



Seventh National Forum on Access to Justice for those without means

Friday 7 December 2018

Summary

The event was attended by over 200 delegates, including the Master of the Rolls, Lucy Frazer MP, members of the judiciary, civil service, Civil Justice Council, academics, charities, practitioners and more. The aims of the event were to engage and make connections, to update and share new learning, identify opportunities and share a vision for the longer term.

Welcome by the Master of the Rolls and Head of Civil Justice

Sir Terence Etherton MR opened the event by welcoming the 200 plus attendees from home and abroad to a forum which was unrivalled nationally and internationally. He reminded all that access to justice was the most precious and essential ingredient of the rule of law. The event was a tremendous and unrivalled opportunity for the exchange of ideas, unlocking potential and discussing new research and technology. He thanked Sir Robin Knowles for his dedication and the Civil Justice Council (CJC) and members of his office for their hard work and commitment. He gave an overview of the work done by the CJC since the previous event. In October 2018, the final recommendations for the Property Disputes Deployment Project were published. They focused on bringing about a one-stop-shop for disputes. The final ADR report had also been published earlier that week. This was a major report and the result of much work. As part of its recommendations, the Judicial Executive Board had agreed to create a Judicial ADR Liaison Committee which would be chaired by Mrs Justice Elisabeth Laing. This committee would support the development of ADR in the court process, including online mediation. In addition to this work, the CJC had taken a step forward by commissioning a report addressing the impact of reform on LIPs with regards to assisted digital. Without understanding the impact of reform, we could not know where to unlock potential and how to overcome issues. The forum would deal with a spectrum of difficult issues including equality under the law, access to justice and mental health. As a former non-executive director of a mental health trust and experience within the Mental Health Review Tribunal, this topic particularly resonated with him. Attendees would also hear about the situation in other areas of UK and the commonality and differences faced in access to justice for those without means.

Opening Address by the Minister

Lucy Frazer QC, MP, provided an update as Parliamentary Under-Secretary of State for Justice with responsibility for Courts and Tribunals and ongoing reform for the criminal and family courts. She said it was a pleasure to follow the Master of the Rolls and to work with Mr Justice Knowles. She also thanked the CJC for the opportunity to speak to a wide range of experienced practitioners and for their work in continually improving access to justice for

LIPs. As a barrister she had on occasion appeared against LIPs and therefore understood the challenges they faced. She had also seen the numbers of LIPs increase and the impact of changes to legal aid.

She said that the event was a great opportunity to acknowledge and showcase achievements, share best practice, plan ahead and build on the innovation shown at the last forum. The UK's world class justice system had evolved over 100s of years with enshrined principles of fairness and independent judiciary. However, there were also unnecessary complexities. For instance, a less efficient paper process which was difficult to navigate. Sometimes the system could be slow, complicated and wasteful. The government was investing £1bn over a 6-year period, designed to improve access to justice and make the system easier to use.

Since March 2018, 35,000 claims had been made in Online Civil Money Claims. Online divorce applications had made a painful process quicker. The rejection rate for paper applications was previously 40% however this had dropped to less than 1% for digital. The video hearings pilot had enabled participants to participate without coming to court and had received high satisfaction ratings. These new systems would not challenge the independence of the judiciary but would enhance, complement and modernise existing the existing system. The justice system would remain open and transparent with more people being able to see hearings and read judgments. For those attending court in person, the physical court room would continue to play a key role in critical role in the administration of justice. In other cases, there would be the use of video hearings to avoid the time and expense of travelling. The work would always be underpinned by 3 principles being: just, proportionate and accessible.

She understood that many would want to know more about the Post Implementation Review (PIR) of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO). This would be addressed by Fiona Rutherford later in the day. The Legal Aid changes were underpinned by the principle that resources would be better focused on the most vulnerable. The Coalition government's core objectives were to reduce unnecessary adversarial litigation, to make significant savings, deliver overall better value for the tax payer and target legal aid at those who needed it. They were working hard on the findings of that review and were already acting on some of the recommendations – for instance in domestic abuse and child abuse in private family matters. They had also broadened legal aid for those in prison. There were a number of emerging trends considered from an evidence gathering process. They had met with many organisations, parliamentarians and key figures to hear the issues faced first hand. A key theme was the provision of early advice, which would resonate with many attending. There had also been an informative session with MIND, Resolution and Women's' Aid along with round table meetings.

The previous week, there had been an MOJ event to improve legal support for those using the justice system. The Legal Education Foundation (LEF) had also facilitated workshops. To properly consider legal aid in the coming years, they needed to consider what the justice system itself would look like and how to interact with it. There would always be those that required representation but there was a need to support everyone. Lawyers played a significant role but there were also many others who gave vital support.

There needed to be a constructive and collaborative spirit and evidence based policy to deliver a legal aid system as part of wider support system for all in society. Legal aid was and would form an important part of support but there was a need to consider the bigger picture. They had also considered the Lord Justice Jackson recommendations on funding and costs. This review had been running to the same timetable and would be finished at the end of the year. She had spoken at the CJC seminar at end of June event and there would be a public call for evidence.

