Scottish Women's Aid Response to SLAB Stakeholder Engagement: Changes to Civil Legal Aid Means Assessment (December 2025)

About

Scottish Women's Aid (SWA) is the lead organisation in Scotland working to end domestic abuse and plays a vital role in campaigning for effective responses to domestic abuse. SWA is the umbrella organisation for local Women's Aid organisations across Scotland, each providing practical and emotional support to women, children and young people who experience domestic abuse. The services offered by our members include crisis intervention, advocacy, counselling, outreach, follow-on support and temporary refuge accommodation.

We also run the Scotland's Domestic Abuse and Forced Marriage Helpline taking over 1000 calls, WhatsApp messages, and texts (24h/365) every month.

Introduction

Domestic abuse offending has serious and long-lasting consequences for women and children's enjoyment of their human rights, including their right to health and access to justice. SWA has commented, at length, on the issues facing women experiencing domestic abuse who are seeking funding from SLAB in connection with raising or defending civil actions.[1]

Women's poverty has a considerable impact on their ability to pay for legal services. Women earn less than men, and women are more likely to be in lower paid, part-time or insecure employment. Women also perform most of the unpaid care work in Scotland and make up the majority of single-parent households. In addition, women disproportionately experience domestic abuse, including economic abuse, which restricts their access to household income, assets and financial independence. As a result, women access legal aid more than men, with women and children experiencing domestic abuse disproportionately affected. They will often need to access legal aid across a range of actions, including child contact and residence, divorce and protective orders.

Means-testing does not reflect the reality of economic abuse

- Women subjected to economic abuse may *appear* to have sufficient funds or assets, but they have no access or control over these resources. Assets such as the family home or savings that the woman cannot access (even if they are

[1] https://womensaid.scot/wp-content/uploads/2022/04/SWA-SLAB-2021-cons-response-160222.pdf
https://womensaid.scot/wp-content/uploads/2025/04/17.04.2025-EHRCJ-Committee-legal-aid-inquiry-1.pdf

in her name) still count toward her legal aid eligibility. Focusing solely on the woman's income and capital may misrepresent her *actual* financial situation and lead to wrongful denial of legal aid.

- The same goes for 'trapped capital', where on paper, women have perceived capital, but in reality they are financially insecure, if not living in poverty, as a result of abuse. The system is also not 'forward-looking' and therefore does not account of future forms of economic abuse and coerced debt for which survivors are held liable.

- With 1 in 6 women in the UK experiencing a form of economic abuse,[2] the number of survivors with coerced debt is high. Means testing does not accommodate for debts which have resulted from force, threat, coercion or even fraud. They are just counted against the survivor without an understanding that the debts are a direct result of abuse.

- Without greater awareness, economic abuse can be invisible in eligibility decisions, forcing survivors to self-represent or incur further debt to secure legal help.

1. New standard personal allowance will be given to all applicants in the calculation of disposable income, and 2) existing individualised discretionary allowances will no longer be given, other than in exceptional circumstances

This proposal will only benefit women experiencing domestic abuse where the financial value of this new allowance is at least equivalent to the total sum women could have been granted under the existing individualised discretionary allowances.

- SLAB has carried out "*an analysis of a year's cohort of previous applications*" (pp20) in estimating how many applicants would benefit but there is no information on the demographic of these applicants. Further detail is needed on how many are women experiencing domestic abuse and whether the cohort, and women experiencing domestic abuse, all also have higher income levels, or just high levels of expenditure.

- Women experiencing domestic abuse will not only be meeting their own expenses and servicing their own debt repayments, but may be forced into paying all, or the majority, of the household expenses and repaying the abuser's debts. This is an acknowledged continuing form of abuse which referred to as "coerced debt". If the discretionary expenses do not disregard coerced debt, SLAB would indirectly be adding to the burden of this abuse.

- In assessing whether this change will benefit women, this analysis needs to show how many applicants were women experiencing domestic abuse; the average discretionary disregard for them in terms of debt, the size of the current disregard, on average, given to women experiencing domestic abuse.

- This analysis has to identify whether the £4,000 allowance proposed is more or a lot less than the value of current expenses women would have disregarded under the discretionary process. The level of debt repayment

[2] https://survivingeconomicabuse.org/

made by women experiencing domestic abuse may be substantially higher than those of the average Legal Aid applicant, so the level of the new standard personal allowance may not equate to what would have been otherwise deducted from their assessable income. SLAB's assessment of a "*reasonable allowance*" (pp12) includes travel costs for contact arrangements. Clarification is needed on whether these costs refer only to those incurred by the person exercising their right to contact, or whether they cover expenses incurred as a result of contact. Women frequently incur additional costs such as travel costs, etc., to take a child to contact. Further clarification is also needed on whether this also covers costs related to the contact that should have been met by the abuser, who is, as a continuation of the abuse, refusing to meet this obligation. For example, women being forced to provide the abuser with food for the children over the contact period, subsidise any entertainment, meals, etc. that the abuser should have paid for.

