

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>The Legal Aid (Scotland) Act 1986 Amendment Regulations 2017 First - Tier Tribunal for Scotland Housing and Property Chamber</b>	
<b>Minister</b>	<b>Annabelle Ewing</b>	
<b>Lead official</b>	<b>Jamie Wilhelm</b>	
<b>Officials involved in the EQIA</b>	<b>Name</b>	<b>Team</b>
	<b>Jamie Wilhelm</b>	<b>Access to Justice</b>
<b>Directorate: Division: Team</b>	<b>Justice: Civil Law and Legal System: Access to Justice</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>Revision to an existing policy</b>	

### Screening

#### *Policy Aim*

The policy aim is amendment of legislation for legal aid in Scotland in relation to private rented housing cases. The intention is to maintain the status quo by ensuring that civil legal aid continues to be available to those civil private rented sector cases due to transfer from the Sheriff Courts to the First-tier Tribunal for Scotland Housing and Property Chamber (First-tier Tribunal) for those eligible .

#### **Policy Background**

Part 3 (s16) and Schedule 1 of the Housing (Scotland) Act 2014 (the Housing Act) transfers jurisdiction for civil cases relating to the private rented sector (PRS) from the Sheriff Courts to the First-tier Tribunal. The grounds which allow someone to raise an action and the issues to be taken into account in deciding a case would remain the same, but the decision-maker would change from the Sheriff Courts to the First-tier Tribunal. The transfer of jurisdiction will commence on 1 December 2017.

#### **Rationale for Change**

The First-tier Tribunal enables a less adversarial approach in comparison to the Sheriff Courts. The aim is for a system that will allow most people to engage directly with the First-tier Tribunal, and where legal representation is not the norm. However, the cases due to be transferred from the Sheriff Courts include tenancy related disputes that could lead to eviction and

homelessness so it is important that legal aid continues to be available where it is appropriate and subject to eligibility criteria.

## **Policy Intention**

The objective of this instrument is to name the First-tier Tribunal in Schedule 2 of the Legal Aid (Scotland) Act 1986. This will make civil legal aid available for cases calling in the First-tier Tribunal.

We wish to ensure that no-one is disadvantaged when housing disputes are transferred from the Sheriff Courts to the First-tier Tribunal simply because of a change of forum. We propose to maintain the status quo by ensuring that civil legal aid continues to be made available, for those eligible, to those civil private rented sector cases due to transfer from the Sheriff Courts on 1 December 2017. Those cases include a wide range of tenancy related disputes including rent arrears and evictions under the following enactments

- The Housing (Scotland) Act 1984,
- Housing (Scotland) Act 1988,
- Housing (Scotland) Act 2006

in so far as they relate to the transfer of jurisdiction under section 16 and Schedule 1 of the Housing Act.

New tenancies due to come into force under the Private Housing (Tenancies) (Scotland) Act 2016 include tenancy related disputes similar to those currently heard in the Sheriff Courts. We propose to make civil legal aid available to achieve parity of treatment between old and new tenancy related disputes.

At the same time, we also wish to maintain the status quo in the First-tier Tribunal where procedures for existing jurisdictions currently operate well without legal aid. We, therefore, propose that homeowner applications (relating to property factors) and the private rented sector applications continue to proceed without legal aid.

Procedures relating to the new letting agents regime will follow similar procedures to the homeowner applications and landlord registration in the First-tier Tribunal. We, therefore, propose that legal aid should not be made available for procedures relating to letting agents.

Cases relating to landlord registration matters will transfer from the Sheriff Courts to the First-tier Tribunal only in relation to applications from landlords who wish to appeal a decision of a local authority under the Antisocial Behaviour (Scotland) Act 2004 (the 2004 Act). At the same time, new proposals for landlord registration are due to come into force under section 21 of the Housing Act. It is Scottish Government policy to develop landlord registration and letting agent registration in parallel, following existing procedures for homeowner applications and property factors in the First-tier Tribunal. To transfer legal aid in relation to registration matters from the Sheriff Courts in relation to the 2004 Act would cut across housing policy

objectives to give parity to the treatment of parties in similar proceedings in the First-tier Tribunal.

There may be no real impact on the exception of the 2004 Act as above since legal aid eligibility criteria is likely to place landlords outwith the scope of legal aid. We also understand that cases under the 2004 Act, as above, rarely proceed to the Sheriff Courts.

