

EQUALITY IMPACT ASSESSMENT RECORD

Type of policy/ practice/strategy/ legislation etc	Children's Legal Assistance (Scotland) Regulations 2013 and Children's Legal Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2013	
Minister	Cabinet Secretary for Justice	
Lead Official	Catriona Mackenzie	
Officials Involved in the EQIA	name	team
	Catriona Mackenzie Felicity Cullen Julie Guy	Access to Justice SGLD Criminal and Civil Justice Analytical Unit
Directorate: Division Team	Justice: Civil Law and Legal System: Access to Justice	
Is this new or revision to an existing policy?	Revision to an existing Policy	

Screening

Background

The children's hearings system is Scotland's unique system of combining welfare and justice for vulnerable and troubled children/young people from birth to 17 years of age.

It has been operating for more than 30 years. Its formation stemmed from the work of Lord Kilbrandon who found that whether young people had offended or been offended against, their needs were the same. He believed that in taking decisions about their future, the best interests of the child/young person must be the prime concern.

In the children's hearings system, decisions on what is best for the child are made by members of the children's panel, trained volunteers from the community. The children's hearings system helps children/young people who are vulnerable because they are experiencing, or are at risk of, for example:

- physical, sexual or emotional abuse
- parental neglect
- being out of control
- offending
- not going to school
- taking drugs or alcohol.

It is not just about the children's hearing itself, where members of the children's panel meet the child, family and relevant professionals to discuss the issues and decide what is in the best interests of the child/young person. The system as a whole provides the most appropriate and effective intervention for each child/young person.

There are three 'overarching' principles in law relating to children's hearings, which underpin the system:

- the welfare of the child is paramount
- the child's views must be taken into account
- no order should be made in relation to a child unless it is better to make an order than not to.

When considering the welfare of the child/young person and reaching a decision, the hearing can, where necessary, take into account the protection of the public from serious harm.

The legal aid system contributes to the Safer and Stronger Strategic Objective. Particularly, it contributes to the National Outcome of “strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others” by ensuring that individuals can be held to account for their actions and can enforce their own legal rights through the effective functioning of our civil and criminal courts.

Policy Aim

The overall policy aim is to provide a permanent, sustainable national scheme for the provision of state-funded legal representation in children's hearings and their associated court proceedings.

The Children's Legal Assistance (Scotland) Regulations 2013 (“the Regulations”) form part of this aim, as they provide the details of how children's legal aid will operate, and make assistance by way of representation (ABWOR) available to certain persons in certain circumstances. The aims of the Regulations are to:

- make provision for the availability of advice and assistance, in the form of ABWOR, in certain circumstances at children's hearings and in court proceedings for children, relevant persons and others;
- set out processes about how to apply for children's legal aid, reflecting the transfer of the decision-making power to grant children's legal aid from the court to the Scottish Legal Aid Board (“the Board”), and making more detailed provision for matters such as review, changes of circumstances and termination;
- set out the definitions of disposable income and disposable capital for the purposes of contributions for children's legal aid; and
- direct the provision of a national “duty solicitor” scheme to ensure the availability of a solicitor to a child, in certain prescribed circumstances, at children's hearings and in sheriff court proceedings throughout Scotland.

The Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 (“the Fees Regulations”) also form part of this aim, as they provide details of the fees allowable to solicitors and counsel for providing children's legal aid and children's assistance by way of representation (“ABWOR”) as described in relevant sections of the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) and the Regulations. The aims for the Fees Regulations are to provide that, in general:

- the fees allowable to solicitors for ABWOR and advice and assistance work in relation to children’s hearings and proceedings are the same as the fees allowable for ABWOR and advice and assistance in civil matters;
- the fees allowable to solicitors for work in relation to automatic children’s legal aid under section 28C of the 1986 Act are the same as the fees allowable to solicitors for children’s ABWOR;
- other than in relation to automatic children’s legal aid, the fees allowable to solicitors for children’s legal aid work are the same as those allowable for other civil legal aid work; and
- the fees allowable to junior and senior counsel for work in relation to proceedings under the 2011 Act are, in most cases, the same as the fees currently allowable for equivalent proceedings under the Children (Scotland) Act (“the 1995 Act”).

The need for these provisions has come about because of the coming into force of the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”), which makes provision for legal aid to be available for children’s hearings for children and relevant persons¹.

Who will it affect?

Children, as defined under section 199 of the Children’s Hearings (Scotland) Act 2011, taking part in proceedings set out in that Act, relevant persons involved in children’s hearings, and those who provide legal assistance (primarily ABWOR) for these hearings.

