff found that the grounds were not established and that the social work initial decisions were not made on the basis of the full information available. AA was essential in this case, however had we been able to obtain independent reports at an earlier stage the delay may have been avoided and the child may have been able to return home earlier. In children's proceedings we are repeatedly told if independent reports are needed then the panel should order then as a result of which SCRA will pay.

Frequently for children's matters the clients have learning difficulties, mental health issues and literacy problems. The law is complicated and given panels are lay volunteers, solicitors need to be present to address the imbalance that often exists.