



Eighth National Forum on Access to Justice for those without means

Friday 6 December 2019

Summary

The event was attended by more than 250 delegates, including members of the Civil Justice Council (CJC), judiciary, legal professionals, civil servants, academics, charities, other organisations and, for the first time, members of the public. The aims of the meeting were to look at areas where a step change is achievable, to engage and make connections and to update on new learning whilst enabling challenge and sharing.

Another first for the event this year – the day was filmed. Links are provided throughout this document should you wish to watch any of sessions.

Opening address by the Master of the Rolls

The entire session is available to view at:

https://www.youtube.com/watch?v=dywAEAudX80&list=PLEF1_bG92bxt5kDLgtqEGNfsjzNaOwDG&index=1

Sir Terence Etherton MR welcomed those in attendance. He remarked that access to justice for those without means is a subject of ever increasing importance. He was proud earlier in the year to tell the Justice Select Committee of the House of Commons about this event – the largest event of its type in the world, as far as he is aware. The event grows each year which shows how dedicated so many people are to improving access to justice for those without means.

He highlighted two matters which occurred in the past year. In February the government published their long anticipated Post-implementation review of Part 1 of LASPO (Legal Aid, Sentencing and Punishment of Offenders Act 2012) alongside an action plan - *Legal support: the way ahead*. And throughout the year the HMCTS (Her Majesty's Courts and Tribunals Service) Reform Programme has continued to move forward, with ever more cases now beginning online. Reform has of course, also been the subject of much commentary, some critical, and several formal reports. He understands many people will have strong feelings about these two things and hopes that reflects the shared passion which brings together those here today.

He encouraged those in attendance to seek positives not just challenges. It is all too easy to be critical, but success must also be recognised.

Take for a moment OCMC (Online Civil Money Claims). The element of the Reform Programme for which he is most unapologetic. It remains incomplete, there remain

challenges ahead for its completion, and it doesn't yet cover all types of civil claim. None of this means however that the work on it to date doesn't offer cause for celebration.

Since the pilot has been live over 107,000 claims have been issued, and over 25,000 defences have been filed online. This has not been done by bulk users, nor by legal professionals, but has been done exclusively by litigants in person. That they have chosen to use this system in such numbers is astonishing. It should be celebrated.

That is not however to be misunderstood. Celebration must not be confused with complacency, and I look forward to the sessions later which cover the work being done to ensure that in making it easier for so many, we are not inadvertently leaving others behind.

He encouraged everyone to think broadly - often being a lawyer or a judge requires you to categorise or define. There is a danger in doing this that you then exclude things to fall outside of your definition. There is often much in common for all in the experience being described and discussed and the outcome these groups ultimately seek is after all something common to us all - justice. So, do please feel able to contribute

He asked those in attendance to look forward. He is keen to encourage data collection across the system and to promote the use of mediation. With mediation in mind, he has stressed to both government and HMCTS that resources must be available for this to work properly.

He observed there is a real chance for a step change in Access to Justice over the coming years and we all have an opportunity to grasp. Digitisation is coming. More and more people are understanding the value of legal education, and the way in which we assess our efforts is improving.

He announced his delight that Mrs Justice Elisabeth Laing who was appointed earlier this year as the lead judge for litigants in person was in attendance along with Mr Justice Nicklin and the revived network of LIP liaison judges.

He offered sincere thanks to Robin Knowles, as well as the CJC Secretariat and those in his private office.

Access to Justice and the Rule of Law

The entire session is available to view at:

https://www.youtube.com/watch?v=cXjYGcOBA4Q&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=2

Joshua Rozenberg HonQC, Author and Commentator introduced the next section and outlined that he and the panellists were to discuss three issues. Firstly, how significant to the rule of law is access to justice for those without means? Secondly, the UN sustainable development goal 16 which aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and what should that mean for access to justice for those without means in the UK. Finally, what is the next practical improvement in access to justice for those without means?