### ***Who will it affect?***

- Tenants and Landlords in private rented sector disputes who bring a case against or have a case brought against them by their Tenant or landlord will now require to interact with the First-tier Tribunal rather than the Sheriff Courts. The type of publicly funded legal assistance made available will remain the same, i.e. 'civil legal aid', with the same [merits tests](#). Landlords would have likely been ineligible to legal aid in the Sheriff Courts due to the merits tests; they will not be entitled under the regulations.
- Solicitors who provide civil legal aid in private rented sector disputes will require to interact with the tribunal rather than the Sheriff Courts. However the majority of cases likely to call in the First-tier Tribunal are currently undertaken either by law centres or the Civil Legal Assistance Office, which are directly funded by the Scottish Legal Aid Board. As the status quo is remaining in relation to legal aid, they will continue to be required. However as the First-tier Tribunal setting is less adversarial, they may be required less.
- Scottish Legal Aid Board (the Board) which administers the legal aid Fund. This would have a positive benefit to the legal aid system in terms of reducing administrative costs to the Board.

We estimate that the proportion of PRS cases in the courts are quite low as a percentage of overall rented housing cases: (around 700 of 14,000) approximately 5%. Therefore the proportion of legal aid for PRS cases is also likely to be quite low. It seems reasonable to assume that parties in the PRS are less likely to be eligible for civil legal aid to fund legal representation in court. However, if the percentages remain consistent it could be assumed that legal aid for PRS cases in the courts broke down as follows in 2011-12;

Advice and Assistance – around 100 intimations totalling around £14K; and Civil Legal Aid – around 23 certificates totalling around £11K.

On the numbers presented, this simply represents a transfer of cost already incurred in the Sheriff Courts to the First-tier Tribunal. So, of itself, does not represent an increase in expenditure. Since 2011/12 there has been a reduction in the civil legal aid average costs for rent arrears cases because of the increase in the proportion of less complex rent arrears cases costing less to the legal aid fund. However, private landlord cases are less likely to be

sisted (pause in court proceedings) for payment. We presume that private landlords are more likely to want to pursue a case to conclusion which is likely to be more expensive and therefore we think the 2011/12 average represents the costs associated going forward. These are figures the Board suggest for the purposes of this instrument.

***What might prevent the desired outcomes being achieved?***

No factors were identified that might prevent the desired outcomes being achieved.

## **Stage 1: Framing**

### ***Results of framing exercise***

The framing exercise has identified that there are no specific negative impacts, either direct or indirect, on protected groups. This policy will keep the status quo in relation to legal aid. The aim is for the tribunal setting to have a positive impact on access to justice as the setting will be less adversarial.

### ***Extent/Level of EQIA required***

The framing exercise suggests that there will be a neutral impact on those with a private rented housing dispute and therefore only a high level of assessment is required.

## Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic <sup>1</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	<p>Ages of Solicitors undertaking legal aid work</p> <p>Age of applicants of civil legal aid</p> <p>Age of general population in Scotland</p> <p>Age of Private Rented Sector population</p>	<p>Scottish Legal Aid Board</p> <p>Scottish Legal Aid Board</p> <p>2011 Census</p> <p>Scottish Government's 2009 Review of the Private Rented Sector</p> <p>2015 Scottish Household Survey: <a href="http://www.gov.scot/Resource/0050/00506173.pdf">http://www.gov.scot/Resource/0050/00506173.pdf</a></p>	
<b>DISABILITY</b>	Households with at least one person with long-	2015 Scottish Household Survey: <a href="http://www.gov.scot/Resource/0050/00506173.pdf">http://www.gov.scot/Resource/0050/00506173.pdf</a>	

<sup>1</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>standing illness, health problem or general disability</p> <p>General population with a long-term activity-limiting health problem or disability</p> <p>Solicitors undertaking legal aid work who consider themselves to have a disability</p> <p>Recipients of Civil legal aid who consider themselves to have a disability</p> <p>Tenants in Private Rented housing who consider themselves to have a disability</p>	<p>2011 Census</p> <p>Scottish Legal Aid Board</p> <p>Scottish Legal Aid Board</p> <p>2015 Scottish Household Survey:  <a href="http://www.gov.scot/Resource/0050/00506173.pdf">http://www.gov.scot/Resource/0050/00506173.pdf</a></p> <p>Scottish Legal Aid Board</p>
<p><b>SEX (Pregnancy and Maternity)</b></p>	<p>Gender of solicitors undertaking legal aid work</p>	<p>Scottish Legal Aid Board</p>