She concluded by reflecting on the achievements of the LIP strategy which had been funded by the Ministry of Justice since 2014. It could not succeed without the time and commitment

from the advice, voluntary and pro bono sectors. She also praised the 23 Personal Support Units providing free, independent and emotional support for those without representation. RCJ Advice Bureau had secured a family legal aid contract and had also collaborated with mediators across London. Advice Now continued to act as a one stop shop for LIPs which had seen a 9% increase in users, many of which were vulnerable. LawWorks supported 230 independent clinics. None of this would have been possible without the commitment and determination all shown in supporting LIPs. The event was an important opportunity to reflect on these successes.

She gave her thanks to the Master of the Rolls, CJC and its members, who did so much good work across the field of civil justice. She thanked them on behalf of the government and reminded them that their work was appreciated. She also thanked Sir Robin for his ability to draw together such a wide range of expertise from across the country.

The Challenge: Equality before the Law

Rebecca Hilsenrath, CEO, Equality and Human Rights Commission highlighted the main themes in the recent key statutory report, on state of equality across country – ‘Is Britain Fairer?’ The gap was getting bigger, particularly for two groups: disabled people who faced issues with education, poverty, abuse and had seen a 175% increase in hate crime. Ethnic minorities had seen some improvement over the previous few years. However, some groups were still more likely to live in poverty and experience deprivation. 50% of children lived in poverty in these groups with gypsy families having the worst outcomes with healthcare and mortality.

Another key finding, was that since 2015 there had been a marked regression in access to justice. Changes to legal aid had resulted in many being unable to access help. Particular problems lay with housing and in prisons. There needed to be equality before the law, particularly with Brexit and fears over potential rights regression on leaving the EU. Access to justice had inspired a number of their reports and strategic plans and a collaborative approach was needed. There needed to be a national conversation. There were a growing number of voices speaking on this. For instance, UN bodies holding the government to account. The Commission had spoken to those bodies about the impact of the legal aid changes. There was a lack of trust in the justice system and physical barriers. The concluding observations ranged from undertaking a review, recommendations on the impact of legal aid cuts and providing accommodation to disabled people. There had also been capacity building programmes. In addition, they had spoken to Parliamentary bodies and held an inquiry into the effectiveness of the Equality Act and barriers to bringing claims under it.

She welcomed the remarks of the minister, and the Commission was working with the MOJ. They had fed into the LASPO review and welcomed the modernisation agenda however digitisation did not fit all and they needed to ensure that some groups were not left behind. There needed to be an inclusive approach with comprehensive data collected on users and an impact assessment.

They had opened an inquiry for the telephone gateway on how it was working. They also had a project on access to justice in education cases, another looking at ombudsman and another advising Trade Unions on discrimination cases. Additionally, they were researching what gaps there would be after the withdrawal of EU funding. They were open to ideas and eager to form Partnerships to assist with limited resources

Plenary Discussion: Meeting Challenges by Unlocking Potential

Sir Robin Knowles opened this session by highlighting the need to meet challenges by unlocking potential. The knowledge and experience in the room was unequalled. There was a responsibility to share good ideas that work and identify what could be done next.

Jamie Goldsmith, Pro Bono Connect – said that better matching would make more lawyers want to be involved.

Lizzie Iron, PSU asked what incentives could be given to encourage more lawyers to do pro bono work as this was challenging in some areas.

Zachary Bredemear, Chancery Bar Pro Bono Committee said you needed experienced volunteers supporting junior people. A 'Pro Bono friend'. Doodle poll technology could assist with sign ups.

Jess Campbell, CEO of Advocate, cited a 20% increase in the allocation rate. She worked with chambers to remind them that pro bono was at the core of their responsibility and to encourage greater engagement. Schemes such as the Chancery Bar LIP Support Scheme (CLIPSS) could help engagement. There was a need to go back to basics by talking to people as well as developing technology.

Ellen Taylor, Derbyshire Law Centre said it was easy to get pro bono support in London and big cities, but less so in rural constituencies where it was difficult to encourage local support.

Rita Leat, CEO of the Institute of paralegals said that there were 100,000 paralegals working across the UK. This potential should be unlocked. The issue was that they remained unregulated.

Helen Rogers, Allen and Overy said the lack of funding was difficult, particularly for those outside of London.

Chilli Reid, from Advice UK ran schemes in London and hoped to expand this elsewhere. Their aim was to get Law students used to the idea of pro bono work whilst undergraduates. They could then become champions for pro bono and help to change the culture.

A representative from LawWorks said that one initiative for 2019 was to bring together the university sector and advice sectors and charities. They were developing a common suite of resources for clinics across different sectors.

Lucy Frazer MP offered three ideas: to create pro bono champions in chambers, linking up big city law firms with law centres and finally asking for local MPs to facilitate links in the community.

Prof Grainne McKeever said that LIPs should be built in further into the process so their voices were heard.

Dave Southall, McKenzie Friends said the PSU was a wonderful resource but was often busy and not always open. He saw many people coming to him for assistance as a McKenzie Friend.

