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Equalities, Human Rights and Civil Justice
Committee
The Scottish Parliament
Edinburgh
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23 February 2026

Dear Convener,

Following my recent appearance before the Equalities, Human Rights and Civil Justice Committee on 3 February 2025, regarding the introduction of legal aid reform SSIs, I am writing further to the request by the Deputy Convener, Maggie Chapman MSP, for an update on the progress of legal aid reform.

As I confirmed during the evidence session, I am pleased to enclose to the Committee, at Annex A, a detailed update setting out the actions the Scottish Government has delivered since publication of the Legal Aid Reform Discussion Paper, the further measures delivered beyond the original commitments, and the work planned for the next parliamentary session.

I trust this information is helpful to the Committee in its ongoing scrutiny. Should the Committee require any further clarification or additional detail, I would be happy to provide it.

Yours sincerely

SIOBHIAN BROWN

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Update on Progress Since Publication of the Legal Aid Reform Discussion Paper

Since the publication of the Legal Aid Reform Discussion Paper in February 2025, significant progress has been made in delivering the Scottish Government’s commitments to modernise and strengthen the legal aid system. This update sets out the actions taken forward, highlights additional measures delivered beyond the scope of the original commitments, and outlines the work that will continue into the next parliamentary session, subject to the outcome of the election.

Secondary Legislation

Over the course of 2026, a package of Scottish Statutory Instruments (SSIs) will come into force, each delivering a distinct element of the legal aid reform programme. Taken together, these SSIs phase in a series of changes (some technical, some operational) that collectively modernise aspects of the current system while laying the groundwork for longer-term reform. The staggered timeline ensures that the sector has clarity on when individual measures take effect, supports smooth implementation, and allows the Scottish Legal Aid Board (SLAB) and stakeholders to prepare for each change in a managed and co-ordinated way. The table below sets out the SSIs, their commencement dates, and the specific improvements they will deliver.

Title of SSI	Description	Coming into Force
The Criminal Legal Aid and Assistance by Way of Representation Miscellaneous Amendment (Scotland) Regulations 2026	The SSI aims to improve access to justice by simplifying legal aid processes for solemn and summary criminal cases, standardising eligibility, and ensuring fair and sustainable remuneration for solicitors.	<ul style="list-style-type: none"> • 1 April 2026 (S. 76 Provisions¹) • 14 December 2026 (summary criminal provisions)
The Legal Aid and Advice and Assistance Miscellaneous Amendment (Scotland) Regulations 2026	The SSI will remove means and merits tests for children’s Assistance by Way of Representation (“ABWOR”), extend the scope and duration of ABWOR where made available, increase the initial authorised expenditure limit to £550 and provide that Care Leaver Payments are to be disregarded in the	<ul style="list-style-type: none"> • 1 June 2026

¹These Regulations align the fee for guilty pleas accepted at or before the Preliminary Hearing or First Diet with the enhanced fee currently paid for section 76 disposals (where accused intimates desire to plead guilty).

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	assessment of an individual's disposable capital and income.	
The Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026	This instrument makes provision to implement an increase of 13% to legal aid and advice and assistance solicitor fees. It also makes minor drafting and clarificatory changes.	<ul style="list-style-type: none"> • 1 September 2026²

Delivery Against Existing Commitments

Independent Fee Review Mechanism Group

- The Independent Fee Review Mechanism Group was established to consider the fundamental changes required to design a legal assistance system fit for the 21st Century, including a more transparent, evidence based and sustainable approach to reviewing legal aid fees. It has its inaugural meeting on the 3 December. A process is currently underway to appoint an independent Chair, and I will keep the Committee updated on progress.

Additional Progress

In addition to the commitments set out in the Legal Aid Reform Discussion Paper, the Scottish Government has taken forward a number of further actions to strengthen the resilience, accessibility and long-term sustainability of the legal aid system.

Regulation of Legal Services (Scotland) Act 2025

- Section 89 of the Act, to be commenced on 5 March 2026, will remove restrictions preventing charities, law centres, and citizens advice bodies from directly employing solicitors to deliver certain reserved legal services. This is intended to strengthen the availability of legal support for vulnerable groups by reducing reliance on external firms.
- Other provisions of the Act will create the opportunity for non-profit organisations to become Licensed Legal Services Providers (LPs), enabling community-based ownership models and permitting outside investment. This is intended to improve competitiveness and widen access to legal services. These provisions will be commenced in a later phase following engagement with the Law Society of Scotland and other key stakeholders.

Legal Aid Traineeship Fund

- Work is progressing with the Law Society of Scotland and the wider profession to develop a Legal Aid Traineeship Fund, aimed at building long-term capacity in the legal aid sector.
- The Scottish Budget 2026–27 will provide funding for up to 40 traineeships, with placements expected to begin in summer 2026. The fund aims to increase diversity and equality within the legal profession by the recruitment and retention of trainees from under-represented groups across the legal profession, including people with a

² Subject to Parliamentary approval. The minor drafting and clarificatory changes come into force on different dates as relevant.

