

Justice Committee

Oral evidence: [Access to Justice](#), HC 1247

Tuesday 10 February 2026

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Members present: Andy Slaughter (Chair); Matt Bishop; Pam Cox; Linsey Farnsworth; Warinder Juss; Tessa Munt; Dr Neil Shastri-Hurst.

Questions 52-98

Witnesses

I: Professor Linda Mulcahy, University of Oxford, Access to Justice Foundation.

II: Liz Bayram, Chief Executive, Advice UK; Dr Phil Drake, Director, Manchester Justice Hub; Dr Lisa Wintersteiger, Chief Executive, Advicenow; Dr Nimrod Ben-Cnaan, Head of Policy and Profile, Law Centres Network.

Written evidence from witnesses:

[Access to Justice Foundation \[ATJ0083\]](#)

[Advice UK \[ATJ0083\]](#)

[Dr Philip Drake \[ATJ0048\]](#)

[Advicenow \[ATJ0101\]](#)

[Law Centres Network \[ATJ0142\]](#)

Examination of witness

Witness: Professor Linda Mulcahy.

Q52 Chair: Welcome to this afternoon's session of the Justice Committee, which is the second evidence session in our inquiry into access to justice. We have two panels this afternoon. The first is a relatively short one because it consists of just Professor Linda Mulcahy, who will talk to us about sources of funding for the justice system. I will get Professor Mulcahy to introduce herself in a moment, but first, Committee members need to do their declarations of interest.

Pam Cox: Good afternoon. I am Pam Cox, MP for Colchester. My interests are as declared on the register.

Dr Shastri-Hurst: I am Neil Shastri-Hurst, Member of Parliament for Solihull West and Shirley. My interests are as declared on the register. I highlight that I am a practising barrister with a practising certificate, an associate tenant of No5 Chambers and a former vice-chair of the APPG for Access to Justice.

Chair: I am Andy Slaughter, MP for Hammersmith and Chiswick. I am Chair of the Committee, a non-practising barrister and the patron of a couple of justice-related charities: the Upper Room and Hammersmith & Fulham Law Centre. I am a member of the GMB and Unite trade unions.

Linsey Farnsworth: Good afternoon. My name is Linsey Farnsworth. I am the Member of Parliament for Amber Valley, and a former Crown prosecutor. I am the co-chair of the APPG on legal and constitutional affairs, a member of the access to justice APPG, and everything else is as per the register.

Tessa Munt: My name is Tessa Munt and I am the Member of Parliament for Wells and Mendip Hills in Somerset. Everything is on the register but I point out that I am a director and vice-chair of WhistleblowersUK, a not-for-profit organisation. I am also the vice-chair of the APPG on penal affairs.

Matt Bishop: I am Matt Bishop, Member of Parliament for the Forest of Dean, a former police officer, and my declarations are as on the register.

Warinder Juss: Hello and good afternoon. I am Warinder Juss, MP for Wolverhampton West. I am a member of various APPGs and a member of the GMB trade union executive council. Relevant to today's discussion, I worked as a solicitor for Thompsons trade union law practice for over 30 years before becoming an MP, specialising in personal injury and clinical negligence claims. I am a solicitor, although not practising.

Chair: Now you know who we are, would you like briefly to introduce yourself?



Professor Mulcahy: I am Linda Mulcahy. I am a professor at the Centre for Socio-Legal Studies at the University of Oxford. I have been doing empirical research into access to justice for almost 40 years. I recently received a Nuffield Foundation grant to look into additional funding models for the free legal advice sector. We are about nine months into a two-year project.

Q53 **Chair:** Thank you for joining us this afternoon. To start on one specific proposal, we know you are involved in the Government's recently launched consultation on the implementation of an interest on lawyers' client accounts scheme in England and Wales. Could you explain what that scheme is? Do the Government's proposals align with what you consider to be best practice?

Professor Mulcahy: Thank you—that is a juicy question to start with. We have been researching into what the Ministry of Justice is calling ILCA schemes. They are called lots of different things all over the world, but I will stick with that term. I think there is tremendous potential for them to provide critical resources for a free legal advice sector that everybody acknowledges is in crisis. I recently finished a project on the law centres network, and we found that there is tremendous difficulty in recruiting new lawyers and a real fear that the next generation of legal aid practitioners will not be in place because of lack of funding and that expertise passing on.

I think ILCA schemes are quite attractive. They work efficiently in about 77 other jurisdictions across the world. They started in Australia, but actually as a result of a decision made by the Judicial Committee of the House of Lords. The impetus, if you like, started in England and Wales—and Scotland, as it was a Scottish case. It is rather ironic that we are one of the last common-law jurisdictions to even think about introducing such a scheme. It was taken up in Australia, subsequently moved over to Canada, and now all 50 states in the US and three of its territories have these schemes.

