LSA Legal Services Agency
Doing the Right Thing,
the Right Way

# ANNUAL REPORT

2021-22

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# THIS YEAR IN NUMBERS

**890** new clients

Over 12000 telephone calls received

25–350/o increase in one-off enquiries compared to pre-pandemic

**568** 

319

housing enquiries procedural hearings Judicial Reviews received

criminal injuries compensation claims

**46** Tribunal Hearings

full evidential hearings in the Sheriff Court

# CHAIR'S INTRODUCTION 2021/22



Welcome to LSA's Annual Report for 2021/22. The year 2021/22 was one of contrasts: early in the year, the continuation of the pandemic which affected all aspects of life and work; and as the year progressed, a slow process of emerging from the pandemic and a return to something approaching normality. As discussed in the previous annual report, LSA had managed to adapt well to the impact of the pandemic.



The subsequent transition to a more hybrid model of work also happened smoothly with a continued focus on ensuring service delivery remained at the core of what we do. Reflecting on this experience has been an important learning opportunity for the organisation, identifying what we do well, and areas which need development.

"Staff and volunteers have continued to display the adaptability, flexibility and resilience evident in the previous period of the pandemic, and on behalf of the Board, I would extend our sincere thanks for their hard work, commitment, dedication and professionalism."

"One impact of the pandemic which was unexpected was the ability to respond to unmet legal needs in areas of Scotland outwith our normal locus of service."

Apart from being able to support people in remote areas, this expansion of activity highlighted the lack of legal remedies available to many people living in rural and remote parts of Scotland.

Maintaining the core services of LSA was, however, the main focus of our work. Although a welcome moratorium was in place in relation to eviction as a result of the Scottish Government's response to the pandemic; housing and homelessness issues remained a major source of referrals. Similarly, our Mental Health department saw a continued stream of referrals from people with complex needs. It is important to emphasise this aspect of our work: many of our clients have complex, multi-factorial needs not confined to a single problem or set of issues. Many of our clients have support needs which go beyond the legal, to include more generalised forms of support which cannot be ignored in providing appropriate levels of support.

This has major implications, with our solicitors employing a degree of 'stickability' and 'going the extra mile', all of which is necessary to respond to identified needs and would not be possible to provide in a commercial law practice.

"This goes to the heart of LSA's mission – working with and responding to the needs of disadvantaged and marginalised people and communities who have no other recourse to legal support."

The level of support needed by many of our clients is not possible to be funded through Legal Aid alone, and we therefore remain hugely appreciative of the essential support we receive from our funders. Glasgow City Council remain a major funder through the Glasgow Community Fund although the amount received has been reduced over the past few years and the future of this fund remains under review.

The Scottish Government provide a number of funding strands: the Equality and Human Rights Fund, which funds our Disability and Social Justice Project that improves access to justice for disabled people; the Legal Aid Traineeship Fund which enables us to continue our commitment of providing a training platform for future social justice lawyers and, importantly, the Legal Aid Resilience Fund which was set up to compensate for the loss of legal aid income over the pandemic.

Other equally important sources include the Community Justice Fund which assisted to fund our employment law service; the Robertson Trust which contributes to solicitors' cost in our Housing and General Court Department to advise and represent people facing deprivation and multiple barriers; the AB Charitable Trust which contributes unrestricted core funding to challenge disadvantage, defend legal rights and preserve basic human rights; the National Emergencies Trust administered by Foundation Scotland which has helped improve accessibility and access to information through the launch of our new website, and the Baring Foundation which funds an important collaboration between LSA. Govan Law Centre, Just Right, Shelter and Latta & Co with LSA as lead partner that facilitates work of the Legal Strategy Group to consider strategic issues to challenge unequal treatment and policies impacting asylum seekers and refugees. Collaboration is an important element of our work and is further reflected in our partnership with Renfrewshire CAB to provide second tier support and increase capacity of the sector.

"Sourcing additional funding has been essential due to the reduction of fee-based income we have experienced as a consequence of the pandemic."

This is an issue across the community law sector and one that needs addressed as we move forward, especially in sourcing unrestricted funding that can support core costs. Project funding is essential in meeting our objectives, but core funding to support the intensive support our clients need remains an issue we must address.

"Our CEO, Aaliya Seyal, has been tireless in pursuing additional funding and very successful in identifying specific funding that meets our strategic priorities."

The Board is hugely appreciative of Aaliya's contribution in providing sound leadership, strategic direction, financial acuity, and support to the Board itself.

The Board consolidated over the year and integrated new members from the previous year, although one of our trustees, David Law had to resign in October 2021 due to work commitments, and we would like to express our thanks to David. Otherwise, the Board worked effectively whilst continuing to meet remotely and thanks are due to all the trustees who provide their time and expertise on a voluntary basis and provide the essential governance and oversight necessary for the health of the organisation.

"The strategic objectives continue to provide the framework for the work of LSA and will be reviewed in the forthcoming year ahead."

Alongside this, in the latter part of the current year, the Board announced the planned retirement of the Principal Solicitor Paul Brown at the end of September 2022. With Paul having been one of the founders of LSA and been in post for over 30 years, this will be a significant milestone for LSA as we look towards the changes this will bring to the structure of LSA.

Change remains a constant for LSA and a necessary process to ensure we continue to meet the legal needs of our increasingly diverse client group. With over 30 years of experience, we are confident that LSA is well placed to continue to work to the high standards expected. I would commend the annual report which sets out our strategic objectives and achievements in the current year. And once again, I would express the Board's sincere thanks to our highly professional staff and committed volunteers who are the bedrock of the agency and for the many positive outcomes they have achieved for our clients.

Barrie Levine Chair, LSA

# **CEO REPORT 2021/22**



"Remember that the greatest oak was once a nut, that simply held its ground."

Whilst I would be remiss to say that LSA was at the beginning of its journey, this quote is a poignant reminder that despite the unprecedented challenges that we



continue to face on a daily basis, as long as we persevere, adapt and respond to what is thrown our way - there is always room to grow.

As I reflect on the last year, and indeed the last annual report, one could start to see a glimmer of hope and emergence from the two year 'COVID tunnel' we experienced since 2020. That said, it would be naïve to say that the ripple effects of the pandemic are absent from society today or that LSA and the third sector on the whole are back to 'work as normal'. It is no surprise that the pandemic impacted the communities we strive to support the hardest, and in turn makes our services more and more vital. Returning to the analogy of a tree, however, LSA's strong roots in the community and rich network of partner organisations has meant that even through the 'harsh winter' we have continued to grow from strength to strength, add new branches and provide legal fruits to build a stronger and fairer society.

"LSA has never shied away from a challenge, and I can proudly say that this year was no different."

