



**Scottish Legal Aid
Board**

**RES Research
Final
Report**

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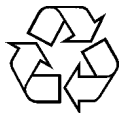
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EXECUTIVE SUMMARY

Context

1. Legislative requirements to address racial discrimination have been in force for more than six years. Like many public bodies, the Scottish Legal Aid Board (SLAB) is required to produce a published race equality scheme (RES).
2. The RES is best seen as a timetabled and realistic plan which sets out arrangements for addressing the general race equality duty of eliminating unlawful discrimination and promoting equality of opportunity and good race relations. The RES shows how public bodies make policy, how they deliver services and how they carry out their role as an employer.
3. SLAB commissioned York Consulting Limited Liability Partnership (YCL) to conduct research that would develop their understanding of the knowledge, perception and experiences of applying for legal aid amongst ethnic minority groups and help inform the development of the next three-year RES.

Methodology

4. The researchers approached a range of advice-giving organisations that provided services to people from an ethnic minority background and eventually worked with four organisations to arrange four focus groups of service users to participate in the study.
 5. Twenty-three people from diverse backgrounds participated in the research and discussed a range of issues that covered:
 - awareness and use of sources of advice and information;
 - problems/issues experienced by participants;
 - perceptions, knowledge and experience of accessing legal aid;
 - views on disclosing ethnic origin.
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6. This primary research was also informed by desk based activity that reviewed relevant documents and information that related to SLAB's race equality activities. This element was included to help the researchers understand SLAB's race equality priorities, develop the research tools and to also feed into SLAB's own in-depth review of the RES 2005-08.
7. The desk based and qualitative research has identified a number of key issues and recommendations that are explored in detail in the main report and summarised in the remaining section.

Summary of Findings

Observations from the Desk-Based Activity

8. By briefly reviewing the internal documentation, it showed that, to date SLAB's RES and activity undertaken in support of its development reflects the use of available guidance and support. There is clearly a level of senior commitment within the SLAB that is also reflected in commissioning this research.
9. After almost six years of working towards the requirements of the Race Relations Act, a number of barriers have had the cumulative effect of slowing down progress - two key areas are impact assessment and ethnic monitoring of services.
10. Race equality impact assessments are key aspects to ensuring that RESs do make a difference. The process requires evidence provided by ethnic monitoring and other sources e.g. research, customer feedback, as well as consultative arrangements with communities on any necessary or proposed changes.
11. Monitoring provides much of the evidence base from which organisations can plan or amend services. Without effective monitoring systems, public

bodies will find it difficult to demonstrate effective engagement with the legal requirements of the general duty. Whilst changes are planned for the process, its use is still reliant on solicitors and this is a key weakness of the current process.

12. The consequences of the findings from the desk based research were echoed in some of the responses from focus groups.

Participants' Advice-seeking Behaviour

13. All the participants had accessed advice and information. For the majority, they often sought to address the problem or issue themselves but they had also used a variety of agencies and organisations. After self-help, the most common sources of advice and information were the doctor and the council. The choice of organisation was influenced by:
 - the nature of the issue;
 - the outcome/solution a person is looking for;
 - the choice of organisations/agencies in the area;
 - their past experiences of accessing the service;
 - the recommendations of family, friends or other organisations.
14. The wide range of agencies used by respondents did not always reflect the most appropriate ones and there are remaining questions as to how far these routes provided the most effective channels for early resolution.

Issues and Problems Experienced by Ethnic Minority Participants

15. The participants highlighted a range of problems that could be common to members of any community, e.g. money advice, housing, accessing public services. However there were also problems specific to ethnic minority communities like racial harassment.
 16. The other key area for advice, information and assistance relates to immigration with some of the participants experiencing problems relating to their status in Scotland.
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Participants' Awareness and Experience of Accessing Legal Aid

17. Overall, focus group participants had a low awareness of legal aid and its potential availability for civil matters. They welcomed the opportunity to learn more about legal aid and felt that increased dissemination of materials would be useful in improving overall understanding.
18. Some considered the SLAB logo as being akin to a quality mark. Whilst flattering in some respects, this impression is clearly based on an incorrect assumption and one that the SLAB has had no impact in shaping.
19. For the participants who had accessed legal aid this was for assistance in relation to immigration, divorce or debt issues and representation in the sheriff court. Their experience of working with their legal aid solicitor had overall been positive and they had limited comment about the general process they underwent or improvements that could be made.

Participants' Views on Disclosing Ethnic Origin

20. The participants were accustomed to completing monitoring forms for a range of services and providers and were surprised at the SLAB process and use of an Equality Card. Participants viewed the process as unnecessary complicated and in some aroused suspicion due to its separation from the application form. Participants identified a number of practical changes that could simplify the process and improve completion of the ethnic monitoring question.

Recommendations

21. This research shows SLAB's commitment to gathering evidence to address race equality requirements and to better understanding of the needs of ethnic minority communities.
22. Four recommendations, drawn from the findings of the focus group research and the brief desk based activity, which would further assist SLAB in understanding of the race equality issues that exist in the legal aid system and progressing their race equality commitments. These are:
 - to undertake a more detailed study into advice-seeking behaviour within ethnic minority communities;
 - to develop a consultation strategy that identifies the means by which consultation will be carried out, for what purposes and when;
 - to further revise the service monitoring arrangements;
 - to review the dissemination of information.

1 BACKGROUND TO THE RESEARCH

Introduction

- 1.1 The Scottish Legal Aid Board (SLAB) commissioned York Consulting Limited Liability Partnership (YCL) to conduct research that would develop SLAB's understanding of the knowledge, perception and experiences of applying for legal aid amongst ethnic minority groups and help inform the development of the next three-year Race Equality Scheme (RES).
- 1.2 The specific objectives of this short piece of research were to gather information on:
- ethnic minorities understanding of the legal aid system and the type of issues for which they seek legal aid;
 - the routes ethnic minorities use to access legal advice and representation;
 - the reasons for non-disclosure of ethnicity background when applying for legal aid;
 - the satisfaction of ethnic minority applicants with legal aid services.

Methodology

- 1.3 Information to support the research was based around a small number of focus groups from services that provide advice and information to people from an ethnic minority background. This primary research was also informed by desk based activity that reviewed relevant documents and information that related to SLAB's race equality activities.
- 1.4 Due to the short timescales for delivering the research, a pragmatic approach was taken in identifying the organisations but which took account of:
- geographical location;
-

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- service user groups;
 - the focus of the service.
- 1.5 Eight organisations were approached to participate in the research and four agreed to be involved. To ensure anonymity of the participants' responses, the organisations have not been named but can be described as:
- an organisation in the central belt that offered services to women from a particular ethnic minority;
 - a Citizen's Advice Office in the East of Scotland;
 - a Gypsy/Traveller group in the West of Scotland;
 - an ethnic minority-led housing charity.
- 1.6 Participants were recruited by advertising the research within the organisations using leaflets, posters and writing to current and past service users. Crèche and interpreter facilities were offered to participants and they also received a financial incentive for taking part in the research.