The basic idea of an ILCA scheme is that the organisations that run them scoop up lots and lots of small amounts of interest that accrue on funds that clients leave with their solicitors. If we instruct a solicitor and we have to give them a lot of money up front, that is probably put in a designated account in our own name. But most of the money that people put into solicitors' accounts just stays there. It may be a large amount of money that stays there for a short amount of time; it may be a small amount of money that stays there for a long period. The interest accrued is not very much, so those funds are all put together in one pooled account.

Those pooled accounts are interesting because if the individual client asks for their money back, they will probably be told, "It will cost us more to calculate the interest and send you this money back than the actual interest that has accrued." All over the world, it is accepted that it is not very economical to give that money back to the consumer of legal



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services. Various things happen to that money. They are tiny little amounts of money, but once they are pooled in an account they give solicitors' firms the potential to say to the bank, "We're holding quite a lot of money here. It is made up of lots of tiny bits, but we'd like you to give us a higher rate of interest on that."

Our research shows that some solicitors are prepared to share some of that additional interest with their clients, but others are not. That is in their terms and conditions. There is nothing strange or inappropriate going on there, although I am not sure that the consumer would quite understand the terms in the contract that mean that they, effectively, never get any of the interest back.

But some law firms we know, in addition to that, are putting that money into investments in the overnight money market. It is there in the account at 9 o'clock the next morning, when their client might want it, but they are then getting another tier of money in addition to the enhanced interest they get from having a large pool. Then, of course, there is more money to be made by the banks, who love solicitors' firms banking their money with them. It is good business and a healthy industry. They will, of course, not always pass on all the money that they can make through investing lots of pooled accounts to the firms themselves.

ILCA schemes are a way of pulling that money back in and putting it to good use. This is not what the Ministry of Justice is suggesting at the moment in its consultation paper, because it does not really name any beneficiaries of an ILCA scheme, but all over the world about 75% of the money generated goes to free legal advice. The rest of the money goes to a whole variety of other projects, but many of them are still to do with access to justice.

I will give you some figures that are literally hot off the press, because we have been doing interviews with people all over the world. I have converted all these figures into pounds. In 2023, which was a good year for interest rates—meaning these accounts were generating more money—the Ontario ILCA scheme generated £260 million, the British Columbia ILCA scheme generated £125 million, and the New South Wales scheme generated £83 million.

Now, there are a number of reasons, which we continue to explore, why some schemes do better than others. One important thing to say to the Committee is that the design of these schemes is absolutely essential. I do not think that a lot of the Ministry of Justice's statements and proposals are evidence-based. My opinion is that there is a lot more work to be done on the detail of the scheme.

Coming back briefly to what you asked me about the Ministry of Justice, I cannot see anybody in the not-for-profit sector or legal services sector supporting this scheme at the moment. There are no beneficiaries. It is obvious to me that we need those beneficiaries to be legal aid firms,



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which at the moment use the interest they earn to cross-subsidise so that they can do more legal aid work. We desperately need the money to go to law centres and free legal advice services across the country that are in crisis. The fact that there are no named beneficiaries means that we all worry that the civil justice system is once again cross-subsidising prisons and the criminal justice system, which has happened repeatedly over a 30 or 40-year period. I think Hazel Genn's research demonstrates that.

The Ministry of Justice also suggests that it will administer the scheme. That is a very unusual way to go about it. Funds are normally given to an independent foundation that is separate from Government. We can find seven schemes in the world that are in the Executive or judicial branches, but being in the Executive branch is very unusual. One problem with that, which we see in the US at the moment, is the danger that Government will grab the money that has been set aside to support the free legal advice sector, because it starts looking attractive when interest rates are high. They will take it away and put it to a completely different purpose. That recently happened in America: in New York, North Carolina and Alberta, that money has been taken away. There is this danger in the Ministry of Justice's current scheme, whereby this would be administered by Government. There are other things that I could say about that proposal, but perhaps you have other questions.

Q54 Chair: In terms of the pitfalls along the route, are you saying that firms are not making the most of the opportunity—that is, that the money is not being generated, whoever it goes to, and that they could do better than that? One would have thought that they would want to invest it and get the best rates of return, whatever purpose the money is put to, particularly as you say it could run into hundreds of millions of pounds a year. Is that happening at the moment? Are most solicitors' firms maximising the income they can get from such schemes?

