

BY EMAIL ONLY:

Social Justice and Social Security Committee
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30 October 2025

Dear Halla

Inquiry Into Financial Considerations When Leaving an Abusive Relationship

Thank you for the opportunity to attend the evidence session on 8 May in relation to the above inquiry.

We note that the Committee has made several recommendations in relation to legal aid and welcome the opportunity to submit SLAB's response. We hope that our response demonstrates the extent to which we can, and do, exercise our discretion to assist applicants when they have been affected by the issues raised to the Committee in relation to domestic abuse. We endeavour to balance our responsibilities in managing public funds and being as supportive and responsive as possible to those seeking our assistance.

We fully support and welcome the recommendations for improvement that fall to SLAB and are committed to taking them forward in a constructive way with the Scottish Parliament, Government and stakeholders. We hope the committee finds the response helpful and that it contributes to a broader understanding of the efforts we make to provide fair and compassionate support to those who rely on our services.

Should anything require clarification or further information, please do get in touch with my office.

Yours sincerely,

Colin Lancaster
Chief Executive

Social Justice and Social Security Committee Report

Legal aid: conclusions and recommendations

Eligibility	SLAB Response
<p>337. We recognise that access to sound legal advice and representation is essential for those leaving abusive relationships, but that the current system means this is not always available to victim/survivors.</p>	<p>We agree with the Committee and we will assist the Scottish Government in its consideration of the issue.</p> <p>While legal aid funding helps tens of thousands of people a year in relation to civil matters, the current legal aid schemes do not guarantee access to a solicitor. The system as currently structured cannot, and is not designed to, provide such a guarantee and it is not SLAB’s role to secure access to legal advice for applicants.</p> <p>Significant structural change is needed to transform the system’s ability to harness new ways of designing, securing and delivering services to respond to evolving demands and user needs. We continue to call for the new legislation needed to deliver such change.</p> <p>We are committed to working with Parliament, the legal profession, stakeholders and advice providers to shape advice for the Scottish Government on the changes needed to create a more responsive user-focussed system for the future.</p>
<p>338. In relation to eligibility for legal aid, we agree with SLAB that financial thresholds for Advice and Assistance and Civil Legal Aid are not compatible given that ineligibility for one can act as a barrier to the other. We therefore call on the Scottish Government to work with SLAB to re-assess the means-testing arrangements for these schemes, and to consider uprating the capital thresholds for both to £16,000, the same as for Universal Credit.</p>	<p>We welcome the recommendation that means testing arrangements are reviewed.</p> <p>Our recent modelling suggests that eligibility for civil legal assistance has diminished since 2011, despite intervening changes to passporting arrangements providing easier access for those receiving Universal Credit. Current population eligibility levels have decreased from around 70% to 52% for civil legal aid. Eligibility for A&A is considerably lower, at 30%.</p> <p>The thresholds are only one of the ways in which capital eligibility varies between A&A and civil legal aid. Another key difference is that the latter requires contributions to be paid, whereas the former does not. Aligning the thresholds at any given level would not therefore equalise eligibility: a civil legal aid user with, say, £15000 of capital could pay a contribution of several thousand pounds towards their legal costs, while an A&A user would pay nothing.</p> <p>It must be recognised however, that the cost of changes to thresholds could be significant, depending on the levels chosen, at a time when public finances are under pressure.</p>

	Changes to the eligibility thresholds can only be made by regulations made by the Scottish Government and approved by Parliament.
Proposal to introduce standardised personal allowances	
339. The Committee is interested in the potential that standardised personal allowances for Civil Legal Aid would have for simplifying the application process. However, too few details are currently available about how these would be calculated to reach a conclusion on whether they would benefit applicants. We would like to be kept informed of developments in relation to this proposal.	<p>We welcome the Committee's interest in this proposal.</p> <p>SLAB will be consulting on the introduction of standardised personal allowances later this year and will engage with the committee on the proposals.</p> <p>Standardised Personal Allowances will simplify the financial assessment process for applicants, solicitors and SLAB, and make accessing legal assistance easier and more predictable. It will reduce the complexity of the assessment process, the amount of personal information we need and the range of detailed guidance that solicitors need to be aware of.</p> <p>Our analysis indicates that personal allowances will benefit the majority of applicants, lead to more people qualifying on financial grounds and reduce the size of contributions for many.</p> <p>More people would qualify without a contribution, and they would be able to confirm that they do so more quickly.</p>
Civil protection orders and Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021	
340. The Committee believes there is a strong case to make legal aid automatically available for civil protection orders. However, the Scottish Government must resolve potential issues outlined in paragraph 305 with a view to extending such legal aid.	<p>Any changes in this regard would be for the Scottish Government to make.</p> <p>We make no comment on the principle of automatic eligibility, other than to observe that this would clearly be beneficial to those seeking protective orders both in cost terms and also by simplifying the process of applying for legal aid.</p> <p>We also note that, in addition to those outlined in paragraph 305, issues could arise if different eligibility arrangements applied in relation to protective orders and other cases involving allegations of domestic abuse, such as those relating to divorce, separation and the care of children. Protective orders are often sought alongside other remedies, such as contact or residence, and so differential treatment may result in separate actions being raised, with associated increases in cost and complexity in the court process. These issues were fully explored during the passage of the Bill that became the Domestic Abuse (Scotland) Act 2011.</p>
341. We are also aware that stakeholders would	Any changes in this regard would be for the Scottish Government to make.