Structure of the Focus Groups

- 1.7 Focus group participants were asked to complete a proforma that collected demographic details and identified their experience of accessing legal aid. The focus group discussion was based around a range of questions that covered:
- awareness and use of sources of advice and information;
 - problems/issues experienced by participants;
 - perceptions and knowledge of legal aid;
 - experience of accessing legal aid;
 - views on disclosing ethnic origin.
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1.8 Prompts and SLAB materials¹ were also used to aid the discussion. The topic guides used in the focus groups, along with the participants proforma can be found in appendices A and B.

1.9 A total of 23 people participated in the research. This is a small number of participants and the research provided an opportunity for in-depth discussion and exploration of individuals' issues and experiences, however, it was not necessarily representative of specific ethnic minority communities.

Structure of the Report

1.10 The remainder of this report is set out as follows:

- in **Section 2: Addressing Race Equality**, we discuss the contextual background to the race equality legislation and highlight elements of the desk based review of the SLAB's 2005–2008 RES which was used to inform the development of the research tools and which will assist SLAB in identifying priorities for the development of their next RES;
- **Section 3: Focus Group Discussions**, details the responses from participants in the four focus groups;
- **Section 4** provides a **summary of the research findings and recommendations** about how this information should inform future SLAB activity to address race equality issues.

¹ A guide to civil legal aid and Advice and Assistance Equality Card

2 ADDRESSING RACE EQUALITY

Legislative Requirements

- 2.1 The Race Relations Act 1976 makes it unlawful to discriminate on the grounds of race, colour, nationality or citizenship or ethnic or national background in areas of employment, education, housing and the provision of goods and services.
- 2.2 The Race Relations Amendment Act 2000 came into force on 2 April 2001 and it marked a change in the context in which local government and other public authorities deliver their services.
- 2.3 The amendment strengthened the Act's application to public authorities by extending the scope of the Act and introducing a statutory duty to promote race equality.
- 2.4 Public bodies bound by the general duty, have to pay 'due regard' to the need to:
 - eliminate unlawful discrimination;
 - promote equality of opportunity;
 - promote good race relations.
- 2.5 Four principles govern the efforts of authorities in meeting this general duty:
 - obligatory – authorities must make race equality a central part of their functions, such as planning, policy making and service delivery;
 - relevant – race equality will be more relevant to some public functions than others;
 - proportionate – the weight given to race equality should be proportionate to its relevance to a particular function;

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- complementary – the three parts of the general duty (listed above) support each other and may overlap. However, being successful with one may not lead to success in all three.

2.6 The specific duties, in the form of a published Race Equality Scheme (RES), set out the arrangements for better meeting the general duty. In short, the specific duties cover how public bodies make policy, how they deliver services and how they carry out their role as an employer.

2.7 The RES is best seen as a timetabled and realistic plan which sets out arrangements for:

- assessing and consulting on the likely impact of proposed policies on the promotion of race equality;
- monitoring policies for any adverse impact;
- publishing results of assessments, consultations and monitoring;
- ensuring public access to information and services which it provides;
- training staff in connection with the general and specific duties;
- reviewing the assessment of its functions every three years, and on a continuing 3-yearly basis.

2.8 The process for producing a RES starts with the assessment of all functions and policies for relevance to the general duty. A significant part of this process is the prioritisation of functions and policies so that the end result will inform the development of a focused action plan. Each aspect of this action plan should be reviewed against the general duty.

2.9 One early weakness identified regarding the race equality duty was a perceived emphasis on process over outcome. In some respects this can be seen as a reaction to the absence of key processes prior to the introduction of the Race Relations Act, as amended. Subsequent amendments relating to disability and gender legislation have been careful to ensure a clear favour towards demonstrating progress and impact.

- 2.10 The future development of RESs will need to underline the achievement of quantifiable and demonstrable progress where the impact on communities can be assessed as part of a performance framework. The process driven elements of the specific duties are there as a supporting role only.
- 2.11 The renewed focus on outcomes and impact will serve as a reminder that public bodies are expected to demonstrate how they are making a difference across their functions to promote race equality and good race relations and to eliminate discrimination.

Summary of the 2005–2008 SLAB Race Equality Scheme and Priority Areas

- 2.12 Whilst this desk based activity was not a specific requirement of the research, during the project initiation meeting it was agreed that this element would help the researchers understand SLAB's race equality priorities and develop the research tools. The desk based activity would also feed into SLAB's own in-depth review of the RES 2005–08 and the development of RES 2008–11.
- 2.13 Significant elements for addressing each of the specific duties are identified in Table 2.1 overleaf, as taken from the SLAB RES and associated documentation.

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| Table 2.1 : SLAB RES – Addressing Specific Duties | |
|---|---|
| Assessing and consulting on the likely impact of proposed policies | <ul style="list-style-type: none"> • establish Equalities Advisory Group made up of external stakeholders to provide expert advice and devise an equality impact assessment toolkit. • Directors will carry out initial impact assessment for all prioritised functions and policies. Managers will then undertake full impact assessments were assessed as necessary. • impact assessment template will be trialled and draft toolkit produced in Feb 06. Training for Directors and Managers will take place between Mar 06 & Mar 07. • database will be developed to facilitate consultation. Consultative approaches will include focus groups, broad sweep surveys, internet posted consultations and internet forums. • equality audits proposed with staff, solicitors and applicants • the results of consultations will be made available online |
| Monitoring policies for adverse impact | <ul style="list-style-type: none"> • equality impact assessments of all functions and policies prioritised for action • list of key service functions as well as those required by the employment duty are listed and the current status of monitoring for each identified. • suggested that stakeholders such as the Crown Office and Scottish Courts Service may hold useful information relating to users of legal and court services that might assist in developing a baseline of those potentially eligible to apply for legal aid. • considered appropriate to refer to the potential for influencing the Law Society of Scotland regarding information it collects. • statistical returns relating to employment along with applications for legal aid and decisions will be published in the annual report. |
| Publishing results & consultation | <ul style="list-style-type: none"> • results of assessments and consultations will be published on the internet alongside progress reports and in the annual report. |
| Ensuring public access to information and services | <ul style="list-style-type: none"> • distinction made between services provided to those potentially eligible for legal aid, solicitors and the public. • dissemination – leaflets distributed to solicitors registered to administer legal aid and the website, largely orientated towards the legal profession. • review will be undertaken and consideration given to targeted distribution to ethnic minority communities. • implications of legal aid for non-UK citizens should be made clear in all information provided. |
| Arrangements for training staff | <ul style="list-style-type: none"> • a range of relevant training is highlighted: Diversity Awareness, Employment related, Equality Impact assessment, Project planning and equality screening. |
| Employment duties | <ul style="list-style-type: none"> • identified areas to be monitored and where there are current gaps |

