

LASF Roundtable - Sustainability Paper

This paper is one of three papers produced following meetings of the Legal and Advice Sector Roundtable – Responding to Covid-19

“Problem statement: The current economic and public health crisis and global impact of the COVID-19 pandemic has short and long-term consequences, presenting a wide range of social and legal issues for people in their everyday lives and a huge challenge to advice and free legal services and support organisations in addressing legal need.

Purpose: The Roundtable brings together legal and advice organisations and representative bodies from the voluntary and legal sectors, providing a collective breadth of update and perspective not available elsewhere. It helps define our shared priorities and strategy and brings some of the existing work and resources together, shining a light on key issues and their potential resolutions. Articulating urgent issues, identifying potential solutions and supporting the sector to respond to those needs collectively is our key ‘anchor’ for both the roundtable and its subgroups.

Intended aim: Improving access to justice for those without means and the most vulnerable, through the improved sustainability and effectiveness of legal and advice organisations, working collaboratively, to deliver effective services to meet demand, address underlying legal needs and the policy drivers of those needs.”

(Full terms and Reference at Appendix 1)

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Section 1: Introduction

Three sub-groups have been established to look at three different areas

- Policy
- Sustainability
- Ways of deploying and accessing services

This paper is produced by the Sustainability Subgroup and we were tasked with

- (i) identifying what needs to be done to ensure the sustainability of the sector;
- (ii) identifying current activity to address this and help share and enhance it;
- (iii) planning how to take sustainability forward both within the short, medium and long-term.

This paper is being produced during the Covid-19 crisis and its purpose is to bring together a summary of what is happening now and to look at how to plan for the next few weeks, months and years. This is a short paper to facilitate further thinking. We have sought to identify the most important and urgent issues. We invite feedback not only where specifically indicated but on all aspects of this paper.

The full effects of the pandemic on the economy are as yet unknown. The Bank of England has warned that we are heading to the sharpest recession on record, with the economy shrinking by 14% this year. The Money and Pensions Service has highlighted the significantly adverse GDP effects, business failures and that some sectors will be hit harder than others. They have also identified that many of the worse impacts will be felt by those who are already least financially resilient – low income families, younger people and students, parents with dependent children, women, BAME, renters the self-employed, those working variable hours and in the gig economy.

What will be the effect on the legal and advice sector? How many in the sector will survive? What action, if any, can be taken now? Our starting point is that there is not enough money in the sector both in terms of sustainable grant funding and the level of legal aid rates. This was the case before 23 March 2020, when lockdown was announced. Lockdown has made the situation worse.

What do we mean by sustainability?

The NCVO¹ defines a financially sustainable organisation, small or big, as

“an organisation that can consistently support and deliver its mission, making the most of changing markets and funding environments. We have identified six key aspects that contribute to financial sustainability to help you work out where you are doing well, and where you need to take action.”

How is this to be assessed and indeed achieved? Their suggestion is to break it down into six strands.

- A. *A strategic approach: ensuring how you raise funds and what you raise funds for supports your mission.*
- B. *Income diversity: an appropriate mix of funding sources; donated and earned.*
- C. *Financial management: understanding and managing costs, income and risk.*
- D. *Communicating success: being able to show you are making a difference.*
- E. *External positioning: knowing where you fit, how you are different and how to tell people.*
- F. *Relationships: the relationships and partnerships with funders and others that you need to achieve your mission*

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Compare that with this quotation from an independent sector management consultant

'Most people in this sector mean survival. Survival from year to year, sometimes from month to month. There is very little control over income so you juggle funding applications, legal aid income, any income from other sources and hope that you can keep going, serving the clients. There is a constant tension between raising income and often overwhelming demand for the service.'

Advice agencies and legal aid practices exist on the very edge of viability. This means that they cannot invest sufficiently in staff, recruitment, training, IT, offices and all those aspects of work which attract staff and ensure staff remain.

While this makes recruitment and retention incredibly hard it also means that advice providers cannot easily embrace new ways of delivering services or build resilience against unknown problems. The lack of money and management time available are both causes. Senior staff need enough 'bandwidth' to plan. Running an under-funded organisation while trying to provide advice and representation to clients is extraordinarily difficult (and at the same time often very rewarding).

The Justice First Fellowship scheme recognises the problems of recruiting and is an excellent initiative to attract people into the sector and to recruit future leaders. Young Legal Aid Lawyers do much to attract more people into the sector and offer mentoring. The sector needs to adjust to the changing expectation of new lawyers and caseworkers in a way which makes it an attractive sector within which to work.

There is a need for management skills across the sector because of the difficulty of finding income and the challenges of running a business on very low or non-existent profit margins. Many managers are often too hard pressed keeping the casework coming through to be innovative or entrepreneurial or even effectively manage risk and compliance. Legal Aid Practitioners Group run the LAPG Certificate in Practice Management – a whole course designed to strengthen management in the sector. There was also a course run by Cass Business School to train leaders in the sector. Other valuable training is carried out by sector consultants.

The most recent report we looked at is called "GLA Advising Londoners Report" produced by Advice Services Alliance (ASA). In this report we shall refer to this as the ASA Report. While it is only looking at London, one of its main findings is that

"There is a shortage of new social welfare advisers and lawyers coming through, and a skills deficit at management and governance level."