<p>like to see automatic legal aid available in all cases related to domestic abuse. The Committee has not taken a view on this.</p>	<p>The issues outlined in paragraph 305 are also relevant here. The impacts on the public purse noted in that paragraph would be considerably higher.</p> <p>Such a change could also add a layer of complexity to the process of applying for legal aid, depending on how the regulations define cases eligible for automatic legal aid and how such eligibility is to be established. The (broadly) analogous provisions in England and Wales are supported by lengthy and complex guidance as to evidential requirements.</p>
<p>342. We note Police Scotland's concerns about the implementation of the provisions related to DAPNs and DAPOs. Should Police Scotland retain responsibility for implementing protection orders, we call on the Scottish Government to ensure it has sufficient resources to do so.</p>	<p>This is a matter for the Scottish Government.</p>
<p>343. The Committee acknowledges the 18 June letter from the Minister for Victims and Community Safety, which states Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021, which contains provisions for the new civil protection orders (i.e., DAPNs and DAPOs), will now not be implemented until after further consultation takes place in 2026.</p>	<p>This is a matter for the Scottish Government.</p>
<p>344. The Committee wishes to express its disappointment that Part 1 of the Act will not come into force sooner, given consultation on this legislation already took place in 2018-19, and it has already been four years since the Act was</p>	<p>This is a matter for the Scottish Government.</p>

<p>passed by the Scottish Parliament.</p>	
<p>Availability and accessibility of legal services</p>	
<p>345. Evidence we took from members of the SRG, as well as through written and oral evidence, indicated that knowledge of the legal aid system amongst solicitors needs to be improved. SLAB should therefore work with the Law Society of Scotland to improve this.</p>	<p>Work underway.</p> <p>We recognise that the rules around the legal aid system have become complex over time. As part of our current Corporate Plan we have already been developing a training and support hub which will assist solicitors and applicants to make the best quality applications possible. This is in addition to the free training sessions that we already offer. Solicitors and advice agencies can contact us for advice and guidance on applications and accounts via telephone or email and our staff regularly visit firms of solicitors to deliver training.</p> <p>Our aim is to improve the experience of all parties involved in the legal aid process while also improving efficiency by reducing how often we have to request additional information thereby enabling us to take more decisions first time.</p> <p>We are identifying common issues in the application process and will develop and trial new training materials in response. This should help solicitors find answers to common questions about the legal aid rules and the application process. We are also reviewing the content on our website aimed at applicants, and opponents, to improve their understanding of the legal aid process.</p> <p>For both solicitors and applicants, this will include issues around eligibility and financial assessment, such as those highlighted by the Committee in paragraph 346.</p> <p>In addition to this work, we will continue to provide bespoke training sessions to firms who request assistance.</p> <p>We will engage with the Law Society of Scotland as part of this work and have already agreed to establish regular meetings between their Legal Aid Committees and SLAB staff to discuss operational matters and challenges. Providing such a conduit for information to and from the wider legal aid practitioner base will help us clarify common areas of uncertainty and identify issues that could be addressed through further guidance, training or joint initiatives for awareness raising.</p> <p>Alongside these meetings we will also continue to meet with specialist groups, both to support them in working within the legal aid system and to identify potential improvements.</p> <p>While we see this work as part of our role, the resources we can devote to training the profession are limited and in terms</p>