Throughout the changing landscape, we continued to lead the charge in advocating for human rights, empowering communities and holding decision makers accountable. So, though our work is never over, it seems as fitting a time as any to take stock, celebrate and highlight the achievements we have made over the last year.

We launched our strategic plan for 2020-23 in the first quarter of 2020, outlining our core objectives and activities, guided by core principles of:

### Equality • Human Rights • Empowerment • Sustainability • Strategic Litigation

Whilst we anticipated this focusing on large societal issues such as Brexit, climate and environmental changes, and a continued focus on a human rights-based approach in legal practices, the pandemic quickly bled across all priorities and has influenced how we approached these issues and our daily operation. This continued into 2021/22, however, it did not mean by any means that we stood still. Rather, it meant that we were able to be more creative in the ways we built up and adapted our services.

Indulging my statistics sided mind, the 'Year in Numbers' page shows a sheer volume of people we helped over the last year. This was a stark increase to the previous year in number and complexity, and was mirrored not only in our ongoing case load, but also in one-off enquires vs years pre-pandemic.

"Through the report, it is clear that the work we do has never been more vital, nor has the personal impact of our work ever been more pertinent."

That said, I am optimistic that LSA is continuing to support communities, using new and innovative ways to reach more people in the ways that best suit them.

### LSA continued to be an active advocate for human rights,

and were happy to engage with the Scottish Government on a number of consultations and open groups over the last year. The Legal Strategy Group (LSG) continued to meet regularly, facilitated through funding from the Baring Foundation. The group most notably engaged with the Scottish Government leading to a successful change and the right to access legal aid for representation in tribunal appeals, where asylum seekers face eviction from housing that is provided by the Home Office. I am delighted to share further developments in the proceeding pages of networking, collaborations and service developments targeted at reaching specific communities and testing models that can be replicated in other geographical areas.

As I always say, none of the achievements described here, or indeed throughout the Annual Report, were carried out in a vacuum. It is down to the tireless efforts of our staff, our dedicated team of volunteers, partners and the trust and confidence of our funders. I would like to thank each of them for their work and support over this year in helping LSA continue to do the right thing the right way as we tackle injustice and influence change.

Whilst LSA is not a young tree in its journey, nor is it necessarily the biggest, it is without doubt part of a rich voluntary sector forest, that provides shelter, support and recourses for communities across Scotland. And whilst we cannot say that we have seen the end of the 'harsh winter conditions', I am confident that the Scottish spirit in us all is used to the nippy climates and will continue to thrive and endure through it.

I am excited to see what new challenges arise as we move into the next year, see the next steps taken, how we adapt and approach them and ultimately, continue to service communities who need it most.

Aaliya Seyal
Chief Executive Officer

### **DEPARTMENT:**

# HOUSING & GENERAL COURT



For a second year, the Housing and General Court Department continued to provide their full range of services primarily by remote means, as a result of the continuing pandemic.

The department continued to assist new clients with appointments offered using video and teleconference facilities, whilst increasing the availability of face-to-face meetings and consultations, when the restrictions allowed.

The department carried out a wide variety of work during the year. There was a continued focus on the core issues of the prevention of homelessness through representation tenants and homeowners facing eviction or repossession. During the pandemic, the department saw an increase in tenants and occupiers taking issue with the standard of accommodation provided. LSA continues to develop work around tenants' rights.

Representation was provided in a number of different Sheriff Courts across Scotland, the First-Tier Tribunal, the Sheriff Appeal Court and the Court of Session, with hearings taking place remotely and in-person.



A successful pilot of the provision of employment law was concluded, leading to the establishment of a longer term service, and the department welcomed the introduction of a new project focusing on tackling disability-based discrimination and assisting those with disabilities to enforce their legal rights. Both are covered in more detail at the relevant section of this report.

Following a successful application of funding, the department is to expand the helpdesk service offering emergency representation to social sector tenants to Dumbarton Sheriff Court, in addition to the service at Glasgow Sheriff Court.

Despite the restrictions on the manner in which services could be provided, the department continued to work together with GAIN (Glasgow Advice and Information Network) and other partners. We have continued to contribute to the Housing & Equality Legal Strategy Action Group. We welcomed new partners, now providing second tier advice to Renfrewshire CAB on a range of issues including housing law, consumer law and heritable rights and successfully tendered to provide a second tier advice service to the MS Society on areas such as housing law, employment law and discrimination.



The second half of the pandemic continued to see the department deal with unusual, complex matters from all over Scotland.

The department was involved in what is believed to be the first case raised in Scotland under the Equality Act 2012 challenging the "no DSS" policy applied to tenants in the private sector.

Our client, a single mother receiving Universal Credit, had initially been living in Newcastle and had approached a letting agent in the West of Scotland who had applied the policy. Due to our ability to deal with matters remotely, we were able to take instruction.

The case proceeded to a determination by the Court who awarded compensation of £2500 to our client for injury to feelings on the basis that the policy indirectly discriminated against women.

## As part of the increased work around tenants' rights,

further research had been carried out and arguments developed to increase the amount of compensation which could be claimed by tenants living in properties affected by disrepair. A tenant in West Dunbartonshire whose previous property had suffered from water ingress for a number of years had instructed us to pursue a claim.

During negotiations with the opponent, we pressed our new arguments regarding valuation and highlighted the relevant authorities in support of these, securing compensation of £12000 for our client.

Since eviction actions resumed during the pandemic, the department has attempted to assist a number of social tenants facing eviction under the "streamlined" eviction procedure, introduced in May 2019. Under this procedure, tenants no longer have the defence of reasonableness under the Housing (Scotland) Act 2001 and are left reliant on human rights or procedural arguments. We were instructed by a tenant in West Dunbartonshire who had been convicted of a drugs offence but had sought support to overcome the negative influences that led to his offending. We successfully argued that the landlord had failed to follow the guidance on the procedure issued by the Scottish Ministers which led to the action being dismissed and the tenant afforded an opportunity to keep his home. This is a very rare instance of a tenant successfully defending an action raised on this basis.

The streamlined eviction procedure continues to cause the department great concern. Throughout the year, we had defended an action raised against a tenant whose son responsible for drugs a offence. We had developed an argument that, as she had been a tenant prior to the change in the law, with her tenancy contract reflecting the law as it stood, she could rely on that right in what was a consumer contract to retain the right to have the Court only evict her where it was determined to be reasonable to do so. Unfortunately, this argument has now been unsuccessful after having been put to the Sheriff Appeal Court and, as such, tenants facing these evictions have considerably less protection, irrespective when their tenancy commenced. The department will continue to take up this issue at parliamentary level.

