

Commission on Justice in Wales
Oral Evidence Session
22 March 2019

Present:	Commission members	Secretariat team
Denise Inger (DI), SNAP Cymru Cyril Breeze Evans (CBE), Advice Mid-Wales Warren Palmer (WP), The Speakeasy Advice Centre	Lord Thomas of Cwmgiedd, Chair Simon Davies Dr Nerys Llewelyn Jones Juliet Lyon Professor Rick Rawlings	Chris James Martin Wade
Question area: What are the current challenges within the advice sector in Wales? Are these challenges specific to Wales or more pronounced within Wales?		
<ul style="list-style-type: none"> • WP: The Speakeasy Advice Centre offers advice on social welfare issues including debt, welfare benefits and housing. We have seen a significant increase in demand for legal advice in respect of debt and welfare benefits issues. There is little provision for housing advice, even in Cardiff. It is becoming increasingly more difficult to attract funding to support the provision of advice services. • DI: At SNAP Cymru we have the same issues in terms of the difficulties presented by the short-term nature of the funding we receive and the huge demand on our services. All of this means that we are doing little long-term thinking about getting young people to the highest level of independence to enable them to maximise their life chances. The Well-being of Future Generations (Wales) Act 2015 may over decades make a difference but it is clear that long-term thinking is needed. In my view, Wales is worse off compared to England in terms of independent advice services for educational needs issues. This is because of education reform in Wales under which there will be diminished rights to advice services in Wales with the removal of statutory obligations on local authorities to provide funding for advice services. The effect of this is that there will be no arms length independent advice available as a statutory right in Wales. The advice sector needs to be properly funded and people need to understand the impact of the education reform that is on-going. I feel that we have been the poor relation for many years and if it is not a statutory duty on local authorities to provide funding then they will pull away from funding independent advice services. This is an issue more prevalent in Wales and in respect of a number of specialist areas. • CBE: In rural areas our most vulnerable clients often don't have access to transport and there is a greater need for home visits. Rurality is a huge issue for Wales. 		
Question area: What have been the principal impacts of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in Wales?		
<ul style="list-style-type: none"> • CBE: The significant impact of changes to legal aid brought about by the 2012 Act has been on people having proper access to justice. Cardiff Law Centre closed in 2014 as a result of the changes. • DI: I agree with the statement that access to justice is worse in rural areas. The Special Educational Needs Tribunal for Wales ("SENTW") often has cases where parents are litigants in person ("LiP") in respect of disputes with their local authority but the authority is legally represented. There are few appellants that can afford to fund legal representation. I am aware, for example, of an appellant spending £20,000 on legal representation in bringing an ultimately successful appeal to the SENTW. The majority of people can't afford such costs which is where SNAP Cymru can assist. We are now dealing with twice the number of families than in past years but with half the funding. There is therefore increasing demand and falling levels of resources. Access to justice is being diluted by a lack of funding. 		

- WP: Cardiff Law Centre closed 2014 as its main source of income was legal aid. We are limited in what we can do. We had a legal aid contract in Blaenau Gwent but this came to an end following the 2012 Act. We are now only working in Cardiff. One of the principal impacts has been the brain drain in specialist advisors. More and more third sector advice providers can only provide generalist advisory support workers and not the specialist advisors that are needed on welfare benefits and other technical social welfare matters. We can't find appropriately qualified and skilled advisors as they have disappeared following the LASPO changes. We have had to train people instead and LEF funding has helped in this regard. We are in talks with the Law Centre Network and we may become a law centre. The CAB has specialist advisors but no practising solicitors and most are generalist. We employ and train solicitors. We can therefore provide representation for clients in complex tribunal cases.

Lord Thomas asked about the growth in Wales of non-qualified people providing advice services as a business.

- DI: This is a growing business in Wales as the education reforms bite and as parents' anxiety rises. Our services are free at point of delivery. There is no appreciation or indeed understanding of the value of independent advice services. We are working on the basis of the avoidance of matters at the earliest opportunity and we don't want to end up in a tribunal. We want people young people to get resolution at an early stage. We have a good track record of this and last year we worked with 4,666 families with only 4 matters proceeding to SENTW. That is great value for money in terms of avoiding tribunals when clearly many had a case on which to litigate. In my view, this shows the value of third sector advice services in that we are not seeking to grow a business but we are driven to ensure there is a level playing field for our clients across Wales.