Mrs Justice Judith Farbey DBE, President of the Upper Tribunal (Administrative Appeals Chamber) quoted the Senior President of Tribunals, Sir Ernest Ryder, who said, "it is a

constitutional duty of the judiciary to administer justice so that effective access is afforded and procedural fairness is guaranteed". There are a high number of litigants in person (LIPs) in the tribunals system.

She suggested three changes which she believes would help improve access to justice for those without means - new practice directions for vulnerable people; modifying procedures during the hearing, greater use of questions in writing and ground rules hearings; improved physical space, such as a more informal layout than a traditional court.

She concluded by acknowledging there are some concerns about reform in tribunals. For those not able to access digital services, other services will always need to be available. Being accessible for some is not good enough, to uphold the rule of law the system must be accessible for all.

Simon Davis, President of the Law Society of England & Wales explained his belief that the rule of law is strong in the UK. The recent proroguing of parliament is an excellent example of this. It could not be said this is true in many other jurisdictions.

He pointed out an area which is not going so well. Looking at housing, one third of the population now lives in an area with no legal aid housing practitioners available, a further quarter live where only one is available. It's a holistic issue linked to debt, homelessness, mental health issues and family breakdown. He urged a simple practical step – ensuring forms are in plain language. He stressed that much greater public education is needed; in a recent survey, some people indicated that they thought the police were part of the judiciary. He emphasised that educating people about what legal aid is still available and how they can access it is essential.

Les Allamby, Chief Commissioner for Human Rights, Northern Ireland began by quoting Atticus Finch, Lord Neuberger and the United Nations. He stated that in Northern Ireland, the Bar Council has an aim that everyone should be represented in court in civil and criminal proceedings. Despite the Legal Aid Sentencing and Punishment of Offenders Act 2012 not applying to Northern Ireland, there are still five thousand people going unrepresented each year mainly in family courts and bankruptcy proceedings. He expressed that for too long in Northern Ireland the focus has been on the vexatious litigant (of which there are some) and not on the clear majority who surf in and out of legal representation and struggle to break to code of legal language, procedures, and protocols never mind the complexity of the law itself.

He indicated joint research by the Commission and Ulster University School of Law into 'Litigants in Person in NI: barriers to legal participation' found that there is a communication gap between personal litigants and lawyers and judges. An interesting finding was that a personal litigant's perception of getting a fair crack of the whip was often as important as the outcome of the legal proceedings, so process as well as substance matters.

He went on to explain that an outcome of the research was the setting up of the litigant in person reference group (which is made up of a large variety of stakeholders including litigants in person). The group, amongst other achievements, has produced a report on how to make the court more user-friendly for personal litigants raising prosaic but, important issues around signage, placement of posters, reception facilities, information in advance of the day. It has also organised of a workshop on 'Dealing with Distressed Clients' through the

Access to Justice Foundation – a workshop presentation inspired by Professor Rob Poole’s presentation at last year’s CJC National Forum.

The panel then discussed how websites can provide information for litigants in person, who are able to access digital services, ahead of bringing a claim and at various stages throughout the process. Websites might provide practical advice of steps to take before making a claim, although there is a very fine line between giving procedural advice and legal advice.

Les Allamby noted in Northern Ireland that there is difficulty with people finding things online and being prepared for a case, in England & Wales the law and advice about it is more easily accessible than in Northern Ireland – further work on the distinction of Northern Ireland law online is needed.

As the final part of this session, exclusion was raised. It is not just digital exclusion that is a concern; physical advice centres are so overwhelmed and advice deserts are an ever-increasing problem.

Plenary Discussion

The entire session is available to view at:

https://www.youtube.com/watch?v=tL2gu5kUB5k&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=3

During the plenary discussion, member of the audience raised questions, gave opinion and shared updates on various topics and organisations.

HJ Barry Cotter QC, Designated Civil Judge for Somerset, Avon and Gloucestershire and Member of the Civil Justice Council explained some of his recent work on vulnerability. He began by describing how difficult it is to define vulnerability and a that better outcome may be achieved for vulnerable people by looking at vulnerability in terms of ability to participate or give best evidence. He remarked that the criminal justice system had recognised this need twenty years ago through the Children and Young Persons Act 1999.