The Chief Executive of PSU said there were 24 centres in courts in England and Wales. They had seen an increase in attendees with no extra resources. They had great links with Advocate, LawWorks and the LIP Support strategy. However, funding remained an issue. They were hoping to pilot a phone service in Birmingham and needed space for 6 phones if anyone could support this.

Eddie Coppinger, University House Legal Centre, was developing new technology to provide legal services to advice deserts, including a web cam service which they hoped to go live with in January 2019.

An update from Scotland

Rebecca Samaras, Director, Edinburgh Centre for Professional Legal Studies; Access to Justice Foundation, Scotland said that there were many universities in Scotland which supported pro bono and this was expanding. Strathclyde Law Clinic was the longest running clinic in Scotland at 15 years with Edinburgh having been in operation for 10 years. They did not have the same resources as London but recognised that the issues they faced were similar to those seen regionally. Their Law Clinics visited firms to discuss access to justice and worked with the judiciary to help expand services. They had also engaged with The Law Society of Scotland who had started their own pro bono service, and were training solicitors and students to go into schools and talk about law and access to justice issues. The number of law clinics had expanded from an initial few to all Scottish universities, with two more in the pipeline. Many students wanted to help. There was a university wide networks of clinics, SOLCAN. They engaged the borders and provided skype appointments. Students were limited in what they could do, and representation in court was limited but they had started to expand their solicitor and advocate network.

They also organised their own legal walks in Edinburgh and Glasgow and were working hard to expand on those alongside the Access to Justice Foundation.

She concluded by saying that they had recently passed a bill to provide pro bono expenses being provided.

Siobhan McGrath, President of the Property Chamber had worked with students at tribunals from BPP Law School and the College of Law for many years. There had been much success with the engagement with the judiciary who could help with training on the process. It was important to also remember that students who could act as mediation friends.

Tia Matt, Exeter University wanted to see how Exeter University could utilise their students more. There was an advice desert in her region but they had 1300 students with 450 dealing with pro bono work who were capable and keen.

Martin Barnes, CEO LawWorks underlined and endorsed the student contribution. They had held their annual student awards, hosted by the Attorney-General. Pro bono held much benefit for students through confidence building and learning new skills. For instance, they had created a scheme in Cambridge having noticed the number of firms in Cambridge but the little pro bono work undertaken. The new clinic engaged these local firms. Swansea University had also set up a clinic and were doing fantastic work.

Bob Chapman, Welsh National Advice Network added that there were 50,000 students out there with so much untapped potential. However, one of the main challenges was the capacity of the advice organisations to effectively supervise the volunteers.

The Master of the Rolls added that he would see what the judiciary could do to provide support and encouragement. He would take this discussion back to look at helping provide greater coordination with the Presiding Judges on the circuit with local universities.

One attendee was involved with a website providing peer support. Online discussion forums were a great way of advisers sharing expertise and was a good use of scarce resources

Rachel Stalker, Liverpool John Moores University mentioned the 120 students helping within Liverpool University which benefitted from their supportive local firms. They were always happy to involve paralegals but many would only do pro bono if someone was supervising them.

Helen Sheldon, Islington Law Centre worked with a number of students. Supervision was a huge time commitment but this reaped big rewards. She suggested that they could further unlock the potential of students by unlocking the potential of solicitors and barristers at the end of their careers.

An update from Wales, including the Advice Action Plan for Wales

Bob Chapman, the Chair of National Advice Network Wales announced that they would have their first Minister in December 2018 who was a supporter of advice services. Following the 2012 legal aid cuts, the government held a review of advice services. £5m was taken out of the advice sector. The remaining quality of advice was patchy and inconsistent. The Welsh government subsequently put £2m back in. Since then, they had developed and implemented a quality framework and published a needs analysis. The Advice Network was established and a 5-year action plan created with annual progress reviews. They also had newly devolved debt advice funding. They were considering a range of preventative measures such as public legal education within a new curriculum. There was a pilot project seeing how future preventative work added to crisis advice would assist people with debts. There was a process of coordination across 6 regions with networks of providers and funders. They aimed to reduce the burden on advice providers with funders. All details could be found on the gov.wales website. The most recent work involved a longer-term vision of a national advice system. This was with their Minister for endorsement. Additionally, LawWorks was expanding in Wales via Cardiff university.

Andrew Felton, the Secretary to the Commission on Justice, Welsh Government explained they had held their first meeting earlier that month. There was a call for evidence held earlier in the year which received 162 submissions but they welcomed more. 118 of the responses dealt with access to justice. They were gathering a robust evidence base on a number of themes such as cuts in public funding and the availability of access to justice. Information gathered on the police was stark - 85% of police time was said to be spent on matters other than crime. There were big issues around the rise in litigants in person which had an impact on the fair and efficient administration of justice. They were considering advice deserts, particularly in rural areas and there was research looking at legal need by the Legal Education Foundation. They were confident that the work being done with Swansea University would give a good baseline on the location and depth of advice deserts. They were also considering equality within the justice system and technology as an enabler and digital accessibility in courts and advice sector. The scale of the challenge was deeper in rural and post-industrial areas which dominated in Wales. But this could also be applied in areas of the rest of the UK. They had a big and exciting year ahead.

