

BY EMAIL ONLY:

**Karen Adam, MSP
Convener of
Equalities, Human Rights and Civil Justice
Committee**

ehrcj.committee@parliament.scot



Chief Executive's Office

Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE
Switchboard: 0131 226 7061
www.slab.org.uk

25 November 2025

Dear Convener

Civil Legal Aid Inquiry

Thank you for the opportunity to attend the evidence session on 28 May in relation to the above inquiry.

Please find enclosed the Scottish Legal Aid Board's response to the recommendations set out in your inquiry report into civil legal assistance in Scotland.

We welcome the Committee's report and recommendations, which highlight both the challenges and opportunities presented by the current legal aid system. Our response addresses each of the key themes identified in your report.

We particularly support the Committee's emphasis on the importance of legislative reform to enable a more responsive, user-focused legal aid system. Our submission outlines areas where SLAB has already taken steps to address some of the challenges highlighted by the Committee, our ongoing work to make further improvements, and where further change is contingent on government and parliamentary action.

We remain committed to working collaboratively with stakeholders to ensure that legal aid continues to support those most in need, and to explore innovative approaches to delivery, funding, and engagement.

Should you require any further information, please do get in touch with my office.

Yours sincerely,

Colin Lancaster

Chief Executive

E: CEO@slab.org.uk

T: 0131 240 2038

www.slab.org.uk | [X](#) | [LinkedIn](#) | [BlueSky](#)

Need communication support?

Translation & Interpretation, Braille, Larger formats, BSL and more.

If you need us to change how we communicate with you, please let us know by sending details to communicationsupport@slab.org.uk. Where possible, we will consider all reasonable adjustments and requests.



**Response to Equalities,
Human Rights and Civil Justice
Committee Civil Legal Aid
Inquiry Recommendations**

Legal Aid Deserts	SLAB response
45. The extent of this problem is very alarming to the Committee. Across Scotland people's capacity to exercise their legal rights is being severely compromised and as such so too is their capacity to realise their human rights. This is not a new problem and the Scottish Government must take urgent action to address this situation. 46. In seeking to respond to this issue it is critical that there is a better understanding of the extent of unmet need and any response to the issue must begin with an assessment of the level of need. To that end, the Committee encourages SLAB and the Law Society of Scotland to work together to develop a better evidence base for demand and supply of legal aid funded legal services .	Key points We share the Committee's concern that there is an incomplete picture as to extent, nature and relationships between need, demand and supply; that help is not always available to those who need it; and that even for those who get the help they need, it is sometimes harder to access than it should be. We wholeheartedly agree that better evidence is needed to help us better understand the extent, nature and causes of the types of problem highlighted to and by the Committee. Without such evidence, it is very difficult to identify and deliver effective and proportionate solutions. However, we do not think that the legal aid system as currently constructed is capable of delivering the range of responses potentially needed: without reform, better evidence may simply help us more clearly understand shortcomings that the system has no means of adequately addressing. Further information While legal aid funding helps tens of thousands of people a year in relation to civil matters, the current legal aid schemes are not designed to, do not, and as currently structured cannot, guarantee access to a solicitor. It is not SLAB's role to secure access to legal advice for applicants and the legal aid system as currently structured provides few mechanisms for addressing gaps in supply or connecting those in need with available services. In an ideal world with unlimited resources and frictionless service design, one might expect that the help delivered by solicitors funded through legal aid would be immediately available for everyone, for any problem type, anywhere in the country, locally and face-to-face. That is not what the legal aid system is designed to deliver, it does not do so and never has. Nor does this seem to be the collective expectation for most other publicly funded services. Those which might aspire to this ideal are also organised and funded very differently, and still fall short:

	specialist services are often less widely available than generalist services; choices are made such that some services are not available to some people, in some places, or at all; waiting lists are common. The case studies presented to the Committee vividly illustrate some of the challenges people face in accessing help and the detrimental impact this can have on them. We recognise that these challenges are real, and that without effective access to the vital services funded by legal aid many people's problems will remain unsolved with significant knock-on consequences. It is not however clear from this evidence the extent to which the issues highlighted are occurring, where they are occurring, why they are occurring, and what types of case or applicant are affected. Nor is it possible to tell based on the evidence presented whether the challenges described represent the typical experience of those seeking legal aid, whether those seeking help in finding a solicitor from the organisations providing evidence to the Committee are very much exceptions to the norm, or something in between. Our most recent survey of civil legal aid and advice and assistance clients, undertaken during the pandemic when access issues might have been expected to be more acute, suggested that fewer than one in five of those granted civil legal aid (18%) or advice and assistance (15%) experienced any difficulty in finding a solicitor. Help was provided by the first and only solicitor contacted by 59% of civil legal aid and 71% of advice and assistance clients. Around one in ten had contacted five or more solicitors, and by definition (given their inclusion in the survey) they ultimately succeeded. In a well-designed, user-focused public service, even this small minority of prospective service users would not be expected to have to search this hard for help. Clearly, there will be others who searched but were unsuccessful, for a range of possible reasons. The Committee heard about some of these experiences, and even if they are in the minority, it is clear that the system is not operating as it should for them. But it does appear to be operating effectively for many thousands of others each year, across the country and on a wide range of problem types. For us to understand how the system can give rise to this range of experiences and outcomes, and how (and to what extent) it might need to change, points back to the need for better evidence as highlighted by the Committee, and a more flexible range of responses to varying needs and circumstances.
--	---

There are few readily available proxy, let alone specific, measures of legal need. Robust data gathering and analysis of patterns of need, how that translates into demand and how providers respond to that demand is complex and can be time-consuming and costly. A better understanding would provide useful evidence of the extent to which current arrangements can and do address different types of need, but this will not in itself result in more needs being met, or met more consistently, and choices will remain as to which needs should be prioritised and how to go about doing so.

We agree with the Committee's conclusion that the extent of solicitor supply is not well understood. SLAB has conducted [a detailed analysis](#) of the long-term trends in civil legal aid. This has involved analysis of our own administrative data using data on subject matters and geographic variables including applicant location, solicitor location and court location.

Trends differ widely between areas of law (adults with incapacity rising and family law falling) and also by geography. Other SLAB data shows steady provision in relation to mental health, significantly increasing supply of help in immigration and asylum but declining help in relation to family law issues, especially under advice and assistance (which as also noted by the Committee may say as much if not more about eligibility than it does about supply).

There is no clear overarching picture emerging from the analysis, but this data is helping us identify shifts in patterns of supply and usage of civil legal aid for different case types nationally and locally. Some of the trends appear to relate to shifts in demand, given evidence from elsewhere about the increase in new asylum cases and a general decline in court-based family work that clearly goes beyond legal aid practice.

Analysis at this level can therefore provide some reassurance about the overall ability of the system to meet demand in a general sense. It can also point us towards areas of law or the country in which reductions in supply appear to go against prevailing trends (such as those relating to the wider structure, work and distribution of the legal profession) or other evidence on potential need, for example that presented to the committee in relation to undefended housing cases. It cannot however tell us why some individuals have particular difficulties in finding the help they are seeking, or why such problems may appear more in some parts of the country or case types than in others.

