

Cross-Sector Roundtable - responding to COVID-19

Tuesday 16 June 2020, 4–5:30pm

Via Zoom

Attending organisations
Advice Services Alliance
Advice UK
Advocate
Age UK
Bar Council
CILEx
Coram Children's Legal Centre
ELAN
Good Things Foundation
HMCTS
LASA
Law Centres Network
Law for Life
Consultant
LAPG
LAG
SW London Law Centres
Law Society
LawWorks
The Legal Education Foundation
Legal Services Board
LIP Support Strategy
Litigants in Person Support Network
London Legal Support Trust and London Funders
National Pro Bono Centre
National Pro Bono Week Committee
Ministry of Justice
Pro Bono Community
Public Law Project
RCJ Advice
Shelter UK
Support Through Court
UK Collaborative Plan for Pro Bono
University House Legal Advice Centre
Welsh National Advice Network

1. Key cross-sector updates

Update from the National Pro Bono Centre

The plan to relocate the Centre from Chancery Lane to new premises has been deferred. There is a plan to redesign the Centre to ensure it responds to the changes that are likely to follow in terms of working practices. For example, the next few months will be spent on developing the Centre's virtual resources. Also, the Centre will be redesigned to ensure it can best support the sector for the long term. A wide consultation is expected to take place with key stakeholders in the sector, including funders, law firms, barristers, advice sector and others. Ideas from the group are very welcome.

The Innovation Working Group Conference

The Innovation Working Group for the LIP Network will be meeting on **Thursday 18 June at 14.00** to discuss their work on collecting information from key sector stakeholders around the needs, barriers and bright spots in innovation, and more broadly around service design and delivery in the sector. It will highlight some of the practical things that people have implemented and found to be working but it will also go into some of the areas that people have raised and consider how to formulate a collective response to those moving forward.

Further information about the Innovation Workstream is available here:

<http://www.lipnetwork.org.uk/about/innovation-workstream>.

Registration link for the conference can be found here:

<https://us02web.zoom.us/join/joinMeeting/register/tZYvfu6prz8iGt04tKuAJ64HyfrcmgrdbZLW>

The Civil Justice Council review on the impact of COVID-19 on the Civil Justice System

The report is based on responses from over 1,000 people, data on 480 remote hearings that have taken place under COVID-19. Report announcement here:

<https://www.judiciary.uk/announcements/civil-justice-council-report-on-the-impact-of-covid-19-on-civil-court-users-published/>

Direct link to research here: <https://www.judiciary.uk/wp-content/uploads/2020/06/CJC-Rapid-Review-Final-Report-f.pdf>

LEF presented the research. The research revealed “A Tale of Two Justice Systems” in the context of how the courts have adapted to remote hearings under COVID. In the High Court, things are working fairly well however in the County Court, proceeding with hearings remotely is much more problematic. Data shows that nearly 50% of the hearings in the County Courts had experienced technical issues. This shows that there is more work to do in order to ensure the judiciary have the resources that they need in order to facilitate hearings.

Research showed that the primary drivers on the part of the people who participated in hearings were:

- agreeing with the outcome
- not experiencing technical difficulties
- hearings not involving a litigant in person.

So, technology does not remove the issues when litigants in person are involved.

Because of the way the review was conducted (online) the findings are not representative; it represents the views of professional court users but does not represent the views of litigants in person because of the difficulty of contacting them. This problem needs to be addressed.

There are particular challenges around ‘hybrid hearings’ - ie where one party attends remotely and other parties are in court, in terms of potential distress to litigants and undermining the ability to have a fair and effective hearing. That needs to be borne in mind when potential solutions are being considered to deal with the backlog in possession hearings. .

The government has now announced that it will look at racial disparities in the justice system however without implementing data collection on protected characteristics it is difficult to see how that review will come back with anything more than has been found previously.

Launch of ELAN Employment Mediation Scheme

This has been launched this week, specifically relating to COVID-related employment disputes in London. It is hoped that it can be rolled across the country if it is successful. There are a large number of mediators willing to do it pro bono. It is a short, streamlined system (there is a maximum of eight hours for the mediation to take place) but ELAN are anticipating a large number of COVID-related disputes so this should head off a lot of the litigation if it is successful. This project is important in its own right but also as a model for the type of work that might be suitable in other areas and for other parts of the country.

UK Collaborative Plan for Pro Bono

UK Collaborative Plan for Pro Bono have identified a few areas of law where they think there is potential need for more pro bono work. Firms have been forming into task forces to try to address that by expanding pro bono or building pro bono services in the coming months. They also have a number of groups who are monitoring other areas where their support may be needed.

