

Submission to the Commission on Justice in Wales by the Legal Advice Centre (University House)

In our view, properly funded Civil Legal Aid remains the key to achieving access to justice for as many people as possible within the UK. That said, we do not advocate a one-size fits all approach, as even before LASPO the coverage of Civil Legal Aid was by no means universal. Particular problem areas were and are outside of metropolitan areas. It is for this reason that we advocate a mix of measures to help provide access to justice for those of our fellow citizens who presently find themselves in 'advice deserts'.

We believe the following of our projects should work well in Wales.

1. Webcam advice platforms and working to connect with volunteer lawyers more effectively?

Presently, we are using webcams to directly deliver specialist legal advice to remote communities. We believe this method of delivery can be scaled up, and also can be structured to include accessing pro bono legal resources.

There is a disconnect between the lawyers prepared to undertake pro bono work and those actually doing so. This is not anybody's fault. Developing projects that are pro bono friendly is difficult. Typically, the volunteer lawyer is asked to commit to a particular evening each week or each month. With the best will in the world, this can be problematic. Lawyers who seek to volunteer are often employed by large commercial law firms who understandably require their lawyers to be available when required, and this requirement seldom dovetails with their desire to volunteer.

Large numbers of lawyers now experience pro bono very early in their careers. Most law schools now provide pro bono projects for law students to cut their teeth on. The clear danger is that we risk losing out if we cannot provide a mechanism for lawyers to get involved with pro bono opportunities once they are employed. What to do?

Create a platform that can provide lawyers with an opportunity to volunteer at a date and time of their choosing...

Our most successful project to date is our Advocacy Project. It involves training volunteer lawyers to undertake disability benefit appeals to the First-tier tribunal. So far, we have trained more than 300 volunteer lawyers on how to conduct such appeals, and the success rate of the appeals is running at over 80%. One of the reasons our partner law firms appreciate this project so much is that there is no obligation on their part. Once we have trained a volunteer lawyer, we then place them on our email 'advocates' list. When we receive a Notice of Hearing we send the details out using this list, and it is up to the 'advocates' whether they bid for the case. In practice, each case receives at least one bid, and we place appeals with the advocates depending on who placed their bid first. It works very well. We now have a large number of law firms who have signed up to this project, including some of the biggest firms in the world.

We have been thinking about how to use the basic structure of this project as a vehicle to offer pro bono opportunities more widely.

This is why we have created a webcam platform which volunteer lawyers can register with, and take part in when they choose. The basic idea is a volunteer lawyer signs in on the platform to take part, and whilst signed in, they field webcam calls coming into the platform. This platform is accessible by smartphone or a laptop/computer via an App.

The platform has different streams. The volunteer lawyer, if trained in a secondary area of law, can choose to field calls under that stream, for example, if they have received our training on Domestic Violence then they can choose to field webcam calls from members of the public on DV, or they can field calls on a general stream which covers general litigation, small claims, property matters and consumer law. Most lawyers should be able to field calls under the general stream without specific training from us.

Specific streams reflect critical areas of law where we can achieve greatest impact. So, in terms of housing law the stream is homelessness, whereas in terms of family law, the stream is DV and non-molestation orders. We are also presently working with pro bono partners on delivering training and support to address hate-crime through applications under the Protection from Harassment Act 1997. So, hate-crime will be another critical stream.

This platform offers a full casework service. Some calls will just require 'advice only' support, but some will require a letter or pleadings to be drafted. Every volunteer signed up to the platform will be expected to help draft letters/pleadings. In practice, this may mean that the volunteer only takes one webcam call during a particular session. But that is fine.

The platform also allows the volunteer lawyer to seek advice from one of our supervisors in Bethnal Green through typed web-chat (similar to gaming) either during their webcam call with the user or afterwards.

The platform and volunteer lawyer never goes on the record for tribunal or court proceedings. All letters and pleadings drafted are subject to our supervision protocols. Should the member of the public require further advice on the same matter at a later date, and they access the platform again, then they will be put through (in all likelihood) to a different volunteer, who has access to their file notes and scanned documents. This is exactly how we run our six existing pro bono face-to-face advice clinics.