	The range of responses to these issues, and any changes to the statutory provisions that may be needed to deliver them, are for the Scottish Government to consider and ultimately for the Scottish Parliament to approve. We believe that 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 we believe is needed to deliver such change. 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. We have begun discussing with the Law Society a number of areas where we might work together and the topics of need and supply will play a key part of those discussions.
Fees	SLAB response
62. The Committee welcomes the Scottish Government's recognition of the need to build capacity. The Committee hopes that lessons can be learned from the 2021 [traineeship] scheme and it can be rolled out more widely. The Committee would welcome updates on next steps after the Scottish Government has completed its consideration of the evaluation. 63. Nonetheless, the Committee is not convinced that this kind of capacity building alone is a satisfactory response to the shortages of legal practitioners working in legal aid. It is the view of the Committee that to attract lawyers to work in legal aid and to retain them it is necessary to increase fees. There appears to the Committee to be a clear link between low fee	The setting of fees is a matter for the Scottish Government. We are pleased that the Committee's report reflects our position that we fully support the need for progress with research on the costs of delivery and how far these are met by current fee arrangements, for regular review of legal aid payment mechanisms and levels, and for reforms to simplify fee structures. We are equally clear that addressing the profession's concerns around fees will not itself address other deep-rooted and widespread issues around recruitment and retention, succession planning, technology, equality and diversity, and wellbeing. These are issues which are felt across the legal profession, not only the legal aid sector, and therefore cannot be solved by action within the legal aid system alone. In this respect we welcome the recent launch by the Law Society of Scotland of its programme of support focusing on the key challenges faced by smaller firms, as identified in its recent survey of this part of the profession. The majority of respondents did not undertake legal aid work, but many of the challenges they highlighted do not appear to be associated with any particular areas of work.

rates and the lack of availability of lawyers willing to undertake legal aid work. 65. This [fees] review is long overdue. Moreover, the Committee considers that for this review to be effective it must present proposals for fees that will enable lawyers to work in this field. The Committee would welcome regular updates from the Scottish Government on the progress of this review. The Committee hopes there can be tangible and positive outcomes before the end of the year	
Administration	SLAB response
79. The Committee welcomes these suggestions (see below) and invites the Scottish Government and SLAB to give careful consideration to them. 1. quicker payments for solicitors and third parties, including the suggestion that SLAB deals directly with third parties like expert witnesses and child welfare reporters rather than making evidence requests through solicitors; 2. improving the process for requesting uplifts, in particular reflecting realistic case expenditure;	We welcome the suggestions by stakeholders and set out below the potential to make improvements on each. We are happy to commit to discussing these issues with the Law Society of Scotland. 1. We have previously explored with the Scottish Government the scope for SLAB to deal directly with third parties. The legal advice provided at the time was that this would need primary legislative change. We are happy to discuss this with the Law Society to clarify the issue here and what if any steps can be taken within the current legislative framework. 2. Case cost limits in civil legal aid were set at a level that encompassed the cost of 90% of cases in each category. They were designed to provide sufficient flexibility to accommodate the vast majority of cases while allowing additional scrutiny of the small number of cases that were heading towards a cost significantly higher than the norm. Our records show that we receive uplift requests from solicitors in many cases that have little or no prospect of exceeding the limit in force. The fee increases over recent years have however resulted in an increase in average costs, so in July 2025 we increased the cost limits by 25%.

3. improving the abatement process so that work required to progress a case in a professional and trauma-informed manner was not discounted by SLAB;	We are also currently reviewing the templates for increases in authorised expenditure, exploring the scope for additional case types to be covered and reviewing the values to ensure they continue to reflect the current position. We will be engaging with the profession, including specialist groups, so that the new templates reflect both best value and best practice in providing advice and/or representation. This may itself be challenging as we observe many different approaches to casework across the profession. This may be where some of the tension arises as some firms may find the templates perfectly adequate while others find them constraining. 3. We assume the Committee is referring here to the accounts assessment process, one outcome of which may be the restriction or rejection of some claimed charges. These are colloquially known as abatements. More commonly, the account is passed for payment in full: our data shows that 80% of civil legal assistance accounts are paid in full at first assessment and only around 10% result in subsequent ‘negotiations’ i.e. the exchange of further information that often enables us to pay additional amounts following initial restrictions. Both of these figures mark significant improvements over the last few years. The complexity of the detailed fee system can make for a difficult accounting process, and we are well aware of the frustrations it can cause. Fee structures are set out in regulations and can only be changed by the Scottish Government if approved by the Scottish Parliament. We have provided the Committee with information on the taxation standard and how this differs between a solicitor and client where the client is paying and a solicitor and client where a third party is paying. Any change in this standard would also require legislation. Building on previous work in this area that led to a number of the improvements made over recent years (as well as proposals on which Scottish Government is currently consulting), we have agreed to a series of meetings with the Law Society at which we will explore the kinds of issues that were raised with the Committee in evidence, assess how often these occur and which if any can be addressed by policy change or additional guidance on our part, and which might both require and merit regulation change. The clearest way to remove the burden of detailed accounting and risk of deductions following assessment is to extend the block/fixed fee approach to more areas of work: that requires regulations and so is not at our hands. The challenge outlined above in relation to templates i.e. achieving
---	--