LawWorks Clinics Conference: Friday 19 June 2020

LawWorks are holding a day long clinics Conference open to all. Details at:

<https://www.lawworks.org.uk/solicitors-and-volunteers/resources/power-pro-bono-changing-times>

2. Update from the Sub-Groups

The sub groups have been reformulated to tackle broad themes with clear terms of reference. They are open to anybody who wants to take part as “task and finish” groups. The sub groups are:

(1) Sustainability for the sector

This brings together concerns charities have about long-term sustainability with the interests of funders. Carol has produced a comprehensive paper which can be found in the shared Google Folder here: <https://drive.google.com/file/d/1DRhU5RDq4L1C8RXZMBhAaGBkV88Z2nJm/view?usp=sharing>

Feedback on the paper is invited

(2) Access and Resources

If there are ideas that the roundtable and others would like to that group to work on in terms of developing cross sector resources, please contact either Shyam Popat or Martha de la Roche.

The sub group has produced an updated draft Pro Bono Advice Guide for MPs to refer their constituents to legal advice services. The group is looking to work on other projects.

(3) Policy

One of the main issues the sub-group has been focusing on is housing, around which there are unresolved policy issues (see below), and will now turn to other issues set out in its scoping paper. Anyone is welcome to join the group.

3 Housing repossessions and related policy issues

The importance of possession proceedings was highlighted at the previous cross sector roundtable (on Thursday 21 May 2020). At that point, the stay was due to expire at the end of June. The expiry date has been extended. That is a result of several factors, but the cross-sector roundtable had made a contribution to this key development by helping to underline the importance of the issue

Many respondents were very grateful to the Master of the Rolls (MR) for creating a working group on housing possession that Robin Knowles is chairing. That work will be very important because the serious concerns about how the system will cope if, for example, remote hearings are rolled out when there are more litigants in person and more people who are identified as vulnerable. There is a lot of work ahead as identified that in the CJC report. The cross-sector roundtable can make a significant contribution to the MR's working group. Reflections from participants in the MR's group:-

- **Shelter:** The working group provides a starting point for dealing with some of the practical issues that arise from a return to face to face hearings. Its work has been well received by colleagues. There is much work still to do but it has been a really worthwhile project.
- **LAPG:** The working group has been very well organised and successful so far and is trying to ensure that people are properly represented in court and that the hearings and particularly possession proceedings can go ahead as much as possible face to face.
- **Advice UK:** There is a lot to do over the next 8 weeks. Some of the issues being considered are around legal aid and early advice. A key element is also consistency of communication. There is confidentiality in the development of the framework with the MR working group - it would be very good to open it up properly to the actual contract holders, so that they can feed in. One thing that is coming from them is need for - on the HMCTS side - to provide some consistency of communication.
- **Law Centres Network:** The working group's mechanism of joint problem solving and openness to other ways of thinking has been very refreshing and has shown how effective that can be. Importantly, in bringing in MHCLG there is real potential to remove some of the impediments that MHCLG have that are not within the court system per se.
- **LawWorks:** There is a need to align the work on preparation for the lifting of the stay of proceedings with wider proposed law reforms (Housing Act, Section 21 and Part 8 evictions)

- **HMCTS:** There is evidence from a number of areas that helps to inform how the process can be improved both at an earlier stage and during the hearing. Having the group together will help to achieve the best outcomes possible in the time that is available. Some of those changes could be quite small but could have a profound impact so being able to bring everyone together is going to help move things forward.
- **Welsh National Advice Network:** It will be important to ensure there is a dialogue with the Welsh Government and Shelter Cymru to understand the devolved nature of housing law. It is important to ensure the Welsh Government are tied into this because some of the issues are potentially outside the court service. There has been positive feedback from an employment judge in Wales who has been doing remote hearings with litigants in person - these have been managed well. This could provide a valuable lesson in terms of things being delivered well in other areas of law.
- **The Legal Education Foundation.** Across government, there is recognition that when government departments create a policy that puts pressure on the court service, that they then subsidise the court service to deal with that. Given it is a policy of MHCLG that has created this bubble, is there any traction in any arguments around the fact that in order to deal with the backlog that has been created by this policy decision MHCLG should be funding some of the advice that is necessary in order to make possession hearings happen fairly? Is there anything that could be done to kind of make those sorts of arguments about how this is being paid for?

4. Discussion with Ministry of Justice and Legal Services Board: Changing legal needs in society resulting from Covid-19

Ministry of Justice and key policy issues

The MOJ have carefully considered the views and feedback expressed at the previous cross sector roundtables. A lot of comments that come up in this forum are on behalf of users.

The MOJ wanted to share some of their initial work on the landscape of changing legal needs. This is important for two reasons: 1) because users need to be given the right support, through the organisations involved in the cross-sector roundtable and 2) because it is important for the MOJ to have that analysis and evidence for future policy thinking. The MOJ are doing both those things in parallel.

