

Commission on Justice in Wales
Oral Evidence Session
14th December 2018

Present:	Commission members	Secretariat team
Eileen Pereira, Personal Support Unit (PSU) Lizzie Iron (PSU) Mabel Thompson (PSU) Jenny Bibbings (Shelter Cymru) John Puzey (Shelter Cymru) Fran Targett,(Citizens Advice Cymru)	Lord Thomas of Cwmgiedd, Chair Simon Davies Professor Elwen Evans QC Dr Nerys Llewelyn Jones Juliet Lyon CBE Sarah Payne CBE Professor Rick Rawlings Sir Wyn Williams	Andrew Felton, Secretary to the Commission Chris James Rhys Thomas

Question area: Current challenges within the advice sector in Wales

- FT: From the CAB perspective, it is clear that the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) changes have, particularly in scope, had an enormous impact across England and Wales. In particular around the sorts of subject areas our clients come for advice, the advice that used to be funded is absent. Although to be fair to Welsh Government it did respond by increasing funding for specialist advice in Wales but it nowhere near replaces what was lost across the subject areas that came out of scope. This continues to be the case. That funding is coming to end in September 2019. We expect there will be a commissioning round but in our conversations with Welsh Government officials and given they have modelled the need for social advice via the National Advice Network (NAN), their analysis is that even with that funding they will only be funding 25-28% of need in Wales. The scope is not wide enough and access to advice services has increasingly worsened since that time.
- JP: Since LASPO we have found it harder to prevent homelessness **relying on legal aid funding alone. We are still able to be effective because we get WG and some local authority funding – that allows us to continue with legal aid contracts otherwise we wouldn't be able to.** Similarly issues around debt and benefit entitlement, earlier intervention cannot be funded by legal aid which goes against what the Welsh Government wants to do as we can't deal with issues early on. Reduced eligibility for legal aid is not good. There are more advice deserts as providers close. Shelter Cymru is the only housing legal aid provider in north and mid Wales. We offer a pan Wales service but are quite thin in places. The scope of legal aid pushes against preventing homelessness. Poor quality homes, reduced eligibility and reduced providers all combine and it's not good news in Wales.
- MT: Numbers at the PSU have risen since LASPO. A satellite service has opened in Newport because more people are taking themselves through the court system.
- LI: We have seen a similar situation in England but it appears more extreme in Wales. We did a quick survey and 18% of clients spend over an hour to get to court. Family law firms are closing and it's harder to get pro bono advice
- FT: The travel situation is worse in north Wales. To travel from Holyhead to court in Caernarfon is a day travelling.

Question area: Innovation and good practice within the advice sector

- JP: In Wales we are forced to address issues and we recognise we need to create as many access points as possible. Our website provision has increased with interactive chat bots and template letters. We are looking to develop video conferencing advice capability to complement telephone advice services. Our face-to face capability is thinly spread. We must consider how we can provide this remotely. There are community hubs in some towns with communal video conferencing facilities that link us and other advice services into that hub. Street advocacy takes services out to people. This is to be launched in the new year following our Wales survey. The outcome of research is people find systems hard to navigate – we can help people do this and we are being innovative in these areas
- LI: University House in London runs a project providing video based remote access to rural areas in

south west England. It involves proper case management systems linking clients and advisors. The virtual advice desk in Truro is a model that could be piloted in Wales.