"Agencies report that the complexity of the problems being presented and the lack of options for resolution have had an impact on advice staff. Providers report higher levels of stress among staff, increased sick leave and difficulty in holding on to experienced advisers."

There are therefore similar and different challenges throughout the sector.

Similarities include:

- the lack of secure long-term core funding. A welcome initiative from funders post lockdown was the pulling together of funding opportunities which makes it easier for organisations to apply and gives funders more visibility over the needs of the sector. However, funding remains predominantly short term and year on year.
- the difficulty of recruiting and retaining staff.
- making better use of technology – which has started to happen and is going to have to continue apace given the Covid-19 scenario
- morale in much of the sector is low. Many caseworkers want to deliver a great service to the clients but it is very stressful
 - if clients have to be turned away,
 - if only a limited amount of work can be carried out,
 - where clients have been through traumatic experiences,

- if an organisation is constantly short staffed and running on empty, often because of stress related illness.

There are some differences.

For example there are particular issues for those organisations with a legal aid contract where legal aid rates remain low, fixed fees have been set too low, auditing and compliance is disproportionate and costly when compared to income, and ever-increasing bureaucracy reduces the amount of casework that can be carried out and therefore reduces the time to bring in income.

In some parts of the sector there is an older cohort who wish to leave work but there may be no succession in place. This is particularly relevant in legal aid private practice.

Section 2: Overview of what ‘the sector’ is and how organisations are currently funded

Where will a member of the public go to seek advice (whether they identify it as legal advice/social welfare law advice or just think that they have a problem.)

Many individuals and organisations have sought to produce a list of the groups that make up the advice sector. We thank the Advice Services Alliance for the idea of how to set out the table.

Advice provider	Level of social welfare legal expertise	Funding Sources – these are sources for the category of advice provider but it does not mean that each provider receives funding form each source.
Law centres	HIGH	<ul style="list-style-type: none"> • Legal Aid Agency (LAA) funding for legal aid casework. • Local authority funding • Grant funding • The emergency appeal as well as general fundraising Possible donations from law firms or other legal entities.
Legal aid law firms	HIGH	<ul style="list-style-type: none"> • LAA funding for cases in scope, with merit, and for clients who are financially eligible • Subsidy from other teams carrying out profitable work (private or business clients) • Conditional Fee Agreements • Inter partes costs
Specialist (area of law) advice centres	HIGH	Varied - including <ul style="list-style-type: none"> • LAA funding for legal aid casework • National government grants • Charitable grant funding • Some income generation through training etc
Pro bono sector and Clinics	MEDIUM/ HIGH	Varied – philanthropic including <ul style="list-style-type: none"> • Some will have grants from specific organisations • Fundraising initiatives such as regional legal walks/legal bake sale (LLST and Advocate do a range of fundraising activities annually) • S.194 pro bono costs orders • Professional body funding (The Law Society

		<p>and the Bar Council assist their respective pro bono groups)</p> <ul style="list-style-type: none"> • Donations/contributions/funding from law firms • Law Schools (for law school clinics) sometimes with local legal networks support • Individual legal professionals raise monies through the London Marathon and other physical events etc. Funding is not always cash but there is a significant amount of 'benefit in kind' funding such as office equipment donations, pairing up with other charities to share costs where possible etc.
General advice centres (client group specific and general public)	MEDIUM/ HIGH	<ul style="list-style-type: none"> • E.g. (Local) Citizens Advice predominantly local authority, lottery, Citizens Advice grants • Client group specific groups are more likely to have local authority and charitable grants. • seek funding through webpages and possibly through fundraising initiatives like the London Marathon
Money and Debt Advice	MEDIUM/ HIGH	<ul style="list-style-type: none"> • Money and Pension Service • Financial sector/industry
National charity networks working in health, care & welfare sectors (eg MacMillan Childrens' charities)	MEDIUM	<ul style="list-style-type: none"> • Mix of grants, public sector contracts, and fundraising activity
Trade Unions	MEDIUM	<ul style="list-style-type: none"> • Union membership fees
MPs' surgeries	MEDIUM/ LOW	Government funding for MPs and their offices
Other not-for-profit organisations	LOW	Varied
Local Community support – church groups etc	Low	Varied
Friends, relations and trusted helpers	LOW	None

Question: is this list too long? Do we want to limit it? Have we missed out significant organisations? We need to think which of these groups are covered by this report.

As can be seen in the table above there are a great many sources of advice and of funding. (This does not mean however that the need for advice is met. See later.)

It is interesting to note the ASA Report on social welfare services in London:

“From data provided by third parties, the research team calculated that 494 separate services in London provide social welfare advice as a main or sole activity. But the team estimates that between 724 and 1,011 charities are in some way involved in social welfare advice provision: the majority being small or micro-organisations, probably with low legal expertise and working with niche communities.”

Diversity of funding can make the sector stronger, as organisations are not relying on any one source. But it could be argued that if there was a smaller number of funders, paying a reasonable rate, that enabled organisations to plan effectively, **that** would ensure a stronger sector.

Question: Is the ecosystem described above a strength for the sector? Is it helpful to people seeking advice as they turn to a trusted group who will know where to refer them? Or is it bewildering?

Section 3: Short Term

This paper can only be a starting point for a discussion. We have set out in Appendix 2 summaries of reports including the Low Commission, the Bach Commission and the Ministry of Justice which set out the background to how we have arrived at this point.

