



LSA

Legal Services Agency

Doing the Right Thing,  
the Right Way

# Annual P/Review 2019-2021

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

[www.lsa.org.uk](http://www.lsa.org.uk)

... and why!

This Annual P/Review sets out some of what we have been doing over the last year, and plan to do over the next one, in the context of our first 30 years ...

We will be 30 on 22nd March 2020

## Some Recent highlights ...

- The order of the Supreme Court making it clear that the discrimination against victims of crimes of violence living under the ‘same roof’ as their attacker before October 1979 was not human rights compliant. Soon thereafter, the 2012 Criminal Injuries Compensation Scheme was extensively rewritten. Justice for a highly disadvantaged group. A real win for our client Monica Allan and victims throughout the UK.
- Our vigorous response to the emergency caused by the Serco lock change evictions. We took up approaching 100 Interim Interdict cases preventing the lock change evictions going ahead and scores of defended eviction cases through the courts once Serco had been persuaded that the rule of law means disputes should go to court.
- Joint Award of the Herald Judges Award to the Glasgow Social Justice Lawyers Collective (of which we are a part) which, coordinated by the Scottish Refugee Council, undertook surgeries and all the litigation on behalf of the ‘Serco’ cases.
- Expertise recognised: there are two legal members of Tribunals who are members of staff and three legal authors: with two articles for instance by LSA solicitors in the one issue of the Journal! The appointment of one member of staff to an Expert Panel on Legal Aid payments and another to the Independent Review of Learning Disabilities and Autism in the Mental Health Act.
- A survey of Glasgow Sheriff Court Eviction Proofs, 104 Proofs were looked at. LSA represented in 60% of the total. In the months looked at, we acted for tenants in more Proofs than all the other firms added together. We don’t just do quality: we do quantity so that nobody is left out.
- Quality: in the Scottish National Standards inspection the assessor commented ‘in general the cases are impeccable ... it is extremely difficult to suggest areas for improvement ... a high standard’.

## Introduction

On reviewing the work of LSA in the run up to our 30th anniversary in March 2020, it is notable just how much has been achieved. Some particular highlights over the past year have included the amendment to the Criminal Injuries Compensation Scheme via our work on the Monica Allan case and our response to the Serco 'lock change' evictions where LSA took up approximately 100 of the cases in Glasgow; which led to our staff being awarded the Herald Judges award as part of the Glasgow Social Justice Lawyers Collective.

Accolades and high profile cases are important, but even more so is the day to day work our staff carry out in defending evictions, challenging homelessness, supporting people with complex mental health issues, assisting refugees and asylum seekers, challenging social security decisions, pursuing criminal injuries compensation and much more. This commitment to tackling unmet legal need and defending the rights of people who would not be able to access commercial legal support is at the heart of what LSA does across the West of Scotland and in the Lothians. This day to day work does not get reported on or often acknowledged, but makes major, beneficial improvements to the lives of the many, many people we see who are affected by poverty and inequality.

And the fact that LSA has carried out this work for 30 years is both remarkable and humbling at the same time. In this respect the hundreds of people who have worked for LSA or volunteered for us over the years deserve major recognition and thanks for their contribution. Our current staff group of solicitors, administrators and volunteers are a highly diligent and committed group and on behalf of the Board of Directors, I would like to thank them and acknowledge their valuable work. Further thanks go to our funders as without their financial contribution, it would not be possible to provide the range of services we do. Our Board members past and present deserve thanks and recognition too for their essential contribution to the strategic development and governance of the organisation.

As we move forward into our fourth decade, we are extremely pleased to welcome our new Chief Executive, Aaliya Seyal who

commenced with us at the end of 2019. Aaliya brings a wealth of experience with her and the Board are confident that she will help drive LSA forward and provide leadership at a time of significant change and development. We wish her all success.

Law centres do not often get the recognition they deserve, but we firmly believe the work of LSA highlights the critical role we play in defending the rights of vulnerable individuals and groups, and in achieving redress, improving peoples' lives.

It's a privilege to be associated with the work of LSA and we look forward to the future!

Barrie Levine  
Convenor, Board of Director



## About this P/Review

This P/Review is a continuation of an LSA tradition: 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 in more detail separately. This P/Review does not include a full set of statistics as it was drafted well before the end of the financial year.

This P/Review marks our 30th Birthday on the 22nd March 2020. That day in 1990 was the occasion of the registration of LSA as a company limited by guarantee and soon thereafter a charity.

During all this time, LSA has been tackling the unmet legal needs of those in disadvantage. We have analysed the law, publicised what we have learnt, undertaken training and education in cooperation with the sector as a whole. We have also provided high volume, high quality legal services in a number of key areas for people who often times would not get the advice and representation they need anywhere else.

## *Where we came from*

Our 30th Birthday is a useful occasion to summarise where we came from and some of the traditions that have become established: most of those remain current.

There are some things that this P/Review doesn't cover. For reasons of space if nothing else, we cannot acknowledge the assistance of individuals and organisations: so, no individuals have been acknowledged in this P/Review. LSA has always depended on the work of large numbers of people, some of whom have devoted decades to the organisation, some of whom just a week or two: all of these crucial. They not only did an enormous amount, they also brought principles, imagination and new vistas. Indeed, over the years as a result of this we have often done work that nobody else in Scotland was doing.

## *Before LSA's birth*

Before LSA as such was incorporated on 22nd March 1990, the operations that came together had been functioning for at least 18 months: particularly seminars and campaigning. The latter resulted in the formation of the Scottish Association of Law Centres (SALC) (originally Campaign for Community Legal Services) and significant changes to the law, on the structure of law centres. At this juncture an exception to the rule about acknowledging the contribution of individuals should be made. In the run up to the birth of the organisation John L Robertson, Felix Mulholland and Bill Kirkhope (all who have sadly passed away) undertook an enormous amount of work voluntarily. Without their commitment, the source of which was the tenant's movement and Technical Services Agency, LSA would not have come into being. These three of course joined the Board and were key officer bearers for many years: John serving as both Chair and Secretary, Felix as Treasurer and Bill as Company Secretary.

## *Seminars*

A key ethic at the beginning of LSA was, and still is, that knowledge of law of concern to people in disadvantage needs to be extensively available. We have provided training, on for instance, defended eviction, homelessness and housing law in general since 1988 and it doesn't look as though there is going to be any change to that. For instance, we are already planning another of our always successful major homelessness conferences in Autumn 2020.

Whilst LSA staff always have a key input to these events, we can be proud that at least two of the academic speakers at our forthcoming events were key speakers back in 1988! They have spoken at one or other of our events just about every year since.

## *Traditions*

It is worthwhile commenting on the traditions that the tenant's movement brought to LSA.

Our values have developed along with those of the trade union movement in Glasgow. A key concept was 'one for all and all for one'. No one should be left out.