	<p>Gender of the general population in Scotland</p> <p>Gender of applicants of civil legal aid</p> <p>Gender of tenants in Private Rented housing</p>	<p>2011 Census</p> <p>Scottish Legal Aid Board</p> <p>Scottish Government's 2009 Review of the Private Rented Sector</p>	
<b>GENDER REASSIGNMENT</b>	<p>Solicitors who consider themselves transgender</p> <p>Recipients of civil legal aid who consider themselves transgender</p> <p>National entries on the Gender Recognition Register</p> <p>Tenants in Private Rented housing who consider themselves to be transgender</p> <p>Sexual Orientation of Solicitors</p>	<p>Law Society of Scotland</p> <p>Scottish Legal Aid Board</p> <p>NRS Registration Division</p> <p>Trans Mental Health Study 2012  <a href="http://www.scottishtrans.org/wp-content/uploads/2013/03/trans_mh_study.pdf">http://www.scottishtrans.org/wp-content/uploads/2013/03/trans_mh_study.pdf</a></p> <p>Law Society of Scotland</p>	
<b>SEXUAL ORIENTATION</b>			



	Sexual Orientation of general population Sexual Orientation of recipients of civil legal aid Number of Civil Partnerships Sexual Orientation of Tenants in Private Rented housing	Stonewall, and Integrated Household Survey 2013 Scottish Legal Aid Board 2011 Census Analysis of Scottish housing tenures by sexual orientation: <a href="http://www.ons.gov.uk/ons/rel/integrated-household-survey/integrated-household-survey/january-to-december-2013/index.html">http://www.ons.gov.uk/ons/rel/integrated-household-survey/integrated-household-survey/january-to-december-2013/index.html</a>	
<b>RACE</b>	Ethnicity of solicitors undertaking legal aid work Ethnicity of general population Ethnicity of recipients of civil legal aid Race of Tenants in Private Rented housing Religion of solicitors	Scottish Legal Aid Board 2011 Census Scottish Legal Aid Board 2015 Scottish Household Survey: <a href="http://www.gov.scot/Resource/0050/00506173.pdf">http://www.gov.scot/Resource/0050/00506173.pdf</a> Law Society of Scotland	
<b>RELIGION OR BELIEF</b>			

	<p>Religion of the general population</p> <p>Religion of recipients of civil legal aid</p> <p>Religion of Tenants in Private Rented housing</p>	<p>2011 Census</p> <p>Scottish Legal Aid Board</p> <p>Scottish Government's 2009 Review of the Private Rented Sector</p>	
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<p><b>MARRIAGE AND CIVIL PARTNERSHIP</b>  (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)</p>			
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## **AGE AND GENDER**

### **General population**

Data from the 2011 Census shows that, in the general population in Scotland, 16% are aged 0-14; 13% are aged 15-24; 13% are aged 25-34; 14% were aged 35-44; 15% were aged 45-54; 13% were aged 55 to 64; and 17% were aged 65 or above.<sup>2</sup> The census also showed that 48.5% of the Scottish population were male and 51.5% were female.

### **Solicitors**

In the Board's solicitor survey of 2010, of the 415 respondents who specified their age: 14% were aged 25-34; 33% were 35-44; 36% were 45-54; and 17% were 55 or above. One partner doing civil work did not disclose their age group. Most respondents, therefore, fell in the middle age bands (ages 35-55).<sup>3</sup> This represents a higher proportion compared to distribution in the general population within the 25 to 64 age group, for which 23% are 25-34, 54% are 35-54; and 23% are 55-64.

Of the 416 respondents, 65% were male and 35% were female. Civil respondents and non-partners were relatively evenly split between males and females, however a greater proportion of males made up the samples of criminal respondents (85%) and partners (79%).

Comparing the gender data of solicitors to that of the general population, a significantly higher proportion of solicitors are male than in the general population. This difference is even more stark when comparing civil solicitors to the general population.

Solicitors most likely to be affected by changes to civil legal aid are male and aged between 35-55.

### **Civil Legal Aid Applicants**

The Board's 2013 Civil Legal Aid applicant survey reports that the most common single age category was '35 – 44' (31%), followed by '25 – 34' (24%) These group are therefore the most likely to be affected by these changes.