These reports cover many of the current problems to date. For many years, people who need advice and/or representation have not always been able to access it at all or from a resource with the necessary level of expertise. The volume of advice delivered does not tell the whole story. Many people try to access advice and are deterred because they do not know who to turn to so they may contact the wrong organisation and are turned away, or contact the right organisation who are too busy to take the matter on, or since changes to financial eligibility, the person may be unable to afford the contribution or are outside the legal aid scheme.

The LASPO Act 2012 led to a decrease in the number of legal aid providers and that decrease was not matched by any increase by other providers. The government suggested when the LASPO Act was passed that other organisations would be able to take on more cases but years of austerity have impacted on the numbers of people that could be assisted. This was flagged up to the government at the time.

In looking at the sustainability of the sector the starting point has to be clients' needs and any changes in those.

Current Problems for clients

These are some of the issues which existed, before 23 March, for those with legal problems.

- Many people are unable to articulate that they need advice. Existing resources that they did use may have disappeared after years of austerity, including community groups that refer people to advice agencies.
- Many people are unable to access advice at all because organisations are so busy and cannot meet demand.
- Many people are unable to access legal aid because of means test hurdles, evidential hurdles and the limited number of cases covered by legal aid post LASPO Act.
- From the ASA Report:

Young Londoners (aged 16-25) are poorly served, with only a handful of social welfare advice services operating solely for their benefit. Anecdotal evidence from stakeholders is that the number of advice agencies dedicated to meeting the needs of black, Asian and minority ethnic (BAME) communities has reduced drastically.

Since 23 March 2020:

Increased Numbers

- In the period 16 March to 6 May 2020, Citizens Advice website pages advising on benefits hit 2.8m views, including almost one million for those pages featuring guidance on universal credit. Meanwhile pages on employment advice, including sick pay or furloughing, were viewed 2.3m times – a 77 per cent increase on the same period last year. RCJ Advice has seen an increase in welfare benefit and employment enquiries as well as queries about child arrangements.
- This is backed up by other organisations, which are reporting increases in welfare benefit and employment enquiries especially about furloughing decisions. Many employers are disregarding government guidance, for example, in relation to the Coronavirus Job Retention Scheme. Greater enforcement of the guidance by government is needed in order to protect the most vulnerable employees.
- Toward the end of April www.ageuk.org.uk/discover/2020/04/advice-line-coronavirus/ Age UK reported that there had been a huge rise in calls to its helpline – reaching an astonishing 88 per cent increase ‘at the height of concern’.
- Support Through Court are seeing spikes in employment matters and child arrangements matters.
- Alison Lamb, CEO of [RCJ Advice](#), reported that its [FLOWS](#) domestic abuse telephone line had received 1156 calls in May. Before the lockdown, the highest number of calls FLOWS had received in a single month was 534, a figure that rose to 752 in April.

Decreased Numbers

- At the same time as numbers have spiked in some areas of law, numbers have declined in others. RCJ Advice has had fewer enquiries about housing and debt, due to possession and payment holidays.
- AdviceUK reported that, from January to May, numbers were down in all areas of social welfare law except employment. Chilli Reid, the organisation's executive director, said:

There are probably three reasons for this overall decline: (1) reduction in service delivery; (2) issues around clients being unable to access advice services, especially those who are digitally excluded ('disappeared' clients); and (3) government measures that have reduced the demand for advice in the short term, eg, payment holidays and suspension of possession and enforcement proceedings reducing the demand for debt advice.

- Shyam Popat, Chief Operating Officer and Head of Casework at [Advocate](#), said that April saw a 21 per cent decline in applications compared with February. ‘This reflects the fact that referral agencies are under pressure and may not be aware that people can now apply directly,’ he said, ‘but – and much more worrying – we cannot be reached by the most vulnerable applicants who are digitally excluded or shielding due to health conditions.’
- The measures that have been put in place, for example, the stay in possession proceedings, should not be rolled back too soon because there is a concern that, at present, people are not in a position to defend possession proceedings. Therefore, there is a significant risk of an increase in the number of homeless people if the measures are rolled back too soon. (Shelter)
- How can people who are unable to access advice digitally be supported during the Covid-19 crisis? There is a new phrase being used ‘the disappeared’ - this is a reference to individuals with whom contact has simply been lost; they could be described as the “digitally marginalised”. There is work to do in this area to ensure people seeking advice can get access to it.

Litigation

- Many cases are adjourned – for example we are told that employment tribunal hearings are now being listed for August 2021.

- Some court hearings are going ahead – how successful are these? It is important to consider digital inclusion and the fact that certain clients will not be able to adapt to having to access courts digitally.
- Many are now getting back to business but there are concerns about the safety of the staff and court users. LAG, like many others, is concerned that remote (in)justice is resulting in damage either because hearings have not been possible or have not been as effective. There is particular concern over, for example, access to detained people – which has been inadequate – and there is no clear plan how to get back on track.
- Even if you do access advice digitally, what are the advantages and disadvantages?

Issues for organisations

Here is a snapshot from the ASA Report before lockdown:

“Financial sustainability remains the fundamental challenge for London’s social welfare advice services. Against a rising tide of need, demand, policy change and digitisation of services and processes, advice agencies have been squeezed by public expenditure cuts affecting local authority funding – and, of course, large cuts in legal aid scope and funding that were implemented in 2013.

