

# Comprehensive Spending Review – LIPSS Partners Joint Submission

## Introduction

We welcome the opportunity to contribute to the Comprehensive Spending Review (CSR) through which Government will determine each department's resource budgets for the years 2021/22 to 2023/24 and capital budgets for the years 2021/22 until 2024/25. This submission is on behalf of the Litigant in Person Support Strategy (LIPSS), a national partnership of charities working together to improve the experience of people facing the legal process alone. The partnership, which focuses on civil justice, is funded by the Ministry of Justice (MoJ) and comprises the work of the following partners:

- The Access to Justice Foundation;
- LawWorks (the Solicitors Pro Bono Group);
- Advocate (formerly the Bar Pro Bono Unit);
- Support through Court (formerly the Personal Support Unit);
- RCJ Advice (Royal Courts of Justice Citizens Advice Service)
- Law for Life (incorporating Advicenow).

Our submission focuses on the positive impact that investment across a range of legal support, information and advice can make, and the demonstrable economic and social value of this support.

Legal issues affect all areas of peoples' lives and the Legal Services Board's most recent research (*Legal Needs Survey*, February 2020) demonstrates that as many 64 percent of the population experience legal issues, but that only 55 per cent of those with a legal need are able to obtain help from professional sources. Support in helping people to engage with, manage and resolve their legal issues (civil and criminal), and especially for those dealing with the legal process alone, can make an important contribution toward key goals outlined for the spending review, namely:

- Strengthening the UK's economic recovery from COVID-19, prioritising skills, employment and economic levelling-up;
- Improving outcomes in public services;
- Improving the delivery and management of the Ministry of Justice's priorities and strategic objectives to:
  - Ensure access to justice in a way that best meets people's needs;
  - Support a flourishing legal services sector;
  - Provide a transparent and efficient court system;
  - Reduce rates of reoffending and improve life chances for offenders;
  - Provide excellent functional services.

## Public spending context

Relative to other Government priorities, such as access to education and healthcare, public spending on civil and family justice and associated support services is proportionately low given the economic importance of the rule of law. However, as an OCED report makes clear: better civil justice systems can boost investment, competition, innovation and growth (*What Makes Civil Justice Effective*, 2013). Research from the European Commission for the Efficiency of Justice (CEPEJ) shows our overall spending on justice in England and Wales to be at the European average or below. In 2017, the Institute for Fiscal Studies calculated that in the decade since 2010-11, the MoJ's budget reduced by around 40%; spending plans have been revised upwards since then, but in 2019/20 the total MoJ budget was around 25% lower than in 2010-11 (House of Commons Library figures).

Support services which enable the civil and family justice system to function well not only improve outcomes from the justice system, but also outcomes in other public services and better decision-making, as well as having wider benefits for community resilience. In making this case, our approach is based on the principles of welfare economics, i.e., how targeted government support can improve social welfare or wellbeing, described in HM Treasury's Green Book as "social value". Whilst we are unable to provide a full cost-benefit (CBA) and return on investment (SROI) analysis of all interventions under the LIPS Strategy, or specific control group comparators, we hope what follows provides a robust valuation of benefits, impact and added value productivity from the delivery of the Strategy within the context of the demonstrable social value of legal support and advice.

## **Social value across a spectrum of legal support and advice: the case for sustained and increased investment.**

Over the past decade and more a considerable amount of evidence has evolved that unresolved legal problems in peoples' lives accrue wider and social economic costs. There is a significant economic literature about the social value of publicly funded legal advice and support services and different types of legal help interventions, for example: *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems* (Pleasance et al, 2007); *Towards a business case for legal aid* (Citizens Advice, 2010); reports on the cost-benefit of advice (Cookson 2012 and 2014); *The value of the Citizens Advice service* (2015-16); the Law Society's SROI of legal aid (2017); and the more recent evidence presented to the Ministry of Justice's LASPO post implementation review.