Professor Mulcahy: It is impossible to know. You may know that in our written evidence to the Select Committee we outlined a study that we have done on client interest policies from the 214 firms that we could find that published them on the web. That means that there are a lot that we have not looked at, but we think our sample is fairly representative of different types of solicitors' firms. It varies. If you look in the grey literature written by financial consultants, they often advertise their services to help law firms to enhance the money that is made available. I think they are all making money out of it; I do not think there is any doubt about that. I think the Solicitors Regulation Authority also has some data on that, but that has not been made public.

Q55 Chair: It would be weird if they were not making the most of it. The reason I ask the question is that in *The Law Society Gazette* it was suggested that the evidence from solicitors was that many of them would not be able to survive if they did not have this source of funding. That might say something about the precarious nature of the firms anyway, if they are relying on this windfall, effectively. Is that true or not?



Professor Mulcahy: That is certainly true of legal aid providers. We need to take that argument very seriously, as far as legal aid providers are concerned. As far as other firms are concerned, under the Solicitors Regulation Authority's accounts rules, they are supposed to be solvent without having to rely on client funds. There is an issue there that I know, again, the Solicitors Regulation Authority has written about. But I think a lot of very vibrant, healthy law firms are out there making quite a lot of money from this. It is a significant amount. The SRA will know that and has not put that number in the public domain. I think it is a matter of public interest; they should put that figure in the public domain so that we know how much has been collected.

I have spoken to a couple of big City law firms, because I am interested in where they fit with all of this. Some of them do not want this money. They think it is questionable ethically that they make money out of client funds. Some of them put the money in non-interest-bearing accounts. We also found in our review that a minority just do not even want to get into the quagmire of an ethical dilemma of feeling that they make money out of their clients. That is the success of the projects in Australia, Canada and America. Lawyers do not want to handle this money; they do not see it as their money. By giving it back to the free legal advice sector, they see themselves as enhancing the rule of law: they are playing their part in ensuring that there is access to free legal advice by the disadvantaged. It is actually a badge of pride on their part that they are somehow giving back by helping to oil the wheels of these ILCA programmes. In fact, across the world quite a lot of Bar associations and law societies run this scheme.

Q56 **Chair:** Can you see any barriers to the scheme?

Professor Mulcahy: There are undoubtedly some disadvantages. I could really bore you on this point. I know you haven't got long, so I will try not to do that. I think the devil is in the detail. One beauty of having 77 schemes across the world, some of which have been running for more than 60 years, is that over time they change. The 2008 financial crisis was a significant moment because suddenly these ILCA schemes found they got no interest. Their funds really went down. The volatility of funds, because they rely on interest rates at any given time, means they are quite vulnerable to ups and downs. Since 2008, we have noticed in our interviews with scheme directors that they are increasingly building up investment portfolios, with the full support of their Supreme Court or whichever agency facilitates the operation of the scheme, so that they do not give away every year what they earn. They use excess in good years—we are having good years at the moment—to put some money into an investment so that, over time, when they have a bad year they can then even out that investment. We are learning a lot.

There are also two devices commonly talked about now. One is the comparability clause and the other is the safe-harbour clause. These are ways of negotiating with banks, which on the whole come screaming and



kicking to the table. They do not want to share all this interest, necessarily. Perhaps I am being a little unfair, but we are told by scheme directors that the banks will give you a decent interest rate only if you negotiate hard with them. The fact that they have so much money to play with gives them that negotiatory power. So there are devices in place to try to make the banks pay a fair rate.

There are indications from our data that the safe-harbour rule, which is not the one preferred by the Ministry of Justice at the moment, is the more successful one. What you do in that rule is say that the bank has to pay the ILCA foundation by reference to a known rate, such as the federal funds rate or Bank of Canada overnight rate. You might say, "You have to pay us 65% of that rate." If you go up to 80%, the banks do not want to opt in. It is about 60% or 65%, or a 1% interest rate. They also have a floor, and it is whichever is the higher.

Q57 **Chair:** The important point, if I take this correctly from what you say, is that, first, you should maximise what the income can be. Secondly, it should be directed to the not-for-profit sector. The best way of ensuring those things is by having an independent body in control of the process. Is that right?

Professor Mulcahy: Yes, I think so.

Q58 **Warinder Juss:** In addition to ILCAs, what do you think are the potentially most beneficial other funding options that could help improve access to justice? I would also add that this week is HeartUnions Week, where people like me and others go round encouraging people to become trade union members. As you will be aware, the trade unions have trade union legal services. Have you also considered how we might improve trade union legal services to help trade union members get access to justice?