In a specific survey about funding sent to advice providers, over half of respondents said funding had decreased during the past three years, and the same percentage expected it to fall during the coming three years. Based on estimates for the UK by the Law Commission, the funding gap in London could be at least £13 million.”

Post March 23 2020

- Organisations have had to move to digital working in a very short time frame. There will have been many issues to contend with, making sure that all staff had the right hardware to access systems,
- How many organisations will survive even in the short term? Funding arrangements are not necessarily of assistance e.g. advice agencies are very busy but funding may have been lost – if they furlough they will not be able to advise those in urgent need.
- Insufficient funding which has been aggravated by the current health crisis as e.g. Age UK’s main sources of funding (charity shops, events) have been disrupted. Shelter too has had to close its shops.
- Approximately 200 members of AdviceUK are BAMER organisations. Most of them are still providing services but a number are not or are providing reduced services. AdviceUK is working to support them to re-establish services.
- Much of the funding available is 1 year only – what happens in 2021/22?
- Flexibility from the LAA is needed because of the drop in income for those organisations with a legal aid contract. The LAPG has prepared a detailed list which is attached as Appendix 3.
- Against all the current upheaval, organisations need to plan for anticipated peaks in demand when payment holidays, furlough support and court processes recommence.
 - Housing - duty scheme providers in particular should be engaged as a key stakeholder in determining how matters should be brought back to court.
 - A number of organisations doing immigration work, including the charity Consonant, are facing a financial crisis. If they are forced to close, there will be a knock-on effect on law centres which employ immigration solicitors.
 - Money and Pension Service has announced that funding will be provided to train 500 new debt advisors. However, it will take some time for them to come into the system.
 - According to Stephen Jones, CEO of UK Finance, 1.6 million people are on mortgage payment holidays as at the end of April 2020. That the wider consequences need to be considered and addressed is highlighted by London Renters Union, Generation Rent and the London Mayor’s Office.

Possible solutions

Digital Initiatives

- **HMCTS** have been working closely with the Good Things Foundation (“the GTF”) to work out how to offer digital support at a time when most of the centres through which digital support is usually provided are not open.

Two things are being considered in this regard:

- 1) Technical support for remote hearings.
- 2) Telephone support.

In addition, reasonable adjustments are being made in the sense that HMCTS call agents are able to help people to fill out forms remotely. This is available in SSCS matters and work is being done to see if it can be offered in other jurisdictions.

- **The MOJ** has announced FLOWS will continue to receive funding which is a welcome decision. The money will enable FLOWS to appoint a solicitor in Wales and will enable Rights of Women to recruit somebody to lead on criminal remedies in relation to domestic abuse.
- **The CourtNav digital tool:** over the past two months, FLOWS have introduced the digital tool called CourtNav. In the first two weeks after introducing the tool, FLOWS received hundreds of successful applications through CourtNav. In May they have received a further 700 applications. Feedback suggests that the tool has enabled more women to get protection who otherwise would not have found FLOWS. This demonstrates the real importance of digital and also of the network behind it.
- **Free Legal Answers:** LawWorks has been working on the Free Legal Answers website which has recently launched in England (and will be extended to Wales). A similar website has been running in the United States for around 10 years, supported by the American Bar Association. It provides primarily initial, one-off pro bono legal advice for individuals. LawWorks is inviting organisations to refer people to the website (rather than making it available to everyone) to manage demand.
- **Justice Connect:** LawWorks is working with the Australian organisation, Justice Connect, which launched a pro bono portal in Australia in order more effectively to link firms and lawyers offering pro bono services with organisations providing pro bono opportunities. Pilot expected in June 2020.
- **AdviceNow**, the online resource, can still be a vital way of reaching those who are digitally excluded – by using friends and family, volunteers and professionals working in the community. Some of the most vulnerable people and their intermediaries can be trained online.
- **Welsh National Advice Network:** Fran Targett reported to the round table that the Welsh National Advice Network is working closely with the Welsh government on funding for advice provision. All of the concerns raised in this forum are also concerns in Wales.
- **Rightsnet** responded very promptly to the situation on 23rd March
 - *we've created a new social welfare law update page that's being reviewed and updated daily: <https://www.rightsnet.org.uk/covid19>*
 - *we've launched a new online forum to facilitate discussion and casework support related to the outbreak: <https://www.rightsnet.org.uk/forums/viewforum/42>*
 - *we've opened up access to our coronavirus-related news stories in order that they might now also be accessed without a rightsnet subscription you'll see that these stories are now all tagged with 'Open access': <https://www.rightsnet.org.uk/news-and-caselaw>*
 - *we've launched a second new forum, 'The Social', that we hope might play a part in helping us all to steer a course through the next few weeks and months ... and provide more of a social, less work-focused space to catch up with like-minded members of the rightsnet/access to justice community: <https://www.rightsnet.org.uk/forums/viewforum/43>*

Collaborative work should be undertaken to try to identify the extent of the problem of digital exclusion, working with organisations such as Advice for Renters and building on Diane Secchi's work in this area. It is important to deal with the “newly impoverished”, which is a reference to the group of

people who will have sharper elbows than most of the traditional sector clients, and who will start to take up valuable resources.