Whilst many of these studies use different methodologies, there are some commonly cited proxy costs relating to the adverse consequences of unresolved legal issues, including costs to the state and individuals from loss of housing, employment or income security, family breakdown or domestic abuse. For example, the costs of homelessness have been estimated by Government as being over £1 billion a year (*Evidence review of the costs of Homelessness*, DCLG, 2012); the charity Crisis estimate that if 40,000 people were prevented from becoming homeless for one year in England it would save the public purse £370 million, and the Government's own unit cost database puts the cost of temporary accommodation at a range starting from £6.5k per person, with additional cost associated with statutory homelessness and rehousing of around £2.5k per person – this should be compared with an average £600 unit cost for a successful piece of housing advice preventing homelessness (Shelter).

Similarly, the costs of domestic violence have been explored by researchers: *The economic and social costs of domestic abuse* report (Home Office, 2019) estimated the social and economic cost for victims of domestic abuse, in year ending March 2017 in England and Wales, to be approximately £66 billion. There are also a range of important studies linking advice services outcomes to health and wellbeing, including the role that legal advice and support services can play in mitigating pressures on GPs, primary care and mental health services, and supporting improved population health (see, for example, *The Role of Advice Services in Health Outcomes*, Low Commission 2015).

All of the above various SROI (social return on investment) and CBA (cost-benefit analysis) reports illustrate the ways in which advice services can mitigate the adverse consequence costs of unresolved legal issues. In making the case for investment, it is important to avoid viewing any one strand of legal support in isolation from any other strand such as digital support, emotional support, advice services, pro bono and legal aid. Indeed, our unique Strategy partnership approach illustrates that where collaboration and partnership can be supported and incentivised, there are dividends that can be achieved in extending reach and ensuring that services work in a complementary way. We therefore adopt the typology

outlined by the Law Commission (2015) that there is “a continuum including public legal education, informal and formal information, general advice, specialist advice, legal help and legal representation.” The Commission adds that “Legal aid should be viewed as part of this continuum, rather than as a stand-alone funding mechanism; the more we can do at the beginning of this spectrum, the less we should have to do at the end.”

Our submission should therefore be understood in this context; one of the guiding principles of the partnership’s work is about *earlier intervention* and how that can be achieved both through using pro bono for initial advice, and an emphasis on public legal education and innovative projects like FLOWS – Finding Legal Options for Women Survivors (delivered by the Family Team of RCJ Advice). In 2011, the Community Links’ Early Action Task Force, started to publish a number of reports which sought to encourage, develop and reconsider early action, prevention and early intervention across a range of policy and practice contexts. A primary message was that early action should not be an afterthought but should be a fundamental principle, shaping the way in which both government and civil society spend their resources and judge their success. Investing wisely and early in social wellbeing promotes prosperity, reduces debt, increases growth, encourages fairness and social mobility and ultimately builds a sustainable society. The Barings report on ‘*Social welfare legal advice and early action*’ (2012) set out how early action works in the context of social welfare law and redress, describing four key components of early action as follows:

- Citizen capability: helping individuals to develop the skills/confidence to address problems;
- Intervening at the right time: i.e., acting ‘one step sooner’ to stop problems becoming more serious;
- Delivering advice differently – improving referral arrangements, and the digital offer;
- Better feedback and learning processes, working with a range of partners in efforts to act collaboratively, understand what works, and address drivers of demand not just supply;
- Responding to users’ needs by enabling them to talk to specialists as early as possible in the process, rather than having to go through too many gateways.

This early intervention approach has been endorsed by the Ministry of Justice’s *Legal Support: The Way Ahead (An action plan to deliver better support to people experiencing legal problems)* (2019).

## **Outputs and outcomes from the LIPSS partners: adding social value**

The LIPSS partners provide regular reports to the Ministry of Justice on progress, data and milestones in achieving the Strategy’s four core goals, which are:

1. Enabling litigants in person to know what support is available to them;
2. Enabling litigants in person to get practical and emotional support and information;
3. Providing litigants in person with a route to some free or affordable legal advice;
4. The legal system is more responsive to the needs of litigants in person.