4. removing the “double audit” created by assessing the same expenditure via the uplift and abatement processes; and 5. clarifying rules on “special urgency” (where work is carried out before SLAB has granted legal aid).	consensus as to the work necessary to properly represent a client, and hence the level of fixed or block fee, should not be underestimated given the variation in practice we observe in accounts. This challenge has been clearly illustrated since the Committee published its report, during the recent government consultation on proposals for block fees in adults with incapacity cases. The government proposals were designed to simplify the accounting for work in this area, enabling faster payment with less scope for dispute or error. The proposed fees reflected the typical costs of these cases at present and were calculated on a cost neutral basis i.e. the total payable across all cases would remain the same under the current and proposed feeing systems. The proposals have been criticised by some stakeholders who argue that the fees are too low to enable them to properly represent their clients, despite those fees being higher than the amounts currently paid in a majority of cases and higher than the average amounts paid to a majority of firms. 4. We reiterate what we said in our supplementary evidence to the Committee about the statutory requirement of both front and back-end checking, the different functions they perform and their importance in a supplier led, uncapped system where the taxpayer meets the cost of services delivered to a third party. We have very little discretion to waive these requirements and as any reduction in their scope would require legislative change, this is again a matter for government and parliament. 5. The Special Urgency rules are contained in regulations, which list the circumstances in which solicitors can act without our prior authority; in all other circumstances they require our prior authority and if this is not obtained, we have no discretion to approve work retrospectively. The evidence submitted to the committee suggests that solicitors sometimes make mistakes and that this causes problems, for example where they undertake work without prior authority, thinking erroneously that none was required. We have issued extensive guidance on the operation of the special urgency rules, but it is the solicitor’s responsibility to check the rules and apply them properly. In our experience, the rules are well understood and if a solicitor is in doubt they either call us for advice or ask us for prior authority to be on the safe side – often unnecessarily as the work is already covered. We are happy to engage with the Law Society on this, but beyond making sure the guidance is clear and offering training to the profession, it is not clear how extensive a problem this is, what causes it or what action SLAB can take.
--	--

80. The Committee also welcomes the Minister's willingness to examine how processes might be reformed to allow for trauma informed processes. 81. The Committee has significant concerns about the current administrative processes and the damaging effect they are having both on relationships between legal practitioners and SLAB and on the capacity to undertake trauma informed approaches.	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. 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. These statutory controls 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. Our observation of solicitor practices is that they vary widely, suggesting there is no clear consensus as to what constitutes an appropriate level of service. This should not be for us, the Scottish Government or individual solicitors to determine alone and so will require extensive engagement. 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 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.
82. The Committee calls on the Scottish Government and SLAB to take action to address these concerns. The Committee recognises that the current processes exist within a legal framework and that in some cases changes cannot be made immediately. Nonetheless, the Committee considers that removing administrative burdens could not only address some of the challenges in the system, but could result in financial savings for SLAB and the legal profession while also improving the experience of those engaging with the civil legal assistance system	Key points We submitted detailed briefing to the Committee that set out the complexity of the legal aid system, the controls that are an inherent part of managing public expenditure and the limitations the current legislation places on our ability to make changes. Continuous improvement remains very much a part of our organisational approach to provide efficient administration and excellent customer service, and we are committed to working with stakeholders to clarify current rules and associated procedures and to identify opportunities for change.

