

Our Ref: LAG/CDT/LAG/EIG/1/2 2840806V1

Your Ref:

1 May 2009

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Dear Sir

**Eighteen And Under / Dundee City Council  
Fee Deferred Guideline 2**

My firm acts on behalf of Eighteen And Under, having a place of business at 1 Victoria Road, Dundee DD1 1EL ("our clients").

Your opinion is sought in relation to a dispute that has arisen between our clients and Dundee City Council concerning the provision of funding. Further to our telephone conversation today, I write with a summary of the background to the dispute and the present position.

**Background**

Our clients are a registered charity who provide information and support to children and young people who have experienced abuse. In around April 2008 they were awarded a grant by Dundee City Council ("the Council") from the Fairer Scotland Fund. The funding was in the sum of approximately £64,000 and was to be paid to our clients over two years. The primary purpose of the funding was to pay for one of their child support workers to provide personal safety sessions in schools in Dundee. The parties signed a Service Level Agreement, setting out the terms on which the funding was provided.

Because of the nature of the services they provide, our clients work closely with Dundee City Council's social work department. In early December 2008, they were advised by the social work department that one of their volunteers had allowed a service user (a boy whom the volunteer had been supporting) to stay at his home on 24<sup>th</sup> October. This was a clear breach of our clients' policies, and as soon as they learned what had happened they dismissed the volunteer.

On 30<sup>th</sup> December, our clients were informed by the Council that it had concerns about matters relating to their policies and practices. The Council requested certain information about the charity's staff, its recruitment and selection procedures and its code of conduct for staff. Our clients provided this information. In January 2009, the Council requested more information about the constitution of the charity, its board members, internal policies, training programmes etc. Again, our clients provided this information.

Our clients then attended a meeting with members of the Council on 23<sup>rd</sup> January to discuss the matter further. The meeting seems to have been very acrimonious: our clients were given no

indication prior to the meeting of what would be discussed, and feel they were somewhat 'ambushed' by the Council. For example, questions were asked about the sexual orientation of their employees and their relationships to one another. Our clients were obviously unprepared for these questions and answered all questions candidly, but later became extremely concerned that they had disclosed sensitive personal information about their employees. As a result, our clients instructed my firm to correspond with the Council on their behalf from then on.

On 13<sup>th</sup> February the Council issued a notice to its 'partner agencies' – schools, health bodies, police, and other charitable organisations - advising them that it was conducting an investigation into the charity. The notice stated that the Council had decided to suspend any referrals or other involvement with the project and requested that the recipient consider the implications for their organisation. On the same day, the Council wrote to our clients stating that the Council considered that our clients' policies and practices did not meet adequate standards and unless the charity satisfactorily addressed their concerns by 31<sup>st</sup> March 2009, the Fairer Scotland funding would be withdrawn. The letter also stated that the Council had instructed its social work teams and personnel not to have any further involvement with our clients. A meeting was arranged for 20<sup>th</sup> March but, when the Council was informed that our clients would be bringing legal representation, it was cancelled.

We wrote to the Council on 19<sup>th</sup> February, 17<sup>th</sup> March and 25<sup>th</sup> March requesting that they clarify which part of our clients' policies and procedures did not meet adequate standards and what those standards were. On 26<sup>th</sup> March the Council's legal department wrote to us setting out the Council's concerns in greater detail. They also confirmed that the funding would be extended to 30<sup>th</sup> April.

On behalf of our clients we issued a lengthy response to the Council on 8<sup>th</sup> April, addressing each of their concerns. Put simply, our clients' position was that they believe their policies and practices are robust, but if they are doing something wrong they will change it.

Today, we received two letters from the Council: one from the Community Planning Manager stating that the funding has been withdrawn because the charity had failed to address the Council's concerns, and one from their legal department asking us to provide further information. We have asked the Council to clarify its position, although our clients strongly suspect that they have made up their mind (some time ago!) to discontinue the funding.

### **Present Position**

The withdrawal of the Council's funding will obviously have a financial impact on our clients, as they will no longer be able to pay a member of staff to carry out work in schools and will therefore have to make that employee redundant.

Of greater concern to them is the damage which their reputation has suffered because of this matter. As outlined above, in February the Council instructed its social work department not to refer any service users to them, suspended their work in schools and notified a large number of organisations in Dundee that it had unspecified 'concerns' about the charity. Obviously the Council has never publicly stated what those concerns are and, as you can imagine, rumours and speculation abound about what our clients have done. The effect of this has been incredibly damaging. Our clients have effectively had to cease all work in Dundee. Last week they paid off five members of staff. The local press is taking an interest and they suspect they will soon be approached to give their side of the story.

Our clients also receive funding from the Scottish Government (approximately £40,000 per annum). MSPs have started to ask questions about what our clients could have done to cause the Council to take the steps it has taken, and our clients are concerned that the Scottish Government funding could be withdrawn too.

The matter has also had a negative effect on the individuals within the charity. For example, some

time ago the Co-ordinator of the charity (Laurie Matthew) and her partner applied to the Council (in a personal capacity) to foster children. The social worker dealing with their application has recently told them that it has been refused because of the Council's decision to suspend its work with the charity.

Finally, our clients received a letter from the Office of the Scottish Charities Regulator (OSCR) on 23<sup>rd</sup> March. The letter stated that a complaint had been made to OSCR that some trustees of the charity may have been receiving remuneration by way of being connected to paid employees of the charity. Our clients responded to OSCR towards the end of March, and have now received written confirmation from OSCR that it is satisfied with their response and the matter is concluded.

### **Questions**

Counsel's opinion is sought on the following:-

1. Has the Council breached the Service Level Agreement in withdrawing funding?
2. What legal remedies do our clients have in relation to (a) the Council's decision to withdraw funding, and (b) the damage to their reputation?

I appreciate that this matter touches on several areas of law and is not straightforward. This letter is intended as a summary of the dispute and not a comprehensive note: as we discussed today, in my view it would be most beneficial if we (the clients and I) could have a consultation meeting with you once you have had an opportunity to consider the enclosed papers. In the meantime, if you require any further information or would like to discuss the matter, please do not hesitate to contact me.

Yours sincerely

**Laura Gow**  
**Solicitor**  
**MacRoberts LLP**

### **Enclosures**

1. Service Level Agreement and covering letter dated 4 July 2008
2. Letter from the Dundee Partnership to EAU dated 30 December 2008
3. Letter from the Dundee Partnership to EAU dated 14 January 2009
4. Letter from EAU to the Dundee Partnership dated 3 February 2009
5. Letter from Dundee City Council to EAU dated 4 February 2009
6. Letter from EAU to Dundee City council dated 9 February 2009
7. Email from Peter Allan to various agencies dated 13 February 2009
8. Letter from Dundee City council to EAU dated 13 February 2009
9. Letter from MacRoberts to Dundee City Council dated 19 February 2009
10. Letter from MacRoberts to Dundee City Council dated 17 March 2009
11. Letter from MacRoberts to Dundee City Council dated 25 March 2009
12. Letter from Dundee City Council to MacRoberts dated 26 March 2009
13. Letter from MacRoberts to Dundee City Council dated 8 April 2009
14. Letter from Dundee City Council to MacRoberts dated 28 April 2009
15. Letter from Dundee Partnership to EAU dated 29 April 2009
16. Letter from OSCR to EAU dated 23 March 2009
17. Letter from EAU to OSCR dated 30 March 2009
18. Letter from OSCR to EAU dated 14 April 2009