In looking at homelessness and defended eviction the key principle behind LSA was that **everybody** threatened with a personal disaster caused by major housing difficulties should have advice, assistance and representation as good as, if not better than, that of landlords or local authorities. Of course, the legal profession in Scotland can provide excellent individual services but the vision of trying to make sure everybody can access them was then a novel development: and it is still an issue that needs addressing. And we aim to do so.

As a result of this LSA solicitors have attended every eviction court at

Glasgow Sheriff Court since 1989 and provide free advice and representation through an advice desk there. We have also attended virtually every Glasgow mortgage defence court since the opportunity to defend mortgage repossession came into being. The latter reform was one with which we played a key part, along with Govan Law Centre (not the only reform idea that has come through this cooperation).

### ***Poor housing***

The tenant's movement and community health activists in the 80's and 90's recognised the disastrous effects damp, cold and mouldy housing had upon the health and wellbeing of so many people in disadvantage. It recognised that getting the complex balance of insulation and central heating required high technical skills, hence LSA's close relationship with the Technical Services Agency (TSA), a community led architectural practice with strong building science understanding.

With unique foresight, TSA recognised that the law on insulation and heating was very undeveloped and helped LSA come into being.

Among our first cases was one in which compensation was awarded to a child whose asthma has been seriously exacerbated by damp, cold and mouldy housing conditions. This success received wall to wall publicity which was a wonderful way of launching LSA.



The development of the law here was in many respects a form of legal archaeology (as is indeed a fair amount of legal innovation) in respect that 19th Century Scots common law has always provided remedies for tenants living in houses that are neither habitable nor tenantable. We were successful in updating these principles to include new issues (including the enforceability of current building regulations).

Indeed, that updating went to the extent that one of LSA's solicitors later ended up writing the 'style' tenancy agreements for local authority housing recommended by the Scottish Government: key parts of which had their source in our legal archaeology.

The need for insulation and decent heating systems has in part been recognised with significant improvements on the part of landlords. However, we have recently seen an increase in defective housing casework and are dusting off our archives and reviving the arguments that were so often used in the first ten or fifteen years of LSA.

As the need for improved insulation and heating systems increases so does our recognition that inefficient use of heating contributes so much to global warming. We expect this area of work to continue developing.

### *Case Study: dampness and disrepair*

A tenant consulted us as she was upset about the dampness and disrepair issues in her new socially rented tenancy. The landlord at first refused to accept liability for the dampness blaming it on the tenant and the modifications the landlord claimed she had done to the flat. Using the legal aid system, we obtained an independent architect's report and an extensive portfolio of photos showing that the dampness issues were present prior to the tenant moving in and that they were caused by disrepair and defect issues. Net result: landlords did repairs.

### *Quote*

'Solicitor was very knowledgeable and helpful concerning my case ... from the receptionist who photocopied my documents and arranged my appointment, both were very professional. I would definitely recommend your firm'.

## ***National Provision***

The themes behind LSA's commitment to not just the organisation but also national provision of legal services started at the beginning and has continued since. A key initiative originally was to persuade the Government to change the law permitting law centres to develop in the first place. This resulted in the complex but workable arrangement whereby the solicitors working for law centres operate in a practice which has professional independence but not separate financial existence. The law centre sets the objectives and is responsible for business management and oversight, but individual cases or quality are the responsibility of the partnership. This is the model followed by all Scottish law centres. In LSA's case its 'embedded' legal practice (which has functioned since 7/11/1989) is Brown & Co Legal LLP.

Our commitment to the development of law centres has continued: LSA provided the legal practice component for two law centres that have now grown independently. We can also be proud that former staff have moved on to run two successful law centres and at least another two national legal resources.

## ***Grant Support and Legal Aid***

LSA (in common with all law centres) has always needed Grant support: the sort of service we provide can't be supplied through an individual case based legal aid system. Some of our core areas of work (particularly housing law) aren't and never have been adequately funded by legal aid. However we recognise the commitment by the Scottish Government to a reasonably comprehensive legal aid system and have worked for a number of years to support and expand, particularly, civil legal aid with a concentration on the areas of law covered only by the Advice and Assistance Scheme.

We don't think there needs to be across the board legal aid increases,

although the rates need to keep up with inflation. We do however think the ‘Cinderella areas’ need particular support either through a comprehensive Grant system or some additional provision of legal aid.

The ultimate conclusion of these conversations is yet to be seen however it is to the credit of the Scottish Government, Scottish Legal Aid Board and other relevant partners including the Law Society of Scotland, local Bars and the Faculty of Advocates that the conversation has been so extensive and open.

### ***Community Business and Flexible Funding***

One of the set of ideas that the original Steering Committee and Board of Directors of LSA brought to it are the combined traditions of voluntary organisations, charities and community business. LSA as a result has always had a range of forms of income. Our seminars have always been self-supporting as a consequence of the attendance now a total of well over 60,000 delegates paying (and we are proud of this) among the lowest amount for the highest quality events in the sector.

Other activities are at least partially self-supporting financially including our work for people with severe mental health problems and dementia. What we bring to the service to people with such challenging disorders is not grant support but our commitment to ensuring that nobody, no matter how unwell they may be, should be left without a voice.

However, a fundamental core of our financial security has been, and will continue to be, financial support from the Scottish Government, Glasgow City Council, other local authorities and key trusts. They are acknowledged fully later in this P/Review.

Our commitment to aspire to provide a service for everybody in the worst housing circumstances, for instance, means that our services could not possible be provided without that financial assistance. So, we intend

to continue to have the flexibility provided by a wide range of sources of funding but absolutely within the context that the core of our existence is financial support from government.

### *Accountability*

And what of the ideas that have provided a direction to our work?

LSA came into the being very much aware of many of the strengths of the legal profession in Scotland: we are very appreciative of this given the often superb input from solicitors, advocates, Judges, academics, welfare rights staff and others who contribute to our seminars which of course run two or three times a week. Members of the legal profession provided support in the early days of LSA's Steering Committee and on our Board of Directors for many years thereafter. Many very eminent lawyers continue to provide input: for instance, Advocates for our Judicial Review cases.

The organisation however recognises that the legal profession is organised very much on business principles and is generally (of course there are major exceptions) unable to develop, tell people about and run new social welfare and housing law remedies. Indeed, even if new remedies are potentially financially remunerative, they may not be pursued if existing work is more remunerative. New remedies funded only through civil legal aid are particularly unattractive to many law firms. The private business model does not provide accountability for strategic direction.

LSA Board of Directors supported by Members has always had a clear direction about tackling the unmet legal needs of those in disadvantage and not pursuing matters that are more remunerative.

To provide a balance to business principles, the initial discussions of the organisation identified the fundamental principles that underpin what we

were and are doing and why.

### ***Human Rights Principles***

Of course, now more than 30 years ago we were very much less aware of the European Convention of Human Rights which now plays such a crucial role in the legal system.