61% of respondents who provided an answer were female and 39% male meaning women may be marginally more impacted on than men.

### **Tenants in Private Rented housing**

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<sup>2</sup> <http://www.scotlandscensus.gov.uk/documents/censusresults/release1a/rel1asbtablea1.pdf>

<sup>3</sup> [http://www.slab.org.uk/export/sites/default/common/documents/about\\_us/research/documents/FinalReporttoSLAB.pdf](http://www.slab.org.uk/export/sites/default/common/documents/about_us/research/documents/FinalReporttoSLAB.pdf)

Private rented housing accounts for around 14% of housing in Scotland, and it is expected that - due to current restraints in accessing owner-occupation and social rented housing – this number will continue to rise, particularly among young people.

A large majority of dwellings in the private rented sector are owned by individuals and couples. There is almost an exact male to female gender balance amongst individual and couple owners. Characteristically, private rented tenants tend to be younger than the population as a whole, with 19% of private rented tenants in the 16 – 24 age group and 38% in the 25 to 34 age group.

## **DISABILITY**

### **General population**

The Scottish Household Survey 2015 shows that about one-quarter (23%) of households in Scotland contain at least one person with a Long-term physical or mental health condition. This figure covers all members of the household including children.

Data from the 2011 census shows that 19.6% of the population in Scotland have a long term activity limiting health problem or disability.<sup>4</sup>

### **Solicitors**

The Board's solicitor survey 2010 shows that of those that responded to this question (98.6%), 1% considered themselves to have a disability.

Descriptions of disability responses included visual impairment, hearing impairment, physical coordination difficulties, chronic asthma and dyslexia.<sup>5</sup>

This would seem suggest that solicitors as a group are less likely to consider themselves to have a disability than the general population.

### **Civil Legal Assistance Applicants**

The Board's 2013 Civil Legal Aid applicant survey reports that 24% of respondents said that they had a long-standing illness, health problem or disability.

This suggests civil legal aid applicants as a group are less likely to consider themselves to have a disability than the general population.

### **Tenants in Private Rented housing**

About 2 percent of private rented tenants have a disability or limiting long-term illness.

This suggests private rented tenants as a group are less likely to consider themselves to have a disability than the general population.

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<sup>4</sup> <http://www.gov.scot/Resource/0044/00446638.pdf>

<sup>5</sup> <http://www.scotland.gov.uk/Resource/0044/00442767.pdf>

## **SEXUAL ORIENTATION**

### **General Population**

Although the Census does gather data of those in same-sex civil partnerships, it does not ask about sexual orientation. A case was put forward for a question on sexual orientation to be included in the 2011 Census. This resulted in a small-scale postal survey in Scotland as a first step to understand public attitudes to a sexual orientation. The overall response rate for the survey was only 31%. Overall, only 2.2% of respondents declared non-heterosexual sexual orientation. 6% of those responding did not answer the question, and a further 8.5% of respondents selected “prefer not to answer”. The survey results call into question the accuracy of data gathered by such a question and hence the utility of any such data.<sup>6</sup>

Stonewall estimates between 5% and 7% of the population are estimated to be gay. The latest experimental statistic published from the Integrated Household Survey January – December 2014 shows that the number of people who self-identified as lesbian, gay or bi-sexual in Scotland was 1.1%.<sup>7</sup> In 2011 there were 7,150 people in a registered same sex civil partnership in Scotland.<sup>8</sup>

### **Solicitors**

The Law Society of Scotland’s 2013 solicitor survey found that the majority of respondents indicated that they were heterosexual (94%); while 3% indicated they were lesbian, gay, bisexual or other (i.e. LGBT), and the remaining 3% declined to answer the question. 5% of male respondents indicated that they were gay, while 1% of females indicated they were lesbians.

The available data suggests that solicitors may be slightly more likely to self-identify as gay, lesbian or bi-sexual than the general population.

### **Civil Legal Assistance Applicants**

The Board’s 2013 Civil Legal Aid applicant survey reports 94% of respondents described their sexual identity as heterosexual, with 1% ‘gay/lesbian’ and 1% ‘bisexual’. 5% chose not to provide an answer to this question.

