

## SCOTTISH LEGAL AID BOARD

### Draft consultation response

#### Role of the Scottish Legal Aid Board

Legal aid allows people who would not otherwise be able to afford it to get help for their legal problems. Legal aid is help towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals on low and modest incomes gain access to the legal system. Legal aid may be free, or someone may have to pay towards the cost of their case. Currently, legal aid funding is accessed through a solicitor.

There are two main types of legal aid help: advice and assistance and legal aid.

- Advice and assistance covers a wide range of matters, so long as they are matters of Scots law. It is granted by a solicitor.
- Legal aid provides funding for the solicitor to put the case in court and some tribunals. It covers preparation work, as well as hearings, and can provide funding for advocates, experts etc. Legal aid is granted by the Board, or for some types of criminal and children's cases, by the courts.

#### Information provided by the Board in Gaelic

- The Board's legal aid information leaflets are available in 14 different languages, including Gaelic, and Braille, large print or audio tape. We have had no requests for leaflets in Gaelic.
- We offer a translation service should someone want to visit the Board and converse with our staff in a language other than English. We are also considering using telephone translation services such as 'Language Line'.
- We are happy to provide information to applicants in Gaelic, if it is requested.

#### Relationship between the Board and providers of legal assistance services

It is solicitors who provide legal assistance to clients. Therefore, the provision of advice in Gaelic and completion of legal aid forms in Gaelic relies on solicitors' knowledge of Gaelic. Solicitors apply to the Board for legal aid on behalf of their clients. The Board makes the decision on the legal aid application. When the solicitor submits the account for the work carried out, the Board assesses and pays the account. The only direct contact we have with applicants is in relation to the assessment of their financial eligibility for civil legal aid.

The Board cannot oblige solicitors to provide a Gaelic language service. The Board does not have a contractual relationship with solicitors; we are a third-party funder only. Solicitors must register with the Board to provide legal assistance services and they have a duty under Law Society of Scotland rules to act in accordance with all equalities legislation. Solicitors doing criminal legal assistance work have to comply with the Criminal Code of Practice and we will shortly introduce a quality assurance scheme. Solicitors conducting civil legal assistance work are subject to a quality assurance scheme. However, as we do not have a contractual relationship with solicitors, we cannot insist on the provision of certain types of services or methods of providing services.

#### Response to National Plan for Gaelic

1. *Is the vision of the draft Plan one in which you can share?*

[ The vision is "Gaelic as the language of choice for an ever increasing number of Scots and others, with an expanding core of mother-tongue speakers, and with a dynamic culture in a diverse language community." ]

It is an ambitious vision and one which the Board can relate to in principle but it is difficult to see, in light of our responsibility for legal aid services in Scotland and involvement in the wider justice system, the extent to which this can be achieved in the justice sector.

2. *In the light of your response to the above question, are the proposed sectoral projects essential to the meeting of the action area aims for 2012? If not, why not?*
3. *Are the outcome of the twenty themes and the priorities for tackling them correctly outlined and prioritised? If not, why not?*
4. *In the light of your response to the above questions, what projects do you view as being essential to implementing these priorities?*
5. *And are the right organisations identified as being the primary players in implementing these priorities?*

Questions 2, 3, 4 & 5 about the National Plan for Gaelic are not particularly relevant to SLAB because the action areas and main themes do not apply to the Board's business.

6. *If you are responding on behalf of an organisation, how do you see yourselves contributing to the success of the National Plan?*

The Board will continue to offer Gaelic language services where requested. We will consider further work to assess levels of Gaelic language need amongst legal aid applicants.

The Board does have concerns about the resource implications of the Gaelic Language Plans. It is not clear what level of resources will be required and we share others concerns about the need for additional resources. Far greater dialogue is required with the Scottish Executive about this.

<b>Response to the Guidance on Gaelic Language Plans</b>
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1. *Are you satisfied with the interpretation of equal respect on page 8?*

The Board is satisfied with the definition of equal respect. It is important to state that equal respect does not mean identical treatment and that the extent to which a public authority will be required to use Gaelic in its operation will be affected by the numbers of Gaelic users it serves.

2. *Are the issues concerning the level of provision on pages 9-10 adequately tackled?*

It would be helpful for the guidance to identify priority areas for growth in level of provision.

3. *Is the advice in each section clear and helpful?*

The structure and content advice gives some helpful suggestions.

4. *Are the suggestions from page 14 for the content of a Gaelic language plan comprehensive enough and appropriate to the requirements of Gaelic development?*

- It would be helpful for the guidance to set out priority areas of development and timescales for specific objectives to be completed.
- The guidance does not set out which elements are requirements for a language plan and which are suggestions.

5. *Are the percentages proposed on pages 18-19 and page 22 for the triggering of various policy provision and employment requirements, realistic and appropriate?*

The policy areas of: social & health; education; culture and communication do not apply to the Board. For the Resource and Service audit, contact, verbal or written with Gaelic users is neither inevitable nor expected on a regular or frequent basis.

6. *If you are responding on behalf of an organisation, would the draft Guidance adequately assist in drawing up a Gaelic language plan?*

Yes, the materials are adequate to draw up a Gaelic language plan.

7. *If you are responding on behalf of an organisation not covered by the Gaelic Act, do you feel that this guidance would be of assistance in drawing up a non-statutory Gaelic language plan?*

Yes, the materials are adequate to draw up a non-statutory Gaelic language plan.