What follows is a brief evaluation of how each partner’s contribution adds social value, including how interventions have benefited other services (e.g., HMCTS), achieved costs savings in other areas (i.e., homelessness prevention), or have provided added value or demonstrable value for money in terms of the outcomes achieved. The work of each organisation is also illustrated by a case study.

### **RCJ Advice**

RCJ Advice delivers a free front-line legal advice service to litigants in person who bring or defend claims in courts across England and Wales, including the County Court, High Court and Court of Appeal, in civil and family matters. A core pro bono rota service delivers advice

and assistance to litigants in person throughout England and Wales in face to face appointments and, since COVID, by email and, from September 2020, video conference appointments, in relation to proceedings or potential proceedings covering a range of often complex civil and family legal issues. The service will often discourage litigants in person from proceeding with cases without merit, with savings for both them and the courts. Over 2019/20 the service received 23,846 contacts.

- **Family law and domestic abuse.** Demand for the FLOWS service has increased from 500 calls a month to 1500 calls; part of a new FLOWS service, launched in April 2020, is support with completion of form FL401 through CourtNav, which has resulted in processing over 850 applications per month. This demand is likely to increase due to ongoing Covid-19 issues and the post-Covid environment; earlier intervention in domestic violence situations can save police and statutory services time and money. There is also value from using the CourtNav tool with more straightforward (private law) relationship breakdown issues, in dealing with D8 (divorce) forms; producing well written, accurate forms saves court time and money.
- **Employment:** There has been an increase in employment disputes over furlough decisions and potential redundancies. Early advice, negotiation and mediation can help retain jobs and save on potential claims on universal credit and other welfare benefits.
- **Housing and homelessness:** Private landlords are now beginning to act on the recommencement of possession proceedings. RCJ Advice have worked with Enfield Council and the local Citizens Advice service, whereby the legal team engages with landlords far earlier than court action and the Council holds training and engagement events with landlords, which could save court time. RCJ Advice housing lawyers often prevent homelessness and the cost of rehousing or homelessness is saved.

**Case study: RCJ Advice Civil and Housing team working together to ensure a disabled tenant keeps his supportive aids**

Jake is disabled and had a phone appointment with our civil team re: a claim his housing association had taken out. Jake feels his housing association is harassing him over his storage of his Motability scooter outside his flat, when the fire service have visited and deemed it safe.

This is, sadly, a common issue for social tenants with needs. In papers Jake emailed over, the housing association had made an application for an injunction requiring Jake to remove the Motability scooter and making allegations of anti-social behaviour and had asked for a penal notice to be attached. Our solicitor explained this has potentially very serious consequences for Jake, as this could be considered a breach of the tenancy if upheld, and lead to his eviction, and also imprisonment if granted and breached.

The Defendant solicitor was trying to get this considered on the papers during lockdown. Jake was frightened and felt limited in his ability to conduct the case without help. Our civil solicitor drafted letters to the Defendant and the court pointing out the injunction matter as being wholly unsuitable to be dealt with on the papers. Our solicitor also felt there may be legal aid available as there was alleged anti-social behaviour. Our volunteer solicitor contacted our housing team, who reviewed the potential for legal aid, including speaking to 2 Garden Court Chambers who confirmed this.

RCJ Advice housing team contacted Jake by phone the following working day and then represented Jake and the housing association action was not upheld. Jake was delighted and very grateful when we organised a phone mediation between him and the housing association which resulted in an apology and an offer from the housing association to provide cover for the Motability scooter.

## Support Through Court

Support Through Court (STC) provides trained volunteers who give free, independent practical and emotional support to people facing proceedings without legal representation in civil and family courts and tribunals. The main areas of support include Family, Housing, Debt and Employment. MOJ funding directly helped STC to support almost 30,000 of the 80,000 contacts recorded by the charity in financial year 2019-20, while other funding came from external funders.