Priority Areas within the 2005–2008 RES

- 2.14 The process described for identifying and assessing relevance of functions and policies to the general duty is described in some detail. Using a variety of internal resources a complete list of functions has been drawn up using a version of the Commission for Racial Equality’s template amended to reflect the Scottish Legal Aid Board’s own activity.
- 2.15 Prioritisation of functions was based on a range of factors like the extent of direct contact, public concern over potentially discriminatory practices and the relevance of activity to gathering information or monitoring.
- 2.16 A number of priorities, targets and outcomes were identified and these are summarised in **Table 2.2**.

| Table 2.2 : SLAB RES 2005–08 – Priorities, Targets & Outcomes | |
|--|---|
| Priorities | <ul style="list-style-type: none"> • functions entailing direct contact and communication with applicants • work where other equality strands may be addressed simultaneously |
| Targets | <ul style="list-style-type: none"> • to publish data on the ethnicity of applicants applying for civil legal aid and those receiving legal aid • to publish data on the recruitment, promotion and training of staff with regard to ethnicity in the annual report • to identify baseline external data on the likely ethnic make-up of those potentially eligible who are also likely to require legal services to enable comparisons to be made • to impact assess all relevant and prioritised functions and policies • to consult with stakeholders on the implementation of the RES • to involve stakeholders in the development of future schemes |
| Outcomes | <ul style="list-style-type: none"> • evidence of no discriminatory employment practices in recruitment, selection, promotion and training within the Board • evidence that no discriminatory practice takes place in the administration of the Legal Aid system • greater trust, accountability and transparency of our work with the ethnic minority community |

Tackling the Priorities and Reporting in the 2008–2011 RES (RES2)

2.17 Overall the 2005–2008 SLAB RES is thorough and makes good use of the available guidance.

2.18 The approach to identifying functions and policies called on external and internal expertise. The list appears comprehensive but the most significant element of this part of the response to the duty relates to progress. All functions and policies identified as high priority will be impact assessed. This is of particular significance because other follow-on steps depend on the outcome from these assessments in order to maintain a sense of momentum and direction.

Consultation

2.19 Wider consultation on the RES was limited due to the timescale for the review and production of the scheme and, with the exception of this current research, there is no earlier evidence of consultations with ethnic minority communities or on race equality matters published on the website. It is also not clear whether the database has been established or used for consultative exercises as described in the RES.

Data Collection

2.20 Race data on applicants for legal aid is very weak (5% of forms completed). There is no information available on decisions. In effect, this means that the stated SLAB Outcome – Evidence that no discriminatory practice takes place in the administration of the legal aid system – remains a distant goal.

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2.21 There is no information of external data being used to assess likely or potential demand compared with the wider population or access to evidence from other stakeholders like the Crown Office or the Scottish Courts Service.

2.22 Given the critical nature of monitoring for adverse impact to the general duty there perhaps should have been a greater emphasis on adopting a more structured approach to establishing and developing effective intelligence gathering mechanisms. As a result, gathering of data is not universal and what there is has been undermined by under-reporting.

2.23 A further consequence, is that an area critical to the specific duties the publication of the results of consultation and monitoring, is well-behind. The Board is implementing ways to improve the quality of equality data collected, which includes some revisions to the Equality Card and improvements to the way Legal Aid Online is used but data collection and remedial action to tackle it will require priority action.

Access to Information and Services

2.24 Public access to information and services is included as an element for review and whilst a distribution list has been produced that allows leaflets, for example, to be disseminated to sources other than solicitors, this would be assisted by a timetabled, SMART² approach.

The Potential Focus of the 2008–2011 RES

2.25 As outlined above, a number of aspects of the priorities, targets and outcomes as previously envisaged within the RES have not been achieved or progressed sufficiently.

² specific, measurable, agreed upon, realistic and time-based

2.26 The RES identified a key challenge as the assessment of the impact of changes over time and stated that the scheme would focus on outcomes. However, without the range of management information necessary to inform these outcomes, progress will be limited.

Addressing the Gaps

2.27 The most significant gap perhaps in the current RES is a lack of SMART planning. As a result of this, there are a number of areas within the scheme that can be seen to have fallen behind the pace. An associated race equality action plan or implementation plan would form the basis of a renewed scheme.

2.28 Evidence lies at the heart of any successful scheme and yet from a number of perspectives, there has not been sufficient progress: data collection, publication of information, community consultation and marketing of information about services all relate essentially to evidence.

2.29 In keeping with the Board's Mission Statement and Key Themes, knowing the potential audience can be a first step towards understanding the impact of planned activity on all sections of the community. As a consequence, further resource and activity can be deployed or amended to reflect an improved appreciation of what is needed.

2.30 A related area is to understand current behaviour in relation to legal problems within ethnic minority communities. Understanding this behaviour might better inform the development of the Board's own approach when seeking to ensure compliance with the race equality duty. This current piece of research helps to improve understanding and flags up some key themes facing individual members of ethnic minority communities which might usefully inform a more detailed study.

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2.31 Both of these areas might well be best considered in conjunction with other stakeholders as mentioned within the current RES.

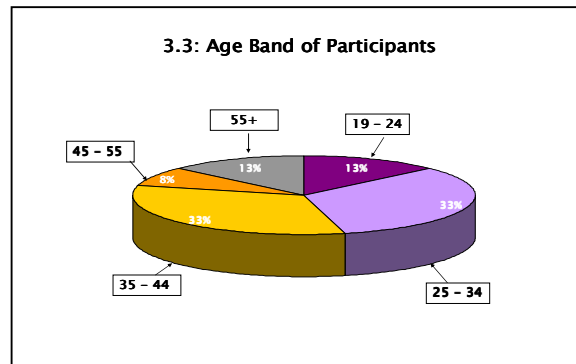
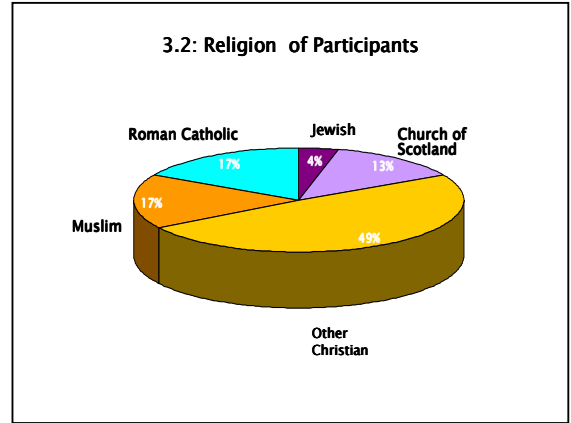
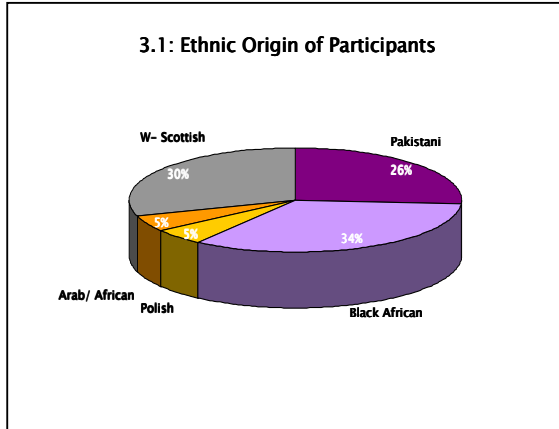
2.32 The process/policies that need to be reviewed so legislative requirements are properly met include:

- data collection (services);
- access to information (dissemination strategy);
- consultation (database and use);
- publication of the results (monitoring and consultation).