The department produced a significant report on the charges levied by local authorities for homeless persons being provided with temporary accommodation.

The report concluded that it was arguable that many authorities were applying unlawful charges and made certain recommendations to resolve the issue. The report was picked up and discussed in both legal and mainstream media.



We were offered the opportunity to give evidence to the Scottish Parliament's Local Government & Planning Committee on the Coronavirus (Recovery & Reform) (Scotland) Bill.

The Bill contained a number of provisions which would affect the eviction procedure in the private rented sector. Together with Crisis who also attended, LSA made the case for increased protection for tenants through permanent changes to the statutory regime, such as the elimination of mandatory eviction grounds in the sector.

We were also given the chance to meet with civil servants from the private rented sector team at the Scottish Government. We had highlighted the issues with compensation available to tenants who had suffered an unlawful eviction and pressed the need for reform of this. Our proposals to simplify this area and better enable tenants to enforce their rights when illegally deprived of their accommodation were well received and it was indicated that this could likely form part of a new housing bill with a formal consultation to follow.



### Renfrewshire CAB

We were pleased to have a collaborative initiviative with Renfrewshire's Citizens' Advice Bureau.

Since November 2021, we have provided second tier legal support to Renfrewshire CAB's caseworkers. This takes the form of three, one hour surgeries each week on Monday, Wednesday and Friday. The caseworkers are able to bring any issues with new and ongoing casework to the surgeries and LSA either provides guidance to enable the caseworker to take the matter forward, or, if not appropriate,

attempts to identify a suitable destination for an outgoing referral. A wide range of matters are brought to the surgeries including housing law, consumer law, heritable rights and debt matters. The work with Renfrewshire CAB has illustrated the absence of qualified solicitors providing advice and representation in consumer law in particular.

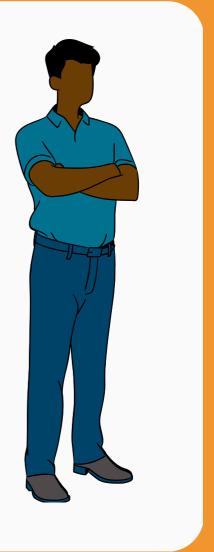
### **Case Studies**

CAB were contacted by a client who had purchased a cat from a during lockdown. breeder Unfortunately, the cat fell ill shortly after she was brought home and turned out to have a significant heart defect which cost in excess of £1000 in vet fees to diagnose and initially treat. The looking was compensation from the breeder who had only offered to take the provide a cat back and replacement. The client and her partner had grown attached to the cat and wanted to keep her.

LSA provided support to CAB to advise the client on her rights under Chapter 2 of the Consumer Rights Act 2015, in particular, her rights under sections 19 and 24 to seek compensation and a price reduction respectively. With LSA's support, CAB were able to assist the client in drafting a simple procedure claim form to raise an action and thereafter provide advice to the client on Court procedure as the action progressed. As at the time of writing, the case had been referred to mediation, but LSA will offer further support should preparation for a full hearing be necessary.

A homeowner had contacted CAB in relation to a dispute with a neighbour. The homeowner lived in a four in a block and the neighbour, without consent, had erected a fence and gate in the communal garden which impacted on the client's access to his windows and parts of the garden.

LSA reviewed the title deeds to the property with CAB. The process by which decisions to erect any structure in the garden was identified both in terms of the deeds and application of the Tenements (Scotland) Act 2004. Advice was given regarding potential remedies in terms of the title deeds to have the fence removed and an interdict to prevent the neighbour from re-erecting the fence. As this was a complex matter which could not be fully dealt with through a simple procedure action, the client was to be referred to a solicitor to take the matter forward.



LSA has also provided representation on behalf of CAB's clients in respect of eviction and repossession actions whilst CAB have sought to develop new lay representatives.

Tailored training was delivered to CAB covering private and social sector evictions, mortgage repossessions and general aspects of advocacy and representation in the Sheriff Court and First Tier Tribunal, increasing the knowledge and capacity of CABx staff.

### **DEPARTMENT:**

### **MENTAL HEALTH**



## We continue to provide a flexible service that adapts to the changing needs of our clients.

The Mental Health Team at LSA assists individuals impacted by mental health and disability to navigate legal proceedings; an area that we have specialist experience and expertise in. We also support their families and carers throughout the process. We primarily represent individuals at Mental Health Tribunals and in Courts throughout the Central Belt of Scotland.

Throughout the COVID-19 pandemic we continued to provide our clients with advice and representation, mainly by telephone but more recently, as restrictions have lifted, we have been able to travel to visit them in hospitals, care homes or their own homes again. This has been beneficial for clients who were unable to or uncomfortable with using technology. Alongside this, we continue to offer appointments via telephone or through video technology where this is preferential for our client. This flexible approach has allowed us to represent clients in a wider geographical area than previously, whilst maintaining our core services throughout a challenging time.

2021 saw the first trainee solicitor in a number of years join the Mental Health Team.

Mera has written a number of blog posts for the organisation about her experiences as a trainee along with highlighting important issues such as Power of Attorney Day.

## As part of the wider team we contributed to the consultation on changes to the Court Rules

This allowed us to protect the rights of those we represent and contribute their lived experience to the discussions around how proposed changes in the Court Rules will impact them and how they are able to access justice.

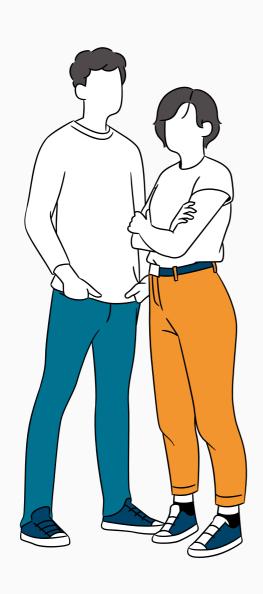


As well as blog posts, Rachel Walker provided training on Power of Attorney and Guardianship to 'Dementia Advisors' from Alzheimer Scotland. In return, Alzheimer Scotland provided our wider team with Dementia Friend Training. These opportunities have allowed us to increase the knowledge and awareness of our own team while creating referral links for Dementia Advisors and the families that they support into our advice services.

### **Case Studies**

Please note that while the cases are true, we have used pseudonyms throughout the report to protect our clients' identities.

