



Response to the Justice Commission's call for evidence

This response is based on input from local Citizens Advice in Ceredigion, Gwynedd, Pembrokeshire, Swansea Neath Port Talbot and Rhondda Cynon Taff and Citizens Advice staff: Helene Hayes, Fran Targett, Claire Blades, Calum Higgins and Susie Baker.

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Citizens Advice

Citizens Advice is a charity founded in 1939. Since then, we've given advice, information and support on a range of everyday issues to anyone who needs it, from Debt, Money and Welfare Benefits to Housing, Employment and Relationships.

Every year across England and Wales millions of people turn to us. This gives us a unique insight into their needs and concerns. We use this knowledge to campaign on big issues, both locally and nationally. So one way or another, we're helping everyone – not just those we support directly.

In Wales we have a network of 19 local Citizens Advice¹ - all individual charities, staffed by nearly 800 dedicated volunteers and paid staff.

We remove the barriers to advice by going to places where people need us most, delivering advice from over 375 community locations in Wales, as well as offering services over the phone and online.

In **2017 to 2018** the Citizens Advice service in Wales helped **102,525** people with **406,494** problems. Benefits & Tax Credits accounted for 40% of all problems and Debt accounted for 28%. Other key problem areas include: Financial services, Employment and Housing.

On average people come to us with **3.9** problems.

Full Advice trends in Wales for 2017 - 18 is under production; the figures quoted in the main body of this response are for **2016 - 17**.

Demand for Services

Since legal aid changes (LASPO) and austerity measures started to drive demand for Citizens Advice services, welfare reform has created additional demand pressures.

During **2016 - 2017** we helped **114,282** people with **436,254** problems across Wales.

This includes 54,879 people with **182,457 benefits related problems**. This is a 10% increase in the number of people (49,858) and a 12% increase on the number of problems (163,417) since 2015 to 2016.

Our recent reports: [Universal Credit and Modern Employment](#) call on the UK government to ensure budgeting support and information is available to anyone receiving UC at any stage in their claim.

Improving the amount of information claimants get in their online journal and provision of extra support when needed will help them manage their finances by adapting to the significant changes the new benefit brings.

We also provided information and tools to almost **900,000** visitors from Wales, who viewed over **3.8m** pages on our self-help website.

Our profile data indicates that we reached the people most in need:

- **6%** of our clients are BAME (compared to 4% in the Welsh population as a whole)
- **24%** are privately renting
- **33%** have dependent children (16% single, 16% couple, 1% other)

¹ Citizens Advice is changing. We are modernising our services to respond to changing needs and to reach more people. As part of this process there is a new name for the service - 'bureau' is now called local Citizens Advice.

- **34%** are in council or housing association properties
- **36%** are over 55
- **48%** are disabled or have a long term health condition

Further information on advice trends in Wales 2016 -17 is available [here](#).

Across England and Wales, we meet the needs of some of the **most vulnerable** people and communities:

- Our clients are almost **five-times** more likely to live on a low-income.
- **4 in 5** people we help had experienced a big life-change before coming to us. **Nearly half** reported a change in their health situation.
- **9 in 10** said their problem affected their lives, including causing financial difficulty and making managing day-to-day harder. **50%** of clients seeking debt advice had a mental health issue.
- Nearly **1 in 2** are financially excluded, and nearly **1 in 3** are digitally excluded, needing help to use online services, forms and tools.

Our value for money

We monitor and evaluate our value to individuals and society using a Treasury-approved financial modelling tool. In 2016/17 our social and economic value to society was at least **£2 billion** per year. This includes saving government and public services around **£426 million**.

Further information on our impact across England and Wales is available [here](#).

Accessible services

It's important that legal services remain accessible to those who need them most. During 2016-17, **49%** of our clients in Wales were disabled or had a long term health condition, 26 percentage points more than the national average² The **accessibility** of our service through our network of 375 local offices and community-based outreaches was a vital part of the service to many of those 45,632 people who had a disability or long-term health condition.

Channels

The majority of our clients contact the service through face to face at a local level. In the same year **61%**, or **107,298** people contacted us face to face through the local office network in Wales.