We have developed protocols for both advisers and users of the platform. Advisers receive guidelines on how to engage with vulnerable users and on issues such as active listening and user management.

What about documents...

As part of the platform's FAQs, users are advised to have their documents (if any) available electronically, failing which they can simply use their smartphone to photograph any documents which they want the volunteer lawyer to see. This is an

alternative to scanning the documents if the user does not have ready access to a scanner.

Our platform involves a USA webcam App working alongside our existing bespoke online case-management system, both of which are accessed via our website.

The eventual plan will be to open the platform up to any member of the public in England and Wales to ensure access to justice for as many people as possible. Initially, this project will develop in two stages.

On the local level, we already use the platform to support our existing advice project in Falmouth, Cornwall. Presently, we provide legal advice via fixed webcam workstations placed in the Dracaena Centre in Falmouth. The advice provided is by our own staff solicitors, based in Bethnal Green. The new platform allows us to field calls from Cornwall residents using their smartphones.

Community development

Engagement with the Dracaena Centre is key to the projects outlook, and a great deal of time has been invested by us in assisting the Dracaena Centre with fundraising, as the ambition is that the Dracaena Centre can eventually take ownership of this project once it has secured funding in its own right. It will then be up to them whether they wish to continue to, in effect, contract us to provide remote legal support, or whether they wish to contract a local firm of solicitors. We are extremely pleased to report that in October 2018 the Dracaena Centre learnt that they had secured £250K from the Big Lottery.

What next?

On the 5th November 2018, our webcam Family Law “duty desk” dealing with section 8 child arrangement and DV matters went ‘live’. This is at Truro Combined Court. Again, we are directly servicing this project.

On a regional/national level, we hope to enter into advice partnerships so that we can work towards providing a national advice service on critical social welfare law issues using our new platform.

We need to develop our own infrastructure and capacity, and develop partnerships in order to cope with the expected numbers. We also need to recruit more volunteer lawyers and provide them with training.

2. Micro-insurance/LEI

For some time now we have been active on work around micro-insurance, including affordable Legal Expenses Insurance (LEI). Through our interactions with key stakeholders, we are convinced how LEI can help with the access to justice agenda. According to a recent Ministry of Justice survey, 1 in 10 people now obtain legal assistance via Legal Aid, whilst 1 in 4 now receive it via insurance. The focus of our work is now on social landlords.

LEI is often sold as part of some other primary insurance or financial product. There are over 400 providers of home contents insurance in the UK, with over 25% of

policies sold that include LEI as standard. The size of premium for such policies seems to have little relationship to any add-ons like LEI. For example, one of the cheapest home insurance products on the market, includes LEI as standard, whereas you can pay 3 or 4 times their premium for a home contents product that does not include LEI.

Presently, all tenants of social landlords are encouraged by them to purchase contents insurance from the National Housing Federation Insurance scheme. This scheme does not include LEI. We believe it should. We also believe there is a strong argument for including micro-insurance as part of a tenant's rent, whilst providing for an opt-out. Social landlords have a policy objective of wanting all their tenants to have home contents insurance, but take up is very poor.

Nearly all social landlords include details of the National Housing Federation scheme at sign-up when a new tenant takes on one of their properties, and yet some social landlords report less than 4% of their tenants have joined the scheme. This approach is clearly not working. Social landlords really need to review their approach here. In reviewing what they are doing, there is also an opportunity to completely change the way key stakeholders engage with the insurance/finance industry on behalf of some of the most vulnerable in society.

We realise that times are tough and that given the choice people understandably would rather put food on the table than pay for insurance. However, what we are talking about here is a very small amount of money, which would get smaller given the economies of scale. The more people that are covered by the scheme would mean the greater the purchasing power of social landlords.

We are also not talking here about LEI as it is presently commercially available. Present day LEI provides those who are covered with a minimum of £50,000 of support with legal costs. What we are advocating is a stripped-down version of LEI which has a focus on social welfare law. The most common matter our sector deals with is disability benefit appeals to the First-tier Tribunal. Even if our clients had LEI we would struggle to spend more than a few thousand pounds on a disability benefit appeal.