	Our initial assessment is that any gains made by changing our processes (to the extent the statutory framework allows us to do so) are likely to be very much on the margins when compared to the benefits delivered by changing the underlying system we and solicitors are tasked with operating. <i>Further information</i> We have undertaken several reviews of our operations over the years, and the kinds of issues flagged to the Committee were also considered by Martyn Evans in his independent review. He did not find significant scope for improvement within the current legal aid legislative framework, so the majority of his recommendations pointed to reform of the framework itself. Several years ago, we launched a programme of engagement with the profession with a view to identifying changes that we could make to simplify and streamline the legal aid system and its operation, to reduce administrative burdens on the profession and ourselves and to build more positive, trust-based relationships. That process identified a number of possible changes, several of which were subsequently implemented. Some of these had a noticeable impact, such as a significant reduction in the number of stage reports submitted by solicitors in civil legal aid cases. Others were of far narrower impact, such as allowing joint applications for adoption or permanency proceedings, or making available funding for family therapy and supported contact with a view to enabling earlier resolution of family cases. The engagement process also provided the basis for the ‘Guidance on the Administration of Legal Aid’ project. This project’s review of our policies and guidance has in turn identified some further changes that have reduced burdens on the profession, the most significant of which has been our changed approach to the interests of justice test in sheriff court summary criminal cases. The proposal for standardised discretionary allowances in civil legal aid means assessment also emerged from this work. Our consultations in relation to this work had very low response rates and little engagement from stakeholders.
--	--

	We recognise that the rules around the legal aid system have become complex over time. As part of our current Corporate Plan we are already developing a training and support hub which will assist solicitors and applicants to submit the best quality applications and accounts possible. 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. We are identifying the most common issues in the application and accounts processes 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 associated processes. We are also reviewing the content on our website aimed at applicants, and opponents, to improve the accessibility of the legal aid process. For both solicitors and applicants, this will include issues around eligibility and financial assessment, such as those highlighted by the Committee in paragraph 100. In addition to this work, we will maintain our existing offer to provide bespoke training sessions to firms who request assistance. 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. 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. While we see this work as part of our role, the resources we can devote to training the profession are limited and in terms of impact are best directed towards those who undertake legal aid work regularly. 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. 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. Even if we had the resources to engage directly with all of those who have previously or may in future choose to 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. 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 100.
Eligibility	SLAB response
90. The Committee welcomes both this recognition from SLAB and its work reviewing financial eligibility for Advice and Assistance. Nonetheless, the Committee is concerned by the barriers to justice that are being created by the current thresholds for Advice and Assistance. It does not seem tenable to the Committee that someone with £1,718 in their account should not be able to access Advice and Assistance. The Committee recommends that Advice and Assistance financial eligibility is increased to match civil legal assistance thresholds as proposed by the Scottish Association of Law Centres. Moreover, the Committee considers that all levels in Advice and Assistance and Civil	Key points We welcome the recommendation that eligibility arrangements are reviewed. Changes to the eligibility thresholds can only be made by regulations made by the Scottish Government and approved by Parliament. Further information 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%.