3 FOCUS GROUP DISCUSSIONS

Profile of Focus Group Participants

- 3.1 There were 23 people from a diverse range of backgrounds that took part in the research.
- 3.2 Two thirds of the participants were women and the majority of participants lived within the central belt area. Charts 3.1, 3.2 and 3.3 identify the ethnic origin, religion and age ranges of the participants.
- 3.3 A small proportion (2%) identified themselves as having a disability and half of those who took part in the research had caring responsibilities.



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3.4 Of the 23 focus group participants, seven (30%) had experience of accessing legal aid.

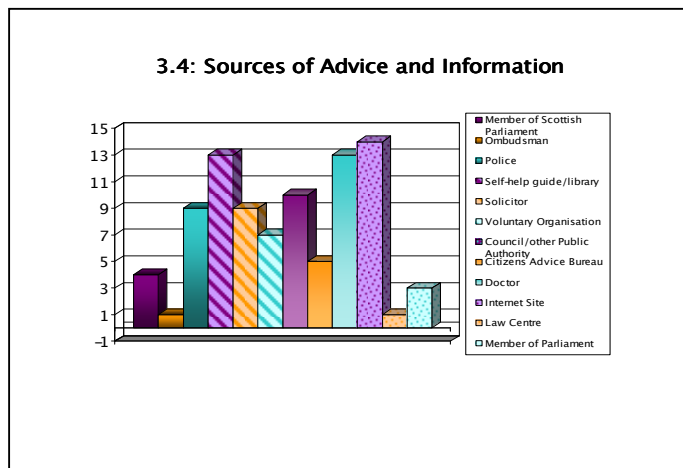
Sources of Advice and Information

3.5 Participants were asked about the agencies and organisations that they used when seeking advice and information. The general discussion was stimulated by considering a list of potential sources.

3.6 The reasons for approaching a specific organisation/agency for advice or assistance were very dependent on:

- the nature of the issue;
- the outcome/solution a person is looking for;
- the choice of organisations/agencies in the area;
- their past experiences of accessing the service;
- the recommendations of family, friends or other organisations.

3.7 Chart 3.4 shows that the focus groups participants most frequently handled problems alone and sourced relevant information and advice through self help information and the internet. This was followed by the doctor, the local council and then the police and solicitors.



3.8 Participants often accessed advice services that they were already familiar with or had been recommended to use by family or friends. In some cases they were signposted to an advice organisation by another agency because they were unable to assist the individual. For example one participant approached an advisor at their local voluntary organisation to discuss a problem about debt. He was signposted to a money advisor at the nearby CAB.

3.9 The Gypsy/Traveller participants sought advice and assistance predominantly from the assigned officer within their local council and when this was not the case, they worked with a named contact in one or two organisations rather than accessing a range of advice services.

3.10 In general, participants felt that they would be able to access relevant assistance if they needed to but, in the first instance, this was often through their own support networks. This was particularly the case with the Gypsy/Traveller participants who most frequently and for most issues acted on their own behalf.

Types of Issues/Problems Faced

3.11 The participants highlighted a range of problems that could be common to members of any community, these were:

- money advice, e.g. meeting payments;
- accessing public services, e.g. places in local school;
- housing, e.g. disputes with landlords;
- family matters, e.g. relationship breakdown and maintenance payments.

3.12 Case Study 1, highlights the problems faced by one participant that was exacerbated by language barriers.

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Case Study 1

Due to being dismissed from work Mr X attended the local Jobcentre Plus Office to claim job seekers allowance (JSA). He signed on every two weeks from November until the end of January when he found another job. Although he is entitled to benefit, he has not received any payments because the forms he completed have been misplaced by the JCP office in Glasgow. He has completed new forms on two further occasions and still received no benefit. Without any income he was unable to pay all his bills, which included his Council Tax. He wrote to the council to explain his situation and they informed him that he could receive a rebate on his council tax once he shows he is in receipt of JSA. He explained the problem with his claim but they would not take account of his problems. He was unable to pay his bill and was charged a penalty for non-payment as well as the outstanding amount that he owed.

He continued to write to the council and go to the JCP office but without success. He decided that he would borrow money from his friends so that he could pay the Council Tax bill and prevent any further action. He no longer claims JSA and has never received any payment since his original claim in November 2007. He is continuing to try and claim the JSA for the period entitlement and a council tax rebate but has found it difficult to pursue with the JCP and the council and the language barrier has made it even more of a challenge.

3.13 In addition, there were also problems specific to ethnic minority communities. For example, many participants had experienced racial harassment from low level abuse from members of the public, e.g. name-calling, to sustained harassment from people who they had regular contact with like neighbours or work colleagues.

3.14 The other key area for advice, information and assistance relates to immigration with some of the participants experiencing problems relating to their status in Scotland.

3.15 Some members of particular ethnic minority groups experienced specific problems. Case Study 2 highlights the problems faced by Gypsy/Traveller participants.

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Case Study 2

The Gypsies/Travellers involved in the focus group live on a site designed for 20 families but which currently accommodates 31. The site was built over 40 years ago – there are units with toilets and washing facilities that the families share but there is no disabled access to these facilities, despite current legislative requirements on disability. Each household gets fined if the toilets get blocked *“there are problems with the plumbing but it doesn’t stop them from fine each family £50 every time there’s a blockage”*.

The residents of the site currently pay more in rent for their ‘space’ to the council than council house tenants even though they provide their own mobile home, they also pay council tax. The services provided under council tax do not appear to be equitable between settled and travelling communities, the Gypsy/Travellers for instance do not have a rubbish collection service from the site.

When a resident intends to temporarily leave the site, e.g. to go on holiday for two weeks, they have to inform the council, otherwise they risk losing their site. They are only allowed to be off-site for up to a total of 10 weeks in the year, leading to a view that *“they (the council) make it difficult for us to live our lifestyle.”*

Taxi firms refuse to pick up or drop off at the site *“the minute people hear our address then that’s it – we’re immediately discriminated against. Its not just taxis, the police are always on our case – that’s just how it is – we try and keep our heads down”*.

The local council are aware of these problems and has accepted that it is in breach of the Disability Discrimination Act.

