

LSA

Legal Services Agency

Doing the Right Thing,
the Right Way

Annual P/Review 2018-2020

We have been tackling
unmet legal need for
30 years so we know
what we are doing ...

www.lsa.org.uk

Glasgow Case Statistics 2018-19: the following figures are for some of the work funded by Glasgow City Council: a very substantial amount of other work is undertaken.

New clients taken on: 956

Clients including those carried over from earlier years: 1,500 (an average of over 1½ files each)

Including signposting well over 3,000 individual service users

Broken down into Types 1, 2 and 3 figures: over 4,600 (including carry over cases and housing benefit)

Types 2 and 3 housing cases: over 2,300

Surgeries and Drop-ins: over 600 sessions

Court and First Tier Tribunal appearances: over 1,000

Proofs or ‘Evidential Hearings’: 273

... and why!

This Annual P/Review explains a little about what we have been doing over the past few years. It also summarises some of our plans for the future.

Introduction

On behalf of the Board of Directors I would like to take this opportunity to endorse our annual P/Review. The previous year has been a challenging one due to personnel changes and I would like to pay particular tribute to our long standing Chairperson, Jean McFadden CBE, who stood down in 2018 after many years service to LSA. Also standing down in 2018 was our Treasurer, Alastair Grimes and our previous CEO Nigel Scott, both of whom made a significant contribution to our work. In this context, I would also like to thank our deputy CEO Ronnie Franks for stepping up to become interim CEO at a time of significant change. Also stepping up during the previous year is Carrie-Anne Clifford, who has become a Partner in our legal firm, Brown & Co. Legal LLP.

Whilst we move through a period of change our staff have shown considerable strength and resilience in not only maintaining our services, but in achieving some very significant gains on behalf of our clients as outlined in the report. In doing so, our work has been carried out with consummate professionalism which is attested by our regulatory reports and inspection outcomes. Our staff's commitment to achieving redress and social justice on behalf of our clients is at the heart of LSA and has been the driving force behind our work. We particularly value the support received from our statutory and voluntary sector funders which is essential in enabling us to deliver the services we provide. Our local partners are invaluable in this process and we thank them for their continued support.

As we move forward in 2019, we look forward to not just consolidation of our work, but also seeking new opportunities for improvement and development including the appointment of a new, permanent CEO. We are proud of what has been achieved in the last almost thirty years and remain committed to providing a high quality, client-centered service in the future.

Thanks again for your valued contribution and we look forward to your continued support.

Barrie Levine, Convenor, LSA Board of Directors

About this P/Review

This P/Review is a continuation of a LSA tradition: publishing an analysis of what we have done and what we aim to do. It's neither an Annual Report nor a Business Plan: both of these are produced separately.

The P/Review concentrates on our ideas and our client service and highlights the new remedies that we have developed.

Innovation goes to the heart of what LSA is about: we came into existence in 1989 because the then new remedies were not being taken up and this is what we have kept on doing. We publicise the law, organise legal education for advisers from all sectors and take up cases.

Our new ideas come from the needs of clients: legal imagination and acumen are involved, rooted, however, in our vision to **tackle the unmet legal needs of those in disadvantage.**

Some of the innovations we have pioneered in the past are:

- Right at the beginning LSA was among the first to develop the **'reasonableness' defence** in public sector housing and was the first to provide **free in-court** representation to people threatened with eviction. We have been present at every single 'eviction' court at Glasgow Sheriff Court for the last 29 years (that is an estimated 1,300 court sessions!)
- Working with Counsel and a small number of private firms, we were among the first to develop **Judicial Review** for homelessness cases. This has been linked to our commitment to take on every client who may become or is actually homeless who cannot find anyone else to advise and represent them. At time this has been a tough objective: it is however one that we have largely achieved.

- We were among the first to systematically provide representation for people subject to **compulsory psychiatric care** and among the first to provide **Financial Guardianship** services to clients and members of their family who are affected by severe mental health problems, dementia or acquired brain injury.
- We were the first organisation in Scotland to set up a **specialist project representing and advising women** with an insecure immigration status (including trafficking victims) and our work in this field continues with recent developments in Criminal Injuries Compensation and other areas of litigation.
- LSA has always had a commitment to **Criminal Injuries Compensation** with particular emphasis on supporting victims of domestic abuse as well as applications for ‘incapable adults’, children and others who might not even be able to identify they had a claim far less pursue it themselves. One recent innovation is, for instance, the systematic screening of all clients for potential claims and we reckon we help between 30 and 40 clients per year to put in applications who otherwise have no idea they might be eligible for compensation.
- On policy, we can claim a key role in the introduction of legal protection for the **homeowners in mortgage arrears**, the introduction of **pre-action protocols** in both mortgage and public sector tenant eviction cases, to name but a few.
- LSA was involved with the setting up of the **Scottish Association of Law Centres** and continues to work with and to support law centres and indeed hopes to expand this role. We recognize that working in **partnership** is key: apart from anything else we benefit enormously from the input of hundreds of experts to our seminars which means that our staff as well as of course others in the sector, are able to obtain top class training on all areas of the law.