What might prevent the desired outcomes being achieved?

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

¹ Meaning of “relevant person” as defined in Section 200 of The Children’s Hearings (Scotland) Act 2011.

Stage 1: Framing

Results of framing exercise

Those groups most likely to be affected are those most frequently involved in the children's hearings process. In 2011/12, 40,708 children's hearings were held for 18,836 children. Of the children with hearings in the year, 43% had a single hearing, with 8% having five or more hearings. 5,226 hearings (12.8%) related to new grounds. In addition, there were 27,186 initial review or continued review hearings for Supervision Requirements, 5,692 continued grounds hearings and 2,604 other hearings.²

A pilot study of 100 case files by the Scottish Children's Reporter Administration (SCRA) into the background of children referred to the children's reporter in 2004³ reported high levels of "social adversity" (parental drug and/or alcohol misuse, domestic abuse, mental ill-health) experienced by children referred. This included 58% of the children having social, behavioural and emotional difficulties, and 35% of parents/carers misusing drugs. The study reported that children in both deprived and affluent areas experienced such problems. This would suggest those children and relevant persons in such households will be more affected by this policy.

When deciding whether a person is eligible for legal aid the Board has to consider whether or not that person could afford to pay for representation privately and, if not, how much if anything that person could reasonably afford to pay toward the cost of their legal representation. To make this assessment, the Board needs to be able to calculate the person's disposable income and disposable capital – the person's income and capital after certain things have been deducted. How to determine disposable income and disposable capital will be set out in this policy.

Section 28K of the 1986 Act enables the Scottish Legal Aid Board ("the Board") to levy contributions towards the expenses of the case on those receiving children's legal aid. Contributions received by the Board will be paid into the Scottish Legal Aid Fund.

Depending on the financial circumstances of the applicant, a contribution may be payable for persons in receipt of children's legal aid. The Scottish Government believe that those who can afford to pay towards their own legal advice and representation should do so. The Board must decide the amount of the contribution due by the applicant towards the cost of the legal aid provided. Contributions have not previously existed for legal aid for children's matters. Contributions already exist for Advice and Assistance (A&A), including in children's matters, ABWOR and civil legal aid. Contributions are also due to be introduced to criminal legal aid as part of implementation of the Scottish Civil Justice Council and Criminal Legal Assistance (Scotland) Act 2013.

² Annual Report: Changing for children and young people, SCRA, 2011/2012

³ Social Backgrounds of Children Referred to the Reporter: A Pilot Study", SCRA, 2004

Also affected will be those who provide legal assistance to those at children's hearings. These will principally be solicitors and so will be considered as persons affected by this policy.

This policy will also affect those who act as relevant persons. These can be a number of different people such as, a parent or guardian having parental responsibilities or parental rights in relation to the child.

Extent/Level of EQIA required

The framing exercise suggests that those under the protected characteristic of age will be most affected by the changes with minimal impact on the other protected characteristics except where those apply to those participating as Relevant Persons, and those providing ABWOR.

On a gender basis boys are more likely to be referred to the reporter than girls with 53% of referrals being boys and only 45% being girls⁴.

The highest proportion of referrals come from a single parent home where the mother is the present parent⁵, suggesting that those women will be more likely to be affected than men in the general population.

⁴ Full Statistical Analysis: Changing for Children and Young People, SCRA, 2011/2012

⁵ Full Statistical Analysis: Changing for Children and Young People, SCRA 2011/2012

Stage 2: Data and evidence gathering, involvement and consultation

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Gaps identified and action taken
Age	<ul style="list-style-type: none"> - Age of general population of Scotland. - Number of cases passed to the reporter and those resulting in children's hearings, which will involve children under 16. - Number of children on Child Protection Registers and being looked after by Local Authorities. - Age of solicitors. 	<p>Census 2011 SCRA</p> <p>Scottish Government, Children's Social Work Statistics 2010/11 publication</p> <p>Scottish Legal Aid Board</p>	
Disability	<ul style="list-style-type: none"> - Households with a member who considers themselves to a long-standing illness, health problem or disability. - Number of children referred to the Reporter with a disability. - Affect disability has on household income. - Solicitors who identify themselves as having a disability 	<p>Scottish Household Survey 2011</p> <p>The Evaluation of Children's Hearings in Scotland, Scottish Executive, 2002</p> <p>Scottish Household Survey, 2009/10, as cited in The Position of Scotland's Equality Groups. Revisiting Resilience in 2011</p> <p>Scottish Legal Aid Board</p>	
Sex	<ul style="list-style-type: none"> - Gender of general population in Scotland. - Gender of parents of those involved in children's hearings. - Gender of those children involved in the children's hearing process. - Gender of solicitors. 	<p>Census 2011 SCRA</p> <p>SCRA</p> <p>Scottish Legal Aid Board</p>	