#### MR AND MRS C



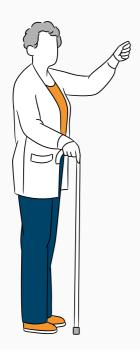
Mr and Mrs C came to us exhausted with their attempts at engaging with the social work department regarding the level of care being removed from their daughter, putting her life at risk. They campaigned in their own time with online petitions reaching tens of thousands of signatures, yet this still did not pressure the local authority enough to reinstate the care taken from their daughter. We worked closely with these clients exploring all legal remedies. Ultimately a meeting with the head of the Disability Department for the local authority was held with legal representatives for both sides. Lengthy discussions and negotiations with the local authority's legal team took place following this and an agreement was reached following an offer to have the care reinstated within different housing for their daughter. Whilst the circumstances did not fully return to normal, their daughter receive ultimately returned to appropriate level of care. The authority's duty of care upheld through continued pressure and negotiations. Whilst Mr and Mrs C were not pleased with the social work department's conduct, they ultimately were able to return to life as normal, with the knowledge their daughter was receiving the level of care she required and her life was no longer at risk.

#### **MRP**

Mr P had been subject to a Guardianship Order for a number of years. It has long been his position that he had capacity to make welfare decisions for himself, however, this was opposed by the local authority who were his Guardian. We were instructed by Mr P to assist in opposing the renewal of his Guardianship. The process was vastly delayed due to the COVID-19 pandemic, which allowed Mr P to move from a care home, which was overly restrictive for his needs, into supported accommodation. We assisted Mr P to obtain independent reports which were supportive of his position that Guardianship was no longer the least restrictive option available for him. Following discussions, the Guardian withdrew their Minute for Renewal and Mr P is no longer subject to a Guardianship Application. We were able to support him through the process, ensuring that he rights effective understood his and had representation to challenge matters that he did not agree with throughout.



### **MRS J**



Mrs J is an elderly lady who had been assessed as lacking capacity and a family member was appointed as Welfare and Financial Guardian. Mrs J resides within a care home and there were concerns that her finances were not being appropriately managed. Substantial fees had not been paid and Mrs J's residence was at risk due to this. We were appointed as Financial Guardians to Mrs J. Through established working relationships with the care home and social work services we were able to negotiate the position to ensure that Mrs J's placement within the care home was safe and thereafter take steps to investigate her financial position. She is no longer in arrears and her finances are able to be managed to ensure that she has access to appropriate funds for her day to day needs.

### MS A



Ms A's daughter was detained in an adult Psychiatric Ward - this was her first detention in an adult setting having previously spent time in an adolescent Psychiatric Unit. Ms A found the whole process overwhelming, and as Named Person, sought legal advice regarding her daughter's detention. Ms A was concerned her daughter would be discharged when she felt that her daughter required further time in hospital for her own safety. Ms A also had some concerns with regards to the proposed treatment plan. We were able to provide Ms A with the appropriate advice in relation to her rights as Named Person and the Tribunal process. We represented her at the Tribunal Hearing before the Mental Health Tribunal for Scotland, where we questioned the elements of the care plan that she disagreed with. This provided Ms A with support and reassurance during the process and allowed her to feel supported and confident in exercising her legal rights as Named Person.

#### **MR D**

Mr D has been detained in a Medium Secure Psychiatric Unit since 2014. He felt that he no longer required the conditions of security that the Medium Secure setting provided and was getting frustrated at the delay of moving him to conditions of lesser security. Mr D approached LSA with a view to raising an Excessive Security Appeal with the Mental Health Tribunal for Scotland. On Mr D's instructions we approached his Responsible Medical Officer who was willing to provide support to the Appeal. A tribunal hearing before the Mental Health Tribunal for Scotland was convened and, after hearing evidence, the Tribunal issued an order that Mr D was being detained in conditions of excessive security and that he should be moved to a low secure placement.



### **DEPARTMENT:**

# **CRIMINAL INJURIES**



# Why is a law centre tackling unmet legal need undertaking Criminal Injuries Compensation applications?

After all, some private firms of solicitors undertake applications and there are a number of (very assertive) claims firms which advertise vigorously. A naive observer might assert this does not look much like unmet legal need. They would, however, be wrong.

LSA's approach, and it has been similar for many decades, is to assist victims of crimes of violence who have difficulty accessing justice.

Thus LSA provides advice and assistance and representation to, for instance, victims of crimes of violence who have brain injuries either caused by a crime of violence or already have an acquired brain injury prior to their victimisation.

This is not all the victims of crimes of violence, but many are so affected. This can be because private firms do not undertake that area of work or it might be because some remedies are not pursued, either because of lack of funding, possibly lack of expertise or the vulnerability of the clients needing assistance.

LSA acts for victims of crime with major physical trauma including serious brain injuries.

### Some of the cases that we have dealt with in the last year include the following:

A client who sustained a serious brain injury in a pub; so serious that he still does not know how he acquired his injury. He has significant support needs, difficulty in understanding anything to do with paperwork and needs a lot of support in asserting his best interests. LSA has worked closely with relatives and, owing to his vulnerability, petitioned the Court for the appointment of an intervener.

Because his brain injury causes him to have disinhibited behaviour, we have worked closely with his criminal lawyer in order to ensure that the Court appreciated that he should not receive a custodial sentence or a community order as a consequence of recent (very minor) offending. This case should move to an offer hopefully quite soon.

In another case we act for a young man who, whilst living independently, is very vulnerable. He has been attacked, sustaining brain injuries, on two occasions.

As a consequence of the first brain injury a significant offer has been made, however, we are pursuing compensation for his wage loss as a consequence of a five year gap in his engagement with the labour market. The teasing out of which of his two brain injuries caused which disability was complex. Maintaining contact was a proactive and continuous process to ensure he was supported and well informed of progress.

### LSA also acts for many clients with psychological trauma:

this might be because they have sustained three or more "adverse childhood experiences" of some severity, or it might be because they have sustained one major trauma which is the subject matter of the Criminal Injuries Compensation Application.

Thus we have submitted applications for children who were the victims of witnessing the violent death of their mother on a number of cases.

In one case it has not been established what crime of violence caused the mother's death.

In another case, we have had to manage lengthy gaps in contact amounting to many months.

We have also submitted "secondary victim" applications on the part of young people who witnessed domestic violence, sometimes of an extreme nature. This involves investigating the mental health and the effect that matters may have had upon their education. Such cases entail sensitive communication and working with carers, social workers or other advisers to ensure that the application process is a positive experience rather than simply re-igniting the mental health issues for which the secondary victim application is made.

# LSA has a policy of undertaking Review Cases where it is appropriate. We have undertaken four in the last year and all raised important issues:

In one case our client suffered from a debilitating physical illness and mental health issues. She was severely abused by her former spouse. She, with difficulty, reported the matter to the police. After several hours of interview, she was told by the police that she would need to come back to give a formal statement. Understandably she thought there was little point in doing this: she had thought she had already given a formal statement and, in any event, did not see what point there was in repeating everything. The application was turned down because of a lack of corroboration. The matter went to Judicial Review. The CICA and the First Tier Tribunal should have taken on board that it is well known that a police investigation can be traumatic for a victim of (in particular) a sexual crime and that the obligation on the part of victims of crimes of violence seeking compensation to cooperate with the police needs to take into account the circumstances. A full award was made after a successful Judicial Review of the refusal.