The rest of the P/Review discusses our recent work and our plans for the future.

We are proud of what we have achieved as well as the strong green shoots that are developing apace. This achievement is in the context of having had a difficult couple of years in some respects. We have lost some grants, obtained others and have successfully rearranged a number of our services. A number of members of the Board after many years service have moved on and we have new office bearers who bring a new and energetic vision. These changes have not affected our day-to-day work and we are confident that they will bear fruit for LSA for the next 30 years.

Everything we have done, and plan to do, depend on our funders, our staff, volunteers and Board: past, present and future. They are far too many to name. Our thanks.

Case Study

We assisted a client, his wife and seven children to secure suitable temporary accommodation. Due to the size of the family, the council initially accommodated the client in a hotel. The family were kept in this accommodation for over a month, in clear breach of the Unsuitable Accommodation (Homeless Persons) Order 2014. We intervened. The family were moved to a high rise in two flats, a number of floors apart. At this point we instructed counsel to draft a petition for judicial review.

Before an interim orders hearing could be fixed a further offer was made, again for two properties but this time only one floor apart. The client declined this as he objected to the family being made to live apart. A third offer of accommodation was made, however, this again was over two properties - this time directly opposite one another. This offer came with additional conditions including restrictions on visitors staying overnight and a high weekly service charge. Our client declined this offer.

The petition was re-started and an interim orders hearing date fixed. Our argument was that the Council were in breach of Section 29 of the Housing (Scotland) Act 1987 and the 2014 Order. On the morning of the hearing, the Council offered our client a property that the family could live in together. The client accepted this offer.

Innovation

Unlike many areas of legal work, virtually every remedy we pursue for clients is comparatively new. Probably the oldest remedy we use on a daily basis is the ‘reasonableness defence’ in public sector eviction cases: and that only came into being in 1980. The development of Judicial Review, mental health law, asylum and criminal injuries compensation and homelessness law are all comparatively recent whilst defending homeowners in mortgage arrears or private rented sector cases are all brand new compared with standard legal practice.

The Human Right Act did not even come into force until 2nd October 2000 whilst the development of anti-discrimination law did not reach fruition until the Equalities Act in 2010.

Developing remedies that are particularly important for people in disadvantage means being innovative: these are client, not lawyer led. The remedies are often complex and long drawn out!

Earlier this P/Review highlighted some of our innovations over the past: this section is about what we have done over the last year or so and hope to build on in the near future.

Case Study

We were instructed by this client at our heritable helpdesk outside the sheriff court in February 2017. She was a vulnerable young woman who had claimed asylum as a minor. We represented her on an emergency basis, and continued to defend the action for her. This case called a total of 12 times, with four of these callings diets of proof. The case was never sisted as the client had multiple changes in circumstances. Through co-ordination with Glasgow North West Citizens Advice Bureau and significant client contact we were able to successfully defend the action. The client recently managed to clear the arrears, and therefore is no longer at risk of homelessness.

Criminal Injuries Compensation

The Service

Policy: LSA provides a free telephone consultancy service, with meetings and training available, to social work authorities, voluntary and statutory organisations on the Criminal Injuries Compensation Scheme. Examples of this have included input to child abuse policies, vulnerable adult procedures and general training to social work and other staff. LSA also produces a free booklet (see publications) as well as an electronic handbook (which is currently under revision) subsequent to the changes to the 2012 Scheme.

Casework: all LSA staff undertake criminal injuries compensation cases as a ‘cross cutting’ theme of expertise. Potential clients can access advice and representation by attending one of the Fleming House ‘general’ drop-in surgeries, telephoning for an appointment or attending the specialist criminal injuries compensation drop-in surgery which takes place most Wednesday afternoons between 2pm-4pm. Initial guidance is available by phone.

LSA lawyers undertake all aspects of criminal injuries compensation claims including submission of applications, processing of applications, Reviews, Appeals to the First Tier Tribunal and Judicial Review.

Areas of work we particularly highlight include applications upon behalf of children, people with a mental incapacity or brain injury, disputed applications or cases involving detailed research on quantification or related issues. We take up any case where unfairness exists and scrutinise that for compliance with human rights and equalities law notwithstanding whatever the Scheme may say.

For clients on means tested benefits we set up discretionary personal injury trusts and also do so upon behalf of victims who do not wish to, or are unable to, administer funds themselves.

Work over the last year

LSA's work on criminal injuries compensation has developed apace.

The headline has to be the case of Monica Allan where the Supreme Court ordered that she was not prevented by the 'same roof rule' from being paid an award of compensation.

This case, along with one in the Court of Appeal in England and the other in the High Court in Northern Ireland, had the effect that the Government has had to change the Criminal Injuries Compensation Scheme thus allowing the victims of crimes of violence at the hands of a family member committed before 1979 to obtain compensation.