	<p>of impact are best directed towards those who undertake legal aid work regularly.</p> <p>Many of those involved in legal aid work do so only occasionally as part of their wider privately funded business. Over 500 individual solicitors submitted family law related civil legal aid applications in 2023-24. The busiest 50% of practitioners submitted 88% of applications, while the other 50% submitted fewer than 8 applications each over the course of the year. Over 15% of practitioners submitted only one application.</p> <p>Given that many solicitors engage infrequently with the legal aid system, they may – quite understandably - see limited benefits to them and the vast majority of their clients in investing time in training on legal aid, or keeping up to date with changes, such as new guidance.</p> <p>Even if we had the resources to engage directly with all of those who have previously or may in future deliver small amounts of legal aid work, we cannot compel solicitors to undertake legal aid related training or even to read the guidance we provide.</p> <p>This is likely to be an even greater issue when it comes to the less commonplace aspects of the legal aid system, such as those referred to by the Committee in paragraph 346.</p>
<p>346. We also heard that SLAB has significant discretion to adjust the process behind the financial eligibility assessment for Civil Legal Aid in situations involving financial abuse. There is clearly a lack of awareness of the potential for flexibility among solicitors and legal aid applicants. We therefore call on SLAB to carry out awareness raising initiatives to ensure that both the profession and the public are aware of the flexibility that exists. SLAB must also ensure solicitors are aware of the discretionary powers</p>	<p>Work underway.</p> <p>We have previously informed the Committee that we have updated our guidance to reflect that we understand that it can be difficult for applicants who have had to flee an abusive or controlling relationship to be able to provide the relevant financial information or verification to support their civil legal aid applications. This may be because they do not know about all their financial resources and/or cannot access financial evidence.</p> <p>Our guidance for solicitors, and communications with applicants, state that applicants can explain why information may be missing from an application.</p> <p>Where this lack of information and/or evidence is explained by the solicitor during the financial eligibility process, we can use our discretion to either disregard income or capital where we consider it reasonable to do so in the circumstances or provisionally assess financial eligibility based on the information available.</p>

<p>available, and the circumstances under which these can be used, so that they properly support victim/survivors who might qualify for legal aid.</p>	<p>We have also introduced an additional step in that our staff specifically investigate applications for evidence of domestic abuse. This is not always straightforward as it may not be readily apparent from the information we are given, but where we do identify such evidence we will contact the solicitor to ask whether there is anything we should take into account when carrying out our financial assessment. This should help highlight any areas where discretion could be applied.</p> <p>We will shortly be issuing revised guidance for solicitors on this area, including on the issues of trapped capital and coerced debt.</p> <p>We are also reviewing our information for applicants, both in our leaflets and on our website to ensure that all information is up to date, informative, clear and accessible. As part of this review we will ensure that our published information makes clear the flexibility and discretion we can apply in cases involving domestic abuse.</p>
<p>347. We took evidence on the Edinburgh Women's Aid Legal Services Project, in which SLAB fund a solicitor to provide quick access to early legal advice on child and family law related issues. Scottish Women's Aid in particular were supportive of this being expanded to other areas, and SLAB suggested reform to the legal aid system could include funding for posts within organisations, as opposed to funding for particular cases or activity.</p>	<p>Work underway.</p> <p>We will explore with the Scottish Government and stakeholders ways of linking the way legal assistance is planned, delivered and funded with evidence as to user needs, the effectiveness of different types of service, and changes in the justice system and wider society.</p> <p>We believe that a mixed model of funding and service delivery is likely to be best placed to meet what can be a widely varying range of needs for legal assistance. Sitting alongside the traditional case by case system, targeted funding of services via grants, contracts or direct employment, including funded solicitor or adviser posts, can be an effective way of focusing resources and specialist help on specific legal problems, geographic areas or client groups.</p> <p>Decisions on both the future shape of the system and the use of existing grant funding powers rests with the Scottish Government, and ultimately the Scottish Parliament.</p>
<p>348. Given the struggle many victim/survivors experience when trying to contact solicitors who provide legal aid, we ask the Scottish Government and SLAB to consider whether something</p>	<p>Work underway and ongoing.</p> <p>Learning lessons from projects such as these is a crucial part of adopting an evidence-based and user-informed approach to service design, delivery and funding.</p> <p>This specific project is funded by SLAB but will be evaluated by the Scottish Government. Funding currently runs to the end of March 2026 and decisions as to continuation or roll out are for the Minister for Victims and Community Safety.</p>