In February 2016 Citizens Advice undertook a survey of our face-to-face clients across England and Wales to learn more about their digital capability. The findings showed that our face-to-face clients are:

- **Twice** as likely to lack basic digital skills than adults in the UK - 23% of adults in the UK lack basic digital skills. For our face-to-face clients this was **46%**
- **Twice** as likely to lack access to the internet than adults in Great Britain - only 61% of our face-to-face clients had internet access in their home, with a further 11% having access on a smartphone.

This indicates the importance of access to **multiple channels** of support into the justice system offering the right level of support at the right time. As the complexity of processes varies, acknowledgment that the level of need can change in a nonlinear way over time will be important. The channels should therefore be capable of interacting so that people can shift from one channel to another if their needs change.

Opportunity to improve services

Citizens Advice welcomes the opportunity to discuss how services could be improved across Wales. As provision of advice and legal services varies between local authorities, there are pockets of unmet need and advice deserts in some parts of Wales. Welsh Government's [Modelling the need for advice on social welfare topics](#) (July 2017) gives further details of the scale of the challenge.

² 2011 census

Local authorities remain vital core funders of the local Citizens Advice network. Without their support we would be unable to deliver (mostly generalist) information, advice and casework services which are responsive to local people's needs. However we are keenly aware of the financial pressures on local authorities. Post LASPO, Welsh Government commissioned and published its [Advice Services Review](#) in 2013 which led to the commitment of funding to provide some **specialist** advice provision in the social welfare categories of Debt, Discrimination, Housing and Welfare Benefits. This funding provides vital specialist advice, case work and representation however it is insufficient to meet demand.

One of the ways in which Citizens Advice contributes to the strength and sustainability of the Welsh legal services sector is by chairing the multi-agency **Independent Advice Providers Forum (IAPF)** which brings together a variety of not-for-profit advice providers and the law society to share information, build partnerships and develop a vision for legal advice services for people in Wales. The IAPF pre-dates and now feeds into Welsh Government's National Advice Network (NAN).

Citizens Advice Cymru welcomes the opportunity to respond to the Justice Commission's consultation. The advice work we do provides access to civil justice across Wales and our Witness Service trained volunteers provide practical information about the court process as well as emotional support to help witnesses feel more confident when giving evidence.

The current legal system is complicated, bureaucratic and difficult to navigate. Our experience is that this can make it impenetrable for some of the people who need it most.

We have responded to the following consultation questions:

Q1. What is working well in the justice system in Wales?

What is not working well?

Are there examples of innovation and good practice, both in and beyond Wales, which should be adopted and shared?

On the specific point of legal aid, do you feel that the current position is working, if not why not, and what could be considered as an alternative?

Access to Legal Aid post LASPO is a problem across England and Wales.

The areas of law where legal aid was withdrawn are significant advice areas for Citizens Advice. Across England and Wales **Benefits, Debt, Housing, Employment and Family amount to 76% of the face to face advice needs issues reported in the last 12 months.**

For the Citizens Advice service across England and Wales, **scope cuts**³ removed funding for around **120,000 specialist cases**, predominantly in key advice areas of Debt, Welfare Benefits, Housing and Employment. Family and Immigration issues prior to LASPO could be referred for legal aid; this option is no longer available in the vast majority of cases.

There has been a **reduction** in **provision** of **specialist advice services**, whilst demand for help to resolve complex problems continues to rise.

Access to justice is made more difficult because people can't get the support they need to navigate complex justice systems. Across England and Wales, **92%** of local Citizens Advice (bureaux) responding to a survey (after the cuts were introduced) on the impact of legal aid cuts said that they were **struggling to find sources of specialist advice to which to refer clients.**

Even where legal aid remains, for example in Housing, it is only available for the most serious of situations which means that the **value of early intervention advice as a means of avoiding crisis is lost.**

Financial eligibility is also an issue - over time fewer and fewer people are qualifying for help, leaving people with serious problems unable to afford legal advice - [see Law Society report](#).

In **criminal** cases: if you earn **£37,500** or more you will not be eligible for legal aid in the crown court, (eligibility stops in the **magistrates** court at **£22,325**). These earning ceilings result in more litigants in person and, in domestic abuse cases, instances of perpetrators directly questioning victims.