The three cases together emphasise an important legal principle to the effect that once a social security benefit has been made available by the State, human rights principles apply to the processing of claims and if there is discrimination then the discriminatory provision can be attacked under Article 14 of the European Convention on Human Rights. This form of argument can be deployed in many discriminatory circumstances. In some respects this form of argument is broader than would be available under the Equalities Act. As a result of this case, and the changes to the Scheme, all the clients for whom LSA had appeals to the First Tier Tribunal on this ground have been successful whilst other applications are being processed.

Other important cases include one for a trafficking victim who was held incommunicado in an unknown location for a number of weeks and threatened with being employed as a prostitute at a tender age.

She escaped and was referred by social work to LSA to resolve her immigration status and claim criminal injuries compensation, both were successful. The First Tier Tribunal held that being imprisoned and threatened with working as a prostitute was a serious crime of violence. This principle will undoubtedly apply to a number of other vulnerable victims.

Other LSA cases include a number of historic victimisation going back over 2 decades. Against all odds we were able to obtain all the relevant information to establish what crime took place and what the consequences were. The victims have suffered many years of ill health caused by serious crimes of violence and eventually obtained substantial compensation.

The 2012 Scheme includes harsh provisions excluding victims of crimes of violence who have a criminal record themselves. The provisions of the Rehabilitation of Offenders Act are drawn in. The Scottish Government has recognised that the Scots version of the Rehabilitation of Offenders Act has excessively lengthy rehabilitation periods, compared with the English and Welsh Act. As a result of this, some victims in Scotland are refused compensation who would have obtained compensation in England and Wales. We are taking up four cases along these lines and consider that there are good prospects for success particularly given the Scottish Government's proposed reform.

We are gently increasing our publicity about our service for victims of crimes of violence and are particularly proud that not only do we have a very good success rate but also that this includes successes in cases rejected by mainstream compensation lawyer's firms.

Plans for the future

We will build on our established record and the commitment by all our teams to undertaking criminal injuries compensation applications. We

will increase our publicity markedly in order to ensure that all victims of crimes of violence are aware of our services.

We will deepen our relationships with organisations providing support and counselling to victims.

We will particularly try to reach out to victims of historical abuse in crimes of violence most especially those who suffered victimisation before 1979. We will continue with our test case strategy in particular concerning victims who have been disproportionately prejudiced by the harsher provisions of the Scottish version of the Rehabilitation of Offenders Act contrasted with the English/Welsh version.

We will engage closely with the UK Government's Review of the 2012 Scheme and continue to build links with other organisations concerned to ensure that victims of crimes of violence receive an expression of solidarity and sympathy from the State which adequately reflects what they have been through.



Mental Health Legal Service

LSA's Mental Health Legal Service functions in 'Glasgow and the West' and 'Edinburgh and the East'.

It provides a holistic service to people with mental health issues or who lack capacity and their carers.

The team accordingly not only does mainstream mental health and incapacity work: such as defended detentions, issues concerning compulsory medical treatment or financial guardianship to name but a few but also issues that people with mental health problems may encounter. This may include family disputes, Children's Hearing matters, housing disputes, defended eviction, running up debts whilst lacking capacity and specialist community care or social security matters.

The holistic approach means that generally vulnerable people and their carers can come to one office that will deal with a range of matters.

One recent case illustrates this.

The department was approached by the grandmother of two children who was looking after them as consequence of the tragic murder of their parent. One child has significant mental health difficulties. The department submitted criminal injuries compensation applications, advocated regarding increased social work support and community care and has applied to the court for the grandparents to have parental responsibilities which is both necessary for the management of one of the children's medical issues but also for the purposes of dealing with the criminal injuries compensation application.

The department also deals with Intervention Orders: that is appointing an appropriate independent solicitor to pursue claims upon behalf of

clients who cannot do this themselves. This may be a victim of a crime of violence with brain injury or a victim of some accident or attack who has a serious psychiatric disorder.

The department has a high reputation with experienced staff who have written and lectured on mental health law extensively.

Access to the department is flexible. Solicitors visit generally older people in care homes on a very regular basis as well as patients in hospital on a daily basis. In addition the department has an outreach strategy and is developing relationships particularly in Edinburgh and the East particularly for appointments based outreaches.

Clients can also be seen in the department's part-time office in Edinburgh (telephone 0131 228 9993) or Fleming House, Glasgow.

A Human Rights Based Approach

The department has always been committed to a human rights based approach to acting for its clients with mental health problems, dementia, alzheimers or brain injury. The department's themes are to encourage people to enjoy as much autonomy and self determination as is appropriate as well as, at the very least, the opportunity to actively participate in decision making that affects their lives particularly where the decisions relates restrictions on freedom and involve compulsory residence in a care home or hospital or compulsory treatment.

Decisions on what is 'good for people' need to be tested and the department vigorously supports the principle that there should be a 'contradictor' ensuring that all the arguments are brought out.