### **Tenants in Private Rented housing**

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<sup>6</sup> <http://www.scotlandcensus.gov.uk/documents/research/sexual-orientation-in-the-census.pdf>

<sup>7</sup> Integrated Household Survey January – December 2014: Experimental Statistics

<sup>8</sup> Scotland’s 2011 Census (Table KS103sc, Release 2A)

Analysis of Scottish housing tenures by sexual orientation shows that 'Gay/ Lesbian/ Bisexual/ Other' people are over represented in the PRS.

## **GENDER REASSIGNMENT**

### **General population**

In 2011, there were 24 entries in the Gender Recognition Register, 6 more entries than in 2010.<sup>9</sup> This represents 24 people in an overall population of 5,295,400.

### **Solicitors**

The Law Society of Scotland's Profile of the Profession 2013: Demographics and work patterns of Scottish solicitors found that fewer than 1% of respondents considered themselves to be transgender.<sup>10</sup> This is broadly in line with the general population.

### **Civil Legal Assistance Applicants**

The Board's 2013 Civil Legal Aid applicant survey reports 3 people indicated that their gender identity was not the same as that assigned at birth.

### **Tenants in Private Rented housing**

The Trans Mental Health Study 2012 found that of the participants, 11% rent privately.

## **RACE**

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<sup>9</sup> NRS Registration Division

<sup>10</sup> <http://www.lawscot.org.uk/media.226958/profile%20of%20the%20profession%202013.pdf>



## General Population

Data from the 2011 Census<sup>11</sup> relating to ethnicity in the Scottish Population showed:

All people	5,295,403
White	96.0%
Mixed or multiple ethnic groups	0.4%
Asian, Asian Scottish or Asian British	2.7%
African	0.6%
Caribbean or Black	0.1%
Other ethnic groups	0.3%

## Solicitors

The Board's solicitor 2010 survey shows that (96%) indicated that they considered their ethnic background to be White; this was made up of those who considered themselves to be either Scottish or British. A further 3% of respondents did not disclose their ethnic background, leaving only 1% spread across other ethnic minority backgrounds.<sup>12</sup>

This compares with the general population where 96% considered their ethnic background to be White, suggesting that the racial diversity of solicitors broadly reflects that of the general population, as shown above.

## Civil Legal Assistance Applicants

The Board's 2013 Civil Legal Aid applicant survey reports that the majority of respondents (96%) were white (broadly reflecting the Scottish population at large), and the majority of these described themselves as Scottish. Those describing themselves as 'Asian, Asian Scottish or Asian British' made up 1.4%, with 'other' accounting for 0.5% and 'African, Caribbean or Black' 0.3%.

## Tenants in Private Rented housing

Of the participants in the 2015 Scottish Household Survey in relation to private rented housing, 58% are white Scottish, 15% are white other British, 5% are white Polish, 11% are white other, 2% are Asian, Asian Scottish or Asian British, 2% are African, Caribbean or Black and 1% are of other ethnic groups.

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<sup>11</sup> Source: National Records of Scotland

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[http://www.slab.org.uk/export/sites/default/common/documents/about\\_us/research/documents/FinalReporttoSLAB.pdf](http://www.slab.org.uk/export/sites/default/common/documents/about_us/research/documents/FinalReporttoSLAB.pdf)

## **RELIGION**

### **General Population**

The analysis of religion in the 2011 Census shows that the proportion of the population identifying with various religions as: 32.4% Church of Scotland; 15.9% Roman Catholic; 5.5% Other Christian; 0.2% Buddhist; 0.3% Hindu; 0.1% Jewish; 1.4% Muslim; 0.2% Sikh; 0.3% Another Religion; 36.7% No Religion; 7.0% Not Answered.<sup>13</sup>

### **Solicitors**

The Law Society of Scotland's 2013 survey on the whole of the legal profession showed that 46% consider they had no religion/faith; 47% reported themselves to be Christian (30% Church of Scotland, 11% Roman Catholic, 6% other Christian); 2% reported being one of the other main named faiths (Muslim, Buddhist, Sikh, Jewish, Hindu); approximately 2% reported "other"; and 3% chose not to answer the religion question.

This suggests that solicitors are more likely to consider they have no religion than the general population, and slightly less likely to consider themselves Christian.