Gender reassignment	<ul style="list-style-type: none"> - National entries on the Gender Recognition Register. - Solicitors who identify themselves as transgender. 	<p>NRS Registration Division</p> <p>Law Society of Scotland</p>	<p>Proportion of general population who consider themselves transgender. Not asked in census until 2011 – not yet available</p>
Sexual orientation	<ul style="list-style-type: none"> - Sexual Orientation of general population. - Sexual orientation of solicitors. 	<p>Stonewall</p> <p>Law Society of Scotland</p>	
Race	<ul style="list-style-type: none"> - Population in Scotland as identified by ethnic group. - Estimated figures/percentages of those children referred to the children’s reporter. - Potential reasons for under or over-representation of minority ethnic children in welfare statistics. - Commonalities in minority ethnic people and access to services. - Ethnicity of solicitors. 	<p>Annual Population Survey, Jan - Dec 2010</p> <p>Growing Up in Scotland survey, 2007</p> <p>Disproportionality in Child Welfare, The Institute of Education, University of London, 2009</p> <p>Joseph Rowntree Report, 2007</p> <p>Scottish Legal Aid Board</p>	
Religion or belief	<ul style="list-style-type: none"> - Religion of general population. - Religion of solicitors. 	<p>2001 Census Summary Report (Office of the Chief Statistician, February 2005)</p> <p>Law Society of Scotland</p>	

AGE

People who might apply for children's legal assistance

There were 854,100 people aged under 15 in Scotland on census day 2011. This represents approximately 16% of the total population. Of these, 18,836 children (If we take 2011/2012 numbers as above) had children's hearings held for them representing approximately 2.2% of the total number of children. It should be noted that these numbers represent those under 15 where the term child in relation to children's hearings are under 16.

Table from Census 2011

	Scotland	females	males
All	5,295,400	2,728,000	2,567,400
0-4	292,800	143,600	149,200
5-9	269,700	131,600	138,000
10-14	291,600	142,000	149,600
15-19	330,800	162,700	168,100 ⁶

Children's hearings can make short-term decisions to address emergency and/or high risk situations where measures have to be put in place immediately to protect children or address their behaviour. This may include hearings arranged as a result of the Sheriff granting a Child Protection Order (CPO).⁷

In 2011/12, children's hearings: considered the cases of 781 children with CPOs under section 59(2) of the Children (Scotland) Act 1995; and made 1,994 children subject to Place of Safety Warrants under sections 66(1) and 69(7) of the Children (Scotland) Act 1995.

There were 2,571 children on child protection registers as at 31 July 2011, an increase of 2% compared with 31 March 2010. Half of all children on child protection registers were aged 0-4 years, whilst 31% were aged 5-11 years and 16% were aged 12-15 years. Very few children aged 16 or over are on child protection registers.⁸

At 31 July 2011, there were 16,171 children being looked after by local authorities. This represents 15 per 1,000 children of the 0-18 year old population. The number of, and rate per 1,000 population aged 0-18 years has been increasing every year since 2001.⁹

Board application data shows that 4,348 applications for children's legal advice and assistance were made in 2011-12. Around 10% (443) of these applications were made by children aged 16 years or under. Currently, the majority of applicants who apply for legal advice and assistance for children's hearings are adults – 88.5% are

⁶ Scotland Census: Shaping our Future, 2011

⁷ Annual Report: Changing for children and young people, SCRA, 2011/2012

⁸ Scottish Government, Children's Social Work Statistics 2010/11 publication

⁹ Scottish Government, Children's Social Work Statistics 2010/11 publication

aged over 16 years, with the majority of applicants being between 22 and 41 years old. In the 2011 Census, approximately 83% of the Scottish population were aged 15 years or older.

Solicitors

According to the Board's 2010 solicitor survey, 58% of firms who responded (131) handled children's legal assistance cases. However, only two partners indicated that their firm mainly dealt with children's legal assistance cases and only 2% of individual solicitors indicated that they mainly worked on children's cases. The number of respondents providing mainly children's legal assistance is therefore too small to be considered as reliable as data on those providing criminal or civil legal assistance, where sample sizes are much larger. As a result, data in respect of protected characteristics taken from this survey are for all respondents, rather than those dealing mainly with children's legal assistance.