- EP: That project is moving forward. University House provide a virtual pro bono service from London in the south west of England. We are working with them in Exeter to support each other's work. We are aware that rural areas need further support. University house are developing the software platform and are willing to share. The PSU is looking at this as a way to support rural communities in accessing courts.
- FT: We look at similar approaches too, driven by necessity to find different avenues to get people the service that they need. If you want to stop matters reaching court you need to be aware of where people with the problems are. For example, in health care settings. People often go to their GP because of problems they have with legal issues. We are based in a number of GP practices across Wales. This has been a pattern for the Citizens Advice Cymru for a long time and is very important. It depends on available funding continuing. People really value face-to-face even if it's by Skype etc. as it establishes trust. We believe that you need to marry different approaches together. It needs a sophisticated referral process and network across advice and other sectors to help people address their problems. We are trying to work more closely together in this regard.
- JB: In our campaigning and policy work our dialogue is to prevent homelessness. We see inconsistent practice in dealing with Civil Procedure Rules 55 pre action protocol. If this is devolved it would support the delivery of Welsh social policy. At present we have to liaise with the Ministry of Justice and not the Welsh Government over this.
- JP: Our desire to have the location of services close to people and the inflexibility of legal aid is an issue for us. Shelter Cymru has 26 surgeries across Wales and the Legal Aid Agency require 13 senior supervisors for legal aid, one for every two locations. We have to pay more for staff as a result.
- LI: The referral process is hard to build. There is good work in Norfolk via Norfolk Community Legal Services presenting a joined up way of helping people. Once clients are in court we have worked with Law Works to develop free advice clinics in court to provide litigants in persons with advice. This shows the legal sector wanting to help and give advice as early as possible. One advantage for lawyers is visibility with judges.
- MT: There are law clinics twice a week in courts that offer pro bono work. Seven law firms are providing pro-bono advice in law clinics in courts in Wales.

Question area: Most effective governance and funding models

- LI: Organisationally it is easier for the PSU to deliver for Wales using the same model as we have for England. It would be better if there was a combined justice for Wales umbrella group incorporating all organisations as Wales versions.
- FT: NAN is making a concerted attempt to draw a picture of what we as a nation would want to see in future. I am a member of NAN. It's about general universal provision of advice from initial advice through to representation at court. It's important to identify what we want to exist then work out how to fund it. We have a vision for where we would like things to be and the shape of what we want delivered across range of methodologies driven by people who want advice both accessible to all and of high quality. There is no one place that can fund all of this at once. The Welsh Government could take an overview of what proportion is fundable and make sure some of the things that have been lost under LASPO could be reinstated. The NAN and the independent advice providers' forum of the wider advice sector in Wales is a broad church. The Law Society is part of this wider forum. We should not be worried about the differentiation of provider. As long as we have an appropriate quality framework then all should work together. There are places where it is more appropriate for the legal sector and other places more appropriate for the third sector. Mind Cymru is an example of a third sector partner. The Royal College of Psychiatrists have recommended that advocacy services should be available in health settings.
- LI: If you created a central governance function then it could bring everything under one body. Combined key performance indicators would be a means to project and deliver what Wales wants.
- JP: We need to be cautious about a central government function. Independence and THE diversity of

the advice sector is important. Most of our funding comes from the Welsh Government, not money via local authorities highlighting the need for independent advice services.

- EP: Independent advice is important. Remember that when we are looking for funding some works overlap and we are in competition for it. If it was clearer we could direct our funding better for the benefit of service users. This is a whole area that could be better structured to encourage collaboration. This is visible in the work of the Litigants in Person and those we work in partnership with; Citizens Advice Cymru, Law Works and so forth.

Question area: Access to advice services

- FT: Citizens Advice Cymru can't claim to be doing access to advice services as well as we'd want. Our clients are the most vulnerable people. But we are taking advice out into the community and working with other third sector partners to help delivery. The piece that worries me is the numbers game that leads to some services not necessarily being in the locations where they are needed. There are vulnerable people in every community in Wales. There is something about a universality of service provision.
- LI: HMCTS is not delivering as well as it should on its obligations for disabled users.
- MT: There are examples of deaf people without assistance finding it hard to navigate the court system; recently this has been an issue at the Cardiff Civil Justice Centre.
- LI: Many users struggle to access translation services. We see lots of people with English as a second language and we see it getting worse as there are so many more people accessing courts without representation.
- JP: We provide a specialist service and we don't reach all in need because of our capacity and we know people could use our services but they don't know the services exist. Yet our services are already oversubscribed and one in three telephone calls to our service doesn't get through.
- MT: PSU helps court users understand legal jargon in court forms and letters. We do this every day.
- FT: Citizens Advice Cymru works closely with advocacy services to provide clients with a voice. Both advisory and advocacy services need to be available and work together.
- JB: In the Housing (Wales) Act there is a focus on easy read documents. A real effort is made to create model documents that will help people understand their rights. Shelter Cymru did a study of homeless people in Wales. The "Street Advocacy" initiative was a direct result of the survey showing that homeless people struggle to gain access to advice services. Homeless people should have priority need for housing and street homeless people are not having their rights respected.
- MT: There is a real increase of users of our services with mental health problems. We are dealing with more difficult issues and there has been a noticeable increase because of cuts to other services.
- FT: Health providers are recognising the need for advice services links for their patients. Psychiatrists are spending a large amount of time dealing with people's legal issues. There is a need for clearer language documents. Better plain language and guidance make a big difference.
- LI: On-line court forms are designed with simple language. The Ministry of Justice is now more open to discussion because they are seeing more litigants in person affecting front line services and the importance of contributing to the need to improve services.