There is a significant number of tenants in social housing who do not have any insurance. According to Fair Finance, 50% of households in the bottom half of the income scale do not have any insurance. We fundamentally believe the best way forward is for social landlords to use their purchasing power to obtain low cost insurance for all their tenants. This insurance should include LEI and other products such as basic funeral cover, in order, to help create community resilience.

Tragically, social tenants who neither have LEI or home contents insurance are often forced to purchase next to useless product insurance from sub-prime lenders. Hire purchase companies, for example, tend not to provide access to their overpriced HP goods unless the "customer" has home contents insurance, knowing full well that most of their targeted customers do not have such cover. They then sell them their own overpriced insurance.

The exploitation of the poor needs to end. Micro-insurance is a logical way forward which multiple stakeholders can engage with on behalf of their tenants, members or employees.

3. Housing Benefit

Housing Benefit is paid to the most vulnerable in society. It includes eligible housing costs, which often include, amongst other things, service charges. I do not believe it is too much of a leap to include 'insurance' as part of eligible rent. To do so would radically improve claimants' situation/resilience.

4. Medical-Legal Partnerships

Our centre employs 4 employment solicitors. Elizabeth Davey, who is one of the employment solicitors, runs the Disability Employment project which advises people who are experiencing work place problems linked to their disability, ill health or stress at work. The project has been running for 6 years. Elizabeth has learned from her project outcomes that the most successful outcomes tend to be from cases where the employment problem has been captured at an early stage and crucially before disciplinary or capability proceedings have been commenced by an employer. Unfortunately, most clients do not go to a solicitor about their problems at work until they have been disciplined or (are about to be) dismissed. The most successful outcome for a disabled client is retaining employment with reasonable adjustments and avoiding long term unemployment. Other 'successful' outcomes, such as an Employment Tribunal award do not prevent unemployment.

In order to achieve early referrals Elizabeth has set up a number of referral pathways with local organisations (Working Well Trust, Positive East, Mind in the City, Hackney and Waltham Forest, Mind in Newham and Tower Hamlets and the Employment Retention Network). Users of these services typically tell their support worker they are having difficulty in the workplace as part of their support needs/plan which generate a referral to Elizabeth.

The Development of the Medical-Legal Partnership pilot

In 2015, I visited a number of legal projects in Washington DC and New York City that provided integrated services to users that included access to both Lawyers and Doctors within the same setting. Around the same time Elizabeth was reviewing her project and looking for ways of getting more of her employment clients referred to us at an early stage. Part of that evaluation highlighted that GPs were often the first professional to learn about their patient's employment problems (usually because the patient wanted a fit not or supporting letter) and that by the time that same person had decided they needed legal advice the employment relationship was often irreparably damaged and the only outcome was either a settlement agreement/claim and/or dismissal/resignation. Elizabeth concluded that the most effective way to get clients' through the door at an earlier stage would be via collaborative working with GPs.

Partnership with the Bromley by Bow Centre and Mission Practice

Elizabeth entered into discussions with the Bromley by Bow Centre (BBBC) about setting up a medical legal project in January 2016. The reason we chose to engage with the BBBC was because it is based in Tower Hamlets, is networked to a consortium of 6 GP practices in the borough including a practice on site and has an established Social Prescribing service which Elizabeth concluded could easily accommodate specialist advice referrals.

Over a three-month period Elizabeth met and discussed the proposal to set up the PILOT the social prescribing service and GPs in the consortium. During this process, the social prescribing coordinator for the MacMillan Service based at the BBBC approached Elizabeth and asked to be included in the pilot as many of her clients often required employment advice following a diagnosis of cancer. Elizabeth agreed to this. Arrangements were made for Elizabeth to have an advice room fortnightly at BBBC to ensure the service would be embedded and more collaborative working and a referral pathway with BBBC was set up.

The service went live on 1st May 2016 with Elizabeth providing employment advice to clients referred via the social prescribing service at the BBBC one to two mornings per month.