Question area: Are there examples of innovation and good practice within the advice sector, both in and beyond Wales, which should be adopted and shared?

- DI: There are local authorities in Wales that are working very well with limited funds. That said, independent advice services should be protected in statute because local authorities will not now have a duty to fund them. They will focus their budget on statutory services and we are going backwards as a result.
- WP: There is a growing gap between solicitors providing legally aided advice and generalist advice from third sector providers. We can help plug that gap and as an example we undertake non-legally aided housing work in quite complex cases around disrepair and we challenge decisions taken by local authorities about the allocation of housing. But there is no doubt that the gap is getting wider. The LEF has been really very helpful by providing funding for trainee solicitors in social welfare law and that means we really have the luxury to grow talent without the cost of doing so falling on us. We are the only Not For Profit organisation in Wales that has had a grant from the LEF for this. The apprenticeship scheme in Wales if changed to be more like the scheme operating in England would be a way to train up more people. In the absence of funding mechanisms, the third sector itself can't afford to train people. The LEF also funds projects to utilise technology and there are examples in England of web based platforms used to facilitate the provision of advice services.
- CBE: Face-to-face and immediate advice provision to clients is very important and we do this whenever we can. If there is such early investment in building trust, then IT can then be deployed at a later stage. On-line and web based advice provision is not always good in rural Wales due to the inadequacy of broadband services, amongst other reasons.

Question area: What are your views on the current organising and funding of advice services in Wales? What do you see as being the most effective governance and funding models?

- CBE: The current funding of advice services in Wales has too much of a focus on national organisations such as the CAB. That threatens the independence of advice services and smaller

providers like Advice Mid-Wales who provide good services to local communities. Whilst we work with the CAB it's worth noting that in our rural part of Wales we are the only third sector provider of advice services with an office in the area and therefore able to provide face-to-face and immediate advice and support for clients.

- DI: There are 22 local authorities in Wales and it's hugely inefficient to have to apply to multiple bodies for funding and comply with each of their reporting and other grant monitoring requirements. A move to regional funding by South East Wales and west Wales consortia and for a longer three year term has been a way forward. I hope that funding continues in light of the fact that funding independent advice is no longer a statutory requirement. A joined up approach is best for clients and we use a key worker model to manage the range of a client's issues: education; housing; debt; and so forth. It is expensive as it requires more face-to-face but in the longer term it offers more VFM. We invest heavily for long term quality services yet we have the annual round of applications to 22 local authorities asking for money. We received Big Lottery funding in its early days but it focused on pump-priming projects and not covering core costs. It's impossible to build a service around project funding alone.
- WP: Welsh Government funding has become more important as local authority funding has declined. We work with the CAB in Cardiff under a local authority grant that at its peak was £500-600k/yr but this year will be £300k and it is still falling. Welsh Government funding is the largest source of funding in Wales. Smaller grass roots organisations have generally been excluded from Welsh Government funding. Charitable grants are increasingly harder to get and they tend to be even more short term and project based, certainly not for core funding. You will need to talk to CAB Cymru partnered by Shelter Cymru if you want to know how the last round of funding was allocated across Wales. A better way to fund services would be by ensuring that funding from Welsh Government can be accessed by all, not just larger organisations.

Professor Rick Rawlings referred to mapping the advice sector.

- DI: I'll provide the information that I have mapping the agencies in the sector across Wales, as far as this is possible.
- WP: I am a Trustee of Advice UK and I'll provide details that I can from Advice UK on this.

Question area: Do advice services in Wales currently reach the people that need them, and provide specialist provision where required, rather than signposting?

- DI: It is clearly harder to service Powys, for example because of the geography, lifestyle and culture. Rurality can make complex issues more complex. For example, a child excluded from a rural school is often excluded from his/her community as the school can be a focal point for the local community and there is often no alternative provision available for that child.
- CBE: More resource is needed for outreach services. We don't know if we are reaching all people that need advice services. Whilst we have records of waiting lists, these are not records of unmet demand.
- WP: There is no doubt that legal aid changes impacted on the specialist advice services that could be provided across Wales. Services could be joined up in a better way to maximise impact, for example via web based capability.