Non-Digital - Mediation

- **Employment Legal Advice Network (ELAN):** There is a lot of unmet demand for initial advice however even where initial advice is provided, network advisers do not have the capacity to help clients to access legal services. One of the solutions ELAN is testing is a mediation project. Having received the necessary funding, a 12-week pilot project has recently been launched, offering up to 6 hours of employment law mediation to people who have been referred from the network.

Funders' response

The Ministry of Justice

The Ministry of Justice is providing funding to the third sector:

- £3 million has been given to the Law Centres Network to be distributed across England and Wales.
- £2.4 million has been given to the Community Justice Fund which is being distributed via the Access to Justice Foundation.
- The National Community Lottery Fund will be opened on 22 May 2020.

However, the MOJ recognises that more financial help is needed.

The Community Justice Fund

The Community Justice Fund has recently launched. It has a number of contributors including the Ministry of Justice.

- The aim is to help specialist social welfare agencies to cope with the immediate impact of the pandemic and to lay the foundations for longer term renewal in the future. More can be found at: <https://www.communityjusticefund.org.uk>.
- There is a single application process and applications are reviewed on a weekly basis.
- The aim is to give organisations as much flexibility as possible. The application simply asks organisations how they would use the funds. For example, to address cash flow issues, to adapt services to support staff mental health etc.
- Funds are a combination of pooled contributions and aligned funds and which now collectively stand at about £7 million.
- There is a **longer-term strategy – “learning and influencing”**
 - Law is a tool for social change. The Fund can be used as the basis for a conversation with sector organisations and institutional donors about the role of justice systems and of legal services in restoring the economy, social cohesion, building confidence in institutions and meeting needs.
 - It is hoped that this will be the basis for a longer term, more strategic discussion about sustained investment for this area of civil society and the crucial role it has to play.
 - The fund has necessarily focused on a relatively small part of the advice ecosystem however it is part of a wider exercise.

The Fund is considering its next wave of funding.

London Community Response

- There are now 52 funders, who have contributed £17.9 million.
- There have been two “waves” and there is a discussion for a potential third “wave”. This will be shaped by the state of the lockdown and funding available. Employment and housing advice are the sorts of priorities that may be considered in wave three, as well as some policy work to influence decision making bodies.
- In addition, London Community Response is bringing together a group of organisations to support equality and inclusion work (for example Women's Resource Centre and Inclusion London).

The Legal Education Foundation

The LEF have been for many years significant funders in the sector and were already in the middle of a grants round. They are collaborating with the other funding initiatives. They were quick to fund resource e.g. Matthew Howgate and Vicky Ling as consultants for the legal aid sector channelled through LAPG.²

Section 4: Medium Term

Medium Term issues while lockdown is lifted

1. Services are likely to shrink or close due to a lack of funding. The funding issue is likely to become more significant when lawyers and advisers, many of whom are on furlough, come back from furlough.
2. Traditional face to face channels of advice that are provided will change due to social distancing, and the new channels of delivering services may be difficult for various groups including for example the elderly to access. Among other things they are at a higher risk of being digitally excluded.
3. Support Through Court raised an important issue that when courts resume service, capacity will be severely reduced not least because there will be fewer volunteers willing to return to work.
4. There has been increased unmet legal need as a result of COVID-19 and the lockdown measures – we have seen, for example, the increased risk of domestic violence during the lockdown. But the next year, years or decade of austerity resulting from COVID-19 will see an exponential rise in debt, health, community care, employment needs. What is the plan to meet them?
5. Depletion of the sector – firms and advice centres have been badly hit financially and some will have suffered irreversible harm and will close down. The support from the government is not enough to keep many afloat in view of the loss of other income, in particular the loss of charitable funds and the inability to hold many planned fundraising events, and there are particular concerns for those reliant on legal aid income.
6. Advocate predicts a spike in eviction, employment and family/child cases. The [Money and Pensions Service](#) is of the view that demand for debt advice will increase significantly in three to six months' time. There is likely to be a similar increase in other areas of social welfare law, e.g. welfare benefits.

Next steps

- Short term changes are now coming to an end.
- Thinking ahead to recovery, the work that was being done prior to COVID 19 is considered to have been the right work. It was about sustainability and ensuring that the justice system can operate in the right way and that users can get the help that they need. There is a desire to return to that approach but to consider matters through the lens of the health crisis in terms of the impact that has had on sustainability and changing user need. Initiatives such as the Means Test Review and Early Legal Advice will become very important.
- The need for pace is recognised. However, speed must be balanced with the public sector duty to make sure that there is a rationale.
- There is a plan to continue to influence recovery design and to track demand and supply and to make sure that practitioners are involved in those design processes.
- See [Appendix 3](#) for the structural support for a CAB – is this replicated in other organisations?

What other issues should we be capturing now so we can plan better?

² <https://lapg.co.uk/wp-content/uploads/LAPG-Covid-19-Support-Service-FAQs-25.05.20.pdf>

Section 5: Long Term

Technology

- Look at how the sector can make better use of technology. (Solutions for clients are being looked at in the other sub-groups but ensuring ongoing research into client experience of digital processes is essential.)

Legal Aid Rates and Reduce Bureaucracy

- Continuing to push the Government on realistic legal aid rates and less bureaucracy.

Grant Funders

- Push charity funders to offer stable secure long term funding and not keep chasing new exciting projects; work with funders to ease the pressure. Build on the collaborative model adopted post march 23rd by funders.