The family justice and civil justice systems have more recently recognised that there are improvements to be made in each of their systems and have begun to make changes to enable this. Since 2005, The Advocate’s Gateway have been producing materials to help solicitors and barristers develop different techniques and adaptations to use when questioning vulnerable witnesses.

Stemming from the Independent Inquiry into Child Sexual Abuse, a recommendation was passed to the Ministry of Justice in 2018 to consider vulnerability in the civil justice system; this led to the formation of the Civil Justice Council’s working group on vulnerability. In September 2019 the working group published its initial report including 7 recommendations for public consultation. Following the consultation, the working group have amended several of their recommendations and included additional ones.

Juliet Carp, Chair of Employment Lawyers Association started off the discussion of public legal education by explaining that she is not an educational specialist at all. She shared that she has been an employment solicitor for 25 years but has only had a handful of cases end up at employment tribunal – education is a key factor in this. She felt that the pro bono work that

the Employment Lawyers Association does is some of its most important work and something it is immensely proud of. Regarding people being given their rights, there is a need for people to know them and to be able to ask for them. Too often the focus is on solving the dispute at the end of the process, but this should be considered at the earliest possible stage. Getting the wording on court forms right is helpful for some people, websites with information about the law and individual's rights are useful too. However, there are many people who are not able to understand the law and know how it applies to them. The Employment Lawyers Association is currently undertaking a project to connect its 6,000 lawyers with primary schools around the country to promote public legal education.

Adam Micklethwaite, Head of Digital Social Inclusion, Good Things Foundation stated that his organisation is engaging with HMCTS to pilot face to face support for digital services in communities. The pilot is taking place in 25 areas partnered with nine Citizens Advice Bureaus, eight members of the advice sector, seven community organisations and one branch of Support Through Court. The pilot is targeting six online money claims services – civil money claims; divorce; social security and child support; help with fees; probate and single justice system. Good Things Foundation is a national charity to build digital confidence and skills. Since 2010, Good Things Foundation has helped more than 3,000 people. Reflecting on its work, he noted there is opportunity to signpost the availability of digital support much more.

Caroline Sheppard, Traffic Penalty Tribunal shared the view of earlier speakers that digital technology enables many people to give best evidence. She said that the phone is the most used digital tool and that screenshots can provide key evidence.

Lucy Scott-Moncrieff supported the opinion of previous speakers about how widespread the issue of vulnerability is. She declared that the Equal Treatment Bench Book¹ is an excellent resource; it describes many types of vulnerability which can aid judges in deciding how best to adapt for vulnerable people.

Information collection, evaluation and research

The entire session is available to view at:

https://www.youtube.com/watch?v=mfOHDExbzsk&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=4

Matthew Smerdon, CEO, The Legal Education Foundation and Member of the Civil Justice Council introduced the session by sharing with the audience that a crucial factor in being able to improve the civil justice system is understanding how the system is currently working. He explained that the Civil Justice Council has faced difficulty in obtaining data for several of its projects.

Dr Natalie Byrom, Director of Research and Learning, The Legal Education Foundation described the civil justice system as somewhat of an informational black hole. She stressed that Reform provides the opportunity to improve the quality and the quantity of data collected. She explained that she had been seconded to HMCTS and during her time there had produced a report called Digital Justice² which set out a 29-point plan for putting data

¹ <https://www.judiciary.uk/wp-content/uploads/2018/02/ETBB-February-2018-edition-September-2019-revision.pdf>

² <https://research.thelegaleducationfoundation.org/wp-content/uploads/2019/09/DigitalJusticeFINAL.pdf>

strategy at the heart of the HMCTS reform programme. She described some of the main points from the plan and how they would help to inform change in the system and would therefore enable better access to justice.