3.16 There were various factors that affected the decision to access one service rather than another. **Table 3.1** summarises the participants’ responses to the range of agencies they have approached in relation to certain problems.

| Table 3.1: Responses to Sources of Information to Address Specific Problems | |
|--|--|
| Problems Faced | Agencies Used |
| Benefits | <ul style="list-style-type: none"> • Jobcentre Plus • CABx |
| Discrimination | <ul style="list-style-type: none"> • Police • CABx • Local Council • Solicitor |
| Employment | <ul style="list-style-type: none"> • Employer • CABx |
| Family Including Divorce/Separation/ | <ul style="list-style-type: none"> • Solicitor |

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| | |
|---|--|
| Relationships/Children | <ul style="list-style-type: none"> • CABx • Social Worker • GP |
| Faulty Goods/Services | <ul style="list-style-type: none"> • Trading Standards • Place where item purchased |
| Housing | <ul style="list-style-type: none"> • Housing Officer/ Housing Association • Landlord |
| Immigration Matters | <ul style="list-style-type: none"> • Solicitor • Police • Immigration Advisory Service • GP |
| Injury due to an accident | <ul style="list-style-type: none"> • CABx |
| Medical Negligence | <ul style="list-style-type: none"> • Solicitor • CABx • NHS • GP |
| Neighbours | <ul style="list-style-type: none"> • Self • Council • Police |
| Opponent in a Civil Claim/Action | <ul style="list-style-type: none"> • Solicitor • CABx |
| Problems to do with Money | <ul style="list-style-type: none"> • CABx • Money Advisory Service |
| Unfair Treatment by Police | <ul style="list-style-type: none"> • Police • MP • Solicitor |
| Victim of Crime | <ul style="list-style-type: none"> • Victim Support/ Helpline/ Office • Voluntary Organisation • Police |

3.17 The choice to approach these organisations reflected not only the nature of the problem, the previous experience of accessing services, but also the severity of the issue. For example one participant said:

“I didn’t think twice about phoning the police about my neighbour. The first few times I tried to sort it out myself but things had got worse so it was the only choice I had.”

3.18 For some participants who lived in areas where there was a raft of advice and information agencies then they had plenty of choice in terms of seeking solutions. One member of the focus group explained:

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"I'm lucky, I've lots of organisations that can help, right on my doorstep. I normally choose between one or two because I've used them before and know which workers I'd want to speak to."

3.19 For those participants whose English was limited, their problems were often compounded by the additional visits needed to an organisation to ensure that they could effectively communicate with the advisor, e.g. arranging interpreters and their unfamiliarity with procedures/processes if related information was not produced in translated formats. This issue is highlighted in Case Study 3.

Case Study 3

Mr X is from Poland and has been working in Scotland for two years. He has recently sought assistance and advice from the local CAB, the council and the Jobcentre Plus office with little success.

In November 2007, he was dismissed from work with no pay or explanation for his dismissal. He had worked for the construction company for 16 months and had not experienced any problems until he was sacked because he moved materials from one site to another in a vehicle that was not insured to do so. He was unaware of this mistake on his part because he received no health and safety briefing, employment contract or terms and conditions.

He does not speak English and he has had several discussions through an interpreter with the local CAB. They have telephoned his ex-employer but he is puzzled as to why they haven't written to him, especially because at his last meeting he felt like they were trying to put him off from taking action. He is going to arrange another meeting and ask them to clarify what is going on. He is not content with the service he has received and would probably go somewhere else if there were more local choice.

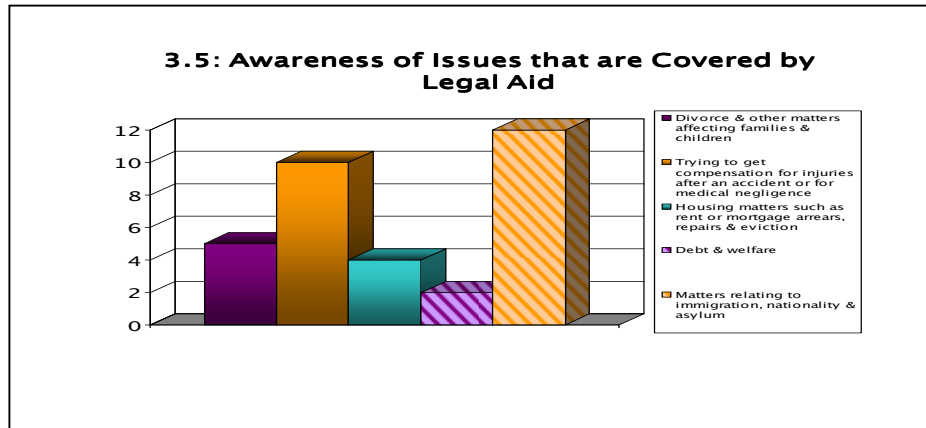
3.20 Overall participants showed an awareness of a range of agencies that might be approached for advice and assistance. Nevertheless, they often identified difficulties getting the problems solved in practice. In a number of instances this occurred when the agency providing the service being complained of was also the agency from whom advice was being sought.

Awareness & Perception of Legal Aid

- 3.21 For those participants who had not accessed legal aid, their general awareness of this form of financial assistance was very low. Less than a third of participants had an understanding that was a result of knowledge acquired from friends/family that had accessed legal aid. In these cases, they were aware that having a low income level meant they could access legal aid by applying through a solicitor and the issues that legal aid could cover.
- 3.22 Nevertheless, recognition of the SLAB logo was high. Participants recalled seeing it as part of the advertising for solicitors' firms. Whilst most did not know what legal aid covered they considered the logo as a sign of quality. When probed, it appeared that this was associated with quality because they believed that a solicitor who displayed the SLAB logo would assist anyone with a problem. For participants this suggested fairness in treatment and access to assistance.
- 3.23 Using *a guide to civil legal aid*, participants read the short explanation on what civil legal aid covered³. As shown in Chart 3.5 overleaf, some participants knew that help with immigration issues could be assisted with legal aid. For the other areas there were varying degrees of awareness – only a few people were aware that they might be able to get help with debt and welfare rights.

