

## EQUALITY IMPACT ASSESSMENT - RESULTS

<b>Title of Policy</b>	The Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016
<b>Summary of aims and desired outcomes of Policy</b>	The policy ensures that no suspect being questioned at a police station will have to pay a contribution toward the cost of their publicly-funded legal advice.
<b>Directorate: Division: team</b>	Justice: Civil Law and Legal System: Access to Justice

### Executive summary

The Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016 relate to publically funded legal advice for those being questioned by the police. The regulations remove any requirement for the person receiving that advice to pay a contribution to the costs. The changes will take place on 1 April 2016 when the regulations come into force.

The Regulations will impact on those being questioned at a police station, particularly those who currently have to pay a contribution towards the legal advice and assistance they receive from a solicitor. This will increase certainty for those detained at a police station around potential costs because they will definitely not need to make a contribution.

Those receiving this type of legal advice are most likely to be male and aged 17-26. Solicitors providing the legal advice are more likely to be male and aged between 35 and 55. No issues were identified that would have a detrimental impact on protected groups.

### Background

Following the decision in *Cadder v HMA* in 2010, section 8A of the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) was introduced to allow Scottish Ministers to make regulations for criminal advice and assistance to be

available without reference to the financial eligibility test normally applicable to advice and assistance (A&A) in Section 8 of that Act. Ministers can also specify in regulations the circumstances in which it is available.

A&A is currently available under regulation 8 of the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 to anyone to whom section 15A of the Criminal Procedure (Scotland) Act 1995 applies (those detained, arrested without charge or attending voluntarily for questioning on suspicion of having committed an offence) before questioning or at any point during questioning without a financial eligibility test. While anyone in those circumstances will qualify for A&A, they may be required to pay a contribution under section 11 of the 1986 Act and a financial means assessment is still necessary. Section 8A of the 1986 Act was later amended to allow Scottish Ministers to make regulations so that a person receiving A&A under that section would not have to pay a contribution.

The policy aim is to remove any requirement for suspects who are questioned by the police to pay a contribution toward the cost of their A&A.

The policy contributes to the Scottish Government's Safer and Stronger objective, through the following national outcomes: -

- strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others
- public services are high quality, continually improving, efficient and responsive to local people's needs.

## **The Scope of the EQIA**

This policy was examined against each of the protected groups. A number of different data sources were used to inform the EQIA, which included: the 2011 Census, the Scottish Legal Aid Board research, a survey on solicitors conducted for the Law Society of Scotland, NRS Registration Division, the Scottish Household Survey 2012, Police Scotland, and the Integrated Household Survey 2013.

The policy is concerned only with the payment of contributions toward the cost of publicly-funded legal advice in police stations. The scope of this EQIA is therefore restricted to solely this aspect of legal advice in police stations.

ISBN: 978-1-78045-XXX-X

This policy will increase certainty for those detained at a police station about potential costs of legal advice because they will definitely not need to make a contribution. This will have a positive impact on access to justice as there will be no financial disincentive to access legal advice.

Following screening, a child rights and wellbeing impact assessment was completed.

## **Key Findings**

Equalities issues have centred on whether this policy would impact on any group with protected characteristics. The framing exercise suggested that there are no specific negative impacts, either direct or indirect, on protected groups.

This policy will increase certainty for those detained at a police station around potential costs of legal advice because they will definitely not need to make a contribution. This will have a positive impact on access to justice as there will be no financial disincentive to access legal advice.

Those detained, arrested without charge or attending voluntarily for questioning on suspicion of having committed an offence at a police station are affected. This group is most likely to be men between the age of 17 and 26. Solicitors providing this advice are also likely to be affected. They are most likely to be men between the age of 35 and 55.

## **Recommendations and Conclusion**

The EQIA process did not identify any issues which would have a detrimental impact on protected groups. We have therefore taken this policy to its conclusion by laying the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016.

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