

TA LAW

Submission to the Commission On Justice in Wales

TA LAW is a firm of social welfare lawyers who have been in practice in their current composition for 9 years. The company is unusual as it specialises in social welfare law hereinafter "SWL", and therefore covers solely housing, debt and welfare benefit problems. The company's solicitors, paralegals and advisors, have numerous years of experience in delivering SWL legal advice, both in the private and not for profit sectors.

Over the years we have seen a dwindling supply of specialist legal advisors in this field. As solicitors, we are regulated by the SRA, and as we continue to undertake legal aid work, have been Lexcel accredited, which shows that our policies and procedures, adhere to a nationwide standard. We would hope in the future that a standard solely for Wales could be achieved.

Since LASPO in 2013 a majority of matters are no longer in scope for Legal Aid. This has seen, in our experience, people unable to obtain affordable legal advice suitable for their needs. Advice in relation to benefit matters is almost exclusively out of the scope for Legal aid, other than when a case gets to the Upper Tribunal maybe months/years down the line. However, what if the case is not adequately argued at the First Tier Tribunal, due to lack of advice? By the time the matter is in scope, it may be too late. People are potentially losing benefits, which in some cases, can be the difference of being at the poverty line or below.

In addition, we have had cases where we have succeeded at the Upper Tribunal, and the case has been remitted back to the First Tier Tribunal, where, of course, we are unable to represent. Would it not be more beneficial and cost effective for cases which have been heard in the Upper Tribunal to have funding at the First Tier Tribunal, so that hopefully they are closed off.

In Housing matters, advice is limited, leading to cases where for example, the tenants association of Grenfell Tower, were unable to access public funding in November 2016, due to concerns with the safety of the building, which eventually resulted in the catastrophe of June 2017. Whilst this catastrophe may not have been prevented, the availability of public funding would at least have allowed the concerns to have been explored by expert report(s). Consideration to the extension of funding for such cases would be of great benefit.

We have witnessed cases where clients must travel many miles to secure face to face advice. We have had cases where clients in Pembrokeshire and Ceredigion, have had to travel to our office in Swansea to seek advice. This is because of the limitation of the procurement areas currently in existence and the widening of advice deserts where there are no longer any legal aid providers in particular categories of law. As legal aid contracts are no longer financially attractive, the Legal Aid Agency is currently on its third "Further" tender round for Face to Face contracts since last autumn, in an effort to secure "further" provision. In addition the number of SWL Specialists continues to reduce. Whilst there is telephone advice via the Civil legal Advice helpline, this is not always suitable. As the clients we deal with are amongst

the most vulnerable in society, often with disabilities, and low income, the lack of advice locally can impact on their health and income. The right to legal advice in your local area, should be an absolute right. In addition the MOJ have refused any budget to advertise the Civil Legal Advice helpline and thus many vulnerable clients who need the service are unaware of its existence.

This is not to say that telephone advice, and advice by other sorts of media, is inadequate. It is not. Due to our involvement in the Civil Legal Advice scheme, we are practised in giving advice via telephone, and email. However there are cases where this is inappropriate, and clients facing homelessness etc should be given a choice of face to face advice, which is not always available.

As lawyers working within this sector, we have concerns about the sustainability of any adequate service in the future. It is difficult to recruit people into the sector, as in the market place, the work we do is not seen as an attractive financial proposition for young solicitors. The introduction of competitive tendering for contracts has exacerbated this problem, with fees constantly being driven down, and fixed fees imposed. As lawyers, we want to do our best for our clients, but this can be challenging under the current system.

In the current system under Legal Aid, there are different rules for different contracts. For example under the Civil Legal Advice Housing contract there is a fixed fee, but no escape fee; however in a face to face Housing contract, there are escape fees. Escape fees are where a matter is more complex and thus takes more time, it is possible to be paid above the fixed fee. It would be beneficial and more rational to have systems which were identical in each category, and if possible, to do away with competitive tendering, which should not have a place when we are considering and protecting basic human rights.

Although benefit advice is no longer generally in scope for funding, the impact of benefit changes is impacting on the clients we are seeing, and exacerbating the problems they are experiencing. The bedroom tax, and Universal credit are impacting negatively on people. We are being advised that homeless clients, of which unfortunately the numbers are increasing, are experiencing issues with obtaining Universal Credit, as they often cannot access computer terminals. A Library, for example, cannot be used if you have no address for a library card. This is exacerbating the problems of the homeless. There are many worthy organisations working with homeless people, to achieve a better standard for them, but without basic income, it is difficult to achieve a move on.

Further in relation to Universal Credit, there are concerns that now the Housing Element is included in a persons income, rent arrears will increase. There has been evidence of this in the areas where the scheme was piloted. We ourselves have seen numerous cases, where a client has received the Housing element, has spent it and is then facing eviction. There are also delays within the Universal Credit system in assessing claims which are causing problems for clients. It would be helpful, and we would submit cost effective, if benefit issues such as this were brought back into scope for funding. For example, prior to LASPO the cost of GP reports could be funded under the Legal Help Scheme but this was removed from April 2013. Benefit claimants cannot afford to fund the cost of medical reports and thus this important

evidence is unobtainable to them in the preparation of their appeals. This is not fair access to justice.

At present, where we are dealing with possession claims, Legal Help is not available to deal with benefit issues. This leads to representatives feeling that they are doing their job, with one hand tied behind their back. If we could assist with the issue, e.g. housing benefit or benefits generally, then we would suggest that this would have better value. Surely keeping someone in affordable housing is better than having them placed in temporary accommodation, which is normally substantially more expensive. Preventative advice is cheaper.

As a company, and in the light of the removal of benefits from the system of Legal Help, we have tried to come up with affordable options, so that people can access legal advice. We offer a fixed fee, so that clients can obtain advice for First Tier Tribunals. These fees are competitive, and our statistics show that we have a success rate of 99%. Many of these people we are assisting would have qualified for funding prior to April 2013, so it would be beneficial to see this being available again.

Over the years, we have endeavoured to build partnerships. Our advisors have worked with housing associations, support agencies, and the local authority. We believe that a collaborative approach works best. Partnerships will each have their own strengths and weaknesses, but working together, with a larger choice for a client, would be beneficial. The specialties of the not for profit sector, compliment the work that we can do.

The expansion of Welsh Law is influential. New law, requires new challenges. Changes within the system and the new rights of review in homeless cases require a proactive approach, and by continuing to use the expertise we have obtained over many years, we feel that we can develop Welsh Law.

Finally the court system on the whole works well. The Judges we deal with on a regular basis, are fair and understand the demographics of the area. We have concerns with the centralisation of courts, as these impact on our clients, who have little income. In our local area, Bridgend and Neath Courts have closed, and are now centralised at Port Talbot Civil Justice Centre, which involves a great deal of travelling. For example, a person living at the top of the Ogmore Valley, reliant on public transport, would have to travel into Bridgend, change buses, and then either get a further bus, or train to Port Talbot. This is costly in both time and money, and when someone is on benefits, or a low income, could mean that they do not participate in the proceedings. When we are concerned with housing or welfare benefits, this is detrimental, in that attendance, nearly always brings a more positive result for the client.

Whilst there are positives from our perspectives in the current scheme, there are also negatives, which are impacting daily on peoples lives, and we would like to see a system which was fair, and allowed access to justice, for all people in Wales.