

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No. 2) Regulations 2015
Summary of aims and desired outcomes of Policy	This policy makes assistance by way of representation (ABWOR) available to an individual for proceedings relating to <i>temporary retention of travelling documents</i> and <i>temporary exclusion orders</i> under the Counter-Terrorism and Security Bill 2015.
Directorate: Division: team	Justice: Civil Law and Legal System Division: Access to Justice

Executive summary

The Scottish Government undertook an EQIA as part of the process to develop this policy.

Its purpose is to make available to individuals appearing in proceedings relating to *temporary retention of travelling documents* and *temporary exclusion orders*, advice by way of representation (ABWOR). The policy will makes publicly-funded legal assistance accessible for individuals who might not otherwise be able to afford the cost of legal advice and representation.

This policy will affect individuals requiring civil legal assistance for the *retention of travel documents extension* and *temporary exclusion order review* proceedings; the Scottish Legal Aid Board (“the Board”) and those solicitors’ firms providing civil legal aid. It will have a positive effect on civil legal assistance users and solicitors by ensuring that solicitors can provide legal assistance in a timely manner and individuals of modest means do not have to appear in court without representation.

Background

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.

This policy contributes to the following National Outcomes:

- Our public services are high quality, continually improving, efficient and responsive to local people’s needs.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
- We live our lives safe from crime, disorder and danger.

The policy is a consequential change as result of the UK government introducing the Counter-Terrorism and Security Bill. This Bill introduces two new civil provisions which may result in individuals requiring legal representation in court.

The aim of the policy is to ensure that publicly-funded legal assistance is available in practice for these civil proceedings.

This policy amends the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 to ensure that ABWOR is available to a person for proceedings relating to *temporary retention of travelling documents* and *temporary exclusion orders*.

The Scope of the EQIA

The policy was examined against each of the protected groups. A number of different data sources were used to inform the EQIA, which included: the Scottish Household Survey; the 2011 Census records; Scottish Legal Aid Board Reports and UK Government counter-terrorism statistics.

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Civil legal assistance applicants are those most affected by this policy, but in a positive manner as they will have access to timely publicly funded legal assistance subject to the statutory tests.

Key Findings

Equalities issues have centred on whether this policy to amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 would impact upon any group with protected characteristics. Given that the Bill itself has been the subject of scrutiny in terms of detailed impact assessments by the Home Office, the level of assessment was limited to legal assistance aspects. The framing exercise suggested that a positive effect would be felt by civil legal assistance applicants and by solicitors who offer these services. Civil legal assistance is available to all without discrimination subject to statutory tests. This policy will ensure that legal assistance is available to individuals subject to proceedings under the provisions of the Counter-Terrorism and Security Bill.

Recommendations and Conclusion

The EQIA process did not identify any issues which would have a detrimental impact upon protected groups.

We have therefore taken this policy to its conclusion by laying the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No. 2) Regulations 2015.

The Scottish Government and the Scottish Legal Aid Board will review the impact of this legislation within 10 years through consideration of analysis of data which is collected routinely by the Board.