Paul Yates, Freshfields mentioned the potential of in-house lawyers. This was a growing body and the SRA needed to provide clarification on their regulation which would hopefully unlock potential in that area. A more holistic approach was needed from the government.

Julian Bass, National Pro Bono Centre had accompanied Sir Robin to Exeter for the CJC LIP workshop which highlighted the engagement of students. There was enormous potential in lawyers, not just those nearing retirement, but also practicing.

Alison Lamb, RCJ advice picked up on the idea of collaboration. They offered a non-molestation order online which could be used by Refuge, Women's Aid, the police and Local Authorities.

Amanda Finlay, Chair for Law for Life said she was thrilled to hear that Advice Now was being referred to as the public face for LIPs. It was a service used by 1m+ people and enabled LIPs to support themselves. There was a need to use these resources much more.

Elizabeth Davies, PSU emphasised the need for a holistic viewpoint. Access to justice was not the same as access to courts or a solicitor. More collaboration was needed. She also highlighted ADR and hoped to hear more about the potential remedies for LIPs.

An Update from Northern Ireland, including the Reference Group for Litigants in Person

David Lavery, the Director of Access to Justice in Northern Ireland explained that they set the context for access to justice policy. Northern Ireland had only assumed responsibility for justice policy in 2010. Brexit had been an issue, and there was a need for a local devolved government. They had so far chosen not to replicate policies from Westminster and instead had implemented progressive policy interventions such as in youth justice. They had a more welfare based approach with more emphasis on problem solving justice, addressing the underlying cause of offending behaviour. He echoed the sentiment of others that the answer was not always lawyers or courts. A holistic approach was desired. They had commissioned an independent report on access to justice policy. There were alternative pathways to resolving legal problems than going to court.

Northern Irish ministers chose not to adopt the LASPO route and maintained a legal aid system which they believe had achieved control and value for money. They had not seen the same rise in LIPs but there was a need to build the voice of LIPs structurally into work. Ulster University had done work on this with the Human Rights Commission.

Les Allamby, the Chief Commissioner for Human Rights, Northern Ireland discussed the theme of user participation. Ulster University had undertaken research on the impact of barriers to LIPs in family and bankruptcy matters. The university had formed a clinic to look at the impact of giving one cohort access as opposed to another navigating the system themselves. The latter found this very difficult as the system was not user-friendly. Another key finding was a communications gap between the profession and LIPs. They had run a conference, hosted by the Lord Chief Justice, to an audience containing mainly LIPs. They wanted to be heard. A success story was that one attendee at this conference was a web designer who was now working with the court service to make it more user friendly. LIPs could be part of the solution.

Nick Hanning, Advocate said firms should be encouraged to be involved with pro bono as this would improve their practice. There were also commercial reasons for doing pro bono as it would improve their profile and improve local trust. They also shouldn't forget that improving access to justice was a statutory and regulatory objective. More could be done by ensuring that firms had to demonstrate what they were doing to improve this.

Fabian French, UK Community Foundations encouraged the organisations in attendance to contact their local community foundations which were very good conveners and catalysts.

HHJ Graham Robinson added that they had a help desk present in Sheffield Court assisted by 2 solicitors and regulated by the SRA. Students were encouraged to be involved.

Five Minute Reflections: The next chapter

Sir Ernest Ryder, the Senior President of Tribunals provided an update. More than half of those involved were self-represented and very dependent on LIP support. He was very grateful to the pro bono providers. So far they had worked on a student scheme and new modules in degrees. In 2019 they would be designing and trialling new paths to justice on what users wanted, needed and could afford. This involved more than digitisation with a holistic approach.

In special education disability claims, there was a 90% successful appeal rate. The consequences being stress, financial distress and social chaos for the claimant. A new system was needed with better and clearer language, which removed barriers, created speedier resolution, created a less threatening environments, better communications and engagement with users and respect for different backgrounds and conventions.

There was a need to understand users so they were considering new processes starting with the decision maker which would be faster with more help at every stage. There would be up to 18 new case supervisors to help people present their case. There should also be clear markers and videos.

ACAS were unable to help effectively due to a lack of engagement and limited time and resources. For access to justice to be effective, it required a change in thinking. They were looking to provide online dispute resolution. Video hearings had been trialled in the tax tribunal and they were putting in protections for that to be a fair process. A new asylum process would front-load to ensure lawyers would get paid quickly. This would all be trialled in 2019 alongside all the other digital changes.

They were also very fortunate to have the Administration Justice Council and were grateful to the MOJ for the funding and to the Legal Education Foundation. He hoped that this Council could work collaboratively with the CJC and FJC to help LIPs.

Prof Richard Susskind OBE, the President of the Society of Computers and the Law informed attendees that 50% of the world had access to the internet but only 43% had the protection of the law. The reality being that the process was time consuming, costly and unintelligible. He had recently been part of a Forum on the Online Court with Susan Ackland-Hood. The first day focussed on the global situation and the second on strategic challenges and future policy. One idea that was that the system could be extended beyond its traditional remit to provide more help via technology which could be as simple as portals and web casts to help people understand and interact. Or this could be more advanced, to help users understand their rights and what was available to them. An extended court makes sense in an internet age. Some decisions could be made, not in open court, but in the process of an online interaction with a judge. This had already been utilised in Denmark, Australia, Ukraine, China, Utah and Canada.

