

## Legal and Advice Sector Forum - Policy Subgroup

### Attendees

Name		Role	Organisation
James	Sandbach	Director of Policy and External Affairs ( <b>Chair</b> )	LawWorks
Lindsey	Poole	Director	Advice Service Alliance
Rohini	Teather	Head of Parliamentary Affairs	Legal Aid Practitioners Group
Martha	de la Roche	Network Development Manager	LIP Network
Richard	Miller	Head of Justice	The Law Society
Ellie	Cronin	Policy Adviser	The Law Society

### Apologies

Name		Role	Organisation
Nimrod	Ben-Cnaan	Head of Policy and Profile	LCN

## Meeting Notes

### 1. Welcome and introductions

JS gave an overview of the subgroup including the outlined agenda as a framework for discussion.

### 2. Government policy towards the sector

#### Charity sector

There have been unprecedented policy interventions, but not clear that Government sees a role for our sector. The Government has announced a £750 million package to help support charities during COVID-19. ASA has publicly welcomed the response but highlighted the lack of recognition of the legal advice sector and lack of clarity on how the fund will be distributed to ensure sustainability and user needs are met.

Of the fund, £360 million will be directly allocated by government departments to charities providing key services and supporting vulnerable people during the crisis. Citizens Advice is named as one of five key services, other services include hospices, St Johns Ambulance, victims' charities including domestic abuse charities, and vulnerable children's charities<sup>1</sup>. Decisions around priorities and recipients are being made at a ministerial and departmental level.

There is uncertainty, including purportedly from Citizens Advice, of any specifications on area of law, service or approach of the fund.

The group shared concerns over the proportionately small investment in advice, the narrow focus on the type of service to be provided, and the lack of clarity around what user needs will be met and which need will remain unmet.

Members of the group expressed disappointment that there was no acknowledgement of the role the legal and advice sectors will play in moving the country from lockdown to normality and felt that the sectors had been ignored and neglected once again.

While the fundraising and grant giving activities of legal and advice sector charities was noted the group highlighted the role the free legal and advice sectors play making government work effectively, and the need for government engagement/collaboration (including funding) to support this.

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<sup>1</sup> <https://www.gov.uk/government/news/chancellor-sets-out-extra-750-million-coronavirus-funding-for-frontline-charities>

## Legal Aid

There are similar concerns relating to Legal Aid including the need for direct financial intervention. The APPG on Legal Aid is in the process of approving a letter highlighting the insufficient response of the LAA and requesting the Lord Chancellor's involvement in an APPG led inquiry, to be launched in September, into the sustainability of the profession.

The LAA are currently in the process of providing clarification to the sector on. It is unclear how long the LAA will take to clarify these issues:

- Information on cashflow and POA position, Initial feedback is that the LAA recognise the issue and they are arranging meetings to talk to practitioners to understand why the Treasury provisions and existing measures are insufficient.
- Payments for virtual hearings,
- Means testing (and evidence gateway) in Domestic Abuse cases, and
- Interpretation of Government COVID-19 guidance by MoJ and LAA and whether it was influencing planning.

The Law Society are continuing to press very hard on these cashflow and lost income measures and have launched a tool to enable firms to work out what of the public support they would be entitled to. They are also lobbying on a range of more generic issues via BEIS and the Treasury, as well as the MoJ.

### 3. Policy challenges related to areas of legal need

#### HMCTS and digital exclusion

The court reform programme has several strands. One to digitalise paper processes is well advanced in divorce, developing in civil and broader family, and "getting there" in crime.

Separately, there is the testing of video hearings. This has been much more controversial and thus slower to develop. The courts and tribunals modernisation programme has aimed to bring new technology and modern ways of working into the way justice is administered, however the Ministry of Justice's full introduction of a centralised remote access system (the forthcoming 'Cloud Video Platform' or CVP), is still pending. A key issue is the principle of open justice and how this, and the perception of "quality" is preserved. It has also been hindered by the poor IT infrastructure in courts, and the suite of systems and processes video hearings need to make them work.

This has meant that, four years into a modernisation programme, HMCTS was still largely unprepared for the move to digital delivery and many systems and processes are being developed as delivery is tested. This is not entirely a negative thing; a lot of barriers have fallen away due to expediency.

However, this does make the impact of remote justice delivery services on users largely unknown and unplanned for. We need to ensure the systems are working for vulnerable users and that we understand the impact on how people view, experience and access justice to resolve their issues.

HMCTS are very keen to get information and data on the impact COVID-19 on court users and have sought feedback from Advice UK who have raised concerns about the lack of adjustments for deaf people and British Sign Language users.

Dr Natalie Byrom, from the Legal Education Foundation, has been leading on supporting data collection within HMCTS. The group agreed that now was a good opportunity for HMCTS to make provisions to collect the data it needs about the impact of services on users.

#### Legal issues

LAPG have had feedback from APPG on Legal Aid that MPs have been inundated with COVID-19 employment, debt, and housing issues, and have proved receptive to the argument that there will be a flood of legal advice needs at some point, if there isn't one already.

#### Debt

There is confusion and varying practice regarding enforcement of debt.

