

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2024	
Minister	Minister for Victims and Community Safety – Siobhian Brown	
Lead official	Katie Case Legal Aid Policy Officer	
Officials involved in the EQIA	Name	Team
	David Towers	Scottish Government Legal Directorate: Constitutional and Civil Law Division
Directorate: Division: Team	CLLS: Justice: Access to Justice	
Is this new policy or revision to an existing policy?	New Policy	

Screening

Policy Aim

These legal aid provisions will provide that the Scottish Legal Aid Board (SLAB) is to disregard Carer's Allowance Supplement and Care-Experienced Students Bursary payments when calculating financial eligibility for publicly funded legal assistance.

Who will it affect?

Individuals in receipt of Carer's Allowance Supplement or Care-Experienced Students Bursary.

What might prevent the desired outcomes being achieved?

There may be a lack of solicitor availability within the profession to provide legal assistance when required.

Stage 1: Framing

Results of framing exercise

The Scottish Government has assessed the potential impact of the proposed regulations on equal opportunities and has determined they do not unlawfully directly or indirectly discriminate with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership).

The amendments will have a positive impact on equality of access to justice as it will make it easier for individuals in receipt of Carer's Allowance Supplement or Care-Experienced Students Bursary to access justice through publicly funded legal assistance.

Extent/Level of EQIA required

The Scottish Government will carry out this EQIA taking into account the low risk of the legal aid provisions causing any negative impact on people with protected characteristics. However, the extension or level of this EQIA will be adapted if, during the implementation of these provisions, we gather evidence or receive any information from stakeholders alerting to this type of risk.

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 ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE			
DISABILITY			
SEX			
PREGNANCY AND MATERNITY			
GENDER REASSIGNMENT			
SEXUAL ORIENTATION			
RACE			
RELIGION OR BELIEF			

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

MARRIAGE AND CIVIL PARTNERSHIP

(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)

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

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

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	These amendments will allow for all individuals in receipt of Carer’s Allowance Supplement and those in receipt of Care-Experienced Students Bursary to have these payments disregarded when SLAB calculate financial eligibility for publicly funded legal assistance. The provisions are applicable to all regardless of age.
Advancing equality of opportunity			x	Legally aided services perform a valued public function in our society. These amendments will allow for individuals in receipt of Carer’s Allowance Supplement and those in receipt of Care-Experienced Students Bursary to have these payments disregarded when SLAB calculate financial eligibility for publicly funded legal assistance. The provisions are applicable to all regardless of age.

Promoting good relations among and between different age groups		X	The proposed provisions are considered unlikely to impact the promoting of good relations between different age groups. The provisions are applicable to all regardless of age.
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	These amendments will allow for all individuals in receipt of Carer's Allowance Supplement or Care-Experienced Students Bursary to have these payments disregarded when SLAB calculate financial eligibility for publicly funded legal assistance. The provisions are applicable to all.
Advancing equality of opportunity			X	The proposed provisions are considered unlikely to impact the advancing of equality of opportunities. The provisions are applicable to all.
Promoting good relations among and between disabled and non-disabled people			X	The proposed provisions are considered unlikely to impact the promoting of good relations between disabled and non-disabled people. The provisions are applicable to all.

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

Sex	Positive	Negative	None	Reasons for your decision

Eliminating unlawful discrimination			X	Publicly funded legal assistance will be available to all people, regardless of sex or gender.
Advancing equality of opportunity			X	The proposed provisions are considered unlikely to impact the advancing of equality of opportunities. The provisions are applicable to all regardless of sex or gender.
Promoting good relations between men and women			X	The proposed provisions are considered unlikely to impact the promoting of good relations between men and women. The provisions are applicable to all regardless of sex or gender.

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

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Publicly funded legal assistance will be available to all people, regardless of pregnancy or maternity status.
Advancing equality of opportunity			X	The proposed provisions are considered unlikely to impact the advancing of equality of opportunities of people going through pregnancy. The provisions are applicable to all in receipt regardless of pregnancy or maternity status.

Promoting good relations			X	The proposed provisions are considered unlikely to impact in this regard. The provisions are applicable to all regardless of pregnancy or maternity status.
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Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)

	Positive	Negative	None	Reasons for your decision
Gender reassignment				
Eliminating unlawful discrimination			X	The provisions are applicable to all in receipt of the payments regardless of gender identity.
Advancing equality of opportunity			X	The proposed provisions are considered unlikely to impact the advancing of equality of opportunities of trans people. The provisions are applicable to all in receipt of the payments regardless of gender identity.
Promoting good relations			X	The proposed provisions are considered unlikely to impact the promoting of good relations in respect of trans people. The provisions are applicable to all in receipt of the payments regardless of gender identity.

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

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The provisions are applicable to all regardless of sexual orientation. It is considered unlikely to impact on anyone in that regard.
Advancing equality of opportunity			X	The proposed provisions are applicable to all in receipt of the payments and considered unlikely to impact the advancing of equality of opportunities. The provisions are applicable to all regardless of sexual orientation.
Promoting good relations			X	The proposed provisions applicable to all regardless of sexual orientation and are considered unlikely to impact the promotion of good relations on the basis of sexual orientation.

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

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The provisions are applicable to all regardless of race. Impact is considered neutral in terms of race.
Advancing equality of opportunity			X	The proposed provisions are considered unlikely to impact the advancing of equality of opportunities. The provisions are applicable to all regardless of race.

Promoting good race relations			X	The proposed provisions are considered unlikely to have any impact on promoting race relations. The provisions are applicable to all regardless of race.
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Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The provisions are applicable to all regardless of religion. Impact is considered neutral in terms of religion.
Advancing equality of opportunity			X	The provisions are applicable to all regardless of religion. The proposed provisions are considered unlikely to impact the advancing of equality of opportunities.
Promoting good relations			X	The provisions are applicable to all regardless of religion. The proposed provisions are considered unlikely to promote or negatively impact good relations between people with different religions and beliefs.

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

Marriage and	Positive	Negative	None	Reasons for your decision
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Civil Partnership² Eliminating unlawful discrimination			X	The proposed provisions will apply to individuals regardless of marriage or civil partnership status.
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² 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?	The Scottish Government has identified positive impacts derived from an efficient and effective legal aid service by providing legal advice and representation to persons of all protected characteristics. An effective justice system is an essential instrument at the disposal of the public to challenge unlawful discrimination.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No direct or indirect discriminatory effect from the policy was identified.
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 has concluded that these regulations will not cause any adverse impact upon groups and communities with protected characteristics, as defined in the Equality Act 2010.

Monitoring and Review

³ See EQIA – Setting the Scene for further information on the legislation.

The Scottish Legal Aid Board (SLAB) is a non-departmental public body which administers legal aid in Scotland and is accountable to the Scottish Government. SLAB has a continuing programme of research and analysis relating to both the supply of and access to legal aid; and any factors which may affect such supply and access. SLAB reports any negative impacts on legal aid provision to the Scottish Government.

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 (Miscellaneous Amendments) (Scotland) Regulations 2024 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Denise Swanson

Position: Deputy Director, Civil Law and Legal Systems

Authorisation date: 12/6/24