COVID-19, the way government policy can mitigate its impact and the responses to it across the civil justice system have changed the demand for courts and tribunals, as well as the demand for the support services that people need to interact with those systems.

The MOJ are conscious that there have been and there will be continued changes in the nature of that demand (in terms of who the people demanding the services are, when they need help, the types of help and assistance they need and how and where they can access that help).

The “who” question

There are three groups of need:

- (1) The pre-existing population of people who already needed help pre-COVID. They may now need more immediate or targeted help.
- (2) The person that may have been on the cusp of needing legal help or advice - they may now have exacerbated need or their problems may be escalating.
- (3) The “new user”, i.e. the person who may have never needed legal help before and never have accessed these services before - and they may be a particularly confident, and digitally competent legal user.

The “how” question

In terms of the delivery / the mode of help, the MOJ are very conscious of the potential new, digitally competent, user coming in and being able to navigate that system.

There has been an impact on the mode of delivery in that there is less face to face advice which means that the people who were previously relying on that face to face delivery and vulnerable groups

may be harder to reach and the digitally competent user may be stepping forward and getting up the priority list because of their ability to navigate the system. This is something the MOJ are very interested in.

The type of help that is needed

The MOJ know from their previous work in this area that many legal issues tend to co-occur. There may be immediate demand for help with employment or welfare issues but there will also be knock-on effects and accumulation of need for other issues, for example family problems, mental health issues, or housing problems. The MOJ would like to hear cross-sector roundtable views on the idea of legal need being stored up; some of these problems are yet to hit.

The MOJ have been told by some providers that although demand for legal support services was at first decreasing, COVID-19 has impacted the underlying legal need - those being financial volatility, job security and family stability. There is anecdotal evidence from the sector and they can also extrapolate from for example unemployment rates, Universal Credit application rates and data from sources like the Citizens Advice and the LSB dashboard.

Achieving accuracy and certainty though is challenging. MoJ believe that the full impact of COVID-19 is likely to be delayed by some of the interim government measures that sought to mitigate these impacts, such as the moratorium on evictions or furloughing scheme. It may be that some or all of these changes will persist. What we see now may or may not be an indication of longer-term trends. These changes will lead to implications for the sector, for government and the MOJ as policy makers, how they respond to those changes and those uncertainties.

Further questions or contributions for MoJ to katherine.sirrell@justice.gov.uk.

Legal Services Board Coronavirus impact dashboard development

The LSB demonstrated a “dashboard” tool developed by the Legal Services Board to indicate the impact on demand for legal services across different legal issues.

The dashboard aims to inform regulators and policy makers by indicating the impact on demand for legal services across different legal issues as well as the health of the legal services market in England and Wales. Data used for this dashboard are provided by a variety of institutions and will be updated on a monthly basis. Many indicators come from organisations’ operational or management data and have not been subject to the same quality checks used for official statistics. Numbers may also change as provisional data is revised.

Key findings

Employment and benefits issues have increased dramatically

- Starts to universal credit are 511% up compared to April 2019
- Employment issues taken to Citizens Advice are 115% up compared to April 2019 and Employment tribunal receipts are 32% up compared to April 2019

Impact on housing market

- Conveyancing applications to the Land Registry are 84% down compared to April 2019
- LSB are working with Shelter UK to understand rental issues and trends

Debt and consumer issues

- Consumer issues taken to Citizens Advice are 15% down compared to May 2019; defective goods and services are some of the most common legal issues
- Client contacts to Step Change are 61% down compared to April 2019

Probate, mental capacity, personal injury

- Lasting power of attorney registrations are 37% down compared to April 2019
- Deaths registered are 100% up compared to April 2019
- Wills, trusts or probate issues are 19% down compared to April 2019
- Injury claims are 57% down compared to May 2019

Crime

- Antisocial behaviour crime reports are 92% up compared to April 2019
- Violence and sexual crime reports are 18% down compared to April 2019
- Domestic abuse cases have increased, data on this is being gathered

Courts and providers

- Crown courts criminal cases receipted are 60% down compared to April 2019
- Crown courts outstanding criminal cases are 20% compared to April 2019
- Magistrates courts criminal cases receipted are 35% down compared to April 2019
- Outstanding criminal cases in Magistrates are 30% down compared to April 2019
- No data from Family Courts but this is being gathered.

A launch of the dashboard expected on Monday 22 June 2020. See

https://www.legalservicesboard.org.uk/coronavirus_impact

Feedback on the Dashboard from the roundtable

MoJ and LSB were interested in to hear from the roundtable participants on

- How do the findings presented align with the sector's experiences over the recent months?
- Whether these changes will persist, and how they will evolve?