The Board's solicitor 2010 survey¹⁰ shows that there were 416 respondents in total, and of those that specified their age (99.8% of respondents) 14% were aged 25-34; 33% were aged 35-44; 36% were aged 45-55; and 17% were 55 or above.

DISABILITY

Around a third of households in Scotland (34 per cent) contain at least one person with a long-standing illness, health problem or disability.¹¹

People who might apply for children's legal assistance

SCRA does not currently centrally record data on the disabilities of children and young people referred to the Children's Reporter, but the 2002 study on the social backgrounds of children referred to the Children's Reporter found that just under a fifth of children referred had a health problem or disability.¹²

Disabled people are more likely to experience civil legal problems than non-disabled people (31% as opposed to 26% in 2010/2011).¹³

Disabled people are less likely to be coping financially. Households that contain at least one person with a long-term illness or a disability are more likely to be 'not coping' (15%) than those that do not (10%). The corresponding 'coping' figures are 41% and 53% respectively.¹⁴ This would suggest that such households may be affected to a greater extent when considering 'disposable income' and contribution calculations.

¹⁰

http://www.slab.org.uk/export/sites/default/common/documents/about_us/research/documents/FinalReporttoSLAB.pdf

¹¹ Scottish Household Survey 2011

¹² The Evaluation of Children's Hearings in Scotland, Scottish Executive, 2002

¹³ Scottish Crime and Justice Survey 2010-11

¹⁴ Scottish Household Survey, 2009/10, as cited in The Position of Scotland's Equality Groups. Revisiting Resilience in 2011

Board application data shows that 4,348 applications for children’s legal advice and assistance were made in 2011-12. One per cent of applicants declared that they had a disability (13% did not respond).

Solicitors

The Board’s solicitor 2010 survey¹⁵ 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 co-ordination difficulties, chronic asthma and dyslexia.

SEX

People who might apply for children’s legal assistance

Table from Census 2011

	Scotland	females	males
All	5,295,400	2,728,000	2,567,400
0-4	292,800	143,600	149,200
5-9	269,700	131,600	138,000
10-14	291,600	142,000	149,600
15-19	330,800	162,700	168,100 ¹⁶

On a gender basis boys are more likely to be referred to the reporter than girls with 53% or referrals being boys and only 45% being girls.¹⁷ Board application data also shows that in 2011-12, of those aged under 16 years old applying for children’s legal assistance, the majority were male (60%). This is a slightly higher proportion of boys than the proportion in the general population for this age group.

The highest proportion of referrals come from a single parent home where the mother is the present parent, suggesting that those women will be more likely to be affected than men in the general population.¹⁸

Solicitors

In the Board’s solicitor survey 2010, 65% of solicitors were male and 35% female. This is a significantly higher proportion of men than in the general population, for which the 2011 Census showed that 48.5% of the Scottish population were male and 51.5% were female.

¹⁵

http://www.slab.org.uk/export/sites/default/common/documents/about_us/research/documents/FinalReporttoSLAB.pdf

¹⁶ Scotland Census: Shaping our Future, 2011

¹⁷ Full Statistical Analysis: Changing for Children and Young People, SCRA, 2011/2012

¹⁸ Full Statistical Analysis: Changing for Children and Young People, SCRA, 2011/2012

GENDER REASSIGNMENT

In 2011, there were 24 entries in the Gender Recognition Register, 6 more entries than in 2010.¹⁹ This represents 24 people in an overall population of 5,295,400.

Transgender and sexual orientation were dealt with as separate categories in the Law Society survey. Less than 1% of respondents considered themselves to be transgender with 6% not stating whether they considered themselves to be transgender.

SEXUAL ORIENTATION

Between 5% and 7% of the population are estimated to be homosexual.²⁰

The Law Society of Scotland carried out a survey in 2006 including this question. The survey covers solicitors that provide legal aid and those that do not.

The majority of respondents indicated they were heterosexual (95%); 2% indicated they were gay men; less than 1% indicated they were in the categories of lesbian, bisexual men, bisexual women, and other; 2% did not state their sexual orientation.