³ divorce and other matters, compensation for injuries after an accident or medical negligence, housing matters, debt and welfare rights and matters relating to immigration, nationality and asylum

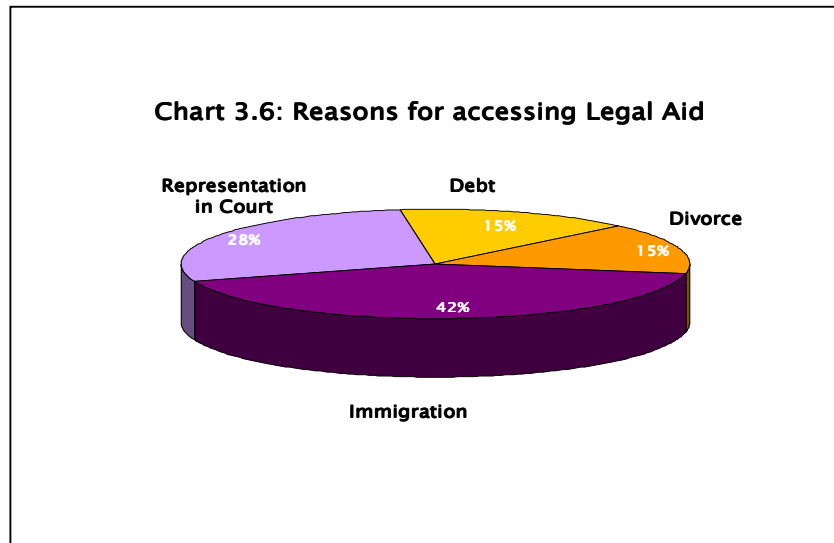
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3.24 Participants felt that their low level of awareness was due to a lack of experience in accessing legal aid and the absence of materials in places that they frequented, e.g. council offices, schools. Participants found the discussion about civil legal aid informative and suggested that the guides and more general information should be distributed to a wider network of organisations and advice and information centres – libraries, doctors’ surgeries, etc and places where people might be experiencing problems which could be covered by civil legal aid, e.g. housing associations, family centres.

Experience and Reasons for Accessing Legal Aid

3.25 Seven participants had been recipients of legal aid. Chart 3.6 below indicates their reasons for accessing legal aid.



3.26 Three legal aid recipients had accessed advice and assistance in relation to immigration matters. Two female participants had been assisted by a solicitor to address issues relating to divorce and debt and two participants had accessed legal aid for representation in the sheriff court.

3.27 Most participants had found their solicitor either by recommendation or signposting by another agency. One applicant had used the Yellow Pages to find her solicitor.

"I received legal aid to file for divorce. It was a very difficult time. I talked to someone at my local voluntary organisation and they suggested I contact a solicitor but couldn't recommend anyone. I wasn't sure whether I could get financial assist to help with my divorce proceedings but just looked for a legal aid solicitor in the Yellow Pages that I could easily get to. The solicitor was very understanding, explained everything I needed to know and was in regular contact with me. I don't remember much about the form-filling, other than signing the form. It all went smoothly and there is nothing I would change."

- 3.28 Another applicant had been told by the receptionist at the sheriff court to get a legal aid solicitor. This participant went into the first solicitor's firm that she came across that displayed the SLAB logo.

"I had no idea what to do, so I took the letter I'd received to the court and asked them who could help me. I don't know why the police couldn't have provided this information at the time, the receptionist was helpful and told me to get a legal aid solicitor and look for the legal aid sign."

- 3.29 All the participants commented on the positive nature of their experience. They had productive relationships with their solicitors, were shielded from the legal aid element and only required to supply information about their income and then sign the form which had been completed by their solicitor. For one participant, her solicitor had not made her aware of the process involved in a court appearance and of the options/possible outcomes at different stages and she felt that communication could have been improved.

3.30 There was one suggestion from a participant about how the legal aid process could be improved. Her original application for legal aid had been rejected and the letter gave her no explanation for the decision. When she appealed, legal aid was granted and she is still unclear as to why this happened. Amongst the other participants the only improvement related to faster decision making in granting legal aid. However, participants appreciated that there was a process to follow and the solicitor always kept them up to date on progress.

Experience of Systems to Collect Ethnic Origin Data

3.31 A key element that the research wanted to explore was the potential reasons for non-disclosure of ethnicity background in particular when applying for legal aid.

3.32 Participants were accustomed to answering a monitoring question on forms from a range of services. These included:

- job applications;
- complaints;
- memberships, e.g. library, voluntary groups, political parties;
- surveys;
- admissions, e.g. college;
- accessing services, e.g. medical treatment, libraries, benefits.

3.33 Most participants agreed that they usually complete the monitoring question *“It’s just another box to tick”, “I’ve always thought that you need to complete all the questions – blank responses could affect my application”*. Some participants commented on the monitoring questions being *“a normal part of every form”* and that some now have questions on sexual orientation *“I even completed that one and that’s nobody’s business”*.

3.34 Participants from the Gypsy/Traveller community commented that there were variations in the monitoring categories depending on the services that they accessed. In some cases the option was to select “White Other” or “White Scottish” but in other cases the specific category of “Gypsy/Traveller” or “Scottish Traveller” was an available option.

3.35 Overall there was not a good awareness of why the information was collected or how it would be used but there was a general acceptance that this was a ‘normal’ question to be asked.

SLAB’s System for Collecting Ethnic Origin Data

3.36 The participants were asked to read the *Advice and Assistance Equality Card*, which is handed to legal aid applicants in order to select an answer code for Section H of the advice and assistance application form.

3.37 The card provides a detailed explanation for the reasons for collecting the data and then poses three questions:

- the first provides the opportunity to not respond to the question;
- the second two part question asks about the applicant’s ethnic origin;
- the final question asks the applicant to identify if they have a disability.

3.38 Participants were given time to read the card and reflect on its contents and their experience of completing the ethnic monitoring questions on other forms. During the discussion, participants asked a series of questions about the card:

- *“Why is the question on a separate card?”*
 - *“Why is there such a long explanation for asking the question?”*
 - *“Why is there a question first that lets you opt out?”*
 - *“Why is there a Part A and Part B?”*
-

- *“What does ‘Mixed British’ actually mean in Part A?”*
- *“Where’s the Gypsy/Traveller option?”*

3.39 When asked what reasons why someone might not complete the monitoring question there were a number of suggestions offered by focus group participants. These can be summarised as:

- the framing of the question – it was more complex than the other monitoring questions that they were used and an unnecessary distinction *“Its confusing having a two parts – I’m not sure I’d know which ones to choose”*;
- the amount of information on the Equality Card – there was too much to read and this deterred people from responding, *“If I had to read all this before I made my selection I don’t think I’d bother”*;
- the process for answering the question – being handed a separate card to read before selecting a response heightened suspicion *“I’d probably think that my ethnic background could jeopardise my application or be used to select a different solicitor” “It feels more serious and sinister – I just normally tick a box”*;
- the inclusion of opt-out response – it would be tempting and easy to select that response, *“If you’re in a rush, then its easier just to select the first question⁴ option”*;
- not being clear about the use of the information provided, i.e. in ensuring equal access to services. In other areas, e.g. education and health, it was accepted that providers needed to know this information so they could show that they were providing services to all and able to provide appropriate services to meet particular needs.

3.40 Participants identified a number of changes that they would recommend to improve completion;

- remove Part A and Part B as it is divisive and raises suspicion;

⁴ Question 1 states that if you do not wish to answer ANY equality questions tell your solicitor to put a cross in box 1

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- include the same categories that are used by other organisations which participants were familiar with;
- include the categories on the form so there is no separate process which again acts as a deterrent to completion;
- remove excess explanation *“the information you give in your answers will not be used to decide if you qualify for legal assistance but help us provide appropriate services to all”* is sufficient;
- remove the opt-out and the reference to the completion of the section being voluntary, if people feel strongly about non-completion they can select the response 24 *“I do not wish to respond”*.