On the second day, attendees such as Lord Briggs, Joshua Rosenberg and Christina Blacklaws discussed artificial intelligence. The remaining obstacles were not insurmountable, such as security or fears over dehumanising the service. The mood of the meeting was to increase transparency. The UK project was the world's most ambitious and it would need judicial input and political will. Quoting Sir Ernest Ryder, he concluded by saying that the process should be intelligent and useable and not the exclusive playground of the rich.

Lynda Nightingale, District Judge highlighted Civil Money Claims Online which allowed issue online. However, this offered little guidance to litigants to help them break down the issues. The new system provided the opportunity to develop better forms and better information for LIPs. She had worked with DJ Letham on some better structured forms and information and guidance to improve the online system. She was very grateful for the support of the senior judiciary and senior management of HMCTS for providing funding on this. The CJC report on assisted digital highlighted the issues with digital capability. Civil money claims

online should provide much more assistance to LIPs to enhance legal capability. This was not a new challenge. For many years they had lawyers to assist LIPs with their preparation or in court. Few could afford to instruct solicitors. It was important to remember that a claim up to £10,000 would be a lot of money to some with many of these claims involving legally complex issues. Many LIPs did not consider the need to do research or seek advice. She and DJ Letham were working on pre- issue guidance to LIPs at the outset as it could not be right that LIPs did not have basic information about the strengths and weaknesses of their case and the costs involved. Information could be done via an online system in creative and accessible ways. A list of essential open questions could be created to help them form their case and provide info in own words.

Judges were adapting to the landscape and were now trained on the needs of LIPs.

At a local level she had been managing the difficulties of access to justice following court closures. For instance, the Designated Family Judge in Surrey had helped with telephone applications for non-molestation orders.

Access to Justice and Mental Health

The Chair, *Rebecca Wilkie Programme Director of The Litigant in Person Support Strategy* explained that a working group had been established to look at mental health, focusing on the scale of the problem, the impact of the justice system on the mental health of LIPs and increasing awareness within the legal profession.

Prof. Sharon Collard, University of Bristol and Research Director at the Personal Finance Research Centre told attendees about a research study with the Money Advice Trust looking at money and mental health. A survey of 1500 debt advisers provided a front-line perspective. Many advisers experienced a range of vulnerable situations, many with mental health aspects. 400 people had experienced mental health issues arising out of debt problems. A full-time adviser saw, on average, 87 clients a month. 35 would disclose a mental health problem. However, there was a disclosure gap with 4 out of 10 refusing to disclose details. On suicide, advisers had a conversation every 30 mins with people at risk of suicide. There was an opportunity to have a positive intervention and achieve a better outcome. They wanted to collect data to show the numbers of issues faced in the advice sector and to encourage practical solutions. There was a resource pack available online and many other tools and resources available which were developed with the advice sector.

Professor Gráinne McKeever, Ulster University and Ulster University Law Clinic had produced a report with the Human Rights Commission on the barriers to legal representation. They took a holistic view on the data set, not just focussing on LIPs. They observed them in hearings, followed by interviews and a questionnaire. They also undertook general health questionnaires, used as a standard screening instrument for mental health. They had 120 pieces to analyse and the results showed a high prevalence of mental health issue amongst LIPs. 1 in 10 had clinical depression. They also looked at what it felt like to be a LIP with responses ranging from exhaustion to despair and confusion. Even those who were more articulate generated high scores. There was a serious gap in understanding how mental health manifested itself. There was a lack of structural support and implications for Article 6 rights.

Diane Sechi, South West London Law Centres and Simmons & Simmons provided a story about a client of hers who died after her home was repossessed. This showed the human element behind the data collected. She needed support at a critical time of her life. A possession order could have been avoided. This story highlighted the importance of early intervention.

Professor Rob Poole, Bangor University and the Centre for Mental Health and Society provided workshops on mental health. Two had been held in London and Manchester which were well received. These did not give generic advice but spent time understanding the environment through an interactive session. These did not just address mental health as LIPs faced multiple problems and were marginalised. Aggression and confusion were other themes. There were also major issues for LIPs around literacy, with 20% in the UK being illiterate. This rate was much higher for those coming into contact with the courts. He believed the three main tools of trade were a pen, skills developed on supervision to help people process but also to deal with emotional aftermath and time. What remained unresolved was how to roll this out sustainably.

