

# An Equal Choice

AALIYA SEYAL – Chief Executive Officer of LSA

LSA

Legal Services Agency  
Doing the Right Thing,  
the Right Way

# Who Are LSA?

## The Legal Services Agency

- Established in 1989, LSA is a charity and a law center that provides access to social justice.
- Provides advice and representation to people who may otherwise find it difficult to get legal advice.
- Experiences in social welfare law and the development and application of novel legal remedies.
- We tackle systemic failures to enact long term sustainable changes.
- LSA have a national remit and offices in Glasgow, Inverclyde, and hold outreach surgeries in Edinburgh and other areas.



## Our Vision and Mission

### Vision

We believe in a fair society where social justice is available to those who might otherwise find it difficult to access legal assistance.

We advocate for Human Rights and empowerment through sharing knowledge and promoting awareness of legal remedies in all communities.

### Mission

We seek to be a leading force in tackling inequality in our society and in our legal system.

We influence change by undertaking education, campaigning, and policy engagement.

We work in partnership with multidisciplinary organizations to create positive, sustainable results and build a better future for all.

## Areas Of Law We Practice

Specialize in housing, preventing homelessness and general social welfare.

Providing much needed specialized representation to people with mental ill health, their relatives and carers.

Undertaking complex cases, reviews and appeals and bringing justice to victims of criminal convictions or the 'same roof rule'



## Areas Of Law We Practice

Supporting those who are struggling with unfair practices and providing guidance to eliminate unfair treatment of employees.

Supporting those in need gain access to welfare funding who may find the process daunting or are incapable of doing it themselves.

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



EMPLOYMENT



BENEFITS




TRAINING AND CPD

## The Facts

- Around 40,000 people become homeless in Scotland every year.
- 11,804 children were assessed as homeless in 2020-2021. Which is 32 children every single day.
- Nearly half of all homeless applications in 2020-2021 were due to relationship breakdown or being asked to leave.
- 1 in 10 households in Scotland are affected by dampness or condensation (or both)
- 613,000 households are in fuel poverty in Scotland



40,000  
people



32 children  
everyday

## Homelessness Discriminates

- **CHILDREN, LGBTQI and BAME** people are more likely to become homeless.
- Some groups are at a higher risk of homelessness, and other suffer its worst consequences.
- **Women** are more likely to be living in poverty and more likely to become homeless following a relationship breakdown.
- **Men**, especially those aged 35-64, are most at risk of rough sleeping, persistent homelessness, and more likely to suffer the direst consequences of homelessness.



## Homelessness Discriminates

- BAME people have lower incomes, higher rates of unemployment and have lack of awareness of public services, poor access to support services, and discrimination by housing providers. They are more likely to be overcrowded, and to live in cold, damp, and unsuitable housing.
- Gypsy/Travellers live in intolerable housing from the damp and cold, to that with significant risk of ethnicity-based violence and abuse.
- LGBT Youth Scotland reports that around 15% of LGBT young people have been forced to leave their family home – a figure which increases to 22%, for trans young people.

## No Recourse To Public Funds (NRPF)

- No Recourse to Public Funds (NRPF) is a restrictive condition imposed by immigration legislation reserved to the UK Government.
- It prevents people 'subject to immigration control' from getting some benefits and support and from using local authority housing and homelessness services.
- NRPF is part of a suite of UK Government policies and applies to:
  - People seeking asylum, with the most negative impact on people who are considered appeals rights exhausted; 'ARE'.
  - Some people with insecure immigration status.
  - Some people with discretionary leave to remain in the UK.
  - Most people who have a visa condition (non-EEA nationals and EEA nationals without pre/settled status)

## Risks of NRPF

### Destitution By Design

- a person is destitute when they don't have adequate accommodation or any way of getting it, or where they can't meet their essential living needs.
- All people who are seeking asylum have no recourse to public funds and instead support and accommodation is provided by the Home Office.
- Some people also have NRPF as a condition of their leave to remain.
- Some EEA nationals who have not yet secured 'settled status' under the EU Settlement Scheme will not be able to access homelessness assistance and some welfare benefits and may be at risk of destitution.

## Risks of NRPF

### Human Trafficking

- people who escape or are rescued from traffickers and can't (or don't want to) return home, there is often no ID or papers and no live claim for asylum or settled status.
- those who don't make money anymore will be 'Let go'
- People trafficked from outside the UK who are at increased risk of homelessness, rough sleeping, destitution and exploitation in all its forms.

## Poverty

- People living in poverty generally have housing which is of poorer quality and desirability, than those with higher incomes.
- Housing costs are a driving force behind poverty in Scotland.
- One in three families in Edinburgh city live below the poverty line due to high housing costs.
- 11% of people in Scotland live in persistent poverty, after paying housing costs.
- 17% of children in Scotland in persistent poverty.



## Adverse Childhood Experiences (ACEs)

- Children comprise 16% of Scotland's population, but 25% of homeless people.
- ACEs impact neurological and psychological development.
- ACEs are significantly more likely to develop health problems later in life, ranging from schizophrenia to diabetes.
- More likely to have been in prison, to engage in health-harming behaviours such as smoking and recreational drug use, and even to develop heart disease.
- Those who are unable to meet their basic needs – from food to housing – are more likely to experience mental health problems, domestic abuse, and substance use.
- Those with four or more ACEs are much more likely to become homeless during their adult life, and much more likely than average to have slept rough in the past twelve months.