3.41 The legal aid recipients were asked about their experience of completing the ethnic origin question on their legal aid applications. None of them who received legal aid for advice and assistance recalled being handed the *Advice and Assistance Equality Card*. They just remembered the solicitor asking for their signature at the end of the application.

4 SUMMARY OF FINDINGS & RECOMMENDATIONS

- 4.1 This brief piece of research has increased understanding of the race equality issues that exist through the work of SLAB and the legal aid system as a whole. The desk based and qualitative research has been able to identify a number of areas for improvement and a series of recommendations and a range of associated next steps are outlined in this final section.

Summary of Findings

Observations from the Desk-based Research Activity

- 4.2 SLAB's response to the race equality duties as seen by reviewing the internal documentation has been thorough. To date, the RES and activity undertaken in support of its development reflects the use of available guidance and support. There is clearly a level of senior commitment within the SLAB that is also reflected in this work.
- 4.3 Nevertheless, after almost six years of working towards the requirements of the Race Relations Act, a number of barriers have had the cumulative effect of slowing down progress. There are two critical areas of practice that need addressing – impact assessment and ethnic monitoring of services.
- 4.4 Race equality impact assessments are key aspects to ensuring that RES do make a difference. Designed to assess policy for impact and then to develop necessary responses lies at the heart of this legislative reform. The process requires evidence provided by ethnic monitoring and other sources such as research, customer feedback, and use of focus groups etc as well as consultative arrangements with communities on any necessary or proposed changes. This research shows a commitment to gathering this evidence and seeking a better understanding of the needs of ethnic minority communities.

4.5 Monitoring is not an end in itself but provides much of the evidence base from which organisations covered by the public duty can plan or amend services. Without effective monitoring systems, public bodies will find it difficult to demonstrate effective engagement with the legal requirements of the general duty. Whilst changes are planned for the Equality card, its use is still reliant on solicitors and this is a key weakness of the current process. Ultimately SLAB has the responsibility to collect this information under the law and, after several years, if the process is not working effectively, then a more significant change needs to occur.

4.6 The continuing barriers to progress can be summarised as:

- effective monitoring;
- public reporting;
- community consultation.

4.7 The consequences of the findings from the desk based research were echoed in some of the responses from focus groups.

Participants' Advice Seeking Behaviour

4.8 All the participants had accessed advice and information in some way. For the majority, they often sought to address the problem or issue themselves but they had also used a variety of agencies and organisations from councils and the police to CABx and MPs. The choice of organisation was influenced by a number of factors:

- the nature of the issue;
 - the outcome/solution a person is looking for;
 - the choice of organisations/agencies in the area;
 - their past experiences of accessing the service;
 - the recommendations of family, friends or other organisations.
-

- 4.9 There are remaining questions as to how far these routes provided the most effective channels for early resolution.

Problems Faced by Participants

- 4.10 The participants highlighted a range of problems that could be common to members of any community, e.g. money advice, housing, accessing public services. However there were also problems specific to ethnic minority communities like racial harassment.
- 4.11 The other key area for advice, information and assistance relates to immigration with some of the participants experiencing problems relating to their status in Scotland.

Participants' Perceptions, Awareness & Experience of Accessing Legal Aid

- 4.12 Overall, focus group participants had a low awareness of legal aid and its potential availability for civil matters. They welcomed the opportunity to learn more about legal aid and felt that increased dissemination of materials would be useful in improving overall understanding.
- 4.13 Some considered the SLAB logo as being akin to a quality mark. Whilst flattering in some respects, this impression is clearly based on an incorrect assumption and one that the SLAB has had no impact in shaping.
- 4.14 For the participants who had accessed legal aid this was mainly for assistance in relation to immigration, divorce, debt issues. Two participants had received legal aid for representation in court. Their experience of working with their legal aid solicitor had been positive and they had limited comment about the general process they underwent or improvements that could be made.

Participants' Views on Disclosing Ethnic Origin

- 4.15 The participants had clear views about systems for collecting ethnic origin data and were accustomed to completing monitoring forms for a raft of services and providers. They were surprised by the use of the SLAB Equality Card to collect monitoring data and the format was seen as unnecessary long and complicated and in some aroused suspicion due to its separation from the application form. Participants identified a number of practical changes that could simplify the process and improve completion of the ethnic monitoring question.
- 4.16 The final key finding within the focus group discussion was the wide range of agencies used by respondents did not always reflect the most appropriate ones. When considered next to the fact that many respondents acted alone when seeking advice, there is clearly a need for at least awareness-raising around legal aid and appropriate avenues of support.

Recommendations

- 4.17 These recommendations are drawn from the research findings and the brief review of the RES.

Recommendation 1: Undertake a More Detailed Study into Advice-Seeking Behaviour within Ethnic Minority Communities

- 4.18 This research provided a brief snapshot of the experiences of a small number of people from an ethnic minority background. There are other sources of information that can provide a very useful basis on which to plan or amend services. These can range from assessing customer feedback and complaints, the use of focus groups, local studies and wider pieces of research.

4.19 Even with fully operational monitoring in place which will provide a picture of current use, there will remain a need to know more about potential ethnic minority clients and their advice-seeking behaviour, what sources of advice are being used and for what reasons, what are their experiences and what the outcomes. This type of evidence would provide a better platform on which to prepare dissemination strategies, appropriate literature etc and will ultimately provide the kind of baseline to enable SLAB to understand its progress in meeting the general duty.

Recommendation 2: Develop a Consultation Strategy Identifying the Means by which Consultation will be Carried out, for what Purposes and when

4.20 SLAB should establish a consultative strategy including a range of options for gathering evidence and their use within the context of equality impact assessments.

Recommendation 3: Further Revise Monitoring Arrangements

4.21 The only aspect of service-related monitoring currently undertaken produced a 5% return from over 100,000 applications. Both the monitoring form itself and the process of completion are contributing to the low rate of return. Additionally and potentially of greater concern in terms of meeting the duty, application decisions are still not monitored at all. Further areas such as the monitoring of satisfaction and complaints, need to be added as being of particular value to customer feedback and ultimately impact assessment.

4.22 The application forms need to be reconfigured to incorporate the monitoring request currently covered within the Equality Card. Information should be revised in line with good practice, providing a brief but clear explanation for the requested information and adopting the currently recommended categories.

Recommendation 4: Review Dissemination of Information to Ensure Appropriate Material for all Audiences As Well as Distribution via Agencies and the Website

- 4.23 The scheme does make reference to a Communications Department review of dissemination. From the perspective of the focus group responses, there is a need to widen the dissemination of material beyond registered solicitors to encompass relevant community based and advice agencies.
- 4.24 There would also be merit in looking at the content of material, whether appropriate for the audience, specific to requirements etc. This could be undertaken as an exercise in discussion and consultation with relevant advice agencies and potential clients.
- 4.25 The website remains an underused source of information for the client or potential client being largely focused on the needs of the professional. Given the increasing use of the internet for those seeking information or advice, consideration should be given to creating both public and members' pages on the current site.