Collaboration

- How can the sector work more collaboratively to prevent duplication of effort? See Appendix 4 for the model of the support given to bureaux by Citizens Advice. Could elements of that support be considered in other groups in the sector?

Recruitment

- Build on the JFF type scheme and YLAL to attract more people into the sector. The ASA Report looked at this issue

“Focused and coordinated investment in the supply of personnel is needed, and there are schemes and initiatives that could be coordinated across London and built on. The research team heard many calls from stakeholders for efforts to streamline and coordinate routes into social welfare advice, training provision and qualifications as a means of attracting ‘new blood’ into the sector. The GLA’s Adult Education Budget, and Adult and Community Learning work, which supports social integration in London’s most disadvantaged communities, could be used to support advice sector workforce development in the city.”

Retention

- What more can be done to retain staff who can leave the sector and earn more money with less stress elsewhere?

Management

- Ensure that there is a focus on efficient management e.g. build the LAPG Certificate in Practice Management into a bigger full on management and leadership process with more available resources and backup.

Positive Publicity for Social Justice

- Build a consensus around social justice and give the sector its mojo back....

Appendices

Appendix 1 - Terms of Reference: Legal and Advice Sector Roundtable: Responding to Covid-19

Problem statement: The current economic and public health crisis and global impact of the COVID-19 pandemic has short and long-term consequences, presenting a wide range of social and legal issues for people in their everyday lives and a huge challenge to advice and free legal services and support organisations in addressing legal need.

Purpose: The Roundtable brings together legal and advice organisations and representative bodies from the voluntary and legal sectors, providing a collective breadth of update and perspective not available elsewhere. It helps define our shared priorities and strategy and brings some of the existing work and resources together, shining a light on key issues and their potential resolutions. Articulating urgent issues, identifying potential solutions and supporting the sector to respond to those needs collectively is our key 'anchor' for both the roundtable and its subgroups.

Intended aim: Improving access to justice for those without means and the most vulnerable, through the improved sustainability and effectiveness of legal and advice organisations, working collaboratively, to deliver effective services to meet demand, address underlying legal needs and the policy drivers of those needs..

Our Objectives: 1. to identify legal needs arising from the pandemic; 2. to monitor and review the impact, considering and highlighting issues and challenges, for providers of legal information, support, advice and representation; 3. to consider responses and recommendations to help address the above needs, including potential policy recommendations (to Government and others); 4. to inform and support the mobilisation and co-ordination of the advice sector, legal aid, charities, volunteer lawyers and legal professionals, for people with legal and advice needs; 5. as part of that mobilisation, to encourage sector-wide collaborations, initiatives and technology and data driven solutions - sharing information, resources and learning.

How we operate a) Legal and advice sector led, responding to issues the sector highlights; b) The Steering Group (informal) – meets weekly (on average) to support, administer and be accountable; c) Roundtable meetings – every three to four weeks: convening of wider community, led by legal and advice sector, with invited contributions, centered on legitimacy, credibility, authority; d) Sub-groups (issue specific, 'task and finish' oriented) – focusing on key themes raised by Roundtable and progressing actions; addressing overall Roundtable objectives and purpose; e) Sharing resources more publicly within the 'community/sector' e.g. via LiP Network website, circulating meeting notes by email update, cascading via networks; f) Connecting, learning, contributing and cascading; enhancing not replacing.

Sub groups and current areas of focus:

- **Policy:** (i) Review the policy landscape relevant to the legal needs that the sector seeks to address, and the engagement of civil society in the policy and legal needs issues raised by the health crisis; (ii) Identify, make recommendations, facilitate or lead appropriate coordinated actions and responses (for example preparing briefings and communications to policymakers, MPs and stakeholder) on relevant policy issues;
- **Sustainability:** (i) Identify what needs to be done to ensure the sustainability of the sector; (ii) Identify current activity to address this and help share and enhance it; (iii) Plan how to take sustainability forward both within the short, medium and long-term;
- **Ways of deploying and accessing services:** (i) Collaborate to ensure that those that we seek to serve are able to access advice and support; (ii) Identify where organisations can work together to ensure capacity is evenly distributed; (iii) Explore and implement (if demand warrants) what systems and platforms can be used to help facilitate this.

Appendix 2 Significant Reports Post LASPO

2014

The Low Commission Report in 2014 (i.e. after the introduction of the Legal Aid Sentencing and Punishment of Offenders Act 2012 known as LASPO. This Act severely reduced the availability of legal aid) identified six overarching recommendations namely

- Public legal education should be given higher priority, both in the school alongside financial literacy, and in education for life, so that people know their rights and know where to go for help.
- Central and local government should do more to reduce preventable demand (for example, by requiring the DWP to pay costs on upheld appeals).
- Courts and tribunals should review how they can operate more efficiently and effectively (for example, through adapting their model of dispute resolution at every stage to meet the needs of litigants with little or no support).
- The next UK government should develop a National Strategy for Advice and Legal Support in England for 2015–20, preferably with all-party support, and the Welsh Government should develop a similar strategy for Wales. There should be a Minister for Advice and Legal Support, within the MoJ, with a cross-departmental brief for leading the development of this strategy.
- Local authorities, or groups of local authorities, should co-produce or commission local advice and legal support plans with local not-for-profit and commercial advice agencies.
- The next UK government should establish a ten-year National Advice and Legal Support Fund of £50m pa, to be administered by the Big Lottery Fund, to help develop provision of information, advice and legal support on social welfare law in line with local plans.