Professor Mulcahy: We have not done any specific research into the trade union movement, although I am aware from the work I have done on law centres that there are often areas where trade unions were not able to give people expert legal advice on welfare benefits and so on—that was as a particular focus. However, I acknowledge readily that trade unions have been an important part of this sort of landscape.

We have been looking at a number of other schemes. We looked at levies on commercial law firms, which was mooted by both the Conservative and Labour parties at different times. That seems to have been put on the back burner and is not being discussed at the moment. We have looked at the redirection of dormant client funds. You will know from being a solicitor that sometimes you have funds where you cannot trace back who is the legal owner.

Interestingly, in a number of jurisdictions, that money already goes into the ILCA foundation. ILCA foundations often gather up these different pots of money because it is quite efficient to put that through them. We



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are also looking at legal expenses insurance. We have not had the opportunity to look into that in as much depth as ILCA at the moment.

I think the most important alternative scheme is residual funds on successful collective actions. Our partner in this research is the Access to Justice Foundation. Under the Consumer Rights Act 2015, it is the recipient of any residual funds on large-scale collective actions where not all the class claimed the money that they could from the damages. That is a fairly new area and we have just got cases coming through now. A number of those are at judicial review—one in the process of being taken on and the other on appeal. Again, the problem with that money is that it is volatile because you do not know when a collective action will be successful. There are also issues around whether, if there is an out-of-court settlement, foundations like the Access to Justice Foundation would have a right to a portion of the settlement. That is a legal issue that is being considered at the moment.

It seems to be a big generator of funds when it comes, but, again, it is volatile. For an organisation running these things, the potential to have an investment portfolio is really important, so they can take in the money when there is a lot of it there and then spread it out over the years. I suspect a Government agency would be much worse placed to do that than a private foundation.

Q59 Warinder Juss: Thank you for that. You referred to legal expenses insurance. Again, people taking out household insurance can have legal expenses insurance as part of it. At the moment, that excludes legal expenses in criminal cases. The Bar Council says that such a restriction should be removed. Have you considered that, or is it something you have not looked into?

Professor Mulcahy: I am afraid we are only nine months into a two-year project. We have been working really hard on the ILCA schemes to get data ready for the Ministry of Justice. I suppose I have some reservations about legal expenses insurance. First, there is an incentive on insurance companies not to pay or support you, because that is what their business model is based on. Secondly, if we are thinking about the most disadvantaged in society, I am not sure that they would be able to afford to take out insurance of this kind. So I think there are issues.

John Sorabji at University College London is really an expert in this field. I know he has talked a lot about some successful schemes in Germany, which may be worth looking at. One thing we want to explore when we come to look at legal expenses insurance is whether housing associations as a group might be able to purchase group insurance. That is something we would like to explore with the sector.

Q60 Warinder Juss: Of all the schemes that you mentioned, which one do you think would be the best to generate sufficient and reliable funding?



Professor Mulcahy: We have always said that we want to adopt a portfolio approach. All these schemes have potential. In a number of jurisdictions, solicitors and barristers will pay a portion of their annual Bar or registration fees to access schemes. These smaller amounts can sometimes be a stable income. Even the smaller amounts have their part to play. If I were going to put my money on anything, it would be residual funds on successful collective actions and, most importantly, ILCA—if it is designed properly and the beneficiaries are those in the free legal advice sector.

Q61 **Warinder Juss:** What safeguards do you think might be necessary to ensure that the income generated to improve access to justice is used for that purpose? Do you think we need to put in any safeguards to ensure that the money is used for the purpose that it is generated?

Professor Mulcahy: What we have seen in examining 77 schemes is that it is often put in statute or an enabling set of rules. For example, in a couple of schemes in Canada, it says that 75% of the income has to go into the legal aid fund. In another instance—I am thinking particularly of California, which I was looking at this morning—a proportion of its funds has to go into free legal advice. If you look at any ILCA schemes, or IOLTA schemes as they are called in the States, you will see on the front pages, “This foundation was set up specifically with this goal in mind.” I think it has to be very clear from the outset and it has to be based in statute.

Q62 **Chair:** May I ask a final question? Is it feasible that the various sources of funding that you have talked about could form the basis for funding a not-for-profit sector? First, will the quantum be of that order? Secondly, is it a reliable source of income if it is dependent on interest rates at one particular time, enforcing the payment and things of that nature? Clearly, you cannot say to law centres or any other agencies, “Well, we’ll give you this much this year, and we’ll wait and see what happens in the future.” Although they are probably quite used to living in that way, it is not ideal. Is this what you envisage, that this is effectively a replacement of some previous state funding?