In terms of **good practice** and innovation these guides on [Going to court](#) are well written and helpful for litigants in person.

³ The scope of legal aid refers to the areas of law which are covered by the legal aid scheme. The scope is outlined in LASPO.

Innovative projects are testing the role that advice has in reducing re-offending by using court appearances as an opportunity to offer people help and advice aimed at reducing future risk of re-offending. One example from Highbury Community Advice is [here](#).

We welcome the contribution to access to justice by lawyers providing pro bono advice but this provision can't and shouldn't be expected to substitute for **properly funded public services**. Provision will inevitably vary across geographies and is likely to be significantly less available in rural areas.

Witness Service colleagues report seeing the negative impact of Legal Aid cuts on the criminal justice system, in a not dissimilar way to the impact on family courts.

Even in a more urban area Citizens Advice Swansea Neath Port Talbot⁴ state that access to pro-bono legal support is extremely limited. Legal aid access is virtually non-existent and individuals do end up **giving up** on some aspects of seeking justice. They are aware that Swansea University has recently started some work around the local court and some social welfare topics.

Citizens Advice Swansea Neath Port Talbot continue to have a Family law rota on a weekly basis with a **handful** of firms. Prior to LASPO there were approximately **13 firms** operating on this category of law. There are less now as firms have **closed, merged** or **no longer able to support pro-bono** effort.

Citizens Advice Pembrokeshire report that there is very limited access to legal advice in their local authority area. The loss of legal aid for Family, Welfare Benefits and Debt has impacted negatively on clients' access to help and advice, particularly in Family, as there is **no alternative provision**.

Citizens Advice Rhondda Cynon Taff is facing enormous demand for their pro-bono solicitors rota in Pontypridd. 7 appointments were booked for the week commencing 23 April 2018 and their weekly pro-bono solicitors rota was full for the following 4 weeks. They would like to establish a similar rota in Cynon Valley but have been unable to due to **limited provision** of solicitors.

Citizens Advice Rhondda Cynon Taff report that the majority of the pro-bono appointments they host are **Family** law-related including: rights following divorce, access to children, birth certificates and child maintenance. They find a number of parents, usually fathers, approaching their local offices for help with court forms which they are not fully trained or resourced to help them complete. Lack of provision is a particular issue in Family law cases due to the need to source different legal practices to avoid conflict of interest.

Other issues clients seek legal help with include disability discrimination, neighbour disputes, fines, and mortgage debt.

Citizens Advice Rhondda Cynon Taff reports that some clients have been distraught when a solicitor has had to drop out of the pro bono rota at short notice and that after the first, free 20-minute appointment people usually **can't afford** to take matters further due to **costs**.

Citizens Advice Rhondda Cynon Taff routinely send any criminal law clients who need help, including help with potential benefit fraud to the [Public Defender Service](#) based in Pontypridd. This is **1 of only 2** offices in Wales, the other office is located in Swansea.

In terms of **good practice**, since October 2014 Welsh Government project funding has enabled the Citizens Advice service to deliver specialist Discrimination advice and casework on a regional footprint across Wales, along with Disability Awareness training to frontline organisations. Our partner organisations: SNAP Cymru and Shelter Cymru deliver Education Discrimination and Housing specialist advice respectively under the same project funding stream. A network of our local Citizens Advice

⁴ Citizens Advice Swansea Neath Port Talbot has submitted an individual response to this consultation.

deliver specialist Debt and Welfare Benefits advice and casework. The future of these services are unclear, pending recommissioning of a number of major advice funding streams in December 2018.

Citizens Advice Ceredigion report that one of the failures in the justice system and a driver of demand is a lack of sufficient legal literacy. They refer to examples of statutory services disempowering clients with decisions which do not comply with the appropriate legislative requirements. They feel this trend is reflected in the **increasing workload** of the Public Service Ombudsman for Wales (PSOW).

Citizens Advice Ceredigion believe there would be value in statutory services investing in further training focused on ensuring that staff understand and are able to comply with new and changing legislative requirements. They also believe that lessons learnt from cases dealt with by the PSOW should be fed back into service provision to ensure that compliance improves over time.