See <https://www.lag.org.uk/about-us/policy/the-low-commission-200551> for more information.

2015

There have also been reports by government committees including the **Justice Committee** and **Equalities and Human Rights Committees** with strong proposals for change. See for example

Justice Committee: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news/lapso-report/> which in 2015 found that

181. The Ministry of Justice has failed in three of its four objectives for LASPO: it has not discouraged unnecessary and adversarial litigation at public expense because the courts and tribunals are having to meet the costs of a significant rise in litigants in person and a corresponding fall in mediation; it has failed to target legal aid at those who need it most because it has failed to properly implement the exceptional cases funding scheme; and it has failed to prove that it has delivered better overall value for money for the taxpayer because it has no idea at all of the knock-on costs of the legal aid changes to the public purse. The Ministry of Justice has made significant savings in the cost of the scheme but we conclude that it could have achieved greater savings if it had reduced the knock-on costs of the reforms.

2017

The Bach Commission report ‘The Right to Justice’ was published in 2017 and supported many of the low Commission proposals (http://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Exec-Summary.pdf). It identified that the justice system was in crisis and proposed a Right to Justice Act which would

- Codify our existing rights to justice and establish a new right for individuals to receive reasonable legal assistance without costs they cannot afford
- Establish a set of principles to guide interpretation of this new right covering the full spectrum of legal support, from information and advice through to legal representation
- Establish a new body called the Justice Commission to monitor and enforce this new right

The purpose of the Right to Justice Act is to create a new legal framework that will, over time, transform access to justice. But early government action is also required. In part two of this report we set out an action plan for government so that it can take the first steps required to make the right to justice a reality.

- Legal aid eligibility rules must be reformed, so that the people currently unable either to access legal aid or to pay for private legal help can exercise their right to justice.
- The scope of civil legal aid, which has been radically reduced, must be reviewed and extended.
- The operation of the legal aid system needs reform. The legal aid system is creaking at the seams, and practice as a legal aid lawyer is becoming increasingly unsustainable.
- Public legal capability must be improved. At present, most people's ability to understand a legal problem or to know where to turn for information and support is poor.

When the government first introduced LASPO it estimated it would save £450m a year in today's prices. But last year, legal aid spending was actually £950m less than in 2010. The Fabian Society estimate that the costs of the proposals in this report will initially total less than this underspend, at an estimated cost of around £400m per year."

2018 - 2019

The Ministry of Justice carried out a review of the effects of Part 1 of LASPO (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777038/post-implementation-review-of-part-1-of-laspo.pdf). The review identified many of the very serious issues that needed addressing. Interestingly, while many in the sector supported the findings, there was concern over the failure to address the sustainability of the sector.

On 8 Feb 2019 "Legal Support: The Way Ahead" was published. This was an action plan to deliver better support to people experiencing legal problems and was very well summarised by Legal Aid Practitioners Group (LAPG):

By 2019:

- legal aid to include separated migrant children in immigration cases
- Non-means tested legal aid for opposing applications for placement orders or adoption orders in public family law proceedings □
- Test a series of changes and enhancements to triage and signposting support offered by Civil Legal Aid Telephone Advice Service
- Launch a campaign to improve awareness of how people can access legal support, including legal aid
- Legal aid to cover special guardianship orders in private family law
- Bring forward proposals to pilot and evaluate the expansion of legal aid to cover early advice in a specific area of social welfare law
- Simplify the process for applying for Exceptional Case Funding and ensure that the forms and guidance are as accessible as possible
- Improve timeliness of the Exceptional Case Funding process
- Consider whether it is necessary to introduce a new emergency procedure for urgent matters to access Exceptional Case Funding

By 2020:

- Remove the mandatory requirements from the telephone gateway for debt, discrimination and special educational needs
- Complete a comprehensive review of the legal aid eligibility regime
- Complete a comprehensive review of the criminal legal aid fee schemes and structures
- Complete a comprehensive review of the regulatory and administrative requirements passed onto providers and work with users to streamline these where possible

No specific timeframe:

- work with The Law Society to explore an alternative model for family legal aid
- consult on proposals to provide separate guidance for families on the inquest process and legal aid system
- change the ECF application process to address complexity of the forms and time to complete them
- consult on introducing backdating of the legal help waiver (inquests)
- undertake a pilot to explore how to better co-ordinate and signpost legal support
- work collaboratively with the sector to pilot/test/ evaluate holistic legal support hubs
- enhance the support offered by MoJ and HMCTS for litigants in person, as well as increasing our funding for the Litigants in Person Support Strategy to £3m for the next two years
- work more closely across government, including through existing cross- government groups, and bringing together departments and support providers to focus on ways to reduce preventable demand
- continue to work across the justice system to explore how to use data more effectively
- set up a Legal Support Advisory Network to make use of external expertise, shape our research and evaluation proposals, and potentially explore new research opportunities and collaborations
- Up to £5m to develop new ways of delivering legal support, access funding, data and key people.

2019-2020

The Law Society's work on the sustainability of the civil side includes:

- Advice Deserts campaign
- Early advice, means test review and co-location of services would all have the effect of increasing volumes, which would contribute towards sustainability. Co-location may open up new streams of funding as well.