An example of this was a case in the Court of Session recently.

Doctors wanted a range of Orders under Section 50 of the Incapacity

(Scotland) Act. These included entry into the client's home, ordering relatives to bring the client to hospital and a range of other matters. The medical staff also wanted to be permitted to give chemotherapy to our client against the guardian and the adult's wishes. The adult has severe and unique neurological difficulties that do not fit into the usual categories. We won on many of the points. The Outer House Judge rejected almost all of the compulsory measures sought but did order treatment. This is an important example of making medical decisions accountable. The department believes not only that this is an appropriate assertion of human rights but also, generally, improves medical care.

The department has a growing financial guardian service with a particular theme of a needs based approach to the work: the department will take on financial guardianship at any level of funds even though the work concerned may be very substantial.

Plans for the future

The services in both Glasgow and the West and Edinburgh and the East will continue to deepen their involvement in a wide range of work including, for instance, homelessness and criminal injuries compensation. The outreach strategy will be built on with vigorous publicity about developing rights and remedies.

People with mental health issues or dementia are of course disabled persons for the purposes of the Equalities Act and, accordingly, have 'protected characteristics'. We will promote this as well as our human rights approach.

Our unique financial guardian service which provides support to clients even with comparatively small sums, will be promoted.

Housing and General Court Department

Service: the Housing and General Court Department has been restructured to endeavor to tackle in one team the unmet legal needs of the most vulnerable people in Glasgow. It now incorporates most of our work on equalities, immigration and asylum.

This new and we believe, very unusual approach means that the department is able to tackle most of the needs of the most disadvantaged clients with a high degree of expertise and, crucially, accessibility.

The ‘bread and butter’ of the department is defended eviction and defended mortgage repossession as well as homelessness applications including rough sleepers, people in temporary accommodation or people threatened with homelessness. These areas not only are undertaken in an innovative fashion but also in very high volume.

The department, recognising that Glasgow has an increasingly large number of disadvantaged minorities and migrant residents, has developed a high level of expertise in trafficking issues, housing and homelessness issues for migrants as well as having undertaken a major test case on the social security rights of abandoned migrant children.

The department also undertakes general public law issues and certain aspects of education, environmental rights and education law.

As with all teams in LSA, the department undertakes criminal injuries compensation and scans all clients particularly when medical reports are received in connection with other matters for potential claims.

Access is by way of telephoning for an appointment or alternatively calling in at one of department’s drop-in surgeries.

The homelessness drop-in takes place every weekday 10am to 12pm.

‘General’ drop-ins take place on Mondays, Tuesdays and Thursday 10am to 1pm. Thursday evening 4pm to 6.45pm and Fridays 11am to 2pm.

The department has a heavy commitment to outreach including Glasgow Sheriff Court Eviction Court where the advice desk and free representation takes place all day Wednesdays in the case of landlord and tenant cases in the public sector and Friday morning for defended mortgage cases.

The department also currently runs outreach surgeries in Glasgow North West CAB, Drumchapel CAB, Drumchapel Money Advice Centre, Molendinar Community Centre, The Marie Trust and Scottish Refugee Council.

Work over the last year

The department has built up a strong innovative approach to its work. Not only is this as a result of LSA’s traditions for this but also by networking and education activities.

All the department’s work is in the context of a huge commitment to client cases: for instance nearly 280 Proofs were set down and nearly 1,000 procedural hearings in housing alone.

The department speaks at and organises seminars in large numbers of housing and social welfare law related topics which means the department has access not only to great discussions but also the ideas of other practitioners not just in Scotland but indeed in the UK (the latter particularly through the Law Centres Network).

Work over the last year of particular interest includes:

Equalities

Fighting discrimination and promoting equalities comes into everything LSA does.

The department has built up expertise, casework and consciousness raising in the following particular areas.

- Equalities and homelessness

The department makes applications to statutory authorities under homelessness legislation making detailed reference to the local authorities equalities duties as well as the main areas of the law. The department is pushing forward a number of test cases seeking compensation where the local authority concerned has significantly breached its equalities duties to highly vulnerable homeless applicants.

- Defended evictions

All defended eviction cases are scanned for equalities defences. The department is not infrequently successful in helping vulnerable tenants keep their homes through pointing out equality defences and evidence if necessary to the Court that the landlord has not made reasonable adjustments for the tenant's protected characteristics: frequently, but not always, mental health issues or ethnicity.

- Social security

The department, in a new initiative, has provided free training to welfare right advisers on the sorts of cases where it may be possible to argue that the DWP has breached its obligations in terms of the Equalities Act to claimants. The department currently has three or four test cases and will be pushing these forward.

It is trite to observe that one of the main problems with universal credit has been the lack of adjustment to take into account claimants who have difficulty with forms, difficulty attending meetings and managing electronic information. These sorts of cases aim to highlight the problems as well as hopefully get compensation for claimants who may have had a very difficult time.