RACE

People who might apply for children's legal assistance

In 2010, 3.3% of the population of Scotland is from an ethnic minority background. The largest ethnic minority group was 'Asian or Asian British' at 1.6% of the population of Scotland followed by 'Other' (0.6%), 'Mixed' (0.4%), 'Black or Black British' (0.3%) and 'Chinese' (0.3%).²¹

Available figures on the ethnicity of children referred to the children's reporter (an estimated 2% of referred children as minority ethnic, compared to 6.64% of Higher Education students in Scotland in 2006-07, and 4% of babies and toddlers²²) suggests a possible under-representation of minority ethnic children in the hearings system.

The Institute of Education (University of London)'s 2009 report "Disproportionality in Child Welfare"²³ raised the following potential reasons for under or over-representation of minority ethnic children in child welfare statistics:

- differences in willingness to report concerns or seek help, rather than to lower levels of need; (A 2007 NSPCC study of 500 British Asian families suggested a particular reluctance to report suspected child abuse, due to fears of the negative impact on the honour ('izzat') of the child or their own family);
- the differing impact of poverty and isolation;

¹⁹ NRS Registration Division

²⁰ Stonewall.

²¹ Annual Population Survey, Jan - Dec 2010

²² Growing Up in Scotland survey, 2007

²³ Disproportionality in Child Welfare, The Institute of Education, University of London, 2009

- the response of child welfare professionals to culturally specific childrearing practices; and
- lack of accessible, appropriate services for children and parents from minority ethnic groups (although lack of accessible provision is not restricted to minority ethnic groups) as opposed to lower levels of need.

There is some evidence that minority ethnic people are less likely than the white population to access services available to them e.g. a 2007 Joseph Rowntree report suggested that it is common for minority ethnic people to conceal their ill health, and so delay or refuse help, due to strong societal pressures to be “normal” (2007). Other research suggests that the assumption that minority ethnic families rely on high levels of informal support from relatives is untrue.²⁴

The issue of possible under-representation is far from settled. The limited figures available for the children’s hearings system provide a far from complete picture and must be interpreted cautiously.

Solicitors

The Board solicitor 2010 survey shows that 96% indicated they considered their ethnic background to be white with most considering themselves to be either Scottish or British. A further 3% of respondents did not disclose their ethnic background. The remaining 1% was spread across other ethnic minority backgrounds.

RELIGION OR BELIEF

People who might apply for children’s legal assistance

There is very little information available relating to any particular needs of children and young people in the children’s hearings system according to their different faiths and beliefs. This lack of data is consistent across other areas of policy e.g.:

- *Equality issues in Scotland: a review of research, 2000-08* (Equality and Human Rights Commission, 2009) reports a lack of information about why parents send their children to particular denominational schools, what children perceive as the advantages and disadvantages of schooling in denominational settings, and issues around sectarian bullying;
- The report also identifies a lack of information on the relevance of faith to experience of victims of crime and the accused in Scotland.

Solicitors

The Law Society of Scotland survey 2006²⁵ on the whole of the legal profession includes this group and covered 3,017 respondents. However, it covers solicitors that provide legal aid and those that do not. In this, an equal proportion of respondents considered they had no religion/faith (36%) or were Church of Scotland (37%); 13%

²⁴ Differentiated Services for Disabled Children”, Community Care, 2009

²⁵ The Law Society of Scotland survey, 2006

considered they were Roman Catholic; 7% considered they were Other Christian; 1% or less considered they were in each of the categories of Buddhist, Hindu, Muslim, Jewish, Sikh and other; 3% did not state a religion/faith.

This compares to the analysis of religion in the 2001 Census Summary Report (Office of the Chief Statistician, February 2005) findings, which show: 42.40% Church of Scotland; 15.88% Roman Catholic; 6.81% Other Christian; 0.13% Buddhist; 0.11% Hindu; 0.13% Jewish; 0.84% Muslim; 0.13% Sikh; 0.53% Another Religion; 27.55% No Religion; 5.49% Not Answered.

This suggests that solicitors are more likely to consider that they have no religion, are less likely to consider themselves Church of Scotland and are broadly proportionate to the general population in terms of other religions and faiths.

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

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

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes:

- Girls and boys;
- Young people of every sexual orientation and gender identity;
- Disabled and non-disabled children and young people;
- Children and young people of every race; and
- Children and young people of every religion and belief.

It is anticipated that overall the policy will strengthen the rights of, and improve outcomes for, all children and young people referred to the Children's Reporter. Putting the child at the centre of the hearings system and promoting and supporting their rights and welfare.

The policy provides for the replacing of the interim legal representation scheme with a permanent, sustainable, national scheme that will see legal representation for children and parents available through the normal civil legal aid system as administered by the Scottish Legal Aid Board – this makes it possible to provide state-funded legal representation whenever it is required to ensure the effective participation of children or parents. This provision will have a positive impact on children.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

Do you think that the policy impacts disabled people?