Break-out Discussions were held in:

(1) Access to justice and mental health

Co-chairs:

Stacey Lamb Programme Coordinator, The Litigant in Person Support Strategy
Martha de la Roche Network Development Director, Litigant in Person Network

And with:

Prof. Rob Poole Bangor University and the Centre for Mental Health and Society
Prof. Catherine Robinson Professor of Social Care Research, University of Manchester;
Director, Personal Social Services Research Unit

(2) Measuring and demonstrating what works

Chair:

Prof. Rachael Mulheron QMUL; Research Adviser to the Civil Justice Council

with:

Lindsey Poole CEO, Advice Services Alliance

(3) Access to justice beyond the cities

Co-chairs:

Guy Beringer CBE, QC Chairman, The Legal Education Foundation
Robert Bourns Chairman, Law Society Board

with:

Eddie Coppinger CEO, University House Legal Advice Centre

(4) HMCTS' Online Civil Money Claims Project

Chair:

Kerry Greenidge HMCTS Service Manager, Reform Programme

with:

Steve Liddiard HMCTS OCMC Team
Clement Neveu HMCTS OCMC Team

The LASPO Part 1 Post Implementation Review, from MOJ

Fiona Rutherford Deputy Director of Legal Aid Policy at the Ministry of Justice said she'd had the pleasure to speak to a wide range of people over the past 6-9 months as part of the governments Post Implementation Review (PIR). They had engaged with 90 different organisations and individuals as well as receiving written evidence. They had held the third

and final consultative meeting the week previously and were focussed on the way forward to deliver innovative solutions to bring support. They were also grateful to the CJC for their involvement and would continue to welcome their considered and measured input. The PIR was on track to complete by end of year with findings to be published soon. Whilst the review itself looked backwards against the legislative objectives, policy development was very forward thinking. The themes discussed would be used to set future direction. An ongoing theme was the increase in volume of LIPs and encouragement for early resolution of problems and early intervention.

Targeted funding could reduce judicial processes through better support at the outset. This would help avoid costs later in the process. This could result in societal benefits, savings to local authorities, court costs and health and other public services such as housing. It was important for the MOJ, professions, judiciary, academics and others to think innovatively. They would continue to work with the experts to guide future research and were also engaged with other government departments which was crucial to ensure alignment in policy and decision making. There would always be matters requiring legal advice but there was a need to help all.

She had attended the CJC regional workshop in Exeter which gave a snapshot of some of the innovation around the country and how it could tie together. Technology was a catalyst and they were embracing the court reform programme which was evolving at a rapid pace. Innovation would come from the legal and advice sector. There was a need to create an environment for innovation to thrive. She welcomed the ongoing engagement of the sector.

The Courts and Tribunals Reform Programme

Sidonie Kingsmill, Customer Director at HMCTS provided an overview of the work completed since the 2017 event. In family, they had launched the online divorce application. 19-20,000 had completed the digital application since May 2018 and it had received positive feedback with 85% either very satisfied or satisfied. With the old legacy form, they had to return about 40% of applications however the digital application figure was less than 1%. They had also created a central repository to record where mistakes were made.

In tribunals they had worked on appeals against the Department of Work and Pensions (DWP) benefits by allowing the submission of Personal Independence Payment (PIP) applications online. You could track progress of the application online.

They had started introducing WIFI in courts and were testing modern telephony. Earlier in the year they had completed and evaluated a pilot on tax tribunal video hearings.

Forms were designed with the user in mind with an aim to create a multi-channel service. However, paper forms and telephone support were being kept for those unable or unwilling to use online services but they could still use online benefits through all legacy forms being moved onto gov.uk with an improved search functionality and plain English descriptions. These could also be downloaded onto phones and were scannable. There was an option to add email addresses and phone numbers so people could receive text alerts. They had added in save and return functions and forms were downloadable to print and take into an advice centre. They texted important email addresses.

Whilst many would still require help to complete forms, for some this would be light touch. They had split support into: legal advice, procedural advice, emotional support and digital support. There was a well-established link between digital and social exclusion and a need to improve the support offered.

They wanted to offer more reasonable adjustments and be more proactive in doing so and wanted staff to ask more questions. The amount of support people needed was fluid and not just based on skills, ability or confidence. It could also be their physical and mental health, finances or state of social network. They were working with the Good Things Foundation who assisted users with tasks such as navigating through webpages, how to connect to the internet and upload documents. They were also introducing web chat in 2019 and expanding

their outreach programme. The next year would be challenging and she welcomed the support of attendees.

Free Legal Answers

Martin Barnes, CEO of LawWorks spoke about the American Bar Association's 'Free Legal Answers' service which offered free legal advice. The original website had been developed in Tennessee. In 2018, the owners of the website, Baker Donaldson, offered to license it to LawWorks. Deloitte UK had since offered to project manage and test the website and Martin Barnes gave thanks to the team for their support and commitment. The site allowed you to register and ask a question or problem via an online form, with a provision for attachments. Lawyers would then read, sort and choose what to reply to or ask for further information. It was a tried and tested resource and used in 40 states. Whilst they were excited, they were still approaching it cautiously. It would be piloted in 2019 alongside The Litigant in Person Support Strategy (LIPSS) and the PSU. There would be a requirement to make a statement of annual income. It would also make it clear that an answer was not always guaranteed, accompanied by time limits. It would provide a new pro bono opportunity for lawyers and law schools and all advice given would be ensured by LawWorks. The website would have information and links to other support and advice. There would also be a check to see whether they would be eligible for legal aid. The work was in accordance with the pro bono protocol and allowed firms to take on matters if they wished. They may be able to provide information on trends from data gathered.