### **Civil Legal Assistance Applicants**

In the Board's 2013 Civil Legal Aid applicant survey over half of respondents (57%) who provided an answer described themselves as not belonging to any religion, religious denomination or body. Of the remainder, Roman Catholic was the single most common response (14%), followed by 'other Christian' (11%) and Church of Scotland (10%). 12 respondents belonged to other recognised religions (Muslim and Buddhist). 6% of respondents preferred not to provide this information.

### **Tenants in Private Rented housing**

One third of households identifying as Hindu, one in five Buddhist households and a similar proportion of Muslim households lived in the private rented sector in 2001;

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<sup>13</sup> <http://www.gov.scot/Publications/2015/03/8716/4>

### Stage 3: Assessing the impacts and identifying opportunities to promote equality

#### Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	A large proportion of tenants in Private Rented housing tend to be younger, therefore they will disproportionately require to enter into legal proceedings in respect of Private Rented housing. However legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account age therefore age is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account age therefore age is not an advantage or disadvantage as a result of this policy.
Promoting good relations among and between different age groups			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account age therefore age is not an advantage or disadvantage as a result of this policy.

**Do you think that the policy impacts disabled people?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation			X	A small proportion of tenants in Private Rented housing tend to be disabled, therefore they are less likely to require to enter into legal proceedings in respect of Private Rented housing. However legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account disability therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account disability therefore disability is not an advantage or disadvantage as a result of this policy.
Promoting good relations among and between disabled and non-disabled people			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account disability therefore disability is not an advantage or disadvantage as a result of this policy.

**Do you think that the policy impacts on men and women in different ways?**

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Tenants in Private Rented housing are split equally between genders, therefore they are equally likely to require to enter into legal proceedings in respect of Private Rented housing. However legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore gender is not an advantage or disadvantage as a result of this policy.
Promoting good relations between men and women			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore gender is not an advantage or disadvantage as a result of this policy.

**Do you think that the policy impacts on women because of pregnancy and maternity?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Pregnancy or Maternity therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Pregnancy or Maternity therefore this is not an advantage or disadvantage as a result of this policy.
Promoting good relations			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Pregnancy or Maternity therefore this is not an advantage or disadvantage as a result of this policy.

**Do you think your policy impacts on transsexual people?**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore this is not an advantage or disadvantage as a result of this policy.
Promoting good relations			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account gender therefore this is not an advantage or disadvantage as a result of this policy.

**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account sexual orientation therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account sexual orientation therefore this is not an advantage or disadvantage as a result of this policy.
Promoting good relations			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account sexual orientation therefore this is not an advantage or disadvantage as a result of this policy.



**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account race therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account race therefore this is not an advantage or disadvantage as a result of this policy.
Promoting good race relations			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account race therefore this is not an advantage or disadvantage as a result of this policy.

**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Religion or belief therefore this is not an advantage or disadvantage as a result of this policy.
Advancing equality of opportunity			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Religion or belief therefore this is not an advantage or disadvantage as a result of this policy.
Promoting good relations			X	Legal aid merits tests to allow eligibility for legal aid are the same for all and do not take into account Religion or belief therefore this is not an advantage or disadvantage as a result of this policy.

**Do you think the policy impacts on people because of their marriage or civil partnership?**

<b>Marriage and Civil Partnership<sup>14</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				Not relevant as the policy does not relate to an HR policy or practice.

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<sup>14</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

## Stage 4: Decision making and monitoring

### *Identifying and establishing any required mitigating action*

Have positive or negative impacts been identified for any of the equality groups?	Impacts on clients in equality groups would be positive with favourable impacts around access to justice; no potential negative impacts identified so therefore no likely consequences for equality groups.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>15</sup> ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

### *Describing how Equality Impact analysis has shaped the policy making process*

The Scottish Government does not believe that the regulations will cause any adverse impact upon groups with protected characteristics as defined in the Equality Act 2010. As a result of the EQIA, the policy remains unchanged.

### *Monitoring and Review*

The Board has a continuing programme of research and analysis relating to both the supply of and access legal aid, and factors which may affect such supply and access.

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<sup>15</sup> See EQIA – Setting the Scene for further information on the legislation.

## Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes  No  Not applicable

### Declaration

**I am satisfied with the equality impact assessment that has been undertaken for The Legal Aid (Scotland) Act 1986 Amendment Regulations 2017 First - Tier Tribunal for Scotland Housing and Property Chamber and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name:**

**Position:** [Deputy Director level or above]

**Authorisation date:**