In June 2016, the pilot expanded to include the Mission Practice in Bethnal Green which also has a social prescribing coordinator.

The pilot has a double remit:

- On a local level to provide employment advice to disabled and sick workers who are resident or working in Tower Hamlets or east London.
- On a more strategic level to evaluate whether there is scope, at the present time, for developing and expanding the MLP model and what are the most effective ways of doing this.

Evaluation

We received 42 referrals between 1st May and 30th November (first 6 months of the Pilot), of which only 5 clients required ongoing casework after initial advice and only one case so far has resulted in a Court claim, this equates to approximately 14.25%. This is in contrast to Elizabeth's other clients seeking employment advice where the percentage of those requiring ongoing casework is 45%.

The overwhelming majority of clients are attending the pilot at BBBC or via Mission Practice referral because of a health diagnosis or condition that is impacting on their working life and want to understand their employment rights. Most of the clients referred to the pilot (over 95%) are still in employment. Most client, having obtained early specialist advice were able to go back to their employer and negotiate reasonable adjustments, amendments to their contract and other matters accordingly without requiring the input of a solicitor. All clients are advised they can return to Elizabeth for further advice should the need arise or if they are dismissed and very few have required follow up appointments as demonstrated by the statistics above.

The successful outcome in most of these cases is that the client retains employment and often avoids disciplinary action.

Expansion of Model to other areas of law

We set up a Domestic Violence (DV) advice clinic in 2016. DV often starts/gets worse in pregnancy and access to legal advice at this time could contribute to improved health and social outcomes for mother and unborn child. Further, many pregnant women also experience difficulties at work, with housing and money and may need advice about employment, housing and benefits. Embedded advice in an anti-natal setting could have significant benefits to both the social and health outcomes of pregnant women and their families.

In the USA, Medical Legal partnerships successfully operate across a range of medical settings so there is no reason why, in principal, similar MLP models could not be developed across different areas of law and in different medical settings in the UK.

Expansion of the MLP pilot could be achieved via the following:

- A funded campaign that seeks to influence Government and NHS policy both locally and nationally. For MLPs to be sustainable the NHS needs to support them in terms of funding and/or policy. Many GPs believe that lack of access to advice has a detrimental effect on their patients' health.
- To set up a working group of interested parties/key stakeholders and ultimately a national Centre to help navigate the development and maintenance of MLPs and to tackle some of the issues they raise (e.g. publicizing this model across networks, professional ethics/regulation of different professionals, funding, referral sources, measuring outcomes).
- Work towards providing MLP training and setting up a MLP conference
- Create a toolkit that other interested parties can use to develop MLPs
- Reviewing the success of MLP projects via effective evaluation and measuring outcomes.

Conclusion

The Medical-Legal Partnership model of service delivery can be effective at capturing legal problems at an early stage which results in better social and health outcomes for service users and in the employment context, results in people retaining employment.

Many service users are familiar with attending the GP surgery or hospital but not with going to a lawyer which many people perceive to be a 'last resort'. In the USA many

low income families that attend medical centres/hospitals have at least one legal problem.

To develop medical legal partnerships across the UK a think tank/campaigning body is required to transform policy and practice, provide training, build an evidence base for MLPs through research and developing funding strategies to help pay for MLPs. This body could be linked to a national organisation, academic department and/or public health body. The National Centre for Medical-Legal Partnerships in the USA fulfils this function and has helped with the development of nearly 300 MLPs, provides strategic support and hosts an annual conference.

The UK has experienced fundamental cuts to public services and Civil Legal Aid. To meet the needs of the most vulnerable, professionals must find new ways of working. Providing integrated medical/legal services is a potential way forward. Many medical professionals are the first to suspect their patient's problems require legal input, e.g. the provision of family law advice in an anti-natal setting and employment advice at a GP surgery. This can resolve legal and medical problems earlier – and save the NHS money.

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Eddie Coppinger

eddie@legaladvicecentre.london

Legal Advice Centre (University House)

104 Roman Road, London, E2 0RN.