Question area: Collaboration within the advice sector

- JP: The question is what is the motivation for it? We have good strategic relationships with Citizens Advice Cymru because we recognise the importance to our users. It's all about achieving better outcomes. We want to have a service that actually assists our clients. We have to have collaboration because users want that. We can't meet their needs alone. Key performance indicators should drive collaboration. What is crucial is the impact of the work rather than just counting heads/numerical data.
- FT: The Welsh Government and NAN work is about developing outcomes for the people of Wales. "Does this make a difference?" is the question we ask and that drives collaboration. Wales is a small nation where we work together, it's not perfect but we collaborate to a very large extent.

Question area: Pro bono work within the advice sector

- LI: We are tempted to find a model that works, and replicate it - but you cannot always lift one model

and use it as a template. Judge Wildblood succeeded in helping to set up the Bristol advice network. He wanted to have a pro bono co-ordinator in Bristol and there was funding from university and two law firms. The co-ordinator brings together pro bono work. Existing/new models can be used as starting points and then they find their own shape in each context or location.

- MT: There are principles around who do we need to help and what help do they need. Pro bono advisors often want to stay at their desks and do pro bono between paid work. Technology is important in that regard.
- FT: Changes in legal aid mean we have a dearth of people in the areas we want in civil law. People don't have the skills and knowledge in the areas in demand. We have worked over many years with pro bono lawyers. This has got harder as lawyers are under greater pressure due to changes in legal aid and there is a lack of speciality in Wales. These drivers are making those relationships more difficult.
- LI: Chambers and firms should have pro bono champions as it adds value, and the more students see it the more it becomes normalised. In terms of specialised pro bono, Law Works help lawyers develop the right skills to deliver advice. We could look at using the skills of retired lawyers and paralegals and how they can help.
- MT: Judges do lead a lot of the pro bono work. In Cardiff I worked closely with Law Works and once we had a few firms it grew from there in terms of pro bono advisors we could call on.
- FT: Pro bono initiatives coalesce around somebody who starts the work.

Question area: Improvements in court to assist litigants in person

- MT: Managing expectations is important. Clear information in court documents is really helpful. A manned reception is good and in this regard it would be helpful to bring back reception desks. Adequate signage in buildings to refreshments and courtrooms is simple but important and makes a difference. People arrive in court not having had advice. We get calls from tribunals and we try and help. Judges are aware they can access these things too. More video conference links would be amazing as there is no virtual facility for advice in Wales.
- FT: There are no judges on the NAN.
- EP: One of the most important things is the attitude of people around litigants in person. There are lots of options for co-locating services, early intervention and a need for human help when they arrive in court. In the Royal Courts of Justice the security guards will direct people to the PSU. People need to feel that their voices are heard. With litigants in person where they get support they do very well. More video links for advice capability would be good.
- JP: People being able to arrive in court in good time is important.
- EP: I have awareness of someone who took non specialised advice in a personal injury case but further down the line their back injury developed much more seriously. It is very important to get proper advice and as a litigant in person that is more difficult. Litigants in person are likely to increase following the immanent whiplash injury ruling.

Question area: Specialist courts in Wales

- JP: Shelter Cymru's submission to the Commission was that there should be a specialist housing court in Wales because of the divergence in law in England and Wales. There is a lack of understanding amongst the judiciary. There is a huge amount of pressure on courts. There are thousands of section 21 possession claims issued without going to court. We need extra capacity and specialism. You could have a specialist list within the court with specialist judges. Another reason for a housing court is that we want to keep it in the court system rather than tribunals. Not having access to court will hold up progressive developments.