Whilst difficult to quantify specific savings, STC's help for individuals undoubtedly has an indirect impact on other public services: when clients are helped to negotiate successful child arrangements in court, children's services are less likely to have to intervene with that family; every time a client is helped to avoid eviction, one more instance of homelessness is prevented. Whenever a client is referred to help with a debt case, this can contribute to improved financial skills and individual resilience. The STC service costs just under £20 per contact for face to face work and £5 for remote phone support.

- Evidence from the Helpline suggests that clients phone for help at an earlier stage in the legal process than clients coming to us in court; using our LIPSS connections and signposting facilities within the legal sector, STC direct litigants in person to professional legal advice, which can prevent cases without merit from coming to court, and improve the efficiency of those with merit.
- In court, STC services are universally commended by court staff and judiciary for saving court time and helping the smoother progress of cases: emotional support calms litigants in person so they can focus on the requirements of their court case; procedural support improves their understanding of court processes, so they can complete and submit correct documentation; and with an STC volunteer beside them, they can represent themselves in court more confidently and effectively.
- Whilst difficult to evidence, for many STC clients, the experience of representing themselves successfully in court with our support, gives them greater confidence and resilience in other areas of their lives (for example a client who represented herself through a divorce and then trained as a family lawyer).

As noted above, STC's most immediate impact is within the court system, with services having wider indirect benefits, most notably around family support, housing/ homelessness and debt/financial resilience.

### **Case study: Helpline & remote hearing support – cohabitation/housing**

Rose had split from her partner of several years after a relationship breakdown and they could not agree who should occupy their jointly owned property. Rose has dyslexia, and has difficulty expressing herself effectively. Rose had brought a claim against her partner for the occupation of the property, wanting her ex-partner to be given an order to leave. Rose had been living between hotels and friends' sofas, which posed many issues given the Covid-19 crisis and the Government's social distancing measures. She was unable to go and live with her mum and sister due to health issues in the family.

Before the hearing, the STC volunteer explained the new procedure of remote hearings. With support, Rose made a list of key points to raise, which helped her to explain herself to the Judge in a logical form, giving her reasons more adequately for requesting the order to remove her ex-partner, and the outcome was ultimately positive for her. As a result of having someone else there to listen and take notes, Rose could focus fully on what she was saying, instead of trying to take in every detail. Rose was grateful for this positive outcome from her remote hearing, meaning she no longer had to live out of a hotel, and could start to rebuild her life with more stability.



## Advocate

Advocate helps to find free legal help from barristers for those who cannot afford legal representation and who cannot access legal aid. Advocate coordinates a volunteer panel of more than 4,000 practising members of the Bar which includes a third of all Queen's Counsel. Advocate matched 852 pieces of pro bono legal work from February 2020 to the end of August through Advocate's volunteer panel - more than in all of 2019.

The areas in most demand for pro bono advocacy services are family, employment and housing. Family cases continue to be the highest area of demand and Advocate have seen a 28% increase in family cases this year. Employment continues to be the second highest area of demand and, as the end of furlough approaches, we know that the level of demand will continue to rise as redundancies are made, etc. Advocate have seen a 50% increase in employment cases in the period from April to August 2020 compared to the same period last year.'

### **Case study: Discrimination settlement**

With COVID-19 impacting some cases, Advocate recently provided an applicant (who had a sex and race discrimination claim) with merits and procedural advice, and in June provided pro bono assistance in a judicial mediation.

The applicant, who suffered from severe hearing loss, was a cleaner who is disabled for the purposes of the Equality Act 2010. When the pandemic led to the trial being postponed (likely for over a year), the Applicant expressed a desire to try again to settle the case. The lawyer's help ensured that settlement negotiations were productive, enabling the Applicant to settle for a favourable sum whilst ensuring that the professional relationship with her employer was maintained. The Applicant is still employed by the Respondent.