In another case the applicant had been subject to extreme abuse and controlling behaviour by a family member who had set fire to her home. The family member was so controlling that it took her many years to obtain alternative accommodation. The application for Criminal Injuries Compensation was turned down at all levels (in spite of support for an award by the CICA and the FTT) on the grounds that the perpetrator could benefit. The judge indicated that LSA's solution to the problem - the setting up of a trust - was a practical arrangement that on balance would guarantee that the perpetrator would not benefit.

This case was particularly gratifying owing to the acceptance by the court that LSA's trust work, where we look after awards, was efficient and effective!

### **CICA Campaign**

The government recently consulted on proposed changes to the Criminal Injuries Compensation Scheme 2012. We submitted a fully argued response taking up particularly the fact that levels of compensation for many injuries, including abuse, are set at a derisorily low level and are not increased to take into account inflation.

As a result of a High Court case in England, which held that there was a reasonable expectation that the unfairness of the unspent convictions rule would be consulted on, the government followed through on a supplementary consultation on the unfair convictions rules.

We, of course, have a great deal of expertise on this issue, taking into account our two unsuccessful Judicial Review cases above. We have submitted a response to the consultation, which was taken up by electronic legal press, the Journal of the Law Society of Scotland, as well as two Scots working members of the House of Lords (from Labour and Conservative sides). We have also written to the Scottish Justice Minister. The reason for the latter intervention is that the Criminal Injuries Compensation Scheme is a cross-border authority which is operate by the Westminster Ministry of Justice which in effect exercises responsibilities that would otherwise be those of the Scottish government.



Over the next year we intend to continue with this campaign...

### **DEPARTMENT:**

# INVERCLYDE



We have continued to provide advice, assistance and representation to residents of the Inverclyde area from our office based in Greenock.

Our work focuses on homelessness, eviction from the social and private sector and disrepair issues. COVID-19 and the legislative changes it brought have caused us to provide significant amounts of advice in relation to the validity of different notices, including our notices to leave, notices to quit and notices of proceedings. As people were able to access our advice, we were able to advise whether any tribunal or court proceedings raised on the basis of these notices would be valid.

Working in collaboration with the homeless team at Inverclyde Council, we referred those with valid notices and little prospect of defending an eviction case to them to ensure that they did not become street homeless. We are also prepared to litigate these issues, with one case in particular proceeding to a Case Management Discussion and being dismissed partly due to the incorrect notice period being specified.

We also made similar arguments in a Sheriff Court case based upon a notice of proceedings. The landlord had used two grounds of eviction in the notice of proceedings but had used the shorter notice period when the longer one ought to have been used where two grounds of eviction were specified.

COVID-19 required us to shift to using more technology when engaging with our clients and with the court and tribunal system.

We have engaged with clients by telephone, in person and by email, to provide a flexible service meeting their needs. We have also engaged with the court and tribunal using telephone hearings and recently, an 11 day long proof hearing conducted by Webex.

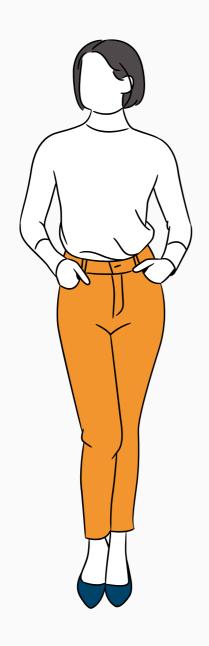
### **Case Studies**

#### MISS P

Our client had eviction proceedings raised against her by her landlord for rent arrears. Miss P lived in the property with her partner and her four children. The family were suffering financial hardship caused by the COVID-19 pandemic, as Miss P lost both of her jobs and was suffering from poor mental health. Miss P's landlord served her a Notice to Leave, which is the eviction notice that should be used for private residential tenants. Miss P maintained that she had not signed a new tenancy agreement since she moved into the tenancy in July 2017, and therefore, that she had a short assured tenancy and the wrong style of notice was used. We worked with Money Advice Services to organise financial advice and assistance for Miss P, and she entered into a payment arrangement for the arrears. The case proceeded to the Tribunal, and we argued that the landlord had used the eviction notice. The an unsigned private residential produced tenancy agreement and argued this governed the tenancy. The Tribunal fixed a full hearing on the notice point and on reasonableness, but before this hearing took place the landlord withdrew their application. The landlord then served a new eviction notice on Miss P. this time used the correct style but the incorrect date. Before this next notice point could be litigated, our client was offered a social housing tenancy in a new build development, with assistance of the Homeless Team, and she moved into her new tenancy with her family.

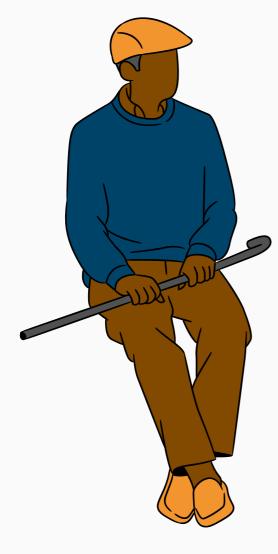


### **MRS J**



Our client and her children were living in a social housing tenancy with severe They disrepair issues. unsuccessfully reporting been the housing issues to association for around eight vears before contacting us. The roof leaked into one of the children's rooms and this caused dampness in the property. There were birds nesting in the loft space and there was no insulation in parts of the walls. We instructed an architect to carry out an inspection and prepare an expert report. We wrote to the housing association reporting the disrepair and asking them to comply with their legal obligations to ensure that the property was wind watertight and fit for habitation. We also intimated compensation claim against The landlord. housing association delayed in carrying out the repairs. When our repeated attempts to have repairs effected were unsuccessful, we notified the housing association that we were preparing to raise court proceedings against them. The housing association made an settlement to the compensation claim that Mrs J was happy with, and also agreed to move our client and her family to a new property whilst the extensive works are carried out to the property.