Current asks of the MoJ/Treasury include relaxed approach to Standard Monthly Payments, 50% rate relief and restarting the work on civil sustainability the LAA/MoJ were already undertaking.

2020

In April 2020 **The Bar Council** published its findings as to how the crisis was affecting the bar.

Barristers are providing an essential public service in delivering justice throughout the pandemic, but only 7% think access to justice is currently acceptable. The Bar Council's survey also revealed that Covid-19 is having a devastating effect on the profession's sustainability and diversity, due to a major drop off in hearings and other work. This comes despite efforts by the legal professions, judiciary and HMCTS to deliver justice via remote hearings, and where necessary, conduct essential court hearings in-person.

One of the findings was that 83% of young barristers (those in the first seven years of practice) cannot survive a year. The research also found the financial impact of Covid-19 was greater on barristers from BAME or state school backgrounds.

The ASA Social Welfare Report <https://asauk.org.uk/projects/> - as indicated above we have permission to quote from the report and it should be published shortly.

Any other major reports or work? E.g. Working Families? Justice?

Appendix 3 – Summary of Detailed Sustainability Issues produced by LAPG

Work on current sustainability issues	Work on long-term sustainability
<p>Requests from LAPG, TLS and other rep bodies to consider:</p> <ul style="list-style-type: none"> • More flexibility on Payments on Account – 100% POA claims, monthly claims rather than 1 after 3 months and then 2 in the next 12 months • System for claiming interim payments on controlled work, legal help, fixed fee work (etc.) in both crime and civil • Seeking extension of business rate relief to legal aid providers • Seeking MOJ 'compensation' for other premises costs • Request for MOJ to set up a crisis fund for any contracted supplier to apply to if they have exhausted other relief measures and face insolvency • Request for reinstatement of 8.75% cut imposed on criminal defence providers • Various discussions ongoing on varying fee structures, delegated functions, cost assessment guidance (etc.) to reflect the 'new normal' – immigration and asylum, community care, prison law etc. • Request for direct assistance to HPCDS providers given complete absence of new work since the end of March 2020 • Discussions are about to commence on how the specifications/guidance need to be amended to reflect delivery of remote hearings in housing/possession cases • Number of JRs have been initiated, threatened or are planned around specific issues – i.e. in relation to specific elements of the means test • Request (PLP) for temporary change in scope and introduction of delegated functions for ECF cases • LAPG/LCN/AdviceUK have also set up support services for members (with TLEF funding) • TLS providing specific advice and resources • Bar Council? Believe they are making specific requests to MOJ for financial support following their surveys <p>NB - Others will document the various measures in place from MOJ and grant funders to support NfP legal aid providers, specialist advice agencies and those supporting LiPs</p>	<ul style="list-style-type: none"> • Criminal Legal Aid Review (MOJ), with 'accelerated' proposals • LAA/MOJ review of administrative burdens – part of Legal Support Action Plan (but not specific timings attached so suspect it will fade away.....) • Multiple 'Process Efficiency Team' work strands, including about 15 that arose out of LAPG's LAA decision-making survey (Oct 2019) • Direct request from LAPG to MOJ to undertake a review of civil legal aid sustainability • APPG on Legal Aid inquiry into legal aid sustainability – planned for autumn 2020 • Legal Aid workforce survey/research – in early 2020 there was interest shown for this from ATFJ, TLEF, city firms, but has very much gone on the back burner • What do we say about SRA plans to re-design qualification routes for solicitors – this has potential huge implications for long-term sustainability

Appendix 4: Model – a structure for support of a Citizens Advice Bureau

Bureaux are required to submit quarterly management accounts including reserves and cashflow – monitored to identify if vulnerable, and extra measures added if are.

National strategy to gain funds for LCA e.g. Help to Claim.

Bulk buying and provision of information resources e.g. have purchased CPAG online resources due to Covid19 and invested in big White Wall, an online mental health and wellbeing service that supports staff and volunteers.

Regional CEOs meet regularly and plan approach and explore sharing of costs.

Support

Their trustees and Employment and Finance subcommittee focus on sustainability and question and support.

Citizens Advice access to commissioning consultancy, one to one support.

Learning and training

Most our Senior staff have or are attending programmes that address sustainability

- LAPG Certificate in Practice Management
- MSc in organisational change
- Sayer Vincent and others

Networking

- Through formal partnerships e.g. LIP Strategy, Rights of Women, Electric Putty, Toynebee Hall
- Informal networking with funders and policy makers
- Get peer support and practical advice from range of senior staff in other organisations
- Pro Bono Co-ordinators from Law firms
- Vicky Ling and Matt Howgate, experienced sector consultants
- Our IT providers work with the senior team on sustainable solutions

Other

- LIP Network, NCVO, LLST to keep up to date with sector policy and funding opportunities
- Peer support through Centres of Excellence grouping
- Lifeworks for wellbeing support for all staff and volunteers

Appendix 5 - The sustainability sub-group members are

Nimrod Ben Cnaan, Law Centres Network

Nezahat Cihan, London legal Support Trust

Martha de la Roche, Access to Justice Foundation

Louise Hanson, The Law Society

Matthew Howgate, Consultant

Alison Lamb, Royal Courts of Justice CAB

Chris Minnoch, Legal Aid Practitioners Group

Carol Storer, Legal Action Group

Dated 2 June 2020