- Private rented sector ‘no DSS policies’

Women and disabled people receiving benefits appear to be significantly disadvantaged in obtaining accommodation in the private rented sector. This can be a major issue as increasingly the private rented sector is seen as a way of resolving homelessness issues. The department is taking on Equalities Act compensation cases and promoting the remedies through a new public legal education campaign.

- Equalities and Criminal Injuries Compensation

A recent case illustrates our approach:

We represented a client in a CICA case where the crime of violence was not reported immediately. This was due to a language barrier as the client did not speak English. When the Review was unsuccessful we appealed to the First Tier Tribunal and raised issues regarding compliance with the Equality Act 2010 on the basis of racial discrimination as language is an inherent part of a person’s race. CICA conceded that the crime of violence has been reported as early as reasonably practical and are not considered in the application.

Equalities law is notoriously complex: we are proud that we have battled our way through the complexities, in partnership with other organisations and hope that the potent remedies of the Equalities Act 2010 may become more accessible and more frequently used in spite of the challenging six month time limit..

Case Study

A client was refused ESA on the basis that she did not attend a welfare benefits assessment. She didn't attend partly as she needed someone to come with her due to her disability and the DWP was advised of this and told her not to come. She was then told her ESA claim has been refused as she did not attend. She has successfully appealed but has had injury to feelings and also her new benefits are lower as she had to apply for Universal Credit. We consider this is a failure to make reasonable adjustments and indirect discrimination on the basis of the protected characteristic of disability based on the Equality Act 2010. We are gathering medical evidence in support of this.

Human Rights

LSA has promoted a human rights approach since before the Act came into force.

The effectiveness of the Human Rights Act can be seen from one LSA case where the Court held that the absence of an appeal provision against certain decisions relating to Short Scottish Secured Tenancies was not human rights compliant. That test case was the first of three LSA test cases which resulted in changed to primary legislation (and a mentioned in the Parliamentary memorandum!).

These are some of the areas of human rights law taken up by solicitors:

- The department undertook the court work in the Monica Allan 'same roof rule' case. The argument was pure human rights law and was of course successful at the Supreme Court resulting in not only Monica Allan being eligible for compensation for family abuse but also indeed, in part, an estimated over 4,000 others. The case reiterates the important principle that if the State provides a social security benefit it can count as an Article 1 Protocol 1 form of property and if the other reason and otherwise eligible claimant

does not get compensation is as a result of discrimination on any irrelevant ground it may be possible to attack the exclusion.

- Building on the department's commitment to embedding minority issues into its work an interesting successful human rights case is worth highlighting here.

In that Judicial Review case based in part on human rights grounds, we sought to prevent the refusal of a fresh claim for asylum of a client from the UK who had very vulnerable mental health issues and was at risk of self harming.

The Home Office's grounds for asylum were that there were adequate mental health services in Nigeria. As the court commented, this is quite an assumption!

The court however held that the Home Office in seeking to justify the refusal of our client did not provide proper adequate and intelligible reasons as:

'The problem of a risk prior to ... the Petitioner's deportation was not addressed' (by the Home Office).

'Put bluntly, assuming there are adequate mental health services in Nigeria, there was no consideration of whether the Petitioner would survive to obtain access to these'.

- A further high profile success was when in partnership with Shelter, LSA raised emergency proceedings at Glasgow Sheriff Court to prevent SERCO from changing the locks of our client's asylum accommodation. It was argued that the eviction was in breach of their human rights. Following a hearing in August 2018, LSA and Shelter forced SERCO to provide an undertaking to the court that no such action would be taken until all the legal

arguments has been heard. It is estimated that around 300 asylum seekers in Glasgow were in a similar position, all of whom were subsequently protected by the undertaking. The litigation is ongoing albeit there have been difficulties.

- The department has vigorously promoted information and education about the new private rented sector arrangements in Scotland. They are of significant complexity not made any easier by the shift of all disputes concerning the private rented sector to a new Tribunal system.

The department has spoken and organised many education events on the area: it is well qualified to do so as one senior member of staff is a Legal Member of the Tribunal itself.

Whilst we recognise there probably requires to be more publicity about the remedies that may be available, and we are planning a leaflet, we have advised and represented in a number of cases including relating to withheld deposits and disrepairs.

Case Study

Client whose landlord, an RSL, raised eviction proceedings due to anti social behavior. They were insistent he had no mental health problems. His GP also stated they were of the view he had no mental health problems and client himself felt the same. On our recommendation, client agreed to see a psychiatrist and we arranged for this to take place. The psychiatrist's opinion is that the client is suffering from mania, a serious but treatable mental health problem, and we have accordingly been able to mount a defence in terms of the equality act. This would not have happened if the client was unrepresented.

Policy

The input by the Housing and General Court Department into policy issues should be seen in the context of LSA's involvement as a whole.