Professor Mulcahy: No, I do not think so at all. That is why our project is called “additional” funding for the free legal advice sector. If you look at Ontario, which was probably the most successful scheme financially in 2023, that would comprise about a quarter of our legal aid budget. Our argument, from the beginning, is not that this is a replacement for legal aid. Legal aid has had a big shock since 2013 onwards. This would be additional funding, which would help to create a more sustainable funding model.

Chair: A quarter is still a very large sum of money.

Professor Mulcahy: It is still a very large sum of money. I think if it is managed properly through investment, as we are learning from the various schemes that have been going for decades, it can be successful in



ensuring that a core number of legal aid providers are looked after over time. I have talked a lot to directors of these schemes about this. They say that if they invest the money, they can normally say to a scheme, "We can look after you. Even if we have an annual cycle of funding, we think we can look after you. With this reserve, we can look after you for three years. That would give you three years' notice that there may be a dip in interest rates that we cannot manage through our reserves." I think the schemes are becoming increasingly sophisticated in managing that.

One thing I am aware of is that you cannot always tell what they are doing by the level of grants they give out every year, because behind the scenes they are looking after their core beneficiaries, who they think are the most expert, efficient providers of free legal advice. In years where they have extra money, they may do some other infrastructure funding rounds, or whatever, but they are always trying to look after core providers. For instance, in New Zealand the money goes towards the funding of law centres.

Q63 Chair: But in the system in New Zealand there is a comprehensive law centre network, if I understand it correctly. What you often have in the UK is advice deserts—areas where there is little or no provision, or only limited scope. Would you see this as filling in the gaps there?

Professor Mulcahy: I think it could make a significant contribution to doing so. I think the free legal advice sector is just looking for any possibilities where it could have a significant influx of funds. If you get the right people funding it, who are concerned about the sustainability of the sector and want to ensure that there is income over time, it could prove successful. It has proven successful in a number of other jurisdictions.

Q64 Tessa Munt: My papers tell me that you are the world expert on this stuff; that is very nice and good, and thank you for seeing us. Have you had the opportunity to speak to Ministers about stuff in which you specialise and about this in particular?

Professor Mulcahy: We have been in touch with the Ministry of Justice, and we are very interested in feeding into policy debate. We have always said that it is not necessarily our role to argue for one scheme or the other but to put the evidence on the table. I think we are beginning to come up with clear evidence now. We are doing everything we can to have an impact.

With that in mind, we are running a conference on 13 March, to which Ministry of Justice officials will come. We are flying in two experts from the States. Hopefully, we will have the Law Society and all the great and good among the stakeholders there as well. We would like people to put their reservations on the table so that these two really experienced experts from the US can talk through how they have managed. There is



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nothing that we can throw at those experts that they have not already experienced, in my view.

Q65 **Pam Cox:** You said at the beginning that most common-law jurisdictions have something like this, and that England and Wales are an outlier. What is your assessment as to why that is?

Professor Mulcahy: Interestingly, I think it is because of the judgment, many years ago, by the Judicial Committee of the House of Lords. I think that is the reason why other common-law jurisdictions have been so interested in it, if that is what you are asking. That decision of the House of Lords said, "This isn't lawyers' money, and it is probably unethical in some sense to claim it." The Australians just took that and ran with it. Then the Canadians learned from the Australians, and the Americans learned from the Canadians and the Australians.

Q66 **Pam Cox:** When was that House of Lords decision?

Professor Mulcahy: It was in the 1960s.

Pam Cox: So this sector has grown up since then.

Professor Mulcahy: Yes, absolutely.

Q67 **Pam Cox:** Do all those jurisdictions also have legal aid provision of the kind that we would recognise here, alongside their ILCA-type systems?

Professor Mulcahy: It varies. I have learned that everything varies from scheme to scheme. Texas, for instance, does not have any legal aid provision, but looking at most schemes—especially in Canada, New Zealand and Australia—we see some legal aid provision. In America, quite a lot of federal funds come down for specific types of support that might be needed by disadvantaged people. So yes, it mostly works alongside legal aid programmes.

Chair: Professor Mulcahy, thank you very much. You have taught us a lot in a little time, and got us off to a good start. I will suspend the sitting for two minutes while we change panels, but thank you for coming along this afternoon.

Professor Mulcahy: Thank you. I would like to stay if that is okay.

Chair: Please do.

Examination of witnesses

Witnesses: Liz Bayram, Dr Phil Drake, Dr Lisa Wintersteiger and Dr Nimrod Ben-Cnaan.

Q68 **Chair:** Welcome back to this afternoon's Justice Committee session on access to justice. We now have assembled our very distinguished second panel. I will allow them very briefly to introduce themselves.