HHJ Lesley Newton, Designated Family Judge for Greater Manchester described categories of data that the family justice system uses. The first is administrative data about how many applications are being made, how long is taking to get through the system, are there more cases of a particular type being filed. She explained that this type of data has been available for some time to leadership judges. This data allows senior judiciary to make a business case for extra judges or not closing a particular court. She urged those present not to be too frightened of digitisation giving the example that HMCTS previously returned more than a third of paper divorce applications, now online around only 2% are returned.

This data can be developed into something more sophisticated which in turn can be used for research to improve decision making and the system itself.

She gave an example that between 2010 and 2016 more than 600,000 children were taken into care. The data showed that there were striking differences between the level of care orders in Greater Manchester and East London, although the demographic is similar. Nuffield Family Justice Observatory recently secured £5m funding secured for various strands of work and as a result will be able to further investigate drivers behind the apparent mismatch between Greater Manchester and East London.

Matthew Bell, Head of Legislation Services, National Archives said that access to justice was close to his heart. He quoted that “ignorance of the law is no defence” but stressed that ignorance of the law is not helped if people are unable to find the law. He said digitisation has helped the National Archives achieve their objectives and hopefully aid access to justice. The National Archives can track and analyse their users to better serve people. Updates to laws now available, so people can check how a law has been amended over time. All UK and EU law now available online³, and all for free! He said that most people do not realise that once a law is passed, it is not set in stone and can be updated.

Matthew Smerdon asked if there are risks associated with collecting data. *Dr Natalie Byrom* responded that not collecting data is a greater threat than collecting it. *HHJ Lesley Newton* said that data provides researchers with evidence which can be used to improved systems, it does not personally identify individuals.

The Justice in Wales Report

The entire session is available to view at:

https://www.youtube.com/watch?v=jO8PD7fJl2U&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=5

Andrew Felton, Secretary to the Commission on Justice in Wales thanked those who had contributed to and engaged with the Commission on Justice in Wales, which had published its final report in October 2019. Access to justice is a central feature of the report.

³ <https://www.legislation.gov.uk/>

The third section of the report focuses on information, advice and assistance - which he thought would be of most interest to the audience. He noted that since cuts in Legal Aid brought about by LASPO in 2012, legal advice in Wales had been badly affected. The report did highlight some positive points also. The National Advice Network was established in 2015 to help develop accessible and good quality legal advice, the national body is convening a meeting of its regional and local arms to ensure that knowledge is shared as widely as possible. The report also highlights the lack of public awareness of legal support available, drawing attention to the need for increased public legal education.

The report recommended combating 'advice deserts' in geography as well knowledge for particular subject areas. The report supported the idea of increasing the number of Support Through Court units across Wales. It also stated that digital court services must be fully accessible with free assistance available. Due to court closures, many people in rural and post-industrial areas of Wales face long and difficult journeys to their closest court; the use of remote-access facilities and digital technology is not used often enough to combat this.

FLAWS – Finding Legal Options for Women Survivors

The entire session is available to view at:

https://www.youtube.com/watch?v=jO8PD7fJl2U&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=5

Alison Lamb, CEO, RCJ Advice Bureau explained that RCJ Advice is a legal advice provider. She stated that RCJ Advice are keen to identify the small amount of people who are entitled to publicly funded legal advice, as many people who are entitled to it are not aware of it. Research highlighted that there are thousands of frontline workers in refuges who directly encounter women survivors; it is essential that frontline workers are aware of what legal aid is available to those entitled. FLOWS was jointly developed by RCJ Advice and Rights of Women to provide information to women survivors and those workers supporting them. When the project launched in Spring 2019 many of the phone calls received by the service were from women who could not access support in their area. This is now changing as FLOWS is working with frontline providers. There is also an app; FLOWS are working with the police so the police can make referrals. FLOWS only work with Legal Aid solicitors with a track record of helping women.

Paul Yates, Head of Pro Bono, Freshfields Bruckhaus Deringer and Chair of the Administrative Justice Council's Pro Bono Panel explained that Court Nav⁴ is an online decision tree tool. It automatically fills in court forms and court documents by using data collection from simple questions. It provides advice and the forms are checked by a FLOWS lawyer. Users can also ask questions. It was first developed in 2013; it has evolved and improved considerably since then.