<p>like the Legal Services Project could be implemented more widely.</p>	<p>As part of the legal aid reform programme, the Scottish Government has asked us to explore how existing funding tools might be used in the short to medium term, and to consider how current arrangements should change to deliver longer term improvements in sustainable access to help and delivery of priority outcomes.</p> <p>We will be engaging with stakeholders to inform advice on both short-term action to address challenges with the current funding arrangements (such as the short duration of grants and failure to keep pace with costs of delivery) and options for primary legislative change.</p>
<p>349. We ask the Scottish Government to consider how public awareness of legal rights and accessing legal advice can be improved, including for groups with particular barriers to accessing legal support.</p>	<p>Although this is a recommendation for the Scottish Government, please see our responses to 345 and 346.</p> <p>We are also engaging with Scottish Women’s Aid to explore this issue and improve our mutual understanding of the circumstances around legal aid applications in this area and how we can use our discretion to improve access to help.</p>
<p>Legal aid fees</p>	
<p>350. Discussions we had with stakeholders made it clear the sector lacks the funding to provide trauma-informed practice, because fees are often not commensurate with the work required to deliver this. We therefore call on the Scottish Government to work with SLAB and the legal profession more generally to establish what reform is needed to improve the service available to victim/survivors.</p>	<p>Work underway and ongoing.</p> <p>Solicitors have told us that they feel constrained in the conduct of their cases by various features of the legal aid system, such as case cost limits, authorised expenditure limits and the application of the taxation standard via accounts assessment.</p> <p>These statutory requirements are an inherent feature of a demand-led, non-cash limited system, without which there would be no means of managing the cost of services to the taxpayer. They should not, however, be such that they stand in the way of access to justice or prevent the delivery of effective and efficient client-centred services.</p> <p>Our observation of solicitor practices suggests that they vary widely, suggesting there is no clear consensus as to what constitutes an appropriate level of service. As suggested by the Committee, this should not be for SLAB, the Scottish Government or individual solicitors to determine alone and so will require extensive engagement.</p> <p>For example, we support the principle of trauma informed practice and agree that this should be recognised in the design of a flexible yet streamlined system. But this is not straightforward: many solicitors welcome the reductions in bureaucracy and improved consistency provided by block/fixed fees or templated approaches to expenditure</p>

	limits, while others observe that they lack flexibility. No perfect system exists but constructive dialogue with the profession may help to identify or secure agreement to optimal approaches and the inevitable trade-offs that will have to be made.
Edinburgh Women's Aid Legal Services Project	
351. We welcome the work being undertaken as part of the Edinburgh Women's Legal Services Project, and that Scottish Women's Aid cited this as a "very good example of best practice". We note stakeholders wish to see this project scaled up nationally, and we ask that SLAB keeps the Committee informed of its effectiveness. We also ask that any subsequent evaluations of the project are shared with the Committee.	<p>Work ongoing.</p> <p>As noted in our response to paragraph 348, SLAB funds this project but it is being evaluated by Scottish Government and so it will be for Scottish Government to share any evaluation with the Committee.</p>
'Clawback' provisions	
352. Witnesses touched on 'clawback' arrangements, and the limited scope for discretion here. We ask the Scottish Government to ensure that provision for greater use of discretion is considered as part of any further review of legal aid.	<p>Any change in this position would be a matter for the Scottish Government.</p> <p>Section 17(2B) of the Legal Aid (Scotland) Act 1986 requires that property recovered or preserved has to be used to meet what is known as the net liability to the Fund.</p> <p>The net liability is the amount that we pay out on legal fees, outlays and VAT, less any amounts paid into the Fund by way of contributions and any expenses recovered from the other party.</p> <p>These provisions broadly mirror the widely accepted practice whereby privately funded solicitors (and counsel) deduct their fees and outlays from any award made to their client.</p> <p>We have no discretion within the statutory framework as to whether to apply the provisions of section 17(2B).</p>
Equalities, Human Rights and Civil Justice Committee inquiry	
353. Finally, we wish to refer these conclusions	We note that the Equalities, Human Rights and Civil Justice Committee report does not make reference to the Social

<p>and recommendations to the Equalities, Human Rights and Civil Justice Committee to consider in relation to its inquiry into the civil legal aid system</p>	<p>Justice and Social Security Committee recommendations, although similar issues are addressed by both.</p> <p>As we said in our own evidence to the committees, the current legal aid system is overly complex, making aspects of it more burdensome than need be for solicitors and SLAB alike. Elements of it can be also confusing and time-consuming for both applicants and those helping them with their legal problems.</p> <p>We firmly agree that far-reaching new legislation is needed to transform the legal aid system's ability to respond to evolving demands and user needs by harnessing new ways of designing, securing and delivering services.</p> <p>We will work with the committees, the legal profession, stakeholders and advice providers to shape advice for the Scottish Government on the changes needed to create a more responsive user-focussed system for the future.</p>
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