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Dr Drake: I am Dr Phil Drake, director of the Justice Hub at the University of Manchester. The Justice Hub is a kind of umbrella term for all the clinical legal education pro bono services the university offers to its students. Before I entered academia I was a practising solicitor. I am an academic member of Garden Court North Chambers, and also a board committee member of the Advice Services Alliance.

Dr Wintersteiger: I am Dr Lisa Wintersteiger. I am the CEO and founder of Advicenow. We were known previously as Law for Life. You might see some of our reports under that name. We provide an online legal support and advice service for England and Wales covering civil, family and tribunal services. I also have a background in academia, looking at more theoretical issues around access to justice.

Liz Bayram: My name is Liz Bayram. I am chief executive of AdviceUK, which is the largest network of independent advice services with 704 members to date. Basically, we are here to provide you with an insight into the diverse issues that our members are dealing with—core things—around access to justice.

Dr Ben-Cnaan: I am Dr Nimrod Ben-Cnaan, head of policy and profile at the Law Centres Network. The Law Centres Network is the national membership body for law centres. For those of you who are not fortunate enough to have a law centre in your constituency, it is a law practice that is a charity and not for profit. We specialise in social welfare law; we target those services, largely for free, for people living in disadvantage, and we have been operating in this country for six decades now.

Chair: Thank you all very much for attending. We will begin with some questions from Tessa Munt.

Q69 **Tessa Munt:** My questions are probably addressed to Nimrod and Liz. What are the most urgent areas of unmet legal need in England and Wales, and what needs to be addressed?

Liz Bayram: I think the largest challenge facing our members is the ability to provide ever-increasingly complex advice and support with a diminishing community of advisers and funding. As to the diversity of services that our members offer, they are dealing with debt and housing right through to specialist areas around domestic violence and immigration. There is quite a complexity of advice. When I talk about complex cases, it means that somebody presents with an issue but underneath that there are lots of compounding factors. The days of a simple piece of advice to help them fix a debt problem are gone, and the capacity for advice workers to be able to deliver the quality of support that is needed within the environment in which they are operating, with increasing demand and reduced funding, is the biggest challenge they face.

Dr Ben-Cnaan: A lot of the demand we see in law centres—I am sure Liz would agree—tends to be not one-off issues; they tend to be gateway



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problems that open up, or fan out, if you like, into complex problem clusters. They tend to cluster around welfare rights issues, establishing people's entitlement to support. We also see a great shortfall in the supply of immigration legal assistance in establishing a person's right to be in the UK and the kind of entitlements they are able to access. Probably, a bottleneck we see from our perspective as specialist legal providers is precisely this: when problems become contentious legal problems that involve a dispute that needs to be argued on behalf of one's client, sometimes they feel unable to do that on their own and need to access specialist legal assistance.

Q70 Tessa Munt: Do you have a view on why, when there is clearly a need, legal advice does not move in that direction to meet that need?

Dr Ben-Cnaan: The long and the short of it is that there is a lot of unmet legal need partly because there is a shortfall in capacity to meet it. That is down to systemic workforce issues—I hope we can talk about those later—and the structure of resource funding for the sector, funding not just the core work and direct assistance to people but the infrastructure to enable more of it, including some which people can get on with on their own, for starters.

Liz Bayram: From our perspective, our members are reporting a 90% increase in demand for their services from a year or so ago. I think some of that arises from the complexity of the systems around welfare benefits, changes around some of the immigration laws and all the housing changes. The system is becoming more complex. For our members, alongside that, their funding is changing and reducing. There are reductions in local authority funding. We are very much aware now that most of our funding for our members is from charitable trusts and foundations, and that funding is often short term and insecure. Alongside that, as we have already echoed, cases are often more complex. We have clients arriving at services with zero budgets. Even if it is all fixed, they still cannot afford it. Some of the challenges are really complex.

Underlying that are issues around mental health conditions or other issues that connect them with other services. We are very much focused on trying to show that complexity and, certainly within that mix of poor funding, complex cases have increased demand, recognising that in the middle of that is a workforce that is increasingly hard to recruit and hard to keep because their job security and wages are not great. There is a lot of complexity there which is co-dependent on how this is becoming more and more of a challenge.

Q71 Tessa Munt: Do you feel there are changes if you look at marginalised groups or the demographics of people who access your services?

Liz Bayram: Our member services are very diverse and complex, so it is very hard to answer that. We are certainly very clear that for more specialist types of advice working in particular areas or particular communities their opportunities to secure funding are more challenging



than the traditional charitable advice around debt, for example. There are very clear places for you to go to secure funding if you are a debt adviser. Some of it is Government, but in some of the more complex areas, such as immigration, the opportunities for funding are limited.