Plenary Discussion

⁴ <http://courtnav.org.uk/>

The entire session is available to view at:

https://www.youtube.com/watch?v=02W85aFHEuU&list=PLEF1_bG92bxt5kDLgtqEGNfsjzNaOwDG&index=6

Jane Krishnadas, Director, CLOCK said that domestic violence is still means tested and merit tested. She is keen to hear an update on when Special Guardianship Orders funding is to be made available by the Ministry of Justice.

Dame Janet Smith DBE, Trustee, Access to Justice Foundation felt that much of the focus of the day had been on improving process. She welcomes all improvements but warned that there is no substitute for legal aid. She expressed concern that the sector is in danger of accepting that the current position of legal aid will never be improved.

Penelope Gibbs, Director, Transform Justice highlighted what she said may be an unpopular opinion that often those accused of domestic abuse are often not entitled to legal aid.

Katy Watts, Solicitor, Public Law Project explained that exceptional case funding (ECF) was introduced by the government following LASPO to provide funding where a person's human rights were at risk of being breached if funding were not provided. Take up of the scheme is improving, but take up is generally still low. People who want to apply for funding, which is outside of the scope of legal aid can do so directly. The application process can be complicated and lengthy for individuals to navigate only. Many university law clinics and pro bono clinics of commercial law firms have been set up to provide support for ECF applicants. Public Law Project, in partnership with Freshfields, has recently published a guide⁵ for pro bono clinics on how to make ECF applications.

Eddie Coppinger, CEO, University House Legal Aid Centre gave an update on his work in Cornwall and Devon. He is trying to engage with community organisations to ensure they can tender for Legal Aid contracts.

Mr Justice Nicklin asked about statistics for ECF. *Katy Watts* responded that currently only around 25% of applications for funding are successful in family cases, however around 75% of cases are granted funding in immigration.

Rebecca Wilkie, Programme Director, The Litigant in Person Support Strategy (LIPSS) explained that the LIPSS is a national partnership of organisations working with MOJ to improve the experience of litigants in person. The six organisations that make up LIPSS are Support Through Court, RCJ Advice, Law for Life, LawWorks, Advocate and the Access to Justice Foundation. She gave an update on some the projects that the network is currently providing.

Advice Now is the one stop shop website for advice for litigants in person. Recently there has been a 16% increase in the site use with 85% of users self-identifying as actual or prospective litigants in person. In partnership with Resolution, Law for Life have developed a pathway to affordable legal advice which consists of quality self-help advice and fixed cost legal advice when necessary.

LawWorks has provided free legal advice to 48,000 in a 12-month period, through its 280 pro bono clinics, including 20 which have opened in the last 6 months. Advocate provided 725

⁵ <https://publiclawproject.org.uk/wp-content/uploads/2019/11/FINAL-VERSION-ECF-TOOLKIT.pdf>

pieces of pro bono work this year so far, providing support going as high as the Court of Appeal.

Dr Amra Bone, Consultant, Islamic Law, University of Portsmouth talked about her work with Muslim women. She said that there are not enough resources to make women aware of their own legal rights.

Klara Skrivankova, Grants Manager, Trust for London said she thought it is crucial to ensure users are involved in the design and improvement of legal services and support.

Lizzie Iron, Head of Service, Support Through Court began by discussing language used by the court. She said that the most common terms used in reference to the courts are ‘serving’ and ‘filing’ which to most people mean something completely different than in the legal context.

She gave an update on Support Through Court, which was previously called The Personal Support Unit. She said that funding support for individuals had been discussed, but funding support for organisations like Support Through Court is also an issue. Support Through Court recently announced a restructure and that it intended to close several of its branches. Support Through Court will close three of its branches and reduce hours at a further three locations. It has managed to save its West London Family Court Centre location which was due to be closed, due to demand for the service.