### **MRK**



Our client with numerous physical health substance issues and dependence issues was living in a private tenancy that was subject to severe disrepair. His landlord lived abroad, and Mr K had been unable to reach his landlord for months as the landlord's phone number was out of service and Mr K had no other contact details for the landlord. The property had no lock on the front door, no running water, a smashed window and smoke damage from a fire occurred in another property in the building. We assisted Mr K with making a homeless application to Invercive Council on the basis that it was not reasonable for him to continue to occupy his property. The Homeless Team offered him temporary hostel accommodation style whilst considered his accommodation request. We obtained information from the Environmental Health Department lodge in support of Mr His application. accommodation request was accepted, and he has now been offered a new social housing tenancy, as well as funding for white goods and a starter pack for his new tenancy. He has been allocated a wellbeing coordinator to assist him with managing his new tenancy.

### **DEPARTMENT:**

# SEMINARS AND LEGAL EDUCATION

As a registered CPD/Trainee CPD provider, we take a leading role in providing legal education through research, training and publications on topical issues and underrepresented areas of information.

In the 2021/22 financial year, we ran 86 live webinars with over 2000 delegates attending these, either online or by watching the recorded webinar. Our recordings still prove to be popular, with sales accounting for over 100 more delegates, providing flexibility for delegates to review at their convenience.



We share learnings and findings, building cross sectoral knowledge and capacity.

LSA continues to be one of Scotland's top leading providers of seminars, conferences, workshops and webinars.

The Seminar Team provide legal education in all areas of law in practice and covers a variety of topics including complex areas of law, discussion on consultation and developing soft skills among others.

### Some highlights from our 2021/22 webinar programme include:

The UN Convention on the Rights of the Child Conference: with Bruce Adamson, the Children and Young People's Commissioner for Scotland, Janys Scott QC, Professor Kenneth Norrie and education expert lain Nisbet. This event proved popular with over 70 delegates attending online. It covered what changes the new legislation was bringing into effect, incorporated the rights being enforced and the challenges ahead.









"The background to the UNCRC incorporation from both Janys Scott and Bruce Adamson was really interesting. Plus, Ms Scott's discussion of the Supreme Court hearing was great! Overall, a really excellent seminar and great value for money really good speakers and lots to take away."

"There is a gulf between best practice aspirations when it comes to incorporation of the UNCRC in Scotland and the reality. It's wonderful that the Scottish Gov. passed the Bill unanimously; disheartening that it has been taken to the Supreme Court. Meanwhile, the family courts in particular have a long way to go to demonstrate that they truly have the best interests of the child at heart, given their reluctance to seek and engage with children's views and to take into account the child's lived experience."

Working with Anxious Clients with Dr Amber Keenan, Clinical Psychologist: 57 delegates attended this between the live webinar and the recorded version. This webinar helped delegates gain an understanding of practical tips and techniques for managing clients experiencing anxiety.

Homelessness Conference: this was a two day event with around 120 delegates. Over two mornings, the conference discussed the Scottish Government's perspective on Homelessness/Planned update on Homelessness, Homelessness During the Pandemic, Housing First, Homelessness Case Law Update, Homelessness and Asylum Seekers and Equality Act Arguments: Lessons from England. There was a range of speakers such as Shona Robison MSP, Cabinet Secretary for Social Justice, Housing and Local Government, Maggie Brunjes, CEO at Homelessness Network Scotland and Professor Sarah Johnsen, David Anderson, Advocate, Mungo Bovey KC and Zia Nabi, Barrister.

"A concise overview and awareness of relevant case law, particularly regarding equality duties"

"Really good update on Housing First in particular"

The Public Sector Equality Duty: an event we ran in line with the PSED Consultation. The event was kindly sponsored by Arnot Manderson Advocates which allowed over 60 delegates to attend at a reduced rate. Our speakers included Amanda Miller, solicitor and past president of the Law Society of Scotland along with a range of professionals in the public law and equity field.

### **Amanda Miller**

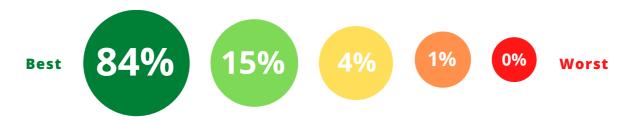
"Over the last year I have had the opportunity and privilege of chairing and speaking at a number of events for LSA. I have found the team easy to work with, approachable, professional and able to efficiently deliver varied and quality programming. I hope to have the opportunity to work with the team again in the future."

We continue to attract delegates from a diverse range of sectors and still see an increase in our geographical area of where delegates are based.

## We are proud to note that our mailing list exceeds 14,000 contacts.

The department continues to review our marketing and evaluate the webinars. Feedback is always useful as this enables us to analyse what delegates what and helps us to continually improve.

#### On a scale of 1-5 how would you rate the webinar?



### **PROJECT:**

# DISABILITY AND SOCIAL JUSTICE



The Disability and Social Justice Project is a new initiative designed to help people in Scotland with disabilities to enforce their rights and challenge discrimination.

There are five strands to the project:

Delivering advice and representation to individuals

• Undertaking strategic litigation with a view to bringing about wider change

• Collaborating with Disabled Persons Organisations ("DPOs") and other third sector organisations working with disabled people

Delivering training on discrimination law

• Undertaking research into the experiences of people with hidden disabilities in the justice system.

The project employs a trainee solicitor with lived experience of disability.

Before the official project launch event in March 2022, we met with representatives from a variety of DPOs and other third sector organisations to explore opportunities for collaboration and to help us ensure that the project was designed to ensure inclusivity, intersectionality and accessibility. We have delivered interactive training sessions to frontline staff and service users at DPOs and third sector organisations and organised training for our own staff on inclusive communication.

### **Case Studies**

### **MRS W**

Mrs W, a retired deafblind client, was refused service in a Glasgow cafe because she had a service dog. A worker in the cafe told Mrs W and her guide communicator to leave the premises because she was allergic to dogs. This was discrimination under the Equality Act 2010. Mrs W was hurt and embarrassed by the manner in which she was told to leave. After attempts to communicate with the cafe were unsuccessful, LSA were contacted by RNIB and Deafblind Scotland on behalf of the client.

LSA were able to identify the cafe's owners and raise an action in the Sheriff Court for compensation for a breach of the Equality Act 2010.

### MISS N

Miss N, a mother of two disabled children, contacted us when her landlord raised eviction proceedings in the First Tier Tribunal. Miss N's landlord was a large UK building company who wished to sell the property. Miss N had been searching for suitable accommodation but could not find a property that met her children's needs. We advised her that she was entitled to defend the eviction action on the basis that it would not be reasonable to evict her. Ordinarily, an eviction on the grounds that the landlord wanted to sell the property could not be defended on this basis, but the defence was introduced under the Coronavirus (Scotland) Act 2020 as a temporary measure during the pandemic. The legislation was due to be reviewed in March 2022 and it was anticipated that the additional protections brought in by the 2020 Act may be removed. Had the protections been removed, then, even if Miss N had successfully defended the eviction action, her landlord could have simply served a fresh notice and evicted her a few months later, by which time she would have had no defence to the action. We discussed our client's options with her fully and she instructed us to negotiate with her landlord.