Some of us however were aware of religious principles that have been followed by many thinkers, within and without those religious traditions.

‘Justice justice shalt thou do’ (Old Testament) and ‘Do Justice Justly’ (Koran) have been the source of the idea that social justice and procedural rights are crucial for everybody: both to benefit from and ensure others do so. ‘There but for the grace of god go I ...’.

The Universal Declaration of Human Rights was key to LSA: for many years the Declaration itself was displayed in the waiting room of LSA’s then very cramped offices above a fish and chip shop.

Of course, the Universal Declaration of Human Rights marries human rights, social justice, procedural justice and legal fairness.

For instance, Article 1 asserts that ‘all human beings are born free and equal in dignity and rights’ whilst Article 23 asserts the right to work and to get just remuneration and Article 25 provides for the right to a reasonable standard of living.

LSA has always been committed to thinking about social justice as well as traditional legal issues thus, for instance, we have always had a commitment to working with the wider sector as a whole, of course, to achieving decent health provision, housing, education and financial wellbeing for all people living in Scotland. This is linked with our commitment to at least being a small part of the international movement

to support people who are forced to flee their home countries because of extreme disadvantage, persecution of other factors. We are absolutely committed to the rights of migrants and new Scots and aspire to strong partnerships with organisations such as the Scottish Refugee Council.

Originally the European Convention of Human Rights was largely seen as a tool for tackling abuses of Government power relating to legal procedural issues and not social justice or environmental issues.

Of course, that did not stop LSA welcoming the Human Rights Act with one of the biggest events we have ever staged: we had to hire security guards to control the crowds that filled the cinema that we hired for the event! But for the experience of a volunteer with a music industry background we could not have pulled the event off.

We welcomed the devolution settlement and the way that the Human Rights Act goes to the heart of how the Scottish Government, local authorities, schools, NHS and many other organisations now have to function.

LSA has used these developments along with anti-discrimination legislation (culminating in the Equalities Act 2010) on a daily basis.

Working with a small number of private firms we have developed public law remedies in our specialist areas extensively and made sure that legal education is available for all on these topics.

### ***Public Law Developments from England and the EU***

It is worthwhile digressing to acknowledge the importance of developments in the London based courts. Human rights litigation through that route has shown how human rights law can to at least some extent marry economic and environment issues thus drawing in some aspect of social justice.

Of course, for well over a decade we hoped that the European Union Charter of Fundamental Freedoms would spur this development. Brexit has closed this door. However, in an imaginative development the First Minister's Advisory Group on Human Rights Leadership has recommended, in effect, a Scots law version.

However we very much hope the current UK Government's signals that it seeks to control or reduce the impact of Judicial Review and the Human Rights Act will not proceed: whilst human rights are more entrenched in the way the Scottish constitution operates than in England, legal innovations from London are crucial to our ability to develop innovations here in Scotland too.

Indeed, LSA's development could not have happened at all without stimulation from England. Our 'mentoring' organisations were undoubtedly the Law Centres Federation (now Law Centre Network: LCN), North Kensington Law Centre, Springfield Law Centre (a law centre actually in a mental health hospital) and then, of course, (in Glasgow) Castlemilk Law Centre. No less than two of LSA's first key members of staff had worked in CLC. CLC itself of course was heavily influenced by law centres in England as well as the, of course, by then the well-developed CAB movement.

LSA has maintained links with the rest of the UK: for instance, 'Justice' and Legal Action Group. A senior member of staff spoke at and chaired the Justice Fringe meeting at the SNP Conference 'Public Interest Litigation: lost in the Highlands', whilst three members of staff had written a lengthy article in the Journal of the Legal Action Group. We hope to build on these links.

As the UK Government distances itself from the EU so too, we need to ensure that we, as part of national organisations, maintain our links not only English organisations but, probably largely through them, relevant organisations in Europe. A continuing close understanding of the

European Convention of Human Rights (of course nothing directly to do with the EU) is crucial.

### *A European Perspective*

Elsewhere in this P/Review, in discussing Criminal Injuries Compensation, we mention the case of Monica Allan which resulted in a Sealed Order from the Supreme Court that the discriminatory provisions of the Criminal Injuries Compensation Scheme had to be in effect redrafted: and they were so within a matter of months by the UK Government.

Not only did this case result from exceptional litigation in all three UK jurisdictions (England, Northern Ireland and of course Scotland) but the success of the cases could not have taken place without prior work on the meaning of Article 1 Protocol 1 of the European Convention of Human Rights: respect for private property and the ban against discrimination in Article 14.

Originally A1P1 would have been seen as only of relevance to people with tangible property rather than rights to social security or housing, for instance, that they could not access owing to discriminatory legal provisions.

Litigation largely from Europe, including of course the rest of the UK, shows that insofar as the state (including emanations of the state such as local authorities, NHS, education and so forth) makes provision of a service, the right to private property of Article 1 Protocol 1 can be asserted if the only reason the individuals are not getting those rights is because of discriminations which can be cut down by Article 14 (which basically attacks all forms of discrimination including, for instance, discrimination against people who are homeless). The ultimate scope of these rights is yet to be decided.

Whilst this approach does not commit any state body to actually providing any form of benefit, insofar that it has decided to do so it has to be done in a human rights compliant fashion.

This imaginative and creative approach to the development of human rights law can be seen in the way that environmental rights have expanded. Thus, the Supreme Court in the Netherlands has ruled that a failure to mitigate sufficiently for climate change can be a breach of the rights of individuals too (the right to life and to family life).

This case raised by nearly 1,000 individuals (in the name of an organisation 'Urgenda': the Urgent Agenda), shows the way to how group litigation could develop in Scotland. Probably less to insist on higher standards by central government for climate mitigation (we already have a progressive approach there) but to press all aspects of Government and organisations to actually implement those policies rather than to pay lip service only to them ... if need be through litigation.

In that respect, in cooperation with the Climate Emergency Legal Network, which is at its beginning but initiated and serviced by LSA, we are pressing the Scottish Government to introduce legal aid for group actions as it is indeed committed to do so by international obligations.

### ***Human Rights and the Future***

And how may the application of human rights principles play out in the future?

Not only do we hope to be part of a developing movement to press for all climate mitigation steps to be taken at every level but we also hope to be part of a movement to develop the potential of a human rights approach to its fullest extent, particularly as regards social welfare, asylum, mental health and housing law.

Our work on the Monica Allan case showed the potential of Section 6 of the Human Rights Act.

Section 6 provides that, subject to a number of exceptions, all statutory instruments whether Scottish or UK that do not comply with human rights principles have to be read by the organisation, tribunal or court dealing with them so as to be human rights compliant.

This is an enormously potent remedy which means that all provisions arising from a statutory instrument which are discriminatory or otherwise not human rights compliant can be tackled. Obviously, there are thousands of SI's in a myriad of fields that need to be looked at.