Support Through Court have secured funding for a national phoneline. It is not a substitute for face-to-face contact but does help to fill in the gaps – there are those who can’t get to the Support Through Court services, can’t leave home, have responsibilities and jobs, so a phone service works well as an alternative.

Nezahat Cihan, CEO, London Legal Support Trust spoke about the London Legal Walk. In 2019, around 15,000 barristers, lawyers, legal sector professions, administrators and volunteers joined in the walk. The date is 8th June for next year’s walk. £893,000 raised this year so far.

Lucy Scott-Moncrieff CBE, Co-chair, Legal Aid and Access to Justice Committee, International Bar Association began by reminding the audience that access to justice is fundamental to the rule of law. She remarked that she often hears as a country we cannot afford legal aid when budgets are tight. In September 2019, the World Bank in partnership with the Internal Bar Association published a report on the economic impact of legal aid which evidences that legal aid is as important as building hospitals, schools and roads for economic development. The report shows through a cost-benefit analysis that not providing legal aid does not save money. Unresolved legal problems shift costs to other areas of government spending such as healthcare, housing, education, child protection and imprisonment. The report⁶ features a tool which individuals can use (most likely with the support of an economist) to compare the impact on a part of the country where, for example, there is no legal aid provision to an area where there is.

Sophie Walker, CEO, Just Access voiced her concern that the number of judgments being published on BAILII is decreasing because it is not given enough funding.

⁶ https://www.ibanet.org/PPID/Constituent/AccessToJustice_LegalAid/Default.aspx?slide=1

HHJ Graham Robinson echoed a previous mention of language used in courts. He remarked that the word 'bundle(s)' was a source of confusion for many encountering the legal system.

Update on the National Pro Bono Centre

The entire session is available to view at: https://www.youtube.com/watch?v=2--rxETdvAA&list=PLEF1_bG92bxt5kDLgtqEGNfsjzNaOwDG&index=7

Sir Robin Knowles CBE, Trustee of the National Pro Bono Centre explained that the National Pro Bono Centre (NPBC) was established 10 years ago; it was the first of its kind in the world. The lease expires for its current location in May 2020, so this is a time for reflection and planning for the next stage. This was mentioned at last year's National Forum and since then various drafts of an overarching paper on the way forward for the NPBC have been produced. The primary consideration is how to help more people in the future; the current level of unmet need means this is a vital concern. Reflection on the virtual as well as physical existence is important. It is time for a sector led, sector wide review of the way forward. He forecast that the NPBC will commit itself to the next location for 3 years, to allow for consultation and piloting before longer term decisions are made.

Martin Barnes, CEO of LawWorks gave details of some of the charities who are based in the NPBC. Advocate is the Bar's pro bono charity. In 2018, Advocate's volunteer barristers provided 11,000 hours of pro bono work; this equates to more than £2.2m in fees, if services had not been provided for free. Pro Bono Community which in the last year has trained and placed more than 250 lawyers, trainees and students as volunteers at law centres and advice agencies. The London Legal Support Trust which provides practical support and as well as fundraising and the Legal Walk. The Access to Justice Foundation which enables access to justice through strategic grants and playing a key role in the Litigants in Person Support Strategy. The Legal Action Group promotes equal access to justice for all, it is also a highly respected campaign and policy voice. LawWorks supports a network of independent clinics, matching smaller charities with free legal advice. The NPBC is also a home for colleagues supporting the Litigants in Person Support Strategy and the Litigants in Person Network.

The NPBC is more than just a shared office space; the benefits stemming from a shared office space should not be underestimated. It is a real community. Many of the advantages of co-location not quantifiable in monetary terms. The model of facilitation that the centre provides is excellent. Under consideration at present is how can the NPBC further extend reach to become a truly national centre? The NPBC is not an alternative to legal aid.

SHU LAW

The entire session is available to view at: https://www.youtube.com/watch?v=NoDS2dutZzk&list=PLEF1_bG92bxt5kDLgtqEGNfsjzNaOwDG&index=8

HHJ Graham Robinson, Designated Civil Judge for Sheffield and South Yorkshire explained that whilst university advice clinics can provide help, they are not able to undertake reserved legal activity and therefore cannot go into court with clients. Sheffield Hallam University (SHU)

Law have found a solution to these limitations by setting up a fully functioning and insured legal practice – SHU Law.