## LawWorks

Through different programmes, LawWorks seeks to connect people in need of legal advice and assistance, and not-for-profit organisations that support them, with the skills and expertise of solicitors and law students willing to meet those needs for free. These programmes include supporting a network of nearly 300 independent pro bono legal advice clinics across England and Wales. Last year, there were over 77,500 individual enquiries at clinics in the LawWorks Clinics network; over 70,261 people were helped by clinics through information, referrals and advice with 37,551 clients (53% of those helped) receiving full legal advice.

LawWorks has previously conducted research to capture information about the client experience of pro bono clinics and the impact of the information and advice provided, through the Better Information Project (2016-18). Over 200 people (a representative sample) who had been advised by a pro bono clinic were interviewed by a research company and the results demonstrate positive outcomes, not just for the resolution of problems but for capability and wellbeing also. The research shows, for example:

- 76% of clinic clients reported that their understanding of their legal problem was better;
- 75% said that they would feel more confident to deal with their problem, or a similar problem, in the future as a result of the support received;
- 68% said that the help or support they received reduced their stress level, and more than half said they felt *physically better* as a result of the advice or help received;
- Before getting support from a clinic, nearly half of clients were thinking of going to court or tribunal; a quarter changed their plans following advice.

Whilst the research does not attempt to monetise gains, these outcomes re-enforce the arguments that accessing early advice accrues benefits for capability, wellbeing and due consideration of next steps in engaging with the legal process.

Since Covid-19, LawWorks have been supporting clinics to go digital and develop their capacity to deliver telephone, email and video advice, with around half the network now able to operate in this way. As well as continuing to support the existing Clinics network during Covid-19, LawWorks have supported the development and launch of 14 new clinics since January. LawWorks have also launched a new online Free Legal Answers service (based on Free Legal Answers in the United States) focussed on initial one-off advice provided online by pro bono lawyers; currently we are working with referral partners. The project had been supported pro bono by Deloitte Legal.

LawWorks also run three in-depth ("secondary specialisation") casework projects, focussed on disability benefits (social security), unpaid wages (employment law), and children's community care and housing cases (in partnership with the charity 'Together for Short Lives'.

#### **Case Study: Rehousing and care case**

Zara left her husband four years ago with her three children, having been the victim of domestic abuse. One of her children, Layla, is 12 years old with a congenital genetic disease and is unable to walk and uses a wheelchair. She is fed through a tube in her stomach and constantly needs attention at night.

The family were moved into a two bedroomed flat, closer to the children's schools, but it was completely unsuitable with a narrow doorway not accessible for a wheelchair, and mould affected Layla's respiratory system. Zara had to lift Layla out of the wheelchair in order to get her in and out of the building and the corridors were too narrow to move her around in the wheelchair.

After Layla slipped and broke her leg the family was therefore moved into a hostel which was also hard for the family. During the daytime, no carers, friends or family were allowed to enter the building which put a huge strain on Zara as she needed their support.

Zara was at very low ebb. However, she was referred to volunteer lawyers through LawWorks. After the lawyers took up the family's housing needs with the local authority, they were offered a four bedroomed house near the children's schools, adapted for wheelchair use (including a stair-lift up to the bedrooms). The number of hours in Layla's care package were also increased.

#### **Law for Life**

Law for Life are a leading public legal education (PLE) and information-provider, incorporating Advicenow which is the public facing hub of the LIPSS partnership. Well targeted PLE has been shown to have significant cost benefits including reduced court time, re-litigation and enhanced conflict reduction (Wilczynski et al 2014). There is other evidence of the value of PLE: in 2008, the New Economics Foundation (NEF) analysed the economic and social value of public legal education programmes, as part of a piece of work commissioned by Law Centres Network aiming to capture (and translate into financial value) the work of law centres. The NEF selected the Possession Prevention Project, run jointly by Southwark Law Centre and Blackfriars Advice Centre, as an example of a public legal education programme. The project was designed to reduce evictions by combining outreach, training, and policy initiatives. The NEF estimated that for every £1 spent, £6 worth of social value was created (*The Socio-Economic Value of Law Centres*, NEF).