Given the approach in the Urgenda case it would appear that this might include secondary legislation which is not climate friendly.

Looking at these provisions is always a work in progress.

We are however continuing our work in this field: for instance, our scrutiny of the Criminal Injuries Compensation Scheme. We are engaged in two Judicial Reviews currently which are founded upon a human rights attack on the way the Criminal Injuries Compensation Scheme applies rehabilitation of offenders in a discriminatory way between Scotland and England.

We don't know where this will end: but it will be exciting!

### ***United Nations Convention of the Rights of Children (UNCRC)***

We welcome the Scottish Government's intention to incorporate the UN Convention of the Rights of Children into Scots Law. We look forward to the debate on the Bill and, indeed, particularly the suggestion that the Bill may comprise a separate list of enforceable Scots Law rights as opposed to simply 'lifting' the Convention itself.

These imaginative and important proposals have largely been looked at by ‘child law’ and family law specialists. And of course, it will be important to them no matter quite how it is incorporated (and a Bill will be published at some point fairly soon).



The new rights however will not just apply to child and family law but also to education, health, cultural provision, recreation, sport, housing and probably planning and generally climate mitigation issues.

Article 3 provides for instance: that the child’s best interests must be a primary consideration in **all** decisions affecting her or him (our emphasis). Whilst like most such set of principles, its interpretation will very much depend on viewing it in a wider context as well as looking at the way cases develop, the Article is drafted very strongly and leads the reader in no doubt as to what is the most important thing.

We do not yet know whether the new rights will be drawn into Scots Law with the breadth of enforceability of the European Convention of Human Rights or in a more constrained fashion (we will press for the former) but one way or the other the new arrangements do promise to be an exciting set of developments for the future.

For instance, the Deputy First Minister has stated that every devolved body, health board, council and the Scottish Government itself will be legally obliged to make sure they respect children’s rights. It is also suggested that children’s rights impact assessments may need to be made along similar lines that required in respect of Equality Act assessments.

We have already organised a number of seminars with input from relevant experts on the new proposed arrangements and will organise more particularly encouraging a broad and purposive approach to the new principles. We also aim to have a launch event on the day (whenever it is) the Bill becomes law or, at the very least, when it comes

into force. In the same way as we pioneered the application of human rights and equalities law to for instance, defended eviction and homelessness (but not just these remedies) so too we intend pioneering the application of these new provisions to the areas of law of the greatest concern to people in disadvantage in Scotland.

Human rights are of course about making sure no one is left out: and that particularly applies to children.

## **Housing and General Court Department**

The Housing and General Court Department was where LSA started 30 years ago and in many ways its work has not changed much since, although the extent and complexity of the legal remedies have developed apace. Recently the number of clients with major problems and difficult legal issues have soared. Whilst it can indeed be tragic that the problems causing threatened eviction and homelessness in both public and private sector continues, there have been major reforms.

We can be proud that many of those reforms have come through our work, of course, in cooperation with national charities and other law centres as well as a real desire to reform on the part of the Scottish Government. Our vision remains that everybody who is homeless or threatened with eviction should get a service: never an easy vision to maintain but one we still aspire to.



### ***Our Service***

With funding from particularly Glasgow City Council, the Scottish Government and the Oak Foundation we now run drop-in surgeries every day of the week for homeless people at our Fleming House, Glasgow office. We also run outreaches in Maryhill, Possilpark, Drumchapel CAB, Drumchapel Money Advice Centre, Scottish Refugee

Council and Molendinar Community Centre. These services are also linked to our advice desk with linked free representation at Glasgow Sheriff Court eviction court and mortgage repossession courts.

### *Quote*

‘I felt really at ease with my lawyer, I haven’t had many dealings with solicitors but she was very understanding and explained to me what would happen next’.

The Department also takes appointments in the normal fashion and deals with emergencies. We aim to be as open to those in need as our resources can permit.

### *What did we do?*

In the nine months 1st April 2019 to 31st December 2019 we saw 834 housing clients: that is an estimated over 1,000 housing clients for the financial year April 19 to March 20. A quarter of these clients were from ethnic minority backgrounds. Most had mental health issues.

### *Quote*

‘I had an interview with my solicitor at the Citizens Advice at Drumchapel office and yes I thought he was very helpful and he did explain everything to me very well’.

### *Case Study: emergency defence*

We had a client that attended with late instructions on a Friday afternoon prior to a Bank Holiday Monday. Solicitors had to attend Court at 9am the following Tuesday to lodge the court documents, wait for them to be warranted, and then had to rush back to the office to serve them prior to the eviction which was scheduled for 10.30am that morning. The client’s home was saved. She and her children are still in their home today as a result.

### ***Case Study: home saved***

We had a tenant who is a single mother of seven children who was facing eviction due to allegations against one of her children for a drug related activity. Using legal arguments and the results of detailed detective work, we managed to persuade the housing association landlord not to proceed with the Court action and to monitor behaviour. The tenant and her family continue to reside at the property and it is understood the problems have been resolved.

Almost all these cases involved court appearances (a number for each person) whilst a significant proportion involved the setting down of Proofs, (well over 170) and indeed on occasion the running of full Proofs over a number of days.

In homelessness cases significant numbers of Judicial Review actions were threatened or actually commenced.

### ***Case Study: judicial review***

One of our client's presented as homeless to the Council's Homelessness Services and made an application. Even though our client advised his caseworker that he had been sleeping rough, he was not provided with temporary accommodation on the day of presentation in spite of the Council's legal obligation to do so. The client returned to the Homelessness Service the following day again asking for temporary accommodation which was again refused. He returned on a third day and against temporary accommodation was refused. He ended up sleeping rough for two nights in December before being referred to the Winter Night Shelter. We were consulted and intimated to the Council that we were about to start Judicial Review proceedings: our client was provided with accommodation on the same day.

### ***Case Study: street homelessness after receiving asylum***

We were instructed by a man who had recently been granted asylum status. He was seeking temporary accommodation from the Council as is his entitlement as his Home Office accommodation has been withdrawn. He had nowhere to stay. The casework team did not accommodate him. We instructed an Advocate to commence Judicial Review proceedings: after that was intimated, the client was provided with accommodation and is no longer street homeless.

LSA has been key in developing many of the legal remedies in defended evictions and mortgage defence. We were involved in the early stages of the Mortgage Rights Act and promoting Pre-Action Protocols. We were among the first to develop Equalities Act defences and Equalities Act claims against public authorities for failing to make reasonable adjustments in the provision of homeless accommodation for people with mental health issues. All this is continuing.

### ***Serco***

Glasgow has a well developed tradition of welcoming people from all over so becoming the diverse and culturally varied city that it is. The original period of dispersal of asylum seekers of course involved rather more families than currently: however, this process continues.