Free Legal Answers facilitated team working, created communities of lawyers and social events. This was not a silver bullet. It was a web resource which relied on people to describe their issues which had its limitations. The main aim would be to complement existing services and support, particularly in advice deserts. They were looking for lawyers to take part and would be inviting formal expressions of interest.

Update on three technology projects, Lexis Nexis

James Harper, Executive Sponsor at LexisNexis gave an update on projects over the past year which aimed to use technology to drive efficiency with tools that should be cross sector relevant and for as many people as possible.

The first was to simplify the completion of the PIP form. They had now digitised this and created a pilot version which could be completed on a laptop or tablet. They were ready to roll this out with partners around the country in Leeds and potentially Exeter. The issue had been to find volunteers to use it due to the slightly different way of working. It would provide a significant 15-20% time saving per session.

The second project was an electronic triage tool. They had partnered with Liberty on this. Finally, they had created a Legal Expenses Insurance (LEI) tracker to help identify whether users had access to this. The technology was there, but they needed to secure access to the data on the terms of different insurance policies.

The main challenge was encouraging new ways of working.

Update on resources to help with Exceptional Case Funding, Public Law Project

Jo Hickman, Director of the Public Law Project explained how this was a good example of how the pro bono sector and legal advice sector could work together. The exceptional funding scheme existed as a safety net. After LASPO, the Public Law Project monitored the scheme and acted for claimants during litigation. There were teething problems, with applications low and grants lower. This had significantly improved but it still needed to act as

intended, to prevent avoidable breaches of fundamental rights. A key problem was that the application needed to be made at the risk of non-payment.

There was scope for the wider sector to collaborate, so that pro bono providers were better directed to those who needed help. There were specific resources on how to get exceptional case funding in immigration and family. The Student Clinic at Exeter would assist in determining if clients had a statutory entitlement to the funding. They had also received support from Freshfields and were working on a toolkit to help city firms and law clinics.

Update on latest Reports, JUSTICE

Andrea Coomber, CEO of JUSTICE presented on some of the recent reports and work of JUSTICE. A recent report, chaired by Amanda Finlay focused on digital exclusion and particular groups of vulnerable people. The report made recommendations for them and broader recommendations and was supported by Freshfields.

Another report focussed on immigration and asylum appeals, with support from Kingsley Napley with recommendations for the tribunal system and government on digitisation. Both reports were available on the JUSTICE website.

In January 2019, Nicholas Blake would be leading work on understanding courts with a need for putting the user experience at the centre of determination of matters. This would look at a range of vulnerabilities and would consider adapting language and culture and promoting participation.

Two further projects would look at school exclusions which affected future opportunities and mental health, with many ending up in prison. The second was a housing consultation, looking at the merits of a Housing Tribunal and more tailored processes.

JUSTICE had also become the secretariat for the Administrative Justice Council, which was still in its early stages.

Update on working together, South West

Guy Beringer CBE QC, Chairman of the Legal Education Foundation provided an example where contacting the Dracaena Community centre in Falmouth had led to a number of new connections – such as a new remote skype advice service (via Eddie Coppinger), a new duty desk at Truro Court assisted by students from Exeter university, and a potential law centre in Plymouth between the Citizens Advice Bureau and the university. He had also attended the CJC event in Exeter and met with Tia Matt and Dr Sue Prince from Exeter University at their student law clinic who may be able to assist remotely. There were also many law firms in Falmouth who wanted to do more pro bono work. He had also agreed to speak with the West Cornwall Law Society.

Update on PLE

James Sandbach, Secretary of the All Party Parliamentary Group on PLE explained that this had been set up 2 years previously with support from the Solicitor General. They wanted an advisory panel to bring together all the public legal education providers and also the regulators, professional bodies, charities and bodies within the education sector to make a forum where they could interact and support the work they did. They had seven goals: evidence based PLE, quality PLE, universality, scaling up, using technology, embedding PLE across services and the private sector. The vision was to have a country where no one was denied justice.

The potential for greater collaboration in the advice sector

Marios Leptos, Citizens Advice oversaw the programmes delivered throughout Citizens Advice Bureaus (CAB) in England and Wales, working with partners across the advice sector and the justice system to widen access to legal advice. They were also working with other groups such as GP surgeries, the police and Crime Commissioners and Victims Services. They aimed to collect, analyse and publish data to help organisations understand more about who needed advice.

In 2017 -18 they had helped 2m people. Their local officers were embedded within local communities with 1800 centres open for advice. When unable to access this support, the outcomes could be significant, with an impact on society, health and mental health.

91% of users said they had experienced stress and anxiety. 68% said that their health had worsened. There was a need to work together formally and informally.

They had a strategic framework with many problems solved due to them. They wanted to improve the client journey and provide the right support for individual clients. They wanted to build on existing partnerships and develop new ones. This was a time for collaboration; no single agency could do all that was needed.

Ruth Daniel, CEO, The Access to Justice Foundation **gave an introduction to the Breakout Group discussions: Unlocking potential.** This provided an opportunity to share ideas on key areas of importance for the sector. Someone from the Litigant in Person Network would be involved in each group.