Different groups of need and digital exclusion

A key concern and discussion raised was about the three groups of users (1) "pre-COVID need"; (2) "on the cusp" need; (3) "new" need. This tallied with Advice UK's experience; Advice UK particularly concerned with so-called "disappeared" (re people who are less digitally able). Debt is another very important issue and Advice UK is working with the Money Advice and Pensions Service on this issue.

Advice Now provide useful resources for the people who are digitally (and cognitively) competent. There are also valuable online resources available through Shelter, Age UK and Citizens Advice. It is important that resources are pushed towards this group because otherwise they will "elbow out" the existing and newly vulnerable people who are less able to access online resources.

Law for Life have extensive experience in reaching trusted intermediaries who are digitally competent, and who can be trained so that they are then able to be helpers ("proxy users" of the online resources) for those who are most vulnerable. They have seen a big uptick in skills both among individuals but particularly among community workers and this is one of the ways forward in reaching the most vulnerable; for example of Law for Life's work with intermediaries included a (four week) training course for vulnerable women which was expected to start at the same time as the lockdown. This was converted into an online resource for a group of very vulnerable women and trusted intermediaries in the community who were able to look at the webinar, and then to participate through smartphones in the question and answer sessions. These webinars are accessible on the Law for Life website.

Coram Children's Legal Centre is continuing to see a high number of referrals for children-related work. They are concerned that a lot of the need is not being met. As to future need, they expect that when schools reopen in September, there will be an increase in education and other related issues for example immigration, risk and safeguarding.

Employment cases

In terms of employment cases, the London agencies are seeing a significant increase in employment cases, zero hours contracts cases, maternity cases are particularly high. The BAME community is particularly affected by COVID related issues but they expect it to increase enormously now the furlough is coming to end and redundancies are going to take place.

Other feedback from stakeholders

The picture shown by the dashboard very much reflects the feedback the Law Society are getting from members across all the various different issues. One of the biggest questions is how to obtain reliable information on what's happening - the dashboard looks like a really good start to answering that question. Showing a breakdown of personal injury cases by different categories would be useful.

LIP Support Strategy: The presentation reflected what LIPs partner organisations were seeing in that the people accessing their services appeared to be the more confident users. Now they are starting to see some of the more vulnerable people coming through. She has a working group next week picking up on this issue of trying to support distressed clients so it is consistent with what they're seeing.

HMCTS: The dashboard is a very useful tool in making sure there is more data that can be shared publicly quickly so that more people can focus on the same problems. Thank you.

Advice Services Alliance: There's a lot of work to do but this is a fantastic start..

RCJ Advice and for Support Through Court: The MOJ's work outlined above was very valuable. The flexibility of frontline providers to be able to respond to these findings is important. The sector needs to be linked into these strategies. That is the missing piece.

Thanks were expressed to the Legal Services Board and their engagement with the cross sector round table, appreciating that the Legal Services Board are a part of the sector too. Feedback and suggestions for indicators for the dashboard to tom.may@legalservicesboard.org.uk

5. Developing the cross-sector roundtables (Steering Group)

A short survey has been prepared by the Steering Group which is intended to collect views on the key issues for the sector in order to identify which issues need to be tackled next. The survey will be short and focused. Simon requested that people engage with it.

There is shared Google folder which stores meeting papers and other documents:

<https://drive.google.com/file/d/1DRhU5RDq4L1C8RXZMBhAaGBkV88Z2nJm/view?usp=sharing>.

It also has the functionality to allow contribution and addition to these documents which is welcome.

The steering group meets weekly and works collaboratively, linking with other initiatives, for example the pro bono week comms group work on a communications plan to the legal profession on pro bono.

6. Summing-up

The meeting had focused on several major issues and developments:

The Civil Justice Council Report

This report shows that issues that this cross-sector roundtable has been concerned about (such as those in the County Courts) are increasingly coming out.

Vulnerable users

The importance of gathering information about people with protected characteristics and the “disappeared” has been a theme of every meeting. There has been a consistent concern about people with “sharper elbows” pushing out more vulnerable users.

Collaboration – possession proceedings

Collaboration has been an important theme, both in terms of the subgroups but also in relation to the working group on possession proceedings where there has been progress and joint problem solving. It has been good working with government departments and seeing progress, without undermining how much is still to be done and the backlog that is coming.

The LSB dashboard

The MOJ presented its policy work with impressive clarity. It has been very heartening to hear about information being collected for the LSB dashboard because it has been recognised by the cross-sector roundtable for some time that it is very important to collect robust and real-time data. The roundtable will be able to provide feedback to help the LSB to further shape that project.

Finally, people are encouraged to fill in the survey.

The meeting closed the meeting at 17.30.