Scotland as a whole has responded to the challenges of asylum and immigration law, to emphasise the importance of the rule of law, the involvement of skilled legal aid lawyers and the application of legal procedures and remedies where disputes arise. We were all accordingly astonished when the main accommodation provider set up by the Home Office (Serco) initiated 'lock change' evictions without thinking it had the need to go through any legal procedure at all for eviction or recovery of possession.

In partnership with a number of law centres and national charities coordinated by the Scottish Refugee Council, LSA takes part in a number of drop-in surgeries aimed at providing legal representation to clients threatened with lock change evictions. We obtained scores of Interim Interdicts preventing the lock change evictions and are representing scores more in the standard summary cause eviction cases that Serco subsequently started to raise.

This was a great example of how campaign and support organisations can work with lawyers from a variety of backgrounds to provide high volume high quality services. Not only is this work continuing but be it may be providing a template for how other issues may be tackled for instance the Climate Emergency Legal Network (see later in the P/Review).

### ***Case Study: Serco***

In spite that in general we successfully obtained Interim Interdicts against lock changes, on one occasion Interim Interdict was refused. We took urgent steps to remedy the situation. We identified that the client should have been entitled to make an application for asylum support. Having an active application for support is a weighty factor in favour of granting Interim Interdict by the Court. We made an urgent application to the Court and obtained a fresh hearing on the Interim Interdict. The original refused Interim Interdict was a Tuesday: by 12.30pm the next day that application for asylum support had been dealt with and a fresh application for Interim Interdict sought and obtained. The client has now made a fresh claim for asylum and is no longer at risk of eviction. Net result: client saved from lock change eviction and street homelessness avoided.

### ***Equalities***

LSA's deep commitment to looking at all our work with a human rights and equalities set of spectacles on, has meant that we have started

looking at other areas where equalities law may apply. It is highly complex with sharp time limits.

We have however run seminars and taken up cases in the following areas:

- Landlords banning tenants on benefits

Woman and disabled people (including with mental health issues) 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 claims and promoting the remedies through conferences and seminars.

- Equalities and social security

The department has provided free training to welfare rights 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. Test cases are being pushed forward and we hope this area will develop.

- Equalities and housing

LSA solicitors pioneered the insertion of Equalities Act Defences into defended eviction cases and indeed has undertaken extensive training for other organisations in this field.

LSA lawyers have also undertaken damages claims for clients in housing disadvantage of whom landlords and local authorities have not made reasonable adjustments to take into account their generally, mental health disabilities. This is an important work in progress.

### ***Case Study: homelessness and reasonable adjustments***

Our client had a number of physical and mental disabilities. She fled domestic violence and sought homelessness accommodation from the Council. After a month, our client was not accommodated on several days. The temporary accommodation was in a number of different hotels around Glasgow. She was not provided with accommodation which was suitable given her disabilities. One hotel was so defective that she fell down a flight of spiral stairs. In another, she fell in the bathroom because it was inaccessible to her.

We threatened Judicial Review and managed to secure accessible and appropriate temporary accommodation as a result. We are now pursuing a disability discrimination claim against the Council.

### ***Case Study***

We represented a tenant in a defended rent arrears court case which went all the way to a Proof Hearing. The rent arrears were around £3,000 and when she originally consulted us there was no payment arrangement made. The client suffered from significant mental health difficulties for which she was receiving medication. It was successfully argued upon her behalf that the landlord had failed to follow the appropriate Pre-Action Procedure in terms of the Housing (Scotland) Act 2001. Our submissions were successful and the action was dismissed. The tenant has therefore obtained a further opportunity to out the rent arrears and ongoing payments and, accordingly, to keep her home.

### ***Human Rights and Housing Law***

The source of the Housing and General Court Department Defended Eviction Project, was of course, the perception that it is a fundamental human right that everyone threatened with a fundamental impact upon their human rights: for instance loss of their home and disruption of their

family life: should have appropriate advice, assistance and representation. If they are unable to afford this themselves, the state should provide it.

Glasgow City Council has recognised for a generation that as the body responsible for preventing homelessness, part of those responsibilities entails ensuring that vulnerable tenants and homeowners get representation.

The work we do through this route is a major human rights intervention which we are proud to provide.

Protecting human rights is not just provision of services but also developing new remedies and test cases.

In a series of our test cases over a number of years, the Courts recognised that the procedure for recovery of possession of Short Scottish Secure Tenancies (SSSTs) was not human rights compliant. The law was ultimately changed by the Scottish Parliament.

More recently the department has developed arguments about the removal of the ‘reasonableness defences’ in certain public sector tenancies where the tenant has committed criminal offences. We doubt whether the removal of court scrutiny is human rights compliant and will run the appropriate test cases.

Finally, of course, human rights and equalities points are taken as part of judicial review of homelessness decisions as well as standard eviction defences.

### ***Social Security***

LSA’s outreach surgeries particularly provide a specialist service for clients referred by welfare rights officers, CAB or advice centres. We

particularly obtain and interpret medical records and reports for the purposes of disability benefits.

We undertake Upper Tribunal applications with indeed five being undertaken in the Autumn (all successful).

### *Quote*

‘I went with one problem, and they also offered to help with another problem that I mentioned. Brilliant.

### *Private Rented Sector Housing Law (PRS)*

LSA staff have significant expertise in private rented sector with one solicitor being a Legal Chair of the First Tier Tribunal (Housing). Extensive training on the complexities of this field have been undertaken.

The Department has identified a range of technical defences in eviction cases which can provide a ‘breather’ to the otherwise draconian eviction procedure if the tenant has the misfortune to run up rent arrears. The Department has undertaken recovery of deposit cases on a regular basis, harassment claims and claims for disrepair. As the private sector increasingly appears to be used as a recourse to homeless people, we anticipate this area developing.

### *Case Study: PRS*

A pregnant tenant of a private tenancy was in rent arrears due to Universal Credit problems. We identified a number of problems with the landlord’s Notice, the way they had raised the Tribunal action and their notification to the local authority. There was also a defence that rent was not lawfully due to dampness and disrepair. We represented our client in a case management discussion and the landlord was persuaded to drop the eviction action.

### ***Case Study: PRS***

The client had lived for five years in a property with no heating or hot water, no working shower and other disrepair issues. The landlord had been notified on numerous occasions and no works had been done. We obtained an architect report, photographs and a timeline. We raised a First Tier Tribunal Housing and Property Chamber application for compensation. We successfully argued that the landlord was in clear breach of his repairing obligations and our client was awarded over £5,000 in damages.

### ***Quote***

‘I was well received and advised of the outcome of my case. The lawyer that I saw spoke to me at length so I could understand the process. I was referred by Drumchapel Money Advice Centre. I am looking forward to the support through this case’.

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## **Criminal Injuries Compensation and Law Reform**

The work of LSA on Criminal Injuries Compensation is cross cutting: using the resources of all departments.