This broader involvement has included intensive input, in association with the Scottish Association of Law Centres, to the Martyn Evans Legal Aid Review followed by consultations with the relevant Minister and now the appointment of a senior member of staff to the expert committee looking into aspects of the Evans Review's proposals. This has been a major piece of work and looks to continue to be so.

LSA, and indeed, the wider law centre movement is very appreciative of the support the Government has given to the development of legal aid to support disadvantaged people. We have high hopes for progressive reform which will not only help disadvantaged people but also provide a sound basis for law centres going forward.

LSA also gave evidence to the Justice Committee of the Scottish Parliament looking into the Civil Litigation (Expenses Group Proceedings) (Scotland) Bill.

Not only have we supported the development of group proceedings (LSA's verbal evidence was quoted in the parliamentary report very fully) but also we have made submissions about the need to have an appropriate form of legal aid.

Another key area of policy involvement has been our influence on homelessness policy in partnership with, of course, a number of other organisations in the sector.

We were very proud not only to give evidence to the parliamentary enquiry into homelessness but also that one of our clients, Thomas Lyons, at his own initiative very emphatically spoke about the

importance of our legal advocacy upon his behalf.

We made submission concerning reform to the Code of Guidance: the discussion of which originated from the input of Counsel at a workshop at one of our events.

We are not alone in our concern that the Code of Guidance on homelessness has not been updated to take into account both major changes since it was drafted many years ago but also equalities law. The Committee noted our view that once the Code of Guidance has been updated Section 37 of the Housing (Scotland) Act 1987 should be amended to require local authorities not merely to have regards to the Guidance but to comply with it.

We have recently responded to the Government's Consultation request on Local Connection and Intentionality Provisions in Homelessness Legislation.

The Housing and General Court Department in particular and the organisation as a whole has found engagement with the English and Welsh Law Centres Network highly fruitful. LSA staff have been invited to speak at two Law Centre Network conferences and assisted in the organisation of the 2017 Conference which took place in Glasgow. We attended the 2018 Law Centres Network Conference in Newcastle in force and found the discussion about equalities law particularly helpful given how important we consider the development of this remedy to be.



Plans for the future

The department has strong themes arising from the needs of its clients. The ability of the department to deal with a wide range of issues and remedies will be publicised particularly the integration of migrant, asylum and trafficking rights into the general work of the department. The department's strong developmental approach to the application of equalities law to all aspects of its work particularly housing issues will be publicised and test cases developed.

The increasing awareness that mental health issues both cause legal difficulties and are made worse by them will be reflected by continuing development of the organisations casework and client care policies particularly the way we go the extra mile in helping clients with mental health issues or indeed other protected characteristics engage with the legal system.

The department has a record of taking up Judicial Review issues as and when they arise and this will be promoted along with the other innovations discussed elsewhere in this document. The department has strong expertise in the private rented sector and the department will publicise the services it can offer.

Outreach surgeries are really important and the department will make sure that voluntary and statutory organisations in Glasgow are fully aware of the flexibility that the department has to tackle needs as they develop: for instance the two new outreach surgeries in the last six months at The Marie Trust and Scottish Refugee Council.

LSA has a strong tradition of training and education in areas of law of importance to people in disadvantage: this will be built on.

LSA's Inverclyde Housing Rights Project

The service

LSA's Inverclyde Housing Rights Project provides free legal advice and representation on all housing problems for Inverclyde residents. The overall objective of the project is to prevent homelessness and to help people who are homeless as and when that occurs

Legal advice and representation includes:

- Free advice and assistance to homelessness applicants including Reviews and Judicial Review
- Defended eviction actions including representation at Greenock Sheriff Court
- Advice on rent arrears and housing benefit issues
- Advice on mortgage arrears
- Help for homeowners facing repossession including advice and court representation
- Housing disrepair and landlord/tenant matters

Anyone in Inverclyde can telephone 01475 725665 for advice on any homeless or housing rights issue.

Appointments can be obtained by telephoning the same number.

The department runs a free drop-in surgery (no appointment necessary) every Tuesday and Thursday from 10am to 1pm.

The Project is based in a shop front office at 9 Sir Michael Street, Greenock, PA15 1PQ.

The service employs a solicitor, trainee and paralegal/legal secretary.

Work over the last year

The Inverclyde Housing Rights Project is part of LSA's Housing and General Court Department and, accordingly, the themes from the wider department have been repeated in the Project.

Housing related equalities issues have been identified and pursued. Complex housing disrepair cases have been taken up.

Like the Housing and General Court Department, the bread and butter work of the Project is defended eviction largely for rent arrears. Vigorous defences have been submitted for 100's of cases.

The Project has taken up significant numbers of cases in the private rented sector.

Plans for the future

The Project will undertake a Major publicity programme in the Summer/Autumn.



This will be linked with consciousness raising concerning the 'new' Private Rented Sector Tenancy arrangements.

This will be linked to two free community conferences/education events that will take place in autumn 2019/early 2020.

The Project will build on its existing strong links with voluntary organisations particularly in Greenock but also Inverclyde as a whole.

