**THE SCOTTISH LEGAL AID BOARD**

**APPROVED MINUTE OF A MEETING OF THE LEGAL ASSISTANCE POLICY COMMITTEE HELD AT 10:30 A.M. ON MONDAY 4th APRIL 2022 by Video Conference**

Present: Raymond McMenamin (Chair)

Ray Macfarlane

Sarah O’Neill

Gerry Bann

Stephen Humphreys

Colin Lancaster

In attendance: Marie-Louise Fox, Director of Operations

Ian Dickson, Director of Legal Services

Stuart Drummond, Corporate Governance and Policy Officer

Andrew McIntosh, Corporate Support Manager

Hazel Thoms, Policy and Development Officer

Kim Blance, Senior Specialist, Civil Finance

1. **Apologies for absence**

There were apologies from Marieke Dwarshuis.

1. **Declaration of Interests**

None.

1. **Draft minute of the Legal Assistance Policy Committee meeting held on 1st February 2022**

The draft minute was **approved** by the Committee subject to minor corrections.

1. **GALA**

Means Assessment - Aggregation AA/ Civil options

The Committee considered a paper which outlined the challenges posed by regulatory requirements and clarified policy approaches to using discretion when deciding whose resources to include in a financial eligibility assessment for civil legal aid.

The Committee discussed the situation where the civil legal aid regulations (regulation 11A of the Civil Legal Aid (Scotland) Regulations 2000) require SLAB to bring to account the resources of any person owing obligation of aliment to a child applicant and the contradiction with other regulations.

It was noted that including such resources limits access to legal assistance and that this was a regular complaint from solicitors. Feedback suggested that families had found it challenging when informed their resources would be used in the calculation in determining the availability of legal aid. It was also noted that there was discretion where SLAB found the application of the regulation to be “unjust or inequitable” but there was limited guidance on what this meant.

The Committee considered and discussed the options presented and **agreed** that the primary approach would be option A: Amend the current policy: revise policy such that the factors defining unjust or inequitable are expanded on but also at the same time pursue an element of option B and discuss amendment of legislation with the Scottish Government seeking removal of the requirement that the resources of a person owing obligation of aliment to a child applicant shall be brought into the financial assessment.

The Committee then discussed the aggregation of the resources of a partner or spouse and noted that over time as numbers of applicants in relationships of a longstanding and serious nature but not formalised through marriage have increased. SLAB had developed a policy that assisted in making decisions on whether a relationship has the characteristics of a relationship between husband and wife (as stated in the Civil Legal Aid regulations).

The policy required SLAB decision makers to make subjective assessments of the nature of a relationship where the couple are not married and not living together. It was noted that it was difficult to develop clear guidance on how to use such information to make a decision, and how to ensure consistency in these decisions is maintained.

After discussion it was **agreed** that option A - amend current policy to exclude partners not living together on a full time basis from having their resources aggregated – was the preferred option.

1. **AOB**

The Convener confirmed that the next meeting was due to be held on 3rd May.

The Convener closed the meeting at 11:20