APPENDIX A: TOPIC GUIDE



SLAB Research into Knowledge, Perception and Experience of Applying for Legal Assistance

Introduction

- thank for attending
- who you are and work for
- purpose of the research
- format and length of the discussion, incentive
- confirm that the information exchanged during the discussion will not be attributed to individuals. That it will be used together with the information gathered from the other 3 focus groups will be reported in the research findings which will assist SLAB to better understand knowledge, perception and experiences of applying for legal aid of BME individuals

Background Information

Collect the completed monitoring proforma and confirm whether accessed civil legal assistance

Understanding Problems Faced by Participants

Explain that we want to look at problems and how you have dealt with them – some that might take you all the way to court and some that might involve a quick chat and a useful piece of advice for example here's a list of potential problems (*on flipchart*):

- Benefits (e.g. legal entitlement or amount, benefits, grants, loans or pensions)
- Discrimination (e.g. age, race, gender, disability, sexual orientation)
- Employment (e.g. not about getting a job, but harassment unfair disciplinary procedures, being sacked or made redundant whilst in a job)
- Family including Divorce/separation/relationships/children (e.g. maintenance, child support, adopting, division of property after divorce)
- Faulty goods and services (e.g. refunds, replacements, claims for damage, entry refused)
- Housing (e.g. planning application, squatters, selling/buying/renting, problems with landlord, eviction or rent arrears)
- Immigration matters (e.g. obtaining UK citizenship, seeking asylum)
- Injury due to accident (e.g. did/did not visit doctor, dentist, hospital)
- Medical negligence (e.g. mistakes in medical/dental treatment)
- Neighbours (e.g. noise, boundaries, parking)
- Opponent in a civil claim/action
- Problems to do with money
- Unfair treatment by police (e.g. harassment, assault, abuse, rudeness, misinformation, unreasonable arrest)
- Victim of crime (e.g. including racial harassment)
- Other

Go through each problem and ask for a show of hands if anyone has faced any of these types of problems, and note how many by each.

Awareness and use of Advice Services

When you've had a problem to deal with – which organisations are you aware of that could assist you?

Make a note of all the agencies

Looking at this list (*flipchart read out*)

- Council or other public authority
- Citizens Advice Bureau
- Doctor
- Internet site
- Law Centre
- Mediator/conciliator
- Member of Parliament
- Member of Scottish Parliament
- Ombudsman
- Police
- Self-help guide or library
- Solicitor
- Trade Union or a professional body
- Voluntary Organisation, e.g. Shelter, Womens Aid, Victim Support Scotland etc.
- Other

Which ones have you accessed?

Which of these services referred you to a solicitor? Was this a legal aid solicitor?

Were you aware of any of these services but did not use them? Why did you not use any of these services?

Pathways and Reasons for Accessing Advice

Why did you go to these organisations/agencies?

Did you get advice that was right for you?

Did it turn out to be the correct place to go. Did you get referred to somewhere else? Was it a solicitor? Did you have any work carried out privately by a solicitor? If so, why?

When you sought advice, what were you looking for?

Flipchart options for them to select

- Talk over the issue with someone
- Early resolution to solve the problems
- Advice on options to take the matter to court
- Other

Awareness of SLAB

Hold up SLAB logo – Have you seen this logo before? Where? What does it signify to you?

Hold up the leaflets – Have you seen any of these leaflets before? Which ones? Where?

Have you heard about Scottish Legal Aid Board? What do you think Legal Aid does?

Handout the “A Guide to Civil Legal Aid” – Looking at pp 4 & 5 of the booklet about civil legal aid – does this help to explain legal aid services?

Thinking about legal aid, what do you think you can access civil legal assistance for? List on the flipchart

In light of your own experience and reasons for accessing legal advice does that list seem useful? Are there issues that the list doesn't cover?

Monitoring forms and reasons for non-completion

Public bodies like SLAB have to monitor their services, including any monies they distribute. So applications for legal aid ask a question that relates to ethnic origin.

How often are you asked to identify your ethnic origin? Ask for examples.

Why might other people not complete this question?

Hand out equality card

This is the question on the applications forms for legal aid. How does this compare to others you may have completed?



The following additional questions were asked to legal aid applicants only

Reasons and route for accessing civil legal assistance

Why did you access civil legal assistance?

- Debt
- Divorce/separation/relationships/children
- Employment
- Housing matters
- Immigration matters
- Medical negligence/injury
- Other

What type of assistance did you receive – advice and assistance or civil legal aid?

How did you identify a legal aid solicitor? (*probe for details – referral, high street*)

Handout the “A Guide to Civil Legal Aid” – Looking at pp 4 & 5 of the booklet about civil legal aid – does this help to explain legal aid services?

In light of your own experience and reasons for accessing legal advice does that list seem useful? Are there issues that the list doesn’t cover?

Process for applying for civil legal assistance

What do you recall about the process? (*breakdown*)

- completion of the application form
- the information requested
- recall of the completion of ethnic origin section
- the frequency of contact and helpfulness of the solicitor
- any contact with SLAB staff
- use of the SLAB materials e.g. website

Overall how would you rate your experience?

If there were two things you could change or improve what would they be?

Monitoring Forms

When you completed your application for legal aid, do you remember completing the monitoring section, e.g. your solicitor giving you this card to read and selecting a response to record your ethnicity?

Wrap Up

- Thanks
- Explain how the information will help

APPENDIX B: PARTICIPANT MONITORING PROFORMA



Research into knowledge, perception and experience of applying for legal assistance

Focus Group Location & Date.....

1) Age: **Under 18** **19 - 24** **25 - 34** **35 - 44** **45 - 54**
55+

2) Gender: **Male** **Female**

3) What is your ethnic group? *(Please select one box only)*

White

Scottish
English
Welsh
Other
Irish
Any other - please specify
.....

Mixed

White and Black Caribbean
White and Black African
White and Asian
Other - please specify
.....

Asian, Asian Scottish, Asian English, Asian Welsh, or Asian British

Indian
Pakistani
Bangladeshi
Chinese
Other - please specify
.....

Black, Black Scottish, Black English, Black British or Black Welsh

Caribbean
African
Other - please specify
.....

Any other background - please specify

.....

4) Please describe your religion *(Please select one box only)*

Church of Scotland
Roman Catholic
Other Christian

Muslim
Sikh
Hindu

Jewish
Other
No Religion

5) Do you have any caring responsibilities? **Yes** **No**

6) Do you have any disabilities? **Yes** **No**

7) What is your postcode?

8) Have you ever accessed legal aid? **Yes - advice and assistance**
Yes - civil legal aid
No
Don't know

If yes what was it for?