Law for Life attracts over 2 million page views digitally via its Advicenow service. 190,000 users with disabilities visit our interactive digital tools each year. As a result of Covid-19, more people than ever are experiencing civil justice problems and over the last seven-month period the Advicenow website received over a million page views. Increases in traffic were evident in the context of support for people seeking help to understand their rights relating to

separation, children's arrangements and domestic violence. Many users have used Advicenow resources for help with hardship and social fund issues, emergency accommodation needs as well as understanding benefits and their cohabitation rights. Advicenow's online resources are able to reach vulnerable litigants in person: 54% of surveyed Advicenow users reported a household income of under £1,100 per month (increased from 36% in the previous year), and 33% reported a disability.

#### **Case study: Digital tools help litigants in person experiencing panic attacks**

Ayza is a British Asian, with multiple health problems, including diabetes, anxiety and anaemia, and is also waiting for a kidney transplant. She needed to appeal a decision about her Personal Independence Payment (PIP):

***“Every time I've had to deal with this government department it exacerbates [my anxiety and panic attacks] and also increases my chances of going into a diabetic hypo and messing up my medications.”***

Ayza used Advicenow's PIP appeal guide and mandatory reconsideration tool. She reported that it helped her to understand what action to take and how to do it, and helped her feel more confident about what she had to do.

***“I used a mandatory reconsideration tool to help me after the lockdown, when I didn't have access to the help I required, it allowed me to take that step.***

***Having dealt with DWP before with regards to PIP, I can truly say it brought me the closest I have ever been to suicide. So it is hard to describe how much the tools on this website must help people in my situation. Using the tools removed a major psychological barrier. I could not do it without this help...you allow me to think clearly when faced with a giant machine with an agenda that goes completely against my needs.”***

#### **Access to Justice Foundation**

The Access to Justice Foundation (AJTF) is not a delivery partner, but co-ordinates the existing funding for the project provided by the Ministry of Justice. AJTF have also had a key role in co-ordinating the Community Justice Fund with the MoJ that is focussed on more specialist legal support provision, works collaboratively with other funders such as the Legal Education Foundation (LEF), and is also the statutory recipient of pro bono cost orders.

#### **Access to justice and impact of Covid-19**

This submission demonstrates how we are able to collectively contribute to the Ministry of Justice's priorities and strategic objectives to “ensure access to justice in a way that best meets people's needs” (Ministry of Justice, Single Departmental Plan). Going forwards, this need is likely to increase as the longer-term impact of the pandemic becomes apparent. Our partnership approach supports and adds value to the wider advice ecosystem of Citizens Advice, advice and other agencies, Law Centres and legal aid practices. Where appropriate the partnership is able to 'leverage in' the pro bono contribution of the legal profession, though we do not believe that pro bono can or should replicate or replace publicly funded provision. Partners have also made innovative use of digital technologies to reach further. In addition to the co-ordination of partner activities, LIPSS partners take an active part in wider sector roundtables and collaborations, such the legal and advice sector roundtable that has been meeting at least monthly since March 2020 to share strategies, information and insight on tackling legal and advice needs related to the pandemic.

Investment in a partnership approach pioneered through LIPSS can support the sector to have a positive impact on individuals and communities in the recovery from the pandemic. Partnership working both with LIPSS partners and a wider network of advice organisations



has the potential to use resources most efficiently by designing more integrated delivery models - such as developing referral journeys between agencies - and targeting areas with low levels of support, i.e., "advice deserts" where there are high levels of unmet need; this is important as evidence to date suggests that areas with high levels of deprivation have been the most adversely impacted by the pandemic (ONS data).

To rise to this challenge sustainable funding is needed. The sector as a whole also needs support in adapting to changes in HMCTS delivery and court and tribunal practices, from greater use of remote hearings to the use of "Nightingale Courts". LIPSS partners have made significant and rapid progress in adapting service delivery to remote systems during lockdown, developing online applications processes and digital tools, and enabling online triage, to ensure the most vulnerable individuals are prioritised.

September 2020