Our impact monitoring and client feedback indicate the financial and emotional costs to people when decisions are incorrect. An increasing number of decisions which are 'right first time' would reduce costs to individuals and to the various legal systems.

We believe that a **sufficiently funded, accessible and effective mixed market** would work best for clients, with independent advice services focusing on early advice, building capability and prevention. There are elements of legal aid that can only be delivered by solicitors due to rights of audience and regulatory bars. This means that partnerships between services are essential to get clients to the right service at the right time.

Court closures have a clear impact on access to justice. If you cannot afford to travel to court, you cannot participate in the justice system.

Q2. Do you think that LASPO has had a particular effect in Wales?

Yes, people in Wales **often have to travel much further** to attend court. Travel distances to courts and legal aid providers will be more difficult in **rural areas**.

Given that many people don't know what is involved in making an application to the court, and the information online can be confusing and piecemeal, litigants in person **often have to make several journeys** just to start the process. It's a barrier to justice if people need to make up to 3 visits in order to fill out complicated court forms.

It is also difficult to see how people with **low literacy** or **English as a second language** would be able to complete these forms without assistance.

Closure of court counter services presents another issue. People need to know the exact number of the court form they need to use. It isn't always easy to know this number without assistance.

In civil courts people are likely to just give up. How many do give up is a real unknown, as **unmet need is not being measured**.

With the increase in litigants in person and less access to legal advice, we are concerned that hearings may **take longer** as magistrates/judges need to do more interrogation. This could increase costs for all involved.

Although not specific to legal aid the information provided by the [Legal Services Consumer Panel](#) may be relevant to this question.

In terms of feedback from the local network, Citizens Advice Gwynedd report that they felt access to justice for people on **low incomes** had been **negatively affected**.

Citizens Advice Pembrokeshire report that they felt there is **very little access** to free advice centres outside of major cities.

Citizens Advice Swansea Neath Port Talbot report that LASPO had significantly reduced access to professional help with complex social welfare matters. They also feel that access to employment tribunals by virtue of largely an online system has also had a **negative impact** on access to justice.

Q3. What are the “quick-wins” in terms of cost and time in improving access to justice in Wales?

Citizens Advice Gwynedd suggest provision of either **civil legal aid** or **funding for suitably quality-marked third sector organisations** to provide legal advice and representation.

Citizens Advice Swansea Neath Port Talbot agree that increasing this type of support (civil legal aid or funding for suitably-quality marked third sector organisations to provide legal advice and representation) would reduce the number of **lengthy and protracted legal cases**.

Our experience tells us that investing in **early legal advice**, for example to stop potential housing issues escalating, prevents costs and detriment increasing.

Q4. Do people care about access to justice? Is there work which supports the answer?

While access to justice might be a difficult and nebulous concept for people to have a view on in abstract, it is clear from the clients who come to us that they **expect to be able to enforce the rights** they have. If their routes to resolve their legal problems are ineffective or inaccessible their trust in the state may be damaged.

Our research into user experience of the family courts identified the worrying impacts lack of confidence in the system can have. A quote from the summary gives a flavour of the findings:

Firstly, many people have real concerns about the amount of support and advice available to help them through the justice system. Almost three quarters (**72%**) agree that trying to solve their problems **might not be worth the financial and emotional cost**.

Secondly, user experience is leaving a bad feeling: **one in five** people who have been involved in courts say they came out with a **worse opinion** of them than when they started.

Thirdly, **less than half** (48 per cent) of people believe that if they had to go to court, their outcome would be **fair**. We need a justice system that works well for citizens, and a responsive justice system that takes people’s needs into consideration.

This means a public service that provides support, information and advice to help people to understand their options and access resolution. It should provide and promote alternatives to court and make them **easier to access**. It should build on the positive expectations people have about the way they’ll be treated to ensure as many people as possible leave the justice system with their **problems resolved**, and a **more positive opinion** about the process by which they did it.

Citizens Advice Gwynedd feel that people do care about access to justice, based on many years experience of helping clients.

Citizens Advice Swansea Neath Port Talbot report that they have clients who very much want justice and have staff who want to be part of people gaining access to justice.

