

## Fairer Scotland Duty – assessment template

This Fairer Scotland Duty Assessment template should be used with the [guidance published on the Scottish Government website](#). This gives advice about applying the Duty, links to useful resources and a glossary of key terms.

<b>Title of policy/practice/strategy/legislation etc.</b>	The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023
<b>Lead Minister</b>	Minister for Community Safety – Elena Witham
<b>Lead official</b>	<b>Kieran Burke</b> Bill Team and Commencement Leader
<b>Directorate Division team</b>	<b>CLLS: Justice: Access to Justice</b>

## Stage 1 – planning

This first stage is introductory. You should ask the question: **Is this a ‘strategic’ programme, proposal or decision?**

- If it’s not strategic, there’s no formal requirement for a Fairer Scotland Duty assessment.
- Ministers can be held to account under the Duty by way of Judicial Review. If you think the decision not to conduct an assessment could be challenged, you should complete the [Assessment not required template](#) and store it in your local eRDM folder.
- If the programme/proposal/decision is strategic, but has no implications for inequalities, you should complete the same template.
- In both cases, it will be important that the decision not to conduct an assessment is signed off by a deputy director or senior colleague.
- If you’re in doubt about whether an assessment should be carried out, we’d still advise you to do so. It’s good practice to think about socio-economic factors and reducing inequalities in all policy-making.

If you decide an assessment is necessary, please start the process by answering the questions below.

### **Please answer the questions below to help with your planning.**

- What is the aim of your policy/strategy/plan?
  - Who will it affect (particular groups/businesses/geographies etc)?
  - What outcomes do you expect the policy/strategy/plan to deliver?

Ensure compensatory payments made through the Scottish Infected Blood Support Scheme (SIBSS) be disregarded for the purposes of financial assessment when a person is seeking Publicly Funded Legal Assistance (PFLA).

Allow payments made in connection to The Social Security (Additional Payments) Act 2022 to be disregarded for the purposes of financial assessment when a person is seeking PFLA.

- What is your timeframe for completing the Fairer Scotland Duty assessment?

The SSI is due to be laid in November 2022

- Who else will be involved in the assessment and what roles will they play? We’d expect involvement from policy and analytical teams as a minimum. It’s rarely appropriate for one person to conduct the assessment alone.

As this SSI relates to a technical amendment to legal aid eligibility, a full assessment has not been carried out and as such only policy colleagues have been involved in this assessment.

## Stage 2 – evidence

The second stage involves working closely with analysts, making use of relevant data and commissioning other evidence to inform options for improvement. This stage is likely to involve a number of discussions between teams:

- to understand the inequalities of outcomes associated with the programme/policy/decision.
- to scope out how the programme/policy/decision could be strengthened to reduce the inequalities further, based on evidence.
- where necessary, to commission new data collections, for example from community consultation/participation, or new secondary analysis of existing data.

The Scottish Government has access to a wide range of relevant data, both quantitative and qualitative. This includes administrative data, data about local neighbourhoods (for example the Scottish Index of Multiple Deprivation).

New experimental statistics on combined low income and material deprivation (now available at a local level), and health, education and employment data. Analytical teams will be able to advise on the evidence is most useful.

Evidence can also be sought from communities and groups directly, particularly when there are evidence gaps – for example, where a significant new policy is being developed. Engagement processes should reflect the principles of the [National Standards for Community Engagement](#).

Another source – particularly in terms of integrating equality and socio-economic considerations – is the Scottish Government [Equality Evidence Finder](#). This is an updated web resource providing equality evidence by subject and protected characteristic. We intend to expand this over the next year to include socio-economic disadvantage as a new category, including child poverty considerations.

You may also find the data sources in the [Fairer Scotland Duty Guidance](#) useful.

### **Please answer the questions below to meet the Duty’s evidence requirements.**

- what does the evidence suggest about existing inequalities of outcome, caused by socio-economic disadvantage, in this specific policy area? You might want to think about:
  - people on low incomes
  - people in deprived areas (and particular communities of place and interest)

- people with no/low wealth or in debt
- people in material deprivation
- people from different social classes

Information on this can be found in the Impact assessments that accompany the establishment of the compensatory payment made through SIBSS and The Social Security (Additional Payments) Act 2022

- what does the evidence suggest about possible impacts of the policy/programme/decision, as planned, on those inequalities of outcome?

These regulations will help to reduce inequalities of outcome by ensuring those that receive a payment through SIBSS or in connection to The Social Security (Additional Payments) Act 2022 are not prevented from accessing justice as a result of these.

- is there evidence that suggests alternative approaches to the policy/programme/decision? For example, evidence from the UK or international evidence?

Information on this can be found in the Impact assessments that accompany the establishment of the compensatory payment made through SIBSS and The Social Security (Additional Payments) Act 2022

- what gaps are there in key evidence? Is it possible to collect new evidence quickly in other areas? For example, through consultation meetings, focus groups or surveys?

As above

- how could you involve communities of interest (including those with lived experience of poverty and disadvantage) in this process? The voices of people and communities are likely to be important for identifying potential improvements to the programme/policy/decision.

As above

### **Stage 3 – assessment and improvement**

Having considered the data and evidence you have gathered, the assessment and improvement stage is where you look in more detail at improvements to the proposal, plan or decision.

It's essential that policy team leaders are involved at this stage to ensure opportunities to develop a better proposal are considered. Analysts should also be involved, as this is key for meeting the 'due regard' test.

The outcomes of the assessment and improvement phase, with any options emerging for consideration, should be clearly set out by the appropriate officer(s) in Stage 4.

#### **The key questions to answer at this stage are:**

- what options could strengthen this programme/policy/decision in its impact on inequalities of outcome?

Information on this can be found in the Impact assessments that accompany the establishment of the compensatory payment made through SIBSS and The Social Security (Additional Payments) Act 2022

- what are the pros and cons of these options?

As above

- how could the programme/policy/decision be adjusted to address inequalities associated with particular groups? Communities of interest or of place who are more at risk of inequalities of the outcome?

As above

## Stage 4 – decision

The decision stage allows deputy directors (or above) to consider the assessment process from stages 2 and 3. They can also agree changes to the policy, proposal or decision and confirm that due regard to meeting the Fairer Scotland Duty has been achieved.

### Key questions to discuss at this summary stage are:

- what changes, if any, will be made to the proposal as a result of the assessment? Why are these changes being made and what are the expected outcomes?

None

- if no changes are proposed, please explain why.

This SSI simply relates to a technical amendment to legal aid eligibility.

Once these questions have been discussed and written up, save this document in the relevant project file in eRDM. Your deputy director (or above) should sign and date in the box below.

<b>Sign off of the Fairer Scotland Assessment template</b>	<b>Name: Denise Swanson</b> <b>Job title: Interim Deputy Director</b>

## STAGE 5 - PUBLICATION

The final stage is the [Fairer Scotland Duty summary](#) for publication on the Scottish Government website.