- Money Advice Service has intimated it will be 6-12 months before we really see the spike in the need for debt advice. This is based on payment holidays and other proposals that will delay things for an initial three months. Then, once collection processes start, it will be a couple of months before people seek advice.
- The Financial Conduct Authority are updating their rules and guidance. There are still gaps, e.g. while hire purchase added there are other forms of high cost short term credit that are not captured but there was confidence the FCA would address gaps in due course.
- The group were not overtly aware of feedback from the frontline on financial scams but agreed Citizens Advice would experience more issues given their helpline and relationship with trading standards.
- At the early stages, there were examples of high court enforcement agents continuing to enforce writs from the high court, but this approach wasn't replicated at county or magistrates' courts. This issue seems to have been rectified now.
- Enforcement is continuing against licensees. Not all housing statuses seem to have been covered by the suspension of housing possession claims.

This group agreed this presented a huge issue, particularly given the difficulty of establishing whether you have a lease or licence, and that more evidence was needed.

### **Family/ DV**

Prior to the meeting JS circulated ENC B - a draft Family Law Brief which had been updated considering the COVID-19 context. It includes a push for additional domestic abuse and relationship breakdown support, and a briefing on key legislative measures currently before Parliament (Divorce, Dissolution and Separation Bill, and the Domestic Abuse Bill).

### **Welfare Rights Appeals**

Prior to the meeting JS circulated ENC C - a draft Briefing for the Ministry of Justice. Key issues raised were:

- Judge sitting alone in remote hearings (rather than with expert panel)
- Communications - e.g. to welfare rights advisers
- Systemic delays in DWP systems
- Needs of BSL users not provided for
- Other digital exclusion issues.

### **Social Care**

The effective suspension of the Care Act is causing a lot of issues in the care sector, particularly as they deal with cohorts of people who are very vulnerable to COVID-19.

### **Public Law**

The group agreed to feed in the work of other organisations, such as the Public Law Project in relation to Public Law, Judicial Reviews and the use of Government powers created via the Coronavirus Bill.

### **Actions**

- **DH** to go back to their contact and check the current situation relating to continuing enforcement against licensees.
- **JS** to update and recirculate the ENC B. **All** to consider supporting the updated Brief.
- **All** to come back to JS with feedback on ENC C, including whether to approach the President of the Social Security Tribunal directly, rather than HMCTS officials, to secure adjustments.

### **Isolated and vulnerable groups**

The advice and free legal sectors identify and work with vulnerable people in our communities. We understand vulnerability is a category that people can move in and out of and the role food poverty, fuel poverty, access to essential services, including mental health services, as well as social isolation and support needs play in contributing to a person's vulnerability.

Our sectors can bring valuable insights into these issues and have important contributions to make on how well the justice system will be able to respond to need and what more should be done to advice and support vulnerable people. We want a voice, a view and a say on about what is needed.

For example, Age UK's first spike in queries was around shopping, advice agencies are seeing an increasing need for support for children on school meals, Advice UK members have identified people suffering fuel poverty because their old meter require people to go outside and top up in person.

Furthermore, advice and community support services play a vital role in identifying and supporting people who have fallen through the gaps of local authority support, and referring those people to additional services they might need such as food banks etc.

#### 4. Collective response to influence, lobby and change

The group agreed that the more that could be done to reinforce policy points from the free legal and advice sectors, the better.

As a subgroup our approach should be to provide a collective and sustained cross sector voice highlighting the role of the sector in addressing issues in the short emergency term to forecasting future complex and clustered problems which will take significant resources to resolve.

The group welcomed this approach, particularly highlighting the need for advocacy on the need to support the whole sector, rather than just one part of it.

#### Civil society strategy

The group agreed there was an opportunity to re-establish the need for a social justice policy strategy that will be effective in getting our views to the right people and the deliver the results we want.

The group agreed that the Low Commission Report provided a good starting argument for a strategy for supporting advice services, underpinned by systems thinking, including how demands on public services gets displaced into the advice sector. While some of the figures contained in the report need revising the key points are just as relevant today.

ASA has been working with Lord Low on a letter, referencing the Low Commission Report, which has been sent to Robert Buckland cc'd to other ministers asking for a meeting with members of the advice sector.

The group could then use the wider Forum and our key contacts and supporters (including Lord Low) to support this as an evidenced need for increased investment in the sector in line with the strategy.

#### Priorities for Forum meeting

The next Legal and Advice Sector Forum meeting will include representatives from the MOJ, LAA and HMCTS. The group agreed that two or three key communications should be made to these bodies regarding priority issues in both legal aid and advice sector.

#### Next Steps

- **All** to join ASA in campaigning for advice sector and retweet ASA content, share contacts and mutually support.
- **DH** to liaise with colleagues to understand what evidence and case studies can be produced.
- **LP** to explore using ASA pro bono PR and communications work to support the wider sector brief.
- **LIP Network** to create a shared record of the different strands of policy work within the subgroup and the wider sector. This will include information on wider policy making opportunities and activities.
- **All** to feed their priority policy issues and current policy workstreams to the **LIP Network** to include on the resource above. If you have limited capacity the LIP Network can facilitate your contribution.
- **LIP Network** to add policy issues (including practical and technical problems with HMCTS) to the collective log of feedback, experience and issues being experienced by different organisations.
- **Chair**, with support from **LIP Network**, to use the meeting notes and information to identify the key challenges and issues this group will be prioritising and create a plan to address strategic issues and feed in priority points to the next Forum meeting.

Subgroup agreed to meet again to discuss progress on actions, ideally before next Forum meeting on 29 April 2020.