Question area: What steps are you taking to encourage collaboration within the advice sector?

- CBE: We support members to develop partnerships with other third sector organisations and academia and we are part of a local area network of advice providers, although we do not collaborate in the provision of services. We do, however, signpost where we can't help people. Access to training is very important. We had a grant of £2,500 to send and we sent ten advisers on specialist training. Advice UK is a valuable provider of training. Most courses are in Cardiff, Birmingham or London which adds significantly to the cost of attending in terms of time and travel. If we can secure this level of funding annually and maintain a training programme it will help us to

meet clients' needs. It's not a huge amount of money but has a big impact. Birmingham is easier to access for us than Cardiff. Where we are in Powys it is very rural and it's become the norm for us to access training and meetings in major cities and we accept that training providers can't afford to come out to rural areas to deliver training.

- WP: I am a Trustee of Advice UK and I'll raise these issues with the Board. We know we need to update our training and methods of delivery to include on-line capacity. The developments we want to take forward in this area have suffered from a lack of resources. The Law Centre Network has a good relationship with Lexis Nexis. LawWorks does good work in connecting lawyers willing to undertake pro bono work and together with The Speakeasy helps to host an employment pro bono service. We work with the CAB under funding provided by Cardiff Council. Collaboration need to be flexible and organic where previous models seeking to push collaboration under the Legal Services Commission were not.
- DI: SNAP Cymru links to universities and we take in students for work placements. We also fund social care placements. We have always had support from the private legal sector in our niche area. We have a good relationship with them and they are supportive and we work collaboratively with them. There is an overlap when you look at the holistic needs of families. There is a collaborative culture albeit an informal one. Welsh language is a significant cost to smaller organisations and there is little understanding of the cost that fall on them to keep everything up-to-date. The Welsh language is thriving but we need to consider proper funding to cover this going forward.

Question area: What improvements can be made within courts and tribunals to assist litigants in person?

- DI: The priority is to avoid litigation in the first instance. The key question is have LiPs investigated all of the approaches available to them before they arrive at a hearing? There should be more support available to them to ensure that this is the case. LiPs need objective, impartial advice so they can consider what the likely outcomes and consequences of a matter will be. Often, they don't have that advice to help them with early resolution. What is needed is good quality, timely face-to-face advice. We should all sign up to seeking early resolution outcomes.
- WP: In the Employment Tribunal there is an initiative to map out where help is available and to ensure that litigants are aware of this. In terms of DWP case handling of welfare benefits matters, our advice to clients is to get to the Social Security and Child Support Tribunal as fast as possible. There are no charges to litigate and applications to the tribunal are very successful. We only have capacity to take very few through the Tribunal. By far the greatest number of litigants at the Tribunal are unrepresented. We will help people with preparing an appeal, submissions and so forth. Often people do not know what evidence is relevant. The preliminary work ahead of hearing is vital and tribunals could do more to signpost people to advice services.

Question area: How are you using technology, particularly video links and programmes designed to assist those who have disputes, to provide your services?

- DI: For us cost is a major issue. We struggle to fund an IT Manager role but this role is vital to us in ensuring on-line accessibility to accurate and up-to-date advice services.
- WP: Reliable and fast broadband is essential and it's not always available even in Cardiff.

Question area: Can alternative dispute resolution or ombudsmen or other forms of dispute resolution make it easier to provide justice in (1) disputes that currently may come before the courts and tribunals or (2) disputes which never come to the courts or tribunals – what is said to be a huge unmet need for justice? How should these forms of dispute resolution be organised and linked to the courts and tribunals?

- WP: In the context of welfare benefits disputes, I am concerned by the length of time it can take to exhaust DWP complaints processes before being able to refer a complaint to the Parliamentary

Ombudsman. It can take 2½ years.

- DI: I agree that exhausting internal complaints procedures before being able to refer a matter to an ombudsman is a real hindrance.
- CBE: ADR services can be invaluable provided there can be effective enforcement.

Lord Thomas asked about people's awareness of their rights

- DI: I am concerned about tribunal cases where local authorities take the same line in matters notwithstanding previous outcomes.
- WP: In areas that we cover there is often a lack of awareness of rights. Where people are sanctioned, those sanctions are not challenged, or if they are people come too late for advice.