



## THE SCOTTISH LEGAL AID BOARD

### APPROVED MINUTE OF A MEETING OF THE LEGAL ASSISTANCE POLICY COMMITTEE HELD AT 10:30am ON TUESDAY 1 June 2021 by Video Conference

Present: Raymond McMenamin (Chair)  
Sarah O'Neill  
Marieke Dwarshuis  
Stephen Humphreys  
Colin Lancaster  
Gerry Bann

In attendance: Nicola Cameron, Solicitor, Civil Merits  
Stuart Drummond, Corporate Governance and Policy Officer

#### 1. Apologies for absence

There were no apologies.

Ray MacFarlane was recused from the meeting due to a conflict of interest in relation to the case under review.

#### 2. Declaration of Interests

None.

#### 3. Welcome to new member

The Committee welcomed new member Gerry Bann to the meeting and hoped that he would find his time on the committee useful and interesting.

#### 4. Draft minute of the Legal Assistance Policy Committee meeting held on 29 March 2021

The draft minute was **approved** by the Committee.

#### 5. Review of Application [REDACTED] - [REDACTED]

The Committee reviewed the application [REDACTED] for civil legal aid which was in relation to an action of damages under section 7 of the Human Rights Act 1998 against Glasgow City Council and had been referred to the Policy Committee as the initial application was considered and refused by the Cases Committee.

The Committee was asked to consider whether the tests of probable cause and reasonableness are met in this application.

The Committee discussed at length the issue of whether a time bar applied in this case, focussing on whether there was a continuing wrong or not and that this should

be tested in the court. It was noted that this was a Sheriff Court action and therefore the time bar issue, being a preliminary matter, would be settled quickly thus potentially limiting the legal aid expenditure.

The Committee were of the view that there was a public policy interest in this case and that local authorities need to be held accountable for their actions. Although the action for damages was questionable they felt that if the court made a declaratory award under the Human Rights Act 1998 against Glasgow City Council then that would fulfil the requirement to hold them to account.

The Committee acknowledged that if the time bar matter did not fall at the preliminary stage then the grant would be for the full action. It was therefore decided that a formal condition be attached to such a grant requesting stage reports if the preliminary phase on the time bar was successfully overcome.

The Committee therefore agreed that there was merit in litigating the public policy aspect and testing the issue of the time bar in court. The time bar issue would be a useful matter to test for future reference.

The Committee DECIDED to GRANT the application subject to the provision of stage reports should the case proceed beyond the preliminary stages.

## **6. AOB**

None.

The Convener confirmed that although 5 July was the next scheduled date of the next meeting a number of committee members were unable to attend and therefore notice would be given as to an alternative date.

The Convener closed the meeting.