Professor Liz Smart, Professor of Law at Sheffield Hallam University explained that the idea for SHU Law first arose in 2013. It has taken since then, with the help of many colleagues and other stakeholders, to turn it into a reality. SHU Law is a wholly owned subsidiary of the university; it is a not-for-profit teaching law firm. The firm is run by practising solicitors; they provide advice and where appropriate are supported by students at every stage of their studies. SHU Law launched in February 2019 and currently has 300 students who are working with the practising solicitors; the number of students involved is set to have doubled within a year. It has bespoke teaching rooms, a telephone conferencing suite and client facing facilities; it has an online case management system and a dedicated website⁷.

Sally Mallinson Ayres, Senior Solicitor at SHU LAW gave details of her role to demonstrate some of the complications and intricacies involved with setting up SHU Law; there was a need to ensure that the requirements of the Solicitors Regulation Authority (SRA) and the university were both met. She outlined some of the difficulties SHU Law had to overcome such as students not being employees, so they were not automatically bound by the code of conduct. Instead students are trained on a range of issues including client care, confidentiality, conflicts of interest and must agree to a Statement of Terms which complies with the SRA and data protection requirements. Best interests of SHU Law clients are put above the needs of the students.

Chris Riley, Head of Clinical Provision at Sheffield Hallam University gave further details on the areas currently covered by SHU Law. They offer court help desk which provides advice to LIPs at Sheffield Combined Court; it developed because of collaboration between the University and members of the judiciary in Sheffield. Other areas that SHU Law deals with are criminal appeals, prisoner advice, small claims, the criminal injury compensation scheme, employment and a refugee family reunion clinic.

Sally Mallinson Ayres detailed that SHU Law has four full-time practising solicitors plus 10 academics who are also solicitors. They are in the process of recruiting more solicitors and paralegals to enable expansion. Theoretically, students could be supported to appear in court in front of a District Judge, as appropriate.

Breakout feedback

The entire session is available to view at: https://www.youtube.com/watch?v=c5vh-OoRe3g&list=PLEF1_bG92bxt5kDLgtqEGNfsjzzNaOwDG&index=9

Elisabeth Davies, Member of the Civil Justice Council introduced the final session of the day by inviting feedback from the four breakout sessions.

HHJ Barry Cotter QC reported back two points from the breakout session regarding information collection, with a focus on vulnerable people in the justice system. First, he pointed out that data may be collected in relation to those who engage with the civil justice system, however there is no data about those do not engage with the system – the type of

⁷ www.shulaw.co.uk

people who face barriers in trying to engage and those the system should be doing more to assist. Second, data may be able to help us identify issues in the system, but it cannot measure fairness; there is no substitute for those working in the system being able to recognise vulnerability and act accordingly.

In response *Sir Nicholas Blake, retired High Court Judge* told the audience that he chaired the JUSTICE report titled Understanding Courts. The group who wrote the report spent between 6-9 months considering vulnerability and collectively concluded that anyone without professional legal assistance should be considered vulnerable. As already identified in the criminal courts, effective participation is essential and should be addressed in the family and civil courts. The Civil Procedure Rule Committee must carefully consider how to take this forward.

Amanda Finlay CBE, Chair of Law for Life reported back on the breakout session regarding taking public legal education (PLE) to scale. She began by stating there has been a roll out of PLE in schools, however there has been some trepidation from practitioners about going from the safe environment of schools and taking PLE into communities. If lawyers are going to the community they should talk to trusted intermediaries to help with the process.

Dr Anna Barlow, Member of the Global Access to Justice Project responded that PLE has got to be a big part of the answer to the problems that we face. Half of the battle in access to justice is people knowing that they have a case and a right in the law to apply it. She felt that there is a lot to learn from other countries, for example PLE in Denmark for homeless people.