Q6. Does the justice system in Wales currently provide access to all who require its services, including advice? How would you improve access to justice in Wales?

There is clearly unmet need across England and Wales but there are **not official measures** of this. It is acknowledged that there **isn’t a straightforward way to calculate**. There has been a rise in litigants in person for example in the Family courts: Litigants in person: the rise of the self-represented litigant

in civil and family cases in England and Wales. This is likely to only be a part of the issue. Many more people will **simply give up**.

In 2016 a [needs survey](#) showed that 34% of people tried to resolve legal problems on their own, 15% with help of friends and family and a further **13% did nothing**.

Knowledge of legal aid entitlement was low, particularly for Family cases involving domestic abuse so **increased public knowledge would help**.

Citizens Advice Gwynedd, Pembrokeshire and Citizens Advice Swansea Neath Port Talbot all report that the supply of legal advice does not meet the demands. Gwynedd point to the problems of clients only being able to access initial advice, not being able to access advice later in the process and therefore **not being able to fully resolve their problem**. Citizens Advice Swansea Neath Port Talbot felt that more coordination of effort would be beneficial.

To improve access to justice we believe services should avoid a siloed approach to helping and supporting clients. People are often **vulnerable at the point they seek help** and the need for multiple visits to multiple agencies can lead to disengagement, reducing the likelihood of them accessing justice and resolving issues. We also believe in the value of independent advice which is free from actual, potential and perceived conflict of interest.

Effective initial diagnosis is vital, trained advisers with skills in diagnosing the wider issues and needs beyond the presenting problem will help people to reach a resolution more quickly.

Poor quality, or incorrect, legal advice can be severely detrimental to an individual's wellbeing and have a negative financial impact. We value existing quality standards and welcome Welsh Government's ongoing work to address these issues caused by poor advice through the establishment of the **Information and Advice Quality Framework (IAQF)**. This has the potential to raise quality standards in the advice sector by providing a robust mechanism for quality assurance. This framework should become the benchmark for publicly funded advice services focusing on the provision of high quality and correct legal advice.

FCA regulation also plays a role in ensuring that people seeking regulated Debt advice are advised by individuals who have benefited from extensive training, auditing and peer review in order to acquire a licence to practice.

Access to advice and the devolved policy context in Wales

Ensuring sufficient provision of independent legal advice contributes to securing people's rights and entitlements, as specified in Welsh Government's National Outcomes Framework, designed to measure the effectiveness of the Social Services and Well-being (Wales) Act 2014. Early advice serves a preventative function: it can prevent the escalation of problems and costs. In doing so it can empower people, including people who are vulnerable due to lack of income, means or disability, to exercise choice and control over their lives, to remain as independent as possible and reduce the need for statutory provision.

Citizens Advice Ceredigion report that they repeatedly witness clients who were treated well when they were told (by a third party, not the LCA) that they were **not** entitled to access a service, when they have a **legal right** to do so. They are aware that Welsh Government monitors the effectiveness of an individual's ability to secure their legal rights and entitlements through its outcomes framework. Some of their evidence suggests that this monitors the **satisfaction** people have with a service, with many people believing and reporting they received good advice, because they were dealt with in a kind and appropriate manner, rather than they had received the correct advice on their legal rights and entitlements.

Access to advice and partnership

We have recently co-designed promotional materials with Welsh Government's [NEST](#) programme to promote greater referrals into the scheme. Stronger cross referral partnerships between specific support schemes e.g.

NEST programme and social welfare advice providers can help provide holistic, wraparound support to individuals who experience ill health, fuel poverty and/or cold homes. We would welcome further integration of these services to enable people to access any legal entitlement to disability benefits, as well as the measures and energy advice provided by the scheme.

If we are to create greater equality by ensuring individuals have access to justice, then we need to focus on what is driving injustices; adopting a proactive rather than reactive approach to addressing the problems, rather than the symptoms.

Ensuring sufficient independent, quality-assured advice services are available across Wales and free at point of use is vital to making Wales a country where people understand and can exercise their rights. These services should deliver legal information and advice in all the main areas of social welfare and community care law. Suitably qualified staff who were competent to correctly diagnose the drivers of clients issues (including the interdependencies and interrelationships) and advise on legal rights and responsibilities are vital to this. Quality-assured advice services can also act as learning and information sharing hubs for statutory and third sector organisations.