Q72 Tessa Munt: How does the average citizen identify their problem as being a legal one, and what are the barriers that prevent people from accurately diagnosing their problems as legal ones?

Dr Wintersteiger: I will take a slight step back just to emphasise the issue of legal need. It might sound really obvious, but one of the driving factors of legal need is legislative activity. It presents the substantive problem that the public has to address. It is a kind of curve where, for the most disadvantaged members of society socially, patently legal need is quite clear. The most socially disadvantaged are likely to experience the most legal problems. Likewise, the wealthiest members of society will have lots of legal problems, but they can, of course, outsource their need to a legal services provider.

At the bottom end we have a dual problem. Legal need also does not exist if someone has a reasonably decent level of legal capability—up to a point. The more complex, the more difficult it is to resolve the problem. Again, the most socially disadvantaged have the lowest levels of legal capability. You have the combined problem of lots of problems—as Nimrod said, the clusters are absolutely correct—in the lower socioeconomic demographic. Rather than two to three issues every two to three years, you see four to six issues appearing in parallel for the most disadvantaged. That is a huge challenge.

As for problem identification, the vast majority of people do not identify legal problems per se; 45% or so think it is bad luck; 18% think it is bureaucratic problems. Several of past major studies show that about 11% of people accurately spot their problem as legal. That has quite consequential impacts for where they go for help. Do they go to their doctor? Do they go to a lawyer? What we know from problem identification, or characterising a problem, is that it will affect whether or not you do anything at all or who you go to, but it is a kind of iceberg problem if we think about the barriers. It is perhaps 6% to 10% of the median global population. About 12% go to lawyers with their problems; most people do not, so they are handling their problems alone.

If you want to get at the absolutely vast scale of need that is not being met, some of your interventions need to start thinking about the bottom-up challenge. If you say that 45% of people are handling things on their own—consumer, housing and so forth—how do you begin to move into pathways that are better suited to their needs? That includes expert legal assistance along the way, but it may very well be a general advice service. If you do not spot your problem as legal, it does not particularly matter if you go to an advice agency because you just have a problem and they will unpack it. If you have a very expert legal issue, you do



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need to know it has legal dimensions. There is a set of challenges around capability.

Some of the barriers that our last set of research in legal needs showed were obvious things about language barriers, digital barriers and people being left out of the system, but also the system itself creating barriers. Lots of respondents told us that they experienced repeatedly hostile and dismissive attitudes from public services; they were getting poor first-instance decisions; there were delays and misinformation within the system. So there are personal barriers in knowing about the law and what to do next, and there are systemic barriers. Those two together are creating a real storm for people handling their problems.

Q73 Tessa Munt: Is there anything we can do to improve that capability?

Dr Wintersteiger: Absolutely.

Tessa Munt: What should be done?

Dr Wintersteiger: A really useful report is the November report by the OECD. There is a real shift in thinking of that kind of iceberg problem. How do you ensure a range of interventions in supporting capability? That can be expert advice, but it can just be particularly digital service. Tech has been one of our few new opportunities in a decade. Again, you have to segment according to your problem. Is it family? Is it a housing problem? You have to segment according to the population group; you cannot just get at everybody. You are looking at maternity services, you are looking at young people leaving school, so you are beginning to target when they need to know something and when they need to know it better. That helps you with your pathways.

In our work on intermediaries we found that most people do not go to advice centres, because there is very little there; they go to their nurses, their doctors and faith groups. There is a partnership challenge in building capacity in our intermediary cohorts. They want it: they want training and support so that they can better help people along that journey.

Q74 Pam Cox: Thinking about the legal advice sector in the round, how would you say it has changed in the past few years in terms of new entrants and new providers? I am also thinking of people who say, "I hear you've been in an accident. Phone this number. I can help you."

Liz Bayram: Chasers.

Pam Cox: Yes. Could you characterise for us how the sector has changed over the past couple of decades?

Liz Bayram: It is a good question. From the independent advice sector, which I know lots about—I do not know so much about some of those other areas—we are well aware that the sector has evolved in its ability to network collaboratively in partnership to deliver services. That is partly



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because being funded on your own is harder and harder to do. That ability to collaborate and innovate together is working in some areas. We can talk about the networks of advice in Bristol, Manchester and other places where that is really working well and is supporting individuals to be pointed to the right place.