LSA secured an undertaking from her landlord that she could remain in the property for a further six months to give her time to find a suitable property for her family and they would pay her £5000 towards the relocation costs.

### **PROJECT:**

# **EMPLOYMENT**



In November 2020, LSA begun a pilot project to scope the demand from employees for employment advice,

focusing on those in low paid positions who could not otherwise afford a solicitor to pursue claims of a relatively low value. Either the expense of a solicitor would be prohibitive or, if they were eligible for advice and assistance/ABWOR (Advice by Way of Representation) through the Scottish Legal Aid Board, the clawback provisions resulted in little of any award reaching the client given that a solicitor's fees required to be paid from it.

The experience of the project and identified demand informed the design of LSA's new, long term employment law project.

The project concluded at the end of May 2021. By that point, LSA had provided free advice and representation at the Employment Tribunal to over 40 clients in respect of a wide range of matters including unpaid wages, unfair and constructive dismissal and discrimination.

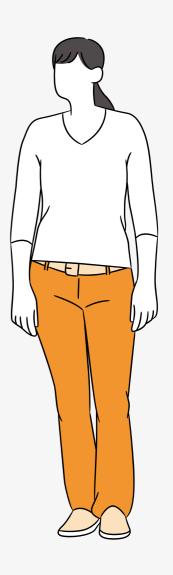


### **Case Study**

### MS B

Ms B, a single mother contacted LSA regarding a disciplinary matter. She was employed by a company who provided receptionists, customer service advisors and security staff to third parties. Ms B had attended work as a receptionist with COVID-19 symptoms, believing to be required to do so by her manager. Subsequently disciplined, she was removed from the reception position and, at the procedure's conclusion, was offered alternative security work at a different rate of pay, different site and different hours which she was unable to accept.

We provided advice to Ms B on the terms of her employment contract and the work she was entitled to expect. We assisted in lodging a claim with the Employment Tribunal for unpaid wages. Following negotiation through ACAS with the employer, our client obtained £2500 in settlement of her claim. Ms B also obtained a new receptionist position with a different employer enabling her to return to work. The whole sum was paid to our client given the free service offered by LSA.



## SCOTTISH CLIMATE EMERGENCY LEGAL NETWORK



### LSA has continued to facilitate the development of the Scottish Climate Emergency Legal Network (SCELN).

SCELN has continued to meet monthly to consider policy matters and potential litigation to address environmental issues. The group consists of lawyers, academics and activists seeking to use the law and consider legal remedies to address the climate emergency and environmental challenges. This includes the provision of legal aid for community or action groups.

Led by LSA, SCELN was successful in an award of funding from the Clark Foundation to deliver a conference during the run up to COP26, focusing on large scale climate issues and how the law and legislation can be used to affect positive change. The group intends on delivering three further events, continuing to focus on issues of climate and environmental impact and the use of the law to protect rights.

Additionally, SCELN were successful in their "Seventh Gas Campaign" raised last year, requesting the UK Government add nitrogen trifluoride (NF3) to the list of six greenhouse gases covered by the Climate Change Act 2008.

LSA also entered a successful partnership proposal with the Environmental Rights Centre for Scotland (ERCS) mid-way through the financial year in September to pilot a referral pathway. ERCS accordingly refer people to LSA, who require legal representation and assistance to raise court actions. The collaboration is novel and provides access to justice by addressing unmet legal need in areas of environmental issues.

# ENVIROMENTAL RIGHTS CENTRE



The Environmental Rights Centre for Scotland is a charity which assists members of the public and civil society to understand and exercise their rights in environmental law and to protect the environment.

The ERCS refers environmental/planning law cases to LSA where clients require legal representation in court actions, and where the client is eligible for legal aid. In all the cases referred we have unmet legal need. The ERCS/LSA collaboration is novel and provides access to justice in relation to environmental matters.

# ERCS have referred four cases to LSA since the beginning of the project:

• A proposal to build a road in a disadvantaged community in the north of Scotland. The road construction would have involved cutting down several mature deciduous trees, which are loved by and provide greenspace for local residents and provide habitats for various species including pipistrelle bats. The developer - which was also the planning authority - failed to obtain planning permission. We wrote to them to threaten Judicial Review if they proceeded with the development in the absence of going through the formal planning process. The developer backed down and submitted a planning application. Thanks to the clients' efforts in opposing the planning application, planning permission was eventually refused.

- Regarding the same development, NatureScot (NS) granted a licence to cut down the trees, despite a survey showing they were used as habitat for pipistrelle bats. We wrote to NS to explain that the licence was unlawful because they had failed to give any reasons for granting the licence (such licences are supposed to only be granted in exceptional circumstances which at a minimum, require some explanation) and threatened Judicial Review unless they revoked the licence, which NS did.
- An environmental activist has been sued by a very large multinational corporate entity for activities relating to their business. The business is seeking an interdict against him to the initial Sheriff Court hearing and persuade the Sheriff to sist his case to allow for a legal aid application to be processed. Legal aid was eventually refused, and we were unable to represent him any further due to lack of funding. We helped him find alternative lawyers who are now acting pro bono for him.
- A decision made by a council to grant planning permission for a luxury housing development on an area of woodland in the northeast of Scotland which is treasured by the local community.

Reported in the press here: <a href="https://www.pressandjournal.co.uk">https://www.pressandjournal.co.uk</a>

One of the decision-makers involved may have had a conflict of interest, and the decision appears to have been made contrary to planning policy and in the absence of any good reasons for reaching the decision. We have lodged a statutory appeal and a petition for Judicial Review in the Court of Session to challenge the planning decision. The cases are both sisted pending legal aid.



### LSA TRAINEESHIPS

LSA is proud to offer traineeships to future social justice lawyers. We are committed to helping solicitors build their career in this sector and facilitate their development to help address unmet legal need.

### **LUISA FIDELO**

I started my traineeship with LSA in June 2021, when lockdown restrictions were still in place. On day one, I was apprehensive about how I was going to forge a bond with my new colleagues, receive the support I knew I would need and deliver the services that our clients need, whilst sitting in front of my laptop at my kitchen table. However, as soon as I joined my first weekly team meeting (albeit virtually!) I instantly felt that I was in the right place. The welcomes were warm, the encouragement was inspiring and the support and guidance was readily available. I work on the Inverclyde Housing Rights Project which aims to prevent homelessness and enforce tenants' rights in the most deprived area in Scotland.