Legal Assistance should be increased in line with inflation since 2011.	The thresholds are only one of the ways in which eligibility varies between A&A and civil legal aid. There are also differences in the deductions available for outgoings, the treatment of some benefits and the contributions arrangements. Aligning the thresholds at any given level would not therefore equalise eligibility: for example, 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. The costs of changing eligibility levels could be significant, depending on the levels chosen.
100. The Committee appreciates that there might be flexibilities in the system to allow for legal aid to be provided to a woman escaping domestic abuse. Awareness of these flexibilities needs to be improved. However, the Committee is not persuaded that relying on the availability of these flexibilities alone is sufficient.	Key point We agree with the Committee that better awareness is needed as to the flexibilities within the system. Further information 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. Our guidance for solicitors, and communications with applicants, state that applicants can explain why information may be missing from an application. 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. 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 consider when carrying out our financial assessment. This should help highlight any areas where discretion could be applied. We will shortly be issuing revised guidance for solicitors on this area, including on the issues of trapped capital and coerced debt. 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.
101. The Committee strongly recommends that the Scottish Government pursue reforms with a view to removing financial eligibility tests for civil protection orders and homelessness due to a breach of statutory duty cases. The Committee also urges the Scottish Government to investigate options for ensuring legal aid is available without means-testing to a wider selection of domestic abuse cases	Any changes in this regard would be for the Scottish Government to make. We make no comment on the principle of automatic eligibility, other than to observe that this would clearly be beneficial to those with affected case types, both in cost terms and also by simplifying the process of applying for legal aid. We also note that 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. Removing means testing for all domestic abuse cases 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.

Public interest litigation and group proceedings	SLAB response
111. The Committee welcomes that the Minister and SLAB are re-visiting Regulation 15 insofar as environmental cases are concerned. However, the Committee is of the strong view that there would be significant benefits and efficiencies from re-visiting Regulation 15 more broadly. While SLAB pointed to cases where civil legal assistance has been granted they remain isolated cases. The Committee asks SLAB and the Scottish Government to look at Regulation 15 again with a view to allowing more collective action, reducing the burden on the individual and broadening the coterie of people benefiting from proceedings in a more efficient way. The Committee in particular asks the SLAB and the Scottish Government to consider Professor Boyle's suggestions as regards the reasonableness test.	Key points We agree with the Committee's observation that the current statutory framework for legal aid is designed around individual applicants rather than groups or organisations, reflecting the wider legal position when the legal aid provisions were drafted, in that there was at that time no procedure for collective actions in the courts. We will clarify our guidance on reasonableness and the application of regulation 15, but do not believe that either the regulation itself, its application by SLAB or our guidance on the reasonableness test are significant barriers to legal aid being granted for cases of wider public interest. Further information We note the Committee's suggestion that the examples we provided of cases with a wider public interest in which legal aid was granted relate to isolated cases. This reflects the fact that regulation 15 is not a common feature of our determination of legal aid applications: we provided these examples to illustrate the approach SLAB takes on the rare occasions it is engaged. Our staff could recall few if any cases in the last 15 years or so in which legal aid was refused as a result of regulation 15, but significantly more where legal aid was granted despite a joint interest being identified – hence the examples in our evidence. The examples emerged from a review of cases in which regulation 15 had been considered, which we undertook to support our engagement with the Environmental Rights Centre Scotland (ERCS, which highlighted this issue in its evidence to the Committee). That analysis identified 29 cases between 2020 and May 2025 in which we considered the tests set out in regulation 15. Of these cases, 23 were granted, and none of the refused cases were refused on regulation 15 grounds. In other words, 23 cases were granted over the course of almost 5 and a half years, notwithstanding the terms of regulation 15, and none were refused.