Chilli Reid, Executive Director, Advice UK reported back on the breakout session regarding assisted digital and digital support. HMCTS has learnt that digital support cannot be separated from other types of legal support. The advice sector should be engaged in formative discussions about where digital support goes beyond the current pilot as there is a wealth of expertise and experience which could be shared.

Christian Fleck, Managing Director, LexisNexis UK & Ireland responded that the majority of those who require legal support cannot rely solely on self-service help tools. He has 20 years of experience providing digital information for those in the legal industry and has first-hand understanding of the difficulties in getting technology to a good level of usability for educated legal professionals. He believes that free online legal advice tools do have a place and will help a significant number of people, but they are not likely to be useful to the majority.

Mrs Justice Elisabeth Laing DBE, Lead Judge, LIP Liaison shared her appreciation that so many judges could attend and reported back on the breakout session for Litigant in Person Liaison Judges. The first point arising from their discussion was a plea to politicians to re-think Legal Aid provision in private family law. She explained that this was not about there being no legal aid, but about asymmetrical provision conflicting with Article 6⁸. The second point shared with the audience was regarding the significant issues experienced by District Judges in many courts; District Judges are working under terrible pressure with often unfeasibly long allocation lists and working to targets, which compounds issues with LIPs. There need to be more sitting days in county courts.

⁸ Article 6 of the UN Universal Declaration of Human Rights <https://www.un.org/en/universal-declaration-human-rights/index.html>

Nancy Doyle-Hall, Executive Director, Virgin Money Foundation shared her thoughts at the end of the day. Access to Justice isn't just about the court outcome, it is about the victim being heard and then taking time to recover and rebuild their life. The road to justice through the court can be long, but the road to recovery can be even longer. Safeguarding funding for organisations which can provide emotional and other types of support is vital.

Christian Fleck reflected that whilst digital solutions are not a panacea for the many issues within the system, they do provide an opportunity to increase productivity which can allow time to be better spent elsewhere. He also remarked that digital technology has the opportunity to provide excellent legal match making. If users are looking for specific advice, they can be paired with someone with relevant expertise.

Sir Nicholas Blake felt court language had been a prominent feature in discussion throughout the day. The language used by courts is a barrier to effective participation. Both written and oral language is something that needs to be addressed to enable maximum participation in civil and family justice sector. Consideration needs to be given to the Civil and Family Procedure Rules, practice directions and judgments due to the language which is used; training required for both advocates and judiciary.

Dr Anna Barlow said her take home point from the day was that everyone here should not give up on legal aid. IBA report may be good ammunition in regard to legal aid. Her other focus point from the day was about how similar or dissimilar the situation is in other jurisdictions and everyone should be keeping an eye on what is going on elsewhere in the world. She encouraged everyone to look out for the Global Access To Justice Project report expected in the second half of 2020; it is due to provide descriptive (rather than statistical) data on more than 90 different jurisdictions.

Next steps

Sam Allan, Secretary to the Civil Justice Council and Private Secretary to the Master of the Rolls felt that the discussions had throughout the day are a fantastic example of how the CJC brings people together. The CJC exists because the collective effect is greater than the sum of its parts. Throughout the day the CJC's work on vulnerable people has been mentioned; this is one of the many areas in which the CJC is currently driving work forward. Other topics which the CJC intend to do work on in the coming year are anti-social behaviour injunctions, low value personal injury claims, periodical payments orders and pre-action protocols. He gave thanks to all of the people involved in making the event happen.

Mr Justice Robin Knowles, Member of the Civil Justice Council thanked Sam Allan and his team for their support, plus members of the CJC Working Group and the wider Civil Justice Council for their help in putting the day together. He urged those present to put the date for next year in the diary [Friday 11 December 2020]. As a final thought Robin tasked the audience to bring back stories of progress, ideas and greater collaborations and asked them to be prepared to think internationally. He observed that collectively progress can be made even though there is still a long way to go. There is no alternative; everyone must keep working on this issue.