Seminars

There are two lawyer's phrases that are worth remembering.

'A right without a remedy is no right at all'

'there is no point in having a right without knowing about it'

The objective of LSA's Seminar, Workshop and Conference Department is to tell individuals and advisers about rights of relevance to those in disadvantage and how to get them. There is a strong human rights, equalities and practical orientation.

LSA has a policy of endeavoring to undertake seminars on new statutes so that advisers can 'hit the ground running' with remedies that may help their clients. For instance the Department has just organised an event on the Domestic Abuse (Scotland) Act 2018.

We also run the major reviews of the law: sometimes over two days. This includes a major two day event on homelessness and another on mental health law.

Other themes have been to promote knowledge of complex codes of law that may be of importance, this includes equalities law: whilst the 2010 Act is now approaching a decade old it is still not fully understood.

Working with other organisations such as the Scottish Association of Law Centres some of our events are free. For instance we recently ran a very popular event on Legal Aid Reform at which we were privileged to have the Minister, Ash Denham MSP, make the keynote address.

Other free events have been on equalities and benefits as well as on discrimination on the provision of private rented sector housing against women and people with disabilities.

In 2018-19 we ran an event two or three times a week. We publicise our events by email to between 12,000 and 16,000 email addresses and around 1,250 delegates attend our events each year.

There is no doubt that our education activities have meant that a whole generation of social welfare lawyers and advice workers in Scotland have had access to top class, affordable legal education and skills training.

Our seminars would not be possible without professional input, not only from LSA's own staff, but also outside experts including academics, medics and the Bar. Our free events would not be possible without funding. The Seminar Department would like to take this opportunity to thank everybody who has had an input.

Plans

The Department's plan for the forthcoming year are to expand our activities not just in Glasgow but also in Edinburgh as well as having one or two free events in Greenock.

In addition to more events we will also arrange more frequent major events. We will highlight developments in human rights and equalities law, the changes to social security that have taken place in Scotland as well as on the impact of universal credit.

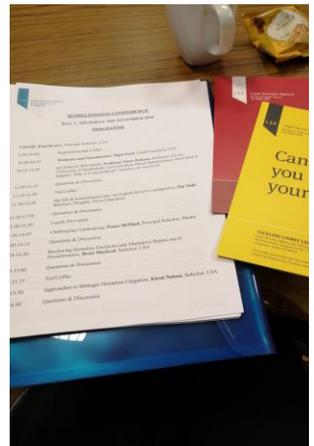
We will expand our skills based events as well as develop a series of events on how advice workers and lawyers can 'look after themselves' better.

Working with other colleagues in LSA, we will particularly focus on building our major homelessness event that takes place every autumn. This year we intend looking at potential changes to the Code of Guidance and how it should be adjusted to take into account migrant rights and equalities.

As awareness of air pollution and climate change soars, we will be arranging seminars on these issues.

The new arrangements in the private rented sector have now ‘bedded in’ to some extent and we will have a review not only of the fundamentals of the system but also how the First Tier Tribunal has dealt with disputes.

Finally, working with our mental health team, we will review the developing training needs in this field with a view to considering training for lay people who are acting in terms of powers of attorney for, instance, elderly relatives.



UK Wide Work

Casework

LSA generally acts for clients who live or work in Glasgow and West/Central Scotland, Greenock/Inverclyde and Edinburgh and the Lothians.

We have however extended this for instance to include clients originally lived in the above areas but who have been fostered with families who have moved elsewhere, who have fled violence or abuse locally or who have moved elsewhere for family or work reasons.

As a result of friendly support from other law centres (members of the Law Centres Network) on the very rare occasions that we need to meet clients in England we are able to do so in their offices.

We currently represent a number of criminal injuries compensation clients living in the south coast of England, India and in one case in Australia and another in Ireland. The claims concerned are very substantial arising from very serious crimes of violence committed locally.

We were very proud that a detailed analysis of the then state of criminal injuries compensation law was published in the London based Journal of the Legal Action Group (LAG) in 2018. Given the changes to the law subsequent to the amendments to the 2012 Scheme (see below) we will volunteer our services to write another article this Summer.

Law Reform

A number of the codes of law with which we work are 'reserved' and

are accordingly, as significant elsewhere in the UK as they are here.