	That is the basis for our suggestion that neither regulation 15, nor our policy on its application, is in practice (or need be seen as) a significant barrier to litigation in the wider public interest. As already noted, we are revisiting our guidance to ensure that this is made as clear as possible. We are also already reviewing our guidance on reasonableness in cases of wider public interest. We are not clear from Professor Boyle’s evidence what kinds of case she thinks would be excluded under our current guidance, which is broad enough (both as written and in practice) to allow for wider public interest to be taken into account as a positive factor in a range of types of case, and for both the individual and wider interest to take a variety of forms. In that respect our guidance is similar in effect to that in place in Northern Ireland to which Professor Boyle refers, and we note that the regulations in Northern Ireland also contain provisions virtually identical to regulation 15. We have reached out to Professor Boyle and look forward to exploring this with her. Our guidance already states that wider public interest can be a determining factor in our decision to grant legal aid on the merits, albeit our engagement with the ERCS suggests that this wording – and also our guidance on regulation 15 - may be open to misinterpretation. We recognise that the guidance itself could be expressed more clearly and in more positive terms, perhaps with examples of the types of case we have granted in the past and how the strategic impact of cases can be explained by solicitors at application stage. While it might send a positive signal, we do not think that the removal or amendment of regulation 15 or updated guidance on wider public interest is likely to result in a particularly meaningful change in the actual availability of public funding for the types of case described to the Committee, or tackle the identified issues around group actions or actions by organisations (rather than individuals). This is because the whole statutory framework for legal aid is based on the funding of services delivered to individual applicants, as that was Parliament’s intention both in 1950 when civil legal aid was first created and in 1986 when the current arrangements were put in place. For these reasons, we think a wider review needs to be undertaken of the arrangements for funding group/collective actions and/or strategic litigation. In this regard we note that since the Committee published its report, the Scottish Civil Justice Council (SCJC) has issued a call for evidence in relation to
--	---

	the potential extension of court rules to ‘opt-out’ group proceedings, building on experience of the operation of ‘opt-in’ proceedings since relevant rules were introduced in 2019. The SCJC’s call asks for views on a range of topics, including funding. SLAB will engage with the SCJC Group Procedure Working Group, Scottish Government and relevant stakeholders to explore potential options for public funding as part of the wider litigation funding landscape (which is also much changed since 1986). In doing so, we will explore options – including different models in other jurisdictions - that could not be accommodated within the current legal aid statutory framework, but which could potentially be included in new legal aid primary legislation. In the interim there may be options for testing methods of supporting group actions or strategic litigation through current grant funding powers (rather than case by case funding). There would be technical and financial risks involved in designing such a funding programme which would need careful consideration to protect individuals and organisations, as well as public funds.
Short-term changes	SLAB response
121. On the basis of the evidence the Committee has received there are clearly benefits attached to using block fees. At the same time the Committee considers that block fees will not be appropriate in all cases, in particular more complex cases.	As noted above, extending the block/fixed fee approach to more areas of work would significantly remove the burden of detailed accounting and risk of deductions following assessment. This requires regulations. The variation in practice we observe in accounts points to a significant challenge in achieving consensus as to the work necessary to properly represent a client, and hence the level of fixed or block fee.
122. In the absence of greater detail around the proposals for block fees in relation to Adults with Incapacity cases it is difficult for the Committee to say definitively whether this is the right approach to adopt. The Committee would welcome more detail from the Scottish Government on these proposals.	The Scottish Government is currently consulting on these proposals.
130. The Committee notes the potential benefits of standardised personal allowances, however, the Committee also notes the concerns	SLAB will be consulting on the introduction of standardised personal allowances later this year and will engage with the Committee on the proposals.

highlighted in evidence about the potential to reduce the number of people qualifying for Civil Legal Aid. 131. The Committee would welcome more detail on the proposals for standardised personal allowances. The Committee would also welcome how any such approach will seek to mitigate against reducing the number of people qualifying for Civil Legal Aid.	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. 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. More people would qualify without a contribution, and they would be able to confirm that they do so more quickly.
138. It is concerning to the Committee that people who would otherwise qualify for legal aid are being deterred from exercising their rights as a consequence of the potential for clawback or a requirement to make an unrealistic contribution to their legal costs. 139 The Committee urges the Scottish Government and SLAB to give careful reflection to both clawback and contributions to costs as they appear to the Committee to be currently acting as barriers to justices. The Committee would encourage the Scottish Government and SLAB to reflect on this and seek to make changes as part of its short-term reforms.	On clawback, 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 (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). We have no discretion within the statutory framework as to whether to apply the provisions of section 17(2B). 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. Any change in this position would be a matter for the Scottish Government. On contributions, the increasing preponderance of adults with incapacity cases (for most of which there is no means test) and the treatment of universal credit as a passport benefit means that only 5% of those granted civil legal aid in 2024/25 had a contribution to pay, compared to 26% in 2010/11. However, due to the freezing of the thresholds since 2011, those assessed as liable to pay a contribution will be on lower relative incomes than in earlier periods (a disposable income of £3521 is now much lower in real terms - and so also relative to the general population - than in 2011). We have already commented on the Committee's recommendation that the financial eligibility thresholds for all aid types should be reviewed. Any changes to thresholds made as a result of such a review would impact on the number of people required to pay a contribution and the size of those contributions. As noted above, our analysis suggests that the introduction of standardised discretionary