We welcome Welsh Government's ongoing consideration of the impact of any new legislation it introduces on the people of Wales and their ability to be aware of, benefit from and enforce it. This is particularly challenging at a time of decreasing resources and increasing demand on services for local authorities and other public services.

Q7. Could local authority services in relation to justice and the local provision of legal advice be better organised and co-ordinated with policing, prosecution, courts, prisons and probation?

We would seek further clarity on this question in order to give an appropriate answer.

Citizens Advice Swansea Neath Port Talbot report that their local authority deliver welfare rights advice services and employ in-house legal teams to deal with the collection of fines, evictions and social services matters. They are unsure of the congruence between, for example, welfare rights advice and policing, prosecution, courts, prisons and probation. Whilst administratively local authorities are large organisations their social welfare advice remit is not large; it is often second tier or there is a gateway to gaining access for the general public.

We believe there could be better synergy between One Stop Shop services e.g. in respect to domestic abuse and advice providers. The model of OSS services - often being made up of a mix of statutory services and including independent third sector organisations is welcome.

We would also welcome further analysis of any shared issues (across civil and crime) and how these might be tackled more successfully. For example, one of the biggest issues affecting prison leavers is housing availability. Local authorities struggle to house prison leavers, much as they do victims of domestic abuse, including any children who are affected. Prison leavers can also experience issues in having access to their children and can struggle to leverage rights through the civil justice system.

In Wales the Citizens Advice service has previously delivered a small-scale project offering social welfare advice in prisons (HMP Cardiff and HMP Parc). This was usually incorporated into pre-release support. This small amount of funding (60k p.a. over 3 years) has ceased. The first major change of circumstances is when someone enters prison. We would welcome further consideration of the specific social welfare advice needs of offenders, and their families, on entry to prison.

In addition to the responses to the questions above we note some Wales-specific considerations:

- 1) criminal justice and policing;

- In terms of criminal justice there are now Welsh only Criminal offences and a Welsh Government prosecution code.
 - Criminal offences now include offences in a devolved field, such as landlord registration and licences.
 - We welcome further information on how criminal justice works at a UK level when involving the administration of a devolved function such as landlord licensing.
- 2) civil, commercial, family and administrative justice;
- There is a need to provide the resources for tribunals e.g. the Residential Property Tribunal that see increased workload due to a devolved decision i.e. Housing legislation
 - During the process of introducing secondary legislation for the Renting Homes Act, Welsh Government needed to ask the Ministry of Justice for the Civil procedure rules to be changed. There is no set consultation process and this seems to be done ad hoc when the rules need to be changed for a devolved function to be enforceable or usable in court.
- 3) access to justice
- Our previous response to the law commission consultation on [Form and accessibility of the law applicable in Wales](#) may be relevant here.
- 4) legal education and training;
- Consideration should be given to whether devolution is given a more prominent position as a compulsory part of the Law degree, within the Public law module.
 - BPTC and LPC (professional legal postgraduate courses) should contain elements of devolution awareness.
 - Resources: currently there is very little in terms of resources on the practical implementation of Welsh law; could more support for textbooks and legal resources be made available.
- 5) the legal professions and economy;
- CPD on devolution developments should be compulsory for the professions in Wales
- 6) The legal jurisdiction
- We welcome that distinct Welsh law is an official part of the Law of England and Wales, following the last Wales Act.
 - Consideration of a separate jurisdiction must address clarity for individuals and ensure sufficient and appropriate support, advice and representation to ensure access to justice.

Citizens Advice policy reports

[Divorced from reality](#) (2017)

[Proposal on the provision of court and tribunal estate](#) (2015)

[Responsive justice - How citizens experience the justice system](#) (2015)

[Citizens Advice evidence to Justice Select Committee on the impact of LASPO](#) (2014)

[Out of scope, out of mind - Who really loses from legal aid reform](#) (2012)

[Breaking up is never easy: separating families' advice needs and the future of family justice](#) (2011)