- Criminal Injuries Compensation. Our Application to the Supreme Court for Monica Allan was a rare example of similar litigation in England, Scotland and Northern Ireland relating to the highly discriminatory nature of the ‘same roof’ rule banning compensation for the victims of crimes of violence before 1979 who were living with the perpetrator as members of the same family. The Pursuers in all those cases were ultimately successful and as a result the UK Government has reformed the 2012 Criminal Injuries Compensation Scheme permitting Applications for all victims in these circumstances. This is a major reform which will benefit a group (estimated to be at least 4,000) that has hitherto been very unfairly treated.
- LSA staff and volunteers were closely involved in the campaign against certain aspects of the 2012 Criminal Injuries Compensation Scheme: as the cutbacks effected shop workers particularly we worked closely with USDAW. Whilst many of the cutbacks to the 2012 Scheme went ahead there were some reforms which took on board our comments. There is no doubt that lobbying and engagement can make a difference. The UK Government has recently announced it will be carrying out a review of the 2012 Scheme. We have established links with London based national organisations and will be as closely involved in the new Review as we were in the one running up to the 2012 Scheme.
- The UN Rapporteur on Homelessness took a bold position. We have no doubt that his robust views were influenced by the very many submissions from voluntary organisations: we were one of those. Whilst the reform of austerity has hardly been very exciting at the very least there appears now very little attempt to defend the policies behind it.
- On 11th December 2018 the Home Office announced changes to the Immigration Rules which implement the Court of Session’s decision in our case, A v SSHD (2016). These changes give all

refugees' spouses who have survived domestic violence equal protection regardless of the abusive partner's immigration status. This removes the discriminatory effect of the previous rules. Whilst the Government can hardly be accused of having pushed through this change speedily, it does directly flow from 'A' and the Explanatory Memorandum to the changes to the rules makes reference to it. So this is the second LSA test case, within a matter of months, which contributed to a change to UK wide law.



Quality

The quality of our work for clients is fundamental. We aim to support our staff to provide high quality and we are successful in this.

We are subject to two quality regimes and large numbers of files are randomly selected by outside organisations and independently reviewed.

Eighteen months ago we were reviewed by the Scottish Legal Aid Board/Law Society Peer Review system. They looked at randomly selected files from all our areas of work.

This was highly intensive and, as we were used as a ‘calibrator’ of the system, entailed large numbers all our files being double marked by expert outside solicitors.

Their comments were overwhelmingly favourable with many references to the high quality of legal advice, the obvious knowledge of the lawyer and, on occasion, the erudition of the correspondence.

In autumn 2018 a selection of housing case files were inspected by the Scottish Legal Aid Board/Scottish National Standards for Information and Advice Providers.

The Committee advised us in March 2019 that we were ‘compliant’ with all the relevant standards.

The Assessor commented that:

‘This Agency are working to an extremely high standard ... they consistently demonstrated that they provided professional and client focused service. Fantastic work ...’

'In general the cases are impeccable'

The Assessor broadly speedily was unable to find any significant areas for improvement commenting that:

'It is extremely difficult to suggest areas for improvement when it is evident that this Agency are performing to such a high standard'

This is a tremendous accolade.

Of course external inspection is not the only way we check for standards. We have a randomised monthly independent internal Peer Review system in addition to the standard day to day quality checks expected of the legal profession.

Case Study

Dampness and Disrepair (June 2018) – A client whose home was left in a state of disrepair received £5,500 in compensation from her landlord. We had to raise a court action and the offer was increased from £1,500 through our negotiation.

Case Study

We were instructed in a criminal conviction eviction action. The criminal activity was undertaken by our client's son, who was continuing to harass our client and attend his property. In order to strengthen our client's defence to the action we raised interdict proceedings and an interdict was granted stopping our client's son from attending his property and approaching him. As a result we secured an agreement from the Pursuer to dismiss the eviction case, which means that the threat of eviction and homelessness is no longer hanging over his head.

Thanks

LSA appreciates the enormous amount of support we have had from outwith the organization. This includes many volunteers, the scores of speakers at our seminars and conferences, doctors who provided hundreds of medical reports and members of the Bar. They were all crucial.

The Scottish Legal Aid Board have provided support for a large portion of our work whilst also providing Grant assistance for our Trainee in our Inverclyde Housing Rights Project.

Funders during the period 2018-2020 include the following:

Glasgow City Council

Edinburgh City Council

Midlothian Council

West Lothian Council

Inverclyde Council

Scottish Government

Inverclyde CHCP/SLAB

Oak Foundation

Comic Relief



Staff and Board of Directors

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Carol Scott, Director
Elizabeth Stewart, Office Manager (Glasgow)
Rachel Walker, Solicitor
Helen Wylie, Legal Secretary



Publications

LSA has a very large website: and all our publications appear in it.

We know that many of the people we look after do not have access to the internet and more like to have material in writing. All publications are free. Small quantities will be posted out at no charge.

LSA service information

- New leaflet: Can we help you enforce your rights?
- New business card size booklet on what we do, where
- Publicity leaflet on LSA's Mental Health Legal Service
- Publicity leaflet on LSA's Inverclyde Housing Rights Project (Greenock)
- New Publicity leaflet on LSA's services for those who are 'Street Homeless'
- LSA's services for Refugee and Asylum Seekers threatened with homelessness (4 languages) (new)

Advice booklets

- Powers of Attorney: planning for the future
- What to do if you are facing eviction for Rent Arrears
- Discretionary Housing Payments
- Criminal Injuries Compensation
- Homelessness
- What to do if you are facing Mortgage Repossession

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