Why is this necessary?

We take up a wide range of cases from the straightforward to the highly complex. The complex cases involve a wide range of skills.

For example, in several cases we have acted for the children or murder victims and required to obtain parental responsibilities for the new caring adult (generally the grandparents).

In other cases where a victim has suffered serious brain injury, we have

applied to the courts for the appointment of Interveners who instruct us as lawyers. This is because the brain injured victim, whilst of course consulted in all matters, is unable to give formal legal instructions.

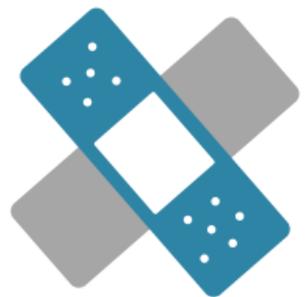
We also set up personal injury discretionary trusts for clients who are successful so helping them avoid exploitation and ensuring that their compensation is not assessed for means tested benefits.

Many, if not indeed the majority of our clients, have mental injuries as a consequence of crimes of violence: our experience in providing advice assistance and representation to people with mental health issues means we have excellent access to independent experts and have skills in reading and analysing the relevant medical records.

We are committed to making sure the sector as a whole is aware of the Criminal Injuries Compensation Scheme. LSA (in cooperation with Castlemilk Law Centre, with Scottish Government funding) has supplied more publicly available training in this field than any other organisation (the most recent being in February 2020). Staff have also written two texts and an electronic handbook.

We undertake significant numbers of applications to the First Tier Tribunal and have a good track record in complex cases.

In one test case we were successful in having the First Tier Tribunal (FTT) decide that holding a young woman in a flat threatening her with being employed as a prostitute was in its own a serious crime of violence and as a consequence she will obtain substantial compensation for the mental injuries arising from this.



In another case, the First Tier Tribunal held that the intervening period between a sexual assault on a child that took place early in the morning

and the disclosure in the early afternoon to her mother meant that the emotional injuries suffered by the mother, to whom the abuse was disclosed came within the concept of ‘immediate aftermath’. Interpreting the concept in accordance with its ordinary meaning meant that weight ought to be placed on the word ‘aftermath’. Of course, immediacy qualifies this, however the two words together mean that there can be a gap between the crime of violence and the disclosure. Not only will the victim of the assault receive compensation but so too will her mother. This is a principle that has some general application. Whilst the representation was by an LSA solicitor the legal research was undertaken by an Advocate and is a good example of the way LSA often works closely with the Faculty of Advocates.

As in other areas of our work we look at the public law issues arising. The reforms produced as a consequence of the Judicial Review of the 2012 Scheme same roof rule has been commented on elsewhere. We took up one other Judicial Review case concerning procedure at a First Tier Tribunal: the Government threw in the towel and that case will be going back to a tribunal for reassessment.

We are also pursuing two other Judicial Review cases. Both relate to the much harsher rules that exist in Scotland than in England and Wales for the removal or reduction of criminal injuries compensation awards as a consequence of criminal records on the part of the victim. This unintended prejudicial discrimination has a significant impact on a number of Scots victims of crimes of violence. Whilst the law is being reformed, victims from the past will need judicial intervention to declare that the discriminatory approach hither too is unlawful on human rights grounds and, accordingly, the application of Section 6 of the Human Rights Act means that the Scheme needs to be read so as to remove the discrimination. These cases will take some time to go through the courts, they are however of considerable general importance.

There is a Criminal Injuries Compensation drop-in surgery every

Wednesday afternoon at Fleming House.

Part of our ‘aftercare’ service includes setting up and managing Discretionary Personal Injury Trusts which can be a crucial service to vulnerable clients particularly those who are on means tested benefits.

### ***Case Study: compensation for scarring***

Our client and their partner were both victims of an attack in their home. The attack appears to have been a random attack and the assailant broke into the property and stabbed both the client and their spouse several times. This resulted in both clients being rushed to hospital and severe scarring for both victims. The client has extensive scarring to their face as a result of the incident and both the client and partner had to move due to the incident. We helped the client complete an application for Criminal Injuries Compensation and help the client correspond with the Criminal Injuries Compensation Authority to ensure they had all the information to assess the claim. The client was recently made an offer of nearly £12,000 compensation which they have chosen to accept. The client’s partner’s application is still ongoing.



## **LSA’s Mental Health Legal Service**

LSA’s Mental Health Legal Service (originally LSA’s Mental Health Legal Representation Project) started right at the beginning of the organisation.

At that point members of the Board, some with experience of mental health difficulties both personally and in their family, were aware that very few people diagnosed with a mental health disorder received representation.

LSA pioneered representation for vulnerable adults subject to both detention and compulsory treatment.

With the setting up of the Tribunal System and the development of the Incapacity Act so too has the service expanded in its scope.



The service now covers all the legal issues that people with mental health problems or incapacity may have whether it be family law, child law, protection from financial exploitation, housing or of course compulsory treatment and detention.

The service thus covers Powers of Attorney, Financial Guardianship, Trusts, Intervention Orders, (in litigation relevant to somebody without the legal capacity to instruct a solicitor) Children's Hearings as well as the crucial representation of people who are being detained.

The service brings not just a holistic approach but also knowledge of the medical and psychological background as well as of course the details of the law.

Staff have annotated the relevant Statute whilst over the years there has always been one or two members of the team who are also legal members of the Mental Health Tribunal.

### ***The Structure***

The service is structured into two units. LSA's '**Mental Health Legal Service Glasgow and the West**' and LSA's '**Mental Health Legal Service Edinburgh and the East**'. Access to the service is flexible.

The freephone number can be used by anybody: particularly people who are detained (0800 316 8450). Otherwise both services can be accessed by the relevant dedicated phone number.

Whilst many clients visit our Fleming House, Glasgow office or our facilities in Edinburgh, our outreach strategy means that solicitors will visit people in care homes or hospital or in the homes of relatives whenever this may be required.

### ***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, alzheimer's 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 always 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 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 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. Some of this work is not at all attractive to private firms as it may not be commercially viable. As Financial Guardians, we are appointed to look after the financial affairs of a wide range of clients with dementia or similar incapacities. This protects their finances and them from exploitation and means that they are enabled to live in the community or in an appropriate care home. The Financial Guardian ensures that all relevant decisions are taken in the client's best interests speedily.

### ***Other examples of our work***

The following examples of the work of the department illustrate the way that legal intervention can be part of a therapeutic and supportive approach to a vulnerable adult. Our intention is not to have an adversarial relationship with caring professionals and institutions but to help their role be appropriately focused as well as most fundamentally to ensure, simply, that our client's voice is heard at each stage.

A key aspect of our work is to ensure that our clients live as independently as they are able to do so. Not only is this in accordance with human rights principles but, indeed, the Act. Fairly obviously it also saves money for everybody concerned.