## Causes of Homelessness

- **Structural**
- **Societal**
- **Political**

## Systemic change: a rights-based approach

- Change **perceptions** and **narratives of inequalities**, if we are to address its **root causes** and **stigma**.
- **Reframe** homelessness to one of **structural problems** with **viable solutions**.
- **Moral human** rights approach - all human beings have a moral right to be treated with **dignity** and **respect**.
- **Prevention** - We can and must prevent anyone in Scotland from ever **becoming** homeless.
- **Investing** in more affordable housing.
- Coordinated, connected and **sustainable pathways – informed choices**
- **Rights awareness** training
- Equality information: **purposeful and action research** influencing service delivery
- **Identify gaps**; legal remedies influence **reforms becoming real**



## The Role of the Law

- The right to housing has been recognised in international law for more than 50 years.
- Scotland is home to some of the most progressive housing and homelessness rights in the world.
- Articles 3 and 8 of the European Convention on Human Rights are relevant to housing and homelessness.
- Public Sector Equality Duty (PSED) contained in the Equality Act 2010

**Our laws are only as good as their enforcement**

## Housing And General Court Department

- LSA has been providing housing advice, information and representation for over 30 years.
- The service offers advice and representation in the relevant court or tribunal in relation to homelessness, defending eviction and repossession actions and raising actions to ensure enforcement of general housing rights.
- Defended evictions formed a large bulk of the work, with an emphasis on the prevention of homelessness.
- LSA clients include the most vulnerable and socially disadvantaged and all staff are skilled at ensuring advice is tailored to their level of understanding.

## At Risk of Homelessness

- We have focused on strategic challenges to failures by **local authorities** and **housing associations** to comply with statutory obligations at all stages of the homelessness process, from obtaining temporary accommodation for those sleeping rough to ensuring permanent accommodation is suitable and sustainable.
- LSA aims **not to turn anyone** away who may be at the risk of homelessness.
- LSA continues to provide the in-court advice service for eviction cases.
- Emergency advice and representation is provided to those who would otherwise be unassisted.
- Tenants convicted of offences, it is no longer reasonable to have them evicted.
- Discrimination defences in eviction actions, primarily utilising these in cases involving tenants suffering from severe mental disorders or accused of antisocial behaviour.

## Proactively Pursuing Change

- Helping with enforcement of tenant's rights, such as repairing standard of rented properties, in both the private and social sectors.
- We have assisted to achieve thousands of pounds of compensation for tenants who have had to live in substandard conditions.
- LSA also represented the tenant in one of the first applications to the Sheriff Court in respect of the Tenancy Deposit Scheme (Scotland) Regulations 2011.
- LSA represented a vulnerable tenant with learning difficulties in an important case which tested the jurisdiction of the First-tier Tribunal (Housing & Property Chamber).
- LSA made one of the first successful applications for a wrongful termination order.

## Temporary Accommodation Costs

- There is a clear lack of consistency throughout Scotland in respect to how these cost are determined.
- Very few local authorities consider the ability of an individual to pay the charges, as per the terms of the Scottish Government's Code of Guidance on Homelessness.
- Although Scots caselaw is silent on the matter, English caselaw in combination with the Scottish legislation, Code of Guidance and Advisory Standards, suggests that this may be unlawful.
- There is a lack of clear reasoning behind charges in many local authorities and a failure to protect the human right to adequate housing in Scotland.

## Proposed Change For Temporary Accommodation

- As a matter of urgency all local authorities should review and update their policies on charging for temporary accommodation to ensure that they are acting lawfully and consistent with the Code of Guidance on Homelessness and the human right to adequate housing.
- Housing advisers should proactively identify cases where individuals may have been subject to unaffordable charges, and challenge such charges with legal action where necessary.

## Asylum Seekers – A New Right To Legal Aid In Scotland

- Legal aid was not available in Scotland for lawyers to assist people facing eviction at Asylum Support Tribunals but was available for other types of evictions (for example, from private or social tenancies) in Scotland.
- The Roof Coalition lawyers were concerned that without access to legal advice and representation, asylum seekers facing eviction would struggle to defend themselves at tribunal hearings, resulting in evictions even where they would (with legal support) have had a right to stay in their homes.
- Representations to the Scottish Government and Scottish Legal Aid Board requesting changes to legislation to address this gap and offer asylum seekers the equal right to legal representation to prevent homelessness.
- Significant positive change taken by the Scottish Government in provision of legal aid taking effect in August 2021 allowing Scottish solicitors to represent their clients at the Tribunal.



Legal Services Agency  
Fleming House  
134 Renfrew Street,  
Glasgow,  
G3 6ST

0800 316 8450 | 0141 353 3354 | [mail@lsa.org.uk](mailto:mail@lsa.org.uk) | [www.lsa.org.uk](http://www.lsa.org.uk)