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes disabled and non-disabled children and young people.

This policy will positively impact on those Relevant Persons or Children involved in children's hearings with learning disabilities and other disabilities making provision for the availability of advice and assistance in the form of ABWOR at certain children's hearings for children, relevant persons and others.

This provision will have a positive impact on Relevant Persons and parents with disabilities.

However there is the possibility of a perception of a negative effect on this particular characteristic given prior responses to similar policy. Responding to the consultation on the introduction of contributions in criminal legal aid and the changes to financial eligibility, an organisation representing disabled people in Scotland raised the issue that, under the policy, disability related expenditure of the accused should be taken

into account when determining financial eligibility for criminal legal assistance and in calculating whether any contribution may or may not be due.

However for those in receipt of benefits, this will either be disregarded from the calculation for the purposes of contributions for children's legal aid, or will lead them to be exempt from paying a contribution. Also those who do have to contribute can make payments over an extended period to minimise the impact.

The alternative would be to provide children's legal aid without requiring contributions. This would be inconsistent with the general approach across nearly all civil proceedings, that those who can afford to contribute to the costs of the action should do so.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

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

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes girls and boys, and men and women acting as Relevant Persons.

Currently more boys use the children's hearing system than girls and so more boys than girls are likely to use the policy. This gender difference is not associated with the policy itself but a feature of the population being referred to children's hearings. Some research suggests that more referrals come from a single parent female household. This would suggest a greater chance of a positive impact on those cases, which would suggest that women are more likely to benefit from this policy than men.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

Do you think the policy impacts on transsexual people?

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes young people and Relevant Persons of every sexual orientation and gender identity.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

Do you think that the policy impacts on people because they are lesbian, gay or bisexual?

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes young people and Relevant Persons of every sexual orientation and gender identity.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

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

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes children, young people and Relevant Persons of every race.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

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

This policy and wider reforms will strengthen a system that is already designed to put the child, and the child's needs, at the centre. This includes children, young people and Relevant Persons of every religion and belief.

This policy shows no indication of positively or negatively affecting solicitors under this protective characteristic.

Stage 4: Decision making and monitoring

Identifying and establishing and required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Potential positive impact to each equality group where involved in the children's hearing process.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ²⁶ ?	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

Describe how Equality Impact Analysis has shaped the policy making process:

The Scottish Government does not believe the regulations will give rise to any adverse impacts on groups with protected characteristics as defined in the Equality Act 2010. The policy is specifically designed to have a positive impact on protected groups as it aims to:

- make provision for the availability of advice and assistance, in the form of ABWOR, in certain circumstances at children's hearings and in court proceedings for children, relevant persons and others;
- set out processes about how to apply for children's legal aid, reflecting the transfer of the decision-making power to grant children's legal aid from the court to the Board, and making more detailed provision for matters such as review, changes of circumstances and termination;
- set out the definitions of disposable income and disposable capital for the purposes of contributions for children's legal aid; and
- direct the provision of a national "duty solicitor" scheme to ensure the availability of a solicitor to a child, in certain prescribed circumstances, at children's hearings and in sheriff court proceedings throughout Scotland.

Where someone is in receipt of a particular benefit that will either be disregarded from the calculation or will lead them to be exempt from paying a contribution. The alternative would be to provide children's legal assistance without requiring contributions. This would be inconsistent with the general approach across nearly all civil proceedings, that those who can afford to contribute to the costs of the action should do so. Therefore upon consideration no changes to the policy were made.

No changes were therefore made to the policy as a result of the EQIA.

²⁶ See EQIA – Setting the Scene for Information on the legislation.

Monitoring and review

The Board will carry out a further Equality Impact Assessment on the guidance / procedures that are to be implemented and communicated after these regulations are laid. This assessment will include outlining of plans research and analysis that will be used to monitor the implementation of the new application procedures. This will include analysis of application data to monitor any significant changes in equality profile of people applying for legal assistance for children's hearing cases, e.g. monitoring the trend in the number of children who apply for assistance and the profile of adults who apply for legal assistance.

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, gender identity/transgender, sexual orientation, race and religion and belief 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

Declaration

I am satisfied with the Equality Impact Assessment that has been undertaken for the Children's Legal Assistance (Scotland) Regulations 2013 and the Children's Legal Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2013 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Denise Swanson
Position: Head of Access to Justice Unit
Authorisation date: 9 May 2013