- If the new personal allowance is less than what the discretionary expense disregard would have been, this means women's assessable income will be higher. This will have two outcomes: they may now be required to pay a higher contribution amount, or they may now be required to pay contributions where previously they would not have had income at a level that would attract a contribution, had the discretionary expenses deduction been applied. Hardship may be caused where women have to pay a contribution, or a higher contribution, and at the same time, service these debts. Women making substantial debt repayments (and/or incurring costs relating to making children available for contact) may therefore be disadvantaged if these sums are not to be deducted from their assessable income.

- Paragraph 19 states "*Alongside this, we will use our discretion to introduce additional 'premiums' for applicants with disabilities and applicants who are carers, which act as further allowances to reflect particular household circumstances."* SLAB could use this power to apply additional "premiums" to support women experiencing domestic abuse who are servicing coerced debt.

- Under the discretionary expense allowance, paragraph 16 indicates that the rate of personal allowance would be based on UK Government benefit applicable amounts, meaning that the £4000 could be reduced.

Paragraph 23 refers to SLAB policy on disregards in exceptional circumstances; this will have to be very clear and cover the issues we have raised. Training of SLAB assessors and solicitors is important in this regard because the application of this discretion is dependent upon the SLAB assessor and the lawyer being domestic abuse competent, their ability to correctly identify domestic abuse, especially the presence of economic abuse and women having debt incurred as a consequence of the abuse. The definitions understood will be important as economic abuse includes coerced debt; they are not mutually exclusive categories, and the latter is a subset of the former.

3) The calculation of the initial band of income contributions will be reduced to 25% of relevant disposable income (from 33%)

There is the potential for this change to benefit women where the final assessment of income brings them below £20,000 but this might not happen if the discretionary disregards referred to above are not applied. Women with £20-£30,000 of net assessed income, especially where this figure is assessed because the discretionary disregard was not applied, will have a higher monthly instalment. This is likely to cause women financial hardship by requiring them to pay back debts and incur other costs in addition to making legal aid contributions.

4) All income contributions will be payable over 20 months (rather than from 12 to 48 months).

This will not benefit, and may cause economic hardship to, women experiencing domestic abuse who either have to pay larger contributions, or pay a contribution for the first time. This is due to the removal of the discretionary disregard above and the new personal allowance is less than debts that would otherwise have been covered by the discretionary allowance, and who are also servicing existing debts. They will have to pay their contributions, possibly increased contributions, over a shorter period, which means a greater call on income to make payments over 20 months rather than 48 months.

If women have higher contributions due to the removal of the discretionary disregard above, it will be financially difficult for them to make these contribution payments along with servicing debts, etc, as acknowledged by SLAB in paragraph 23.

Other areas needing attention - training of SLAB assessors and solicitors handling applications

Domestic abuse is likely to be present in the majority of applications for protective orders. It is not clear how SLAB assessors and solicitors handling applications check for the presence of domestic abuse in legal aid applications for divorce, contact, PRRs, where this is not evident from the application. Further detail is needed on the specific steps SLAB will take to improve how they check applications for signs of domestic abuse.

In considering this, clarity is needed around the following:

- The quality, quantity, content, delivery method and provider of training SLAB assessment staff currently receive around domestic abuse awareness/competency.

- Similar questions arise around the training SLAB provides to solicitors around identifying the existence of *exceptional circumstances* and whether this covers domestic abuse and if so, the content and training provider.

- The processes and assessments currently undertaken; what is the assessment based on; what are considered “signs of domestic abuse” and what is the procedure where a solicitor and/or assessor “identifies” domestic abuse and what is being identified as domestic abuse.

- What Quality Assurance exists for this assessment: who verifies the assessment and agrees with the conclusion as to whether domestic abuse is present or not, particularly the latter.

- How coerced debt is initially identified by the solicitor and verified by SLAB and what is the training around this will look like. Page 18 suggests a full discretionary income disregard for "domestic abuse and coerced debt". SWA is clear that coerced debt is a form of domestic abuse so would like clarification on how this is defined.[3]

- Training will also be important in relation to discretionary expense disregard.

Contacts:

Louise Johnson
National Policy Lead for Legal Issues
Louise.johnson@womensaid.scot

Dr Jenn Glinski
National Policy Lead for Economic Abuse
Jenn.glinski@womensaid.scot

[3] https://womensaid.scot/coerced-debt-joint-briefing_nov2024/