### ***Case Study: return from hospital to care home***

In one case we acted for the son and Welfare Guardian In one case we acted for the son and Welfare Guardian of an elder person with disabilities who was being kept in hospital against the family's wishes. The Welfare Guardianship Order was varied. The elderly lady who was coming to end of her life was discharged from hospital and returned to her original care home. The issue of the restraint that the care home staff required to exercise was managed. The net result was that the elderly lady was able to return to live in the care home and not in hospital.

### ***Case Study: maintaining autonomy***

In another case of another elderly lady, the Tribunal held that compulsory treatment was not necessary and the client could be treated in hospital as a voluntary patient. Her autonomy was maintained without disrupting the treatment that she ultimately may have required.

We are often at times able to use the law to ensure appropriate levels of flexibility.

### ***Case Study***

We acted for an elderly person who was in hospital. She did not want an application for Welfare and Financial Guardianship to go ahead. We were the only organisation prepared to take instructions. The net result was that she was able to have a trial of living at home and ultimately that was successful: she was discharged to her home. The enhancement of her autonomy and wellbeing as well as substantial savings in care home fees made a really big difference. The Guardianship Order continues so that appropriate care needs can be managed.

### ***Case Study***

We were consulted by the mother of a disabled person. She was his carer. An application had been made for Welfare Guardianship by the local authority. She had been unable to obtain legal representation anywhere else. The referral was made by the Court to us. We were able to work to improve the relationship between the mother and the local authority. Discussion and negotiations took place and as a result a trial of independent living in the community outwith the family home took place. Arrangements that satisfied everybody eventually were implemented.

We are very aware of the importance of Powers of Attorney, both Financial and Welfare. We have taken part in a number of Power of Attorney awareness programmes and intend to do so in the future. A Power of Attorney for individuals leads to potential reduction in costs

and delays to the local authority as it can reduce ‘bed blocking’ and the need for local authority Guardianship applications. We are very aware of the need for people granting Powers of Attorney to be fully advised: apart from anything else to ensure that the person they appoint to have the power is appropriate.

### *Plans for the future*

Our comprehensive and trusted service is set to expand hopefully by the employment of one or possibly even two further legal staff.

The department will fully engage with the reviews to aspects of the law that are ongoing.

A law centre approach of education, policy engagement and casework still remain very relevant to the rights and interests of people with mental health issues or dementia in Scotland.



## **Climate Emergency Legal Network**

The school strikes, Greta Thunberg’s pungent commentary, the work of Extinction Rebellion and, of course, the imminence of COP (Conference of Parties) 26 in Glasgow have (many may say at long last) focused our and other legal aid lawyers attention on trying legal remedies to pushing forward urgent climate mitigation measures.

Linked with this, of course, is the application of our law centre social justice traditions. It’s not just about having a just transition to a zero carbon economy for everybody who may be affected by climate mitigation issues but also to ensure that people who are already disadvantaged do not suffer more disadvantage as a consequence of the

major speedy changes that have to happen.

Looking back to the move away from open coal fires in Glasgow and, of course, mining in West Central Scotland these changes in many ways took place without thought as to the impact on people in disadvantage or people who would lose their jobs. The heating systems provided for people in Glasgow were utterly unaffordable (simply mains electricity) combined with poorly insulated housing which was completely incapable of providing warm and comfortable housing. Two generations lived in damp and cold housing with substantial internal air pollution caused by mould. In many ways the move from coal in former mining areas has still not been corrected.

In order to look at the law that can force climate mitigation measures at a wide range of levels, LSA in cooperation with a number of other law centres and academics has drawn together a Climate Emergency Legal Network.



It is early days yet, the Network however hopes to research the law and move to an open conference or event in the near future which will explain what remedies are available to whom.

The eyes of the world will be on Glasgow in November and we hope by then to be able to show how the largely progressive law we have (which is overwhelmingly popular with the public) can be used to ensure that the democratic will actually happens.

We hope to obtain funding for this event as well as to develop other aspects of the work.

The remedies identified include:

- The use of the ‘Urgenda’ decision to show how human rights law

can be used to interpret and develop many other remedies to put climate mitigation at the forefront of a wide range of decision making. Particularly taking into account that Section 6 of the Human Rights Act bans the provisions of any secondary legislation which is not human rights compliant.

- Planning legislation is subject to a raft of detailed provisions aiming for the Scots zero carbon target. That combined with the Urgenda decision means that there may be a lot more opportunity for ensuring that planning decisions at all levels aim for zero carbon.
- Will older remedies such as statutory nuisance or delict control damaging activities such as flaring or residue at refineries? Can the pending Group Action Procedure being introduced in Scotland be used?

Very fundamentally the Climate Emergency Legal Network will look at legal aid provision in general and in particular Scotland and International commitment to introduce legal aid for community or action groups.

Finally, the Group will look at company law: all medium to large companies are required by the Companies Act in all their decisions to pay regard to the community and to the environment.

This is not just a tick box exercise but one that requires a real commitment to weighing up the pros and cons of all commercial decisions. Given that as a result of the way pension contributions now operate for all workers, we are all shareholders now and may be this can provide a real lever!

This work is just one example of the way LSA aims to innovate in cooperation with the sector as a whole.

## Legal Aid

The Scottish Government has shown marked commitment to maintaining a reasonably comprehensive legal aid system in Scotland. We have been struck by the commitment of Ministers, Civil Servants and of course the Scottish Legal Aid Board to maintaining openness to endeavouring to develop new ideas.

LSA coordinated a major event upon behalf of the Scottish Government in cooperation with the Scottish Association of Law Centres on input to the Evans Review. Both LSA and the Scottish Association of Law Centres made major responses to the Review.

Subsequently a senior member of LSA staff has been appointed to the Scottish Government's 'Expert Payment Panel' looking at how to take forward some of those ideas.

As part of this conversation we have been heartened by the positive comments that all concerned, including Ash Denholm MSP the Scottish Government Minister leading on legal aid, have made about law centres. There appears to be strong commitment to maintaining a law centre style provision of services particularly in the field of defended eviction, defended mortgage repossession, homelessness and social welfare law provision generally. LSA is eager to continue to work with the Scottish Government to develop a system to ensure that our services are provided with a sound financial base.

These comments need to be seen in the context that whilst the Scottish Government's commitment to provision of legal aid is second to none, the net result is that the per head expenditure on legal aid in Scotland is less than that of England and payments have not gone up with inflation.

Other issues that we hope will be addressed include the following:

- **The absence of a form of legal aid for groups.** Currently a community, charitable or voluntary group no matter what level of funding it has (or doesn't have) cannot apply for any form of legal aid. This deficit has particularly serious consequences in environmental issues. It is notable that for the purposes of taking up environment justice issues Scotland has an International commitment under the Aarhus Convention to introduce some form of legal aid.
- The way legal aid excludes, at least some cases, clients who have a **wider interest** which is shared by others. In the current Legal Aid Board's guidance in assessing reasonableness it is stated that if a case demonstrates a 'wider public interest' the Legal Aid Board may consider it unreasonable to make legal aid available to allow a client to litigate as a private citizen at public expense about something that is 'obviously not exclusive to them'. The examples given in the guidance are all environmental.