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disability, from minority ethnic communities or from socio-economically disadvantaged backgrounds.

- Discussions on eligibility and design are ongoing, with the Fund forming a key part of efforts to strengthen the legal aid talent pipeline.

Support for Families in Deaths in Custody FAIs

- Using existing powers, the Scottish Government has ensured that, from 7 April 2025, close family members involved in Fatal Accident Inquiries (“FAIs”) following deaths in custody have access to non-means-tested civil legal aid from the point they are notified that an FAI will be held.
- Between 7 April and January 2026, 23 grants of legal aid were made to bereaved family members under these powers
- Sheriff Principal Abercrombie’s Report of the Independent Review of Fatal Accident Inquiries relating to deaths in custody was published in January 2025. We will carefully consider the recommendations which relate to legal aid as we progress legal aid reform.

Grant Funding

- In addition to the current judicare system, the Scottish Government provides annual grant funding administered through the Scottish Legal Aid Board for two projects to support victims of domestic abuse and an Early Resolution and Advice Programme.

Scottish Women’s Rights Centre (SWRC) Legal Project

- The service managed by Rape Crisis Scotland, in partnership with JustRight Scotland, provides help to women needing legal advice and representation for gender-based violence across Scotland. The Scottish Women’s Rights Centre is a nationwide service. The SWRC Legal Project employs solicitor staff to provide advice, casework help and representation. The project budget covers the cost of solicitors and case related costs, currently funded up to a limit of £230,000 until the end of March 2026 from Scottish Legal Aid Board’s Legal Aid Fund.

Edinburgh Women’s Aid Legal Services Project

- The service is run by Scottish Women’s Aid in partnership with Edinburgh Women’s Aid and Baker Gostelow Family Law Ltd and opened in September 2023. Scottish Government Funding over the past three years has been provided £431,955. The service provides an early intervention service with the funded solicitors providing free legal advice, intervention services to women and children living in Edinburgh impacted by domestic abuse. The service also provides help for complex financial and property issues arising from separation.

Early Resolution and Advice Programme (ERAP)

- Scottish Government Funding is also provided through the Scottish Legal Aid Board of £1.9 million in 2025-26 to support 16 ERAP projects. The programme provides representation and other advice services to people from all communities who are facing court action for mortgage repossession or repossession of a tenancy.
- The programme provides sustainable resolutions for people from all communities with debt – where these debts have or will put them at risk of losing their homes and provides a co-ordinated service, in conjunction with other services, to people facing problems related to a presenting or potential court action for mortgage repossession/eviction.

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Scottish Legal Aid Board (SLAB)

- SLAB will undertake an engagement programme over the coming months to gather stakeholder views on practical reforms that can be delivered within the current legal aid framework, while building an evidence base for longer-term change.
- Their initial focus will be on assessing the fitness of existing funding mechanisms, supported by a series of in-depth workshops beginning in March 2026 to explore how current and alternative models operate in practice and where greater flexibility could improve outcomes. SLAB intends to involve a wide range of stakeholders, test improvement ideas where possible, and maintain ongoing communication to support continued engagement.
- SLAB are also consulting on proposed updates to Standard Discretionary Allowances, which determine the level of fixed payments available for certain types of work, and the outcome of that consultation will form part of the wider reform evidence base.

Next Steps and Potential Scope for the Next Parliamentary Session

Looking ahead, the Scottish Government will continue to pursue a modern, sustainable and user-centred legal aid system. Subject to the outcome of the election, priorities for the next parliamentary session include developing new primary legislation to modernise the legal aid framework, with the aim of introducing a clearer and more flexible system capable of supporting long-term reform, drawing on the Committee's civil legal aid inquiry, including consideration of changes to the Scottish Legal Aid Board.

Work will also advance on alternative approaches to funding and delivering legal assistance, such as grant-based models, long-term contracting, and more flexible methods of supporting providers. A robust user-engagement framework will be developed to ensure that the experiences of legal aid users inform continuous improvement and the creation of future primary legislation.

The Government will implement the provisions of the Regulation of Legal Services (Scotland) Act 2025, including the phased commencement of Licensed Provider provisions, and will support the delivery of the Legal Aid Traineeship Fund led by the Law Society of Scotland to support long-term workforce resilience, alongside ongoing evaluation to strengthen the legal aid talent pipeline.

Longer-term reforms to the judicare model will also be taken forward, including consideration of how eligibility, payment structures, and service-delivery mechanisms can be modernised to ensure the system remains sustainable, accessible and aligned with user needs across Scotland. Additionally, the Government will consider the recommendations of the Independent Fee Review Mechanism Group and progress reforms related to legal aid for/in relation to Adults with Incapacity (AWI).

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