Attendees then participated in different **Breakout Group discussions:**

(1) Communications

Chair:

Clare Carter Deputy Chief Executive, The Access to Justice Foundation

with:

Nik Govier CEO, Blurred

Nimrod ben Cnaan Head of Policy, Law Centres Network

(2) Technology

Chair:

Christina Blacklaws President of the Law Society of England & Wales; Trustee, LawWorks

with:

James Harper Exec Sponsor, Rule of Law and CSR, LexisNexis

Chris Gorst Head of Better Markets, Challenge Prize Centre, Nesta

(3) Funding

Chair:

Ruth Daniel CEO, The Access to Justice Foundation

(4) Engagement with and across the advice sector

Chair:

Alison Lamb CEO, RCJ Advice Bureau

with:

Chilli Reid Head of Development and Policy, Advice UK

Claire Blades	Citizens Advice
Shyam Popat Centres Network)	Client Services Manager, South West London Law Centres (for Law Centres Network)
Rebecca Scott	Director of Legal Services and Senior Solicitor, RCJ Advice Bureau

Update on Alternative Dispute Resolution

Bill Wood QC, Chairman of the Civil Justice Council's ADR Working Group told attendees that a report had been published earlier in the week. He asked for reactions and feedback. The CJC had asked the working party to see how ADR thinking and techniques could be brought into civil justice. They had decided that there should not be compulsory mediation as the situation was more nuanced than that. They instead aimed to increase public awareness, funding and the organisation of ADR. ADR would form a part of the Online Court and Online Dispute Resolution.

He had been impressed by the number of references to this topic throughout the day, for instance using students as mediator friends. Many disputes didn't end before a Judge. ADR was about bringing cases to end in better ways.

It was a rapidly changing situation, for instance with the personal injury small claims jurisdiction. Members of the working group had spoken to the Motor Insurers' Bureau to develop the system in small value personal injury claims. This had to be accessible to LIPs. A major recommendation of the report was for the creation of a judicial ADR liaison committee. This would be chaired by Mrs Justice Elisabeth Laing and would continue the dialogue of the working group. It was a fortunate coincidence that she would also be responsible for the High Court LIP portfolio too.

What should/could the National Pro Bono Centre (NPBC) look like from 2020?

Anna Barlow, Abo Akademi University in Finland explained that for the previous 4 years she had been researching legal aid from an international perspective. Her conclusion was that justice was not a fruit salad – it was a cake. There was a need to think about whole recipe rather than individual elements. She wanted input from attendees on how the NPBC could help in providing any missing ingredients.

Julian Bass, NPBC said that in 2010 they had created a base in Chancery lane which could act as a home for charities and provide a place where different organisations with common purposes could work together. This had been very successful. However, they wanted to work out how to move to next chapter.

Christina Blacklaws, President of the Law Society of England & Wales added that they wanted to conceptualise how we might build on technologically enabled communities. Whilst they had a physical centre there was now the opportunity, via digitisation and the tools available to them to look further afield.

Chilli Reid said that the Chancery Lane office reinforced the reality that it was London-centric. There should be a conceptual centre, not virtual – but not a conglomeration in central London. There was an opportunity for a change in culture.

Guy Beringer said that the event should be a catalyst for the sharing of information.

Dr Jane Krishnadas appreciated the analogy of the cake with the NPBC as the yeast. Only a small amount was needed but this was powerful. There was a need for more advocates to help. LIPs needed more empowerment and support. The NPBC could be a voice for them.

Ruth Hayes wanted to see a national strategy on funding for supervision and how could pro bono be matched with other agencies for health and education.

Alasdair Douglas, LawWorks added that if they could focus conceptually on what the sector needed, the NPBC could act as a repository of knowledge and learning. If everyone spoke with a single voice, it would be louder and the government might listen more closely. They might also avoid duplication of work. They may also be able to generate more funding for more empirical and deeper research. Some stakeholders could try and find other ways of funding. He cited the foundry at Vauxhall and the way that housed multiple charities. Perhaps a similar set up could be considered.

Christina Blacklaws added that a critical role of the NPBC was on data collection and analysis to enable insights and create a more powerful position to lobby decision makers. This should be a key focus.

Sir Nicholas Green, Chairman of the Law Commission said that the Commission were consulting in a specialised way. They would look to do so alongside the sector. They had 20 legislative projects on at any time. Many involved thinking deeply about the accessibility of law. There was currently a consultation running on simplifying immigration rules.

Carol Storer, Legal Aid Practitioners Group said that once the answer was for hubs around the country and to share facilities. As the years had gone on, physical presence was less important but would still remain a focus for the next 10-15 years. Technology had developed very quickly. Physical space was still needed when so many organisations were cash strapped. It helped to collaborate however there was also a need to take a step back to see what was missing.

Martha de la Roche made a plug for the LIP network which was modestly trying to collect and disseminate information of that kind by way of a centralised resource.

Next steps and closing remarks

Sir Robin Knowles gave thanks to all that had attended and for their input. Attendees were invited to stay for further discussion after the event.