"In the last year, I have represented clients at First Tier Tribunal eviction hearings, drafted court pleadings, observed hearings in the Court of Session and taken on my own case load under the supervision of the Partner in my Team. Much more than I ever thought I would be doing at this stage in my career!"

But that is the thing about working at LSA: the team grow your confidence and ability, and gradually afford you more responsibility when they believe that you're ready. Senior staff members always find the time to offer advice and support and any criticism is unfailingly constructive. The nature of the work we do means that it will always be challenging and at times stressful, but I am proud to be doing work that I feel is important, assisting clients in need and helping to drive forward legal development. The team at LSA have given, and continue to give me the opportunities and guidance that I need to learn and improve. I'm looking forward to assisting the organisation with delivering the critical service it offers to clients in the future.

#### **MERA LOGAN**

I commenced my traineeship in September 2021. I was fortunate that the week I started staff had begun to return to the office and a more blended working environment was being trialled. I spent two days in the office and three days at home. It was an interesting experience because I didn't feel like I was missing out on the office environment. As time progressed, I realised that my job could easily be completed while working from home. My team were always accessible through Teams and I never went without guidance. The most difficult issue was gaining any advocacy experience, as shadowing over Webex is not the same experience as shadowing in court. There were upsides to this, though, as it meant that I didn't need to travel to court for a four minute hearing.

As a person who wants to succeed early on, I was keen to learn as much as I could in the shortest time scale. My line manager understood this but manages to rein me back. I was given a lot of information to process and was advised to take my time in doing so and it helped to create a solid foundation of knowledge to build upon.

"I certainly did not lack guidance and support and do not feel that I missed out on learning through working from home. If anything, I felt that it gave me independence as a trainee."

Since starting at LSA I have been afforded many opportunities. I have been working with clients on a face-to-face basis, attending court hearings and instructing counsel. I have been able to build professional relationships with medical professionals, social workers and advocacy workers. This is a key aspect of mental health law because success is reliant on good communication between everyone involved. Additionally, I have been able to work across other departments within LSA. I have helped the criminal injuries team on multiple occasions and attended high profile hearings as an observer. I have also become a member of LSA's seminar committee and have contributed to our webinars. This has been a fantastic opportunity because it allowed me to be involved in LSA's success outwith my contracted role.

### VOLUNTEERING



### LSA is pleased to welcome volunteers to assist with our vital services.

Whilst in-person volunteering was put on hold during the Covid-19 pandemic, we were very happy to invite volunteers back into our office this year to work with us.

We offer the chance to help with a wide range of projects such as:

- Working on Legal Aid applications
- Preparing court documents
- Attending tribunals
- Assisting with administrative tasks and research
- Helping in the seminar department



Not only are we grateful for the help and support that our volunteers provide, we are proud to be able to offer work experience opportunities to law students and other people who are interested in helping us address unmet legal need. Many of our volunteers are law students at the University of Glasgow, with whom we run a volunteering programme, and who are willing to dedicate part of their week to assist with our vital work.

We plan to continue developing our volunteering programme over the next year and maintain our commitment to providing opportunities to people who are enthusiastic about assisting with our services and want to help us make a difference to the lives of our clients.

Volunteering 46

### Alexandra Lee 2021/22 Volunteer

"While studying for my LLB degree, I had the fantastic opportunity to volunteer for LSA which has given me crucial insight into how a law centre operates and the services it can provide. When looking for opportunities to volunteer in the legal sector, I was really drawn to LSA because of its focus on using the legal system to assist those who need it most, but who are often overlooked.

During my time at LSA I was able to support the law clinic as part of the Disability and Social Justice Project. I learned a great deal from the incredible team, observing how they make use of their expertise and experience to bring the best solutions and support for the clients they work with. I was also able to make use of my background in communications by supporting the CEO on a number of communication projects, which in turn provided me with an in-depth understanding of the impact LSA has on the lives of their clients, which is often with life changing.

I found LSA to be generous and considerate with the opportunities and tasks that they gave to me as a volunteer, allowing me to feel very much part of the team. As a law student, having the opportunity to work directly on cases, and conduct research alongside experienced practitioners was a real highlight that I found to be extremely useful. Overall, this experience has provided me with a great deal of knowledge and insight which I believe will be of benefit as I progress with my career in law."

#### Eilidh Denny 2022 Volunteer

"I was thrilled to have completed a micro-placement with Legal Services Agency working with Stuart in the employment team. Such an incredible opportunity and I learned so much."

# **TESTIMONIALS**

What our clients say about working with us:

"Thank you and your colleagues for all the work you have done in securing guardianship for my brother to me. You did exceptionally well. We will forever be in your debt. Thanks a million."

"The outcome was just what I wanted. Alastair Houston was excellent. I would recommend to anyone, he was so helpful."

"Very happy with all members of staff I have dealt with and I will be happy to recommend the organisation to anyone who will benefit from using your service."

Testimonials 48

"Your submissions at the First Tier Tribunal made all the difference to me. It was the first time that anybody has ever said anything in a formal setting that showed that they believed me and took my account of what happened to me seriously."

"As a Benefits Adviser who represents at Appeals, I have used LSA on various occasions. LSA administered the applications for Legal Aid on behalf of clients to obtain medical evidence for Tribunals. I have found LSA to be friendly, professional and highly effective in delivering their objectives."

"From my initial phone conversations and meetings with Rachel Walker I felt at ease and had every confidence that the task of gaining the guardianship order I sought would come to fruition. All communication had a sense of being dealt with in the utmost professional manner, warmth and politeness, affording articulate and comprehensive explanations. Additionally, Iulie Robertson communicated in a similarly clear and concise manner.'

# CONCLUSION

LSA continues to address unmet legal need and inequality in our society. Through our various departments, we defend legal rights and look for ways to remain available to our clients, especially following the Covid-19 pandemic.

We will carry on responding to the changing needs of our community and ensure rights are upheld.

We strive for a fair society and believe that help should always be accessible to those who need it. We look forward to continuing to advocate for social justice and Human Rights.



Conclusion 50

All of us at LSA would like to give a special thanks to our funders, who give us the opportunity to deliver a vital service in protecting rights and facilitating access to justice:

AB Charitable Trust

**Baring Foundation** 

**Community Justice Fund** 

Glasgow City Council

Inverclyde CHCP/SLAB

Inverclyde Council

**Oak Foundation** 

Renfrewshire CAB

**Robertson Trust** 

The Scottish Government

Scottish Government Equalities and Human Rights Fund

Scottish Legal Aid Board

Scottish Government Legal Aid Resilience Fund

Scottish Government Legal Aid Traineeship Fund

SG Third Sector Homelessness Fund

SG Third Sector Resilience Fund



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