

## Citizens Advice Scotland

# Feedback on SLAB policy changes to capital assessments for civil legal aid

(June 2026)

### **Disregards for household items and personal articles of clothing (incl. jewellery)**

We welcome SLAB's new position regarding household items and personal articles of clothing. It will not only simplify this element of the means assessment, it will also feel less intrusive to applicants. Importantly, the changed policy on disregards appropriately recognises and respects the cultural or religious significance of specific items for the applicant. It would be helpful to monitor and evaluate the practical application of the 'grave distress' test to ensure this principles-based approach is implemented in non-discriminatory ways across various forms of religious and cultural expression, traditions and artifacts.

### **Capital discretionary disregards**

We found it difficult to understand whether SLAB's position on capital discretionary disregards has actually changed, and if so, what the previous policy was.

With regard to discretionary disregards of capital earmarked for an essential purpose, CAB advisers recommended, in case these are not yet included in SLAB's policy, that SLAB considers/specifies circumstances such as

- savings set aside for an essential operation or other medical intervention in the context of long NHS Scotland waiting lists; this may affect particular age groups who may not be prioritised for specific NHS services or treatments.
- savings for visa/citizenship application fees or other related direct migration costs such as the annual Immigration Health Surcharge or Life in the UK Test for people subject to immigration and asylum rules, as these are essential payments to maintain their legal status in the UK on their journey to British citizenship. This disproportionately affects people from racialised groups and ethnic minorities.

We would recommend recognising these and similar circumstances on par with essential maintenance/repair cost to applicant's homes, or costs relating to an applicant's disability as specified by SLAB - rather than potentially accounting for them at a later stage as part of the exceptional circumstances test.

Again, in case this is not already included in SLAB's policy, we would recommend SLAB considers to disregard, alongside CICA payments or Windrush Compensation scheme payments as listed by SLAB, any capital received as compensation for wrongdoing by a third party, especially where a public body has been found to have caused injury or loss, and compensation has been awarded to remedy this. It would seem unfair to count such monies as capital for SLAB means assessment purposes.

## **Decisions made**

In the context of SLAB's 'decisions made' policy and the assessment of accessibility of the applicant's capital, CAB advisers continue to highlight that people experiencing domestic abuse, including financial abuse and coercion, can face significant barriers to successfully accessing a legal aid practitioner. A lack of legal aid solicitors with relevant training and expertise remains the key issue, but barriers also present where survivors of domestic abuse face difficulties to evidence that they cannot access a particular asset or capital and that they are unable to proceed without legal aid.

While we are aware of SLAB's existing policy and discretion to support people experiencing domestic abuse to access legal aid, advisers are concerned that women and children they support are still being denied access to legal aid, often at a time when they are highly vulnerable and/or at risk of violence, all the while crucial decisions are being made, such as regarding child custody.

We would welcome a dedicated and regular feedback mechanism for advice providers to raise issues around access to and provision of legal aid with SLAB.

## **Accessibility of information**

The flowchart provided by SLAB is a helpful resource.

More generally, CAB advisers highlight that SLAB policies and guidance regarding the legal aid application process are often highly technical. For the lay person as well as trained advisers, relevant information can be difficult to identify/find on the SLAB website. People can find it hard to understand the various tests and layers of assessments involved, and what exactly is required of them in applications. We would recommend a review of SLAB's information regarding legal aid eligibility and its structure and presentation to improve its accessibility to the public.

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