Generally as the concern about the climate emergency increases, and the need to push all the changes that are necessary from small to large, so too is the awareness of the need for a legal aid system that is appropriate for litigation to mitigate for the climate emergency. However, the net consequence of the absence of legal aid for groups and the SLAB guidance on the wider interest issue are that there is a catch 22. An individual cannot at times get legal aid for something that affects a wider interest (in some cases even if it goes to his or her fundamental human rights) but if he or she endeavours to cohere that wider interest with a group of others, no legal aid is available to them either. In effect the more important the matter, it appears the bigger is the barrier.

### *Quote*

'I am satisfied that the solicitor was professional, friendly and explained everything in an easy to understand manner. The solicitor was helpful and I benefitted substantially from the information I received'.

# 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.

## *The background*

LSA historically has employed a number of staff who came from the Greenock area. One member of staff worked closely with friends and relatives involved in the tenant's and trade union movement locally to help the development of the Project. Originally LSA supported it in a partnership with the Employment Rights Centre on a day a week. Since then the need for a specialist housing law project has been widely accepted. The Project now employs a solicitor and trainee with support from Inverclyde Council, the Community Health and Social Care Partnership and the Scottish Legal Aid Board.

The three full time staff mean that Inverclyde has access to top quality services supported of course by the LSA's Housing and General Court Department in Glasgow.

Over the years the Project has been involved in a number of important cases. One of its cases on the employment of medical reporting officers on Tribunals ended up in the House of Lords whilst another on human rights procedural issues resulted in significant law reform.

Other complex cases include dampness and disrepair claims and disputes concerning 'common parts' of tenements

A case to watch is one concerning an appeal against the First Tier

Housing Tribunal. The issue relates to the jurisdiction of the Tribunal itself to hear an application to reduce or ‘quash’ a tenancy agreement. We have represented our client to the Upper Tribunal for Scotland and the Appeal is now going to the Court of Session.

Of course, the bread and butter issues are homeless applications, reviews and judicial review as well as defended eviction actions.

### ***Partnership working***

The Project has always hugely benefited from partnership working with local welfare rights services, employment rights project, other voluntary organisations and of course the Council and the CHCP. Training events are provided on an as requested basis and it is hoped to develop those further in 2020.

### ***Plans for the future***

The Project is a small one but benefits from the economies of scale of being part of a much larger organisation. LSA believes this is a model for development elsewhere in Scotland.

Leaving that aside, Inverclyde Housing Rights Project plans to improve its already strong profile by a publicity drive as well as developing links with institutions locally such as, for instance, through a prisons project.

### ***Case Study: disrepair, private rented sector (PRS)***

Housing conditions in PRS stock can be poor. We are taking action upon behalf of a client whose flat has serious dampness: water penetration, rising damp and condensation as well as a number of defective electrical sockets. This is not particularly unusual and we generally get a satisfactory solution.

## 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 undertaking seminars on new statutes so that advisers can 'hit the ground running' with remedies that may help their clients. We will for instance be looking at Group Actions.

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.

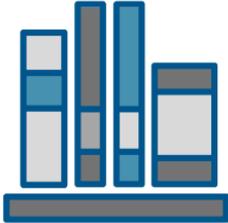
Other themes have been to promote knowledge of complex codes of law that may be of importance, this includes equalities law: whilst the 2010 Act is now approaching a decade old it is still not fully understood.

### *Quote*

'The excellent public forums LSA provides – knowledge is power!'

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 to 2,000 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 frequent major events. We will highlight developments in human rights law and newly identified remedies particularly as regards Section 6 of the Act. We will organise a major event on Judicial Review.

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.

We will arrange some focused strategic litigation events aimed at supporting litigators particularly in the field of social welfare and housing law to develop new and innovative remedies particularly in cooperation with the rest of the sector: something that has been so successful for the Serco clients.

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.



## 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.

A couple of years ago we were reviewed by the Scottish Legal Aid Board/Law Society of Scotland Peer Review system. We ‘passed’ this with flying colours.

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.



## Staff and Board of Directors

**Susan Bell**, Seminar Manager

**Paul D. Brown**, Principal Solicitor/Partner/Director

**Garry Burns**, Director

**Stacey Carr**, Financial Guardianship Assistant/Paralegal

**Seonaid Cavanagh**, Solicitor

**Dr Ben Christman**, Trainee Solicitor

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**Willie Croft**, Company Secretary

**Jenna Fee**, Seminar Assistant

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**Bobbi Fraser**, Junior Legal Secretary/Administrative Assistant

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**Wanda Greig**, Cleaner

**Celia Hay**, Legal Secretary

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**Elizabeth Stewart**, Office Manager (Glasgow)  
**Rachel Walker**, Associate Solicitor  
**Helen Wylie**, Legal Secretary



NOTE: quotes and example cases have been anonymised.

## Thanks

LSA appreciates the enormous amount of support we have had from outwith the organisation. 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.

We have 20 to 30 new clients a week. Virtually all have been referred by advice agencies, CABx, social work, medical staff and community activists to name but some. Many but not all of these organisations are members of the Glasgow Advice and Information Network (GAIN). Without their care for their clients and their support to us in our work we could do nothing. We cannot overstate our appreciation.

LSA always has many volunteers: between 20 and 30 over each year. Some of them are part of formal internship or training arrangements, others very informal. Some are students, some retired. They often bring specialist research skills or attention to new areas of work. We really appreciate their contribution.

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 2019-2021 include the following:

Glasgow City Council

Midlothian Council

West Lothian Council

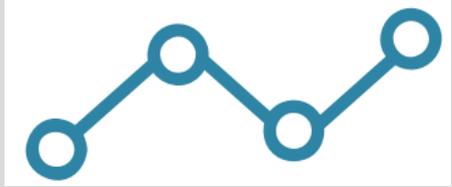
Inverclyde Council

Scottish Government

Inverclyde CHCP/SLAB

Oak Foundation

## Statistics 2018-19



**New clients taken on: 1605**

**Clients including those carried over from earlier years: 2,407 (an average of over 1½ files each)**

**Including signposting well over 3,000 individual service users**

**Surgeries and Drop-ins: over 600 sessions**

**Housing cases: over 2,300**

**Court and First Tier Tribunal appearances: over 1,300**

**Proofs or ‘Evidential Hearings’: 273**

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## TACKLING UNMET LEGAL NEED

Legal Services Agency is a company limited by Guarantee (No. 123919) and a Scottish Charity (SCO17160).

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