	allowances would result in some applicants no longer having to pay contributions at all, and many others being asked to pay less. Changes to financial eligibility limits are the responsibility of Government and Parliament and we have no statutory authority to make changes in this regard.
Mixed Model of Delivery	SLAB response
154. The Committee welcomes this ambition to give greater certainty of funding. The Committee also welcomes the Minister's assertion that this model isn't being pursued with a view to saving money.	The current statutory framework means that decisions as to the level, duration and targeting of our grant funding programmes are for the Scottish Government. We would welcome the ability to offer multi-year grants.
155. While recognising the limitations of grant funding, the Committee believes that providing more money for grant funding in the short-term could address the advice needs of women in domestic abuse situations, asylum seekers and homeless people. 156. The Committee also urges the Minister to follow through on her commitment to provide multi-year settlements and to work with SLAB to deliver on this ambition.	We welcome this recommendation and agree that grants can be an effective route to addressing gaps in supply or directing resources towards specialist services for particular groups, issues or communities. As part of the development of advice on potential changes to the future legal aid system, we will shortly be engaging with stakeholders to assess the flexibility of our current funding tools, identifying practical insights from stakeholders and exploring new possibilities for how current funding mechanisms might be used most effectively or what changes could make them work better. For example, there may be scope for our grant funding powers to be used to support more developmental areas of work, such as new ways of managing demand for assistance, how to better connect people from marginalised communities to help, embedding digital approaches in both advice delivery and support for advisers, or using grants to build capacity. Under current arrangements, any such approaches would be subject to approval and budget allocation by Ministers.
157. The Committee did not explore other models for delivery such as contracting or directly employed solicitors in any detail, but invites the Scottish Government to work with SLAB to ensure all options are taken into account	We are exploring these approaches as part of the development of our advice to Ministers on the longer term reforms. The current and potential use of alternative delivery models will form part of the discussions with stakeholders outlined above.

in exploring how best to provide access to justice for all.	
User voice	SLAB response
162. The Committee echoes the views of Hyon Eun Shin. While the Committee welcomes an emphasis on engaging with users more effectively to ensure the system is tailored to their needs, any engagement must be meaningful and not tokenistic. Moreover, it must reach the most marginalised groups in society who encounter the greatest challenges in accessing justice.	We agree. Integrating user voice into the legal aid system is essential, but its effectiveness relies on structures being in place to effectively respond to evidence gathered through the user voice mechanisms, enabling insights to be built into service design, priority setting and resource allocation.
163. The Committee would welcome more details on the Scottish Government's plans for obtaining the user voice. The Committee would also appreciate being kept informed of developments.	This recommendation is for the Scottish Government
Other long term reform priorities	SLAB response
174. While not all of these preventative approaches would work in all circumstances, it is nonetheless clear that there is broad support for different preventative tools to suit the circumstances. Moreover, there would appear to be a lot of benefits to furthering public legal education. 175. The Committee urges the Scottish Government to give careful consideration to preventative measures as part of its reform proposals.	We welcome this recommendation and agree with the Committee that preventative approaches are essential, not only because these can result in better outcomes, but they also help ensure that best use can be made of scarce resources. It is difficult to embed such approaches in a case-by-case legal aid system, as this relies on problems having already arisen and progressed to the stage that legal intervention is necessary. This points to preventative approaches being dependent on the development of the mixed model outlined above.