There are other areas of advice. When I look across the border to Scotland, there is much more innovation in government driving the ability to help people wherever they appear with their problems. In Glasgow, there is a project called No Wrong Door. Wherever you start and mention your problem, you are looked after. It does not matter if you go to the doctor first or the local school where your kid is dropped off; there is still that network where the community moves you to where you need to be. For me, there are opportunities around outreach working and much more collaboration, as Lisa said in terms of partnerships. That is where I have seen innovation. Most of the communities that our members look after are the individuals who do not have legal insurance; they do not own their own home, so they really are that hard end of disadvantage. So those opportunities to work with some of those other businesses do not arise.

Q75 **Pam Cox:** Is there a similar scheme in Wales?

Liz Bayram: There are examples of that in Wales. The thing we are most jealous about in Wales is its nationwide advice strategy which, hopefully, at some point we ought to have a shot at terms of a collaborative Government approach.

Q76 **Pam Cox:** Does that nationwide advice strategy in Wales cover corporate providers?

Liz Bayram: No. It is a voluntary sector and the communities who are most disadvantaged. For us in England, one of the challenges for advice is that it does not belong in any one Department; it touches lots of different parts of government. Therefore, when you try to work with Government to improve things, it is very hard to know who owns it and where it starts, whereas for us an ambition to look at whether we could have a national advice funding strategy for England and learn from the experiences of nations would be a really positive opportunity to talk about.

Q77 **Pam Cox:** Lots of people go to their MPs; I'm sure we can all testify to that. Would anyone else like to add something on the changing shape of the mixed economy?

Dr Drake: Going back to the phone calls you mention—someone saying, "I hear you've been involved in an accident"—you will know from personal injury cases that conditional fee agreements have been, to a degree, a success in enabling people to be able to access a solicitor and get representation. One of the big pressures on personal injury firms now is the change in the small claims limit to injuries. It has meant that it is far more difficult for personal injury firms to make money out of personal



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injury claims than they could have done before. Effectively, you put people in the hands of insurers to do the right thing and make sure people get the compensation that is appropriate and which they deserve. A lot of personal injury firms are struggling as a consequence of that and are having to redirect their specialisms to other areas which are more profitable.

Q78 Pam Cox: We know there has been a rise in those who are either employed or self-employed seeking free generalist or legal advice. Has much research been done around that?

Dr Ben-Cnaan: Not that I am aware of. We did, however, run an interesting bit of research six years ago. In 2020, we had the 50th anniversary of the first law centre. For that, we produced a report that looked at what we call the justice gap—that is, if you are not eligible for legal aid because you are above the means threshold, but you cannot afford to pay for it outright, how affordable is legal assistance for you? At the time we found that, overall, all earners, be they self-employed or salaried, were caught in the justice gap. This varied considerably depending on their family situation.

Seventy-six per cent of single parents with just one child in primary school were already caught in the justice gap. Finding the money for legal assistance would mean they would need to cut back on essentials. It varies depending on how many children you have, whether you are single or in a dual-parent household and how old the children are.

Basically, we are looking at a rather stark picture if you are not eligible for legal aid. And remember that legal aid does not cover all problems, of course. In some areas—for example, in employment law—none of us is eligible for legal aid because there is no legal aid for it. It is quite a sobering picture.

Q79 Matt Bishop: Frequently, attendees at generalist or legal advice services are referred on to receive legal fees and representation. To what extent are those referrals successful, and what happens to those that are not successful?

Dr Wintersteiger: I can speak for one particular area, which is private family law. We provide services for about 350,000 page views per annum—that is about 200,000 users. It is a pretty large part of what has been lost from legal aid, so we are trying very hard to fill the gaps.

Referring to our recent research with Central England Law Centre, which is the largest in the country, it has some family provision. If a community member has a family problem they may, if they are lucky, get some element of supply of what is within scope in family, but they would not ordinarily. If they have a private family matter, they will immediately ping out of scope and will not be covered by the service, so they are then referred back to us as a digital provider.



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We can do a fair bit. We have 19 panel lawyers who are assisting, but again questions of scope and availability in relation to advice visits mean that, depending on your subject matter, there is a slightly invidious bouncing around, referral fatigue and lack of clarity of pathway, so it is a little bit of a lottery. I am sure that is not new to the Committee, but it would look slightly different for different areas. The bottom line is that supply is obviously limited to the amount of need, if it is in scope at all.

Dr Ben-Cnaan: One of the problems we experience working in policy and advocacy in the sector, following LASPO and the Legal Aid Act 2015, is that it has been difficult to capture where people went when there was no longer any legal aid. There are some things we know for sure. For example, there is a national survey with quite a large sample size run by the Legal Services Board—it is a public body, not the sector—showing that basically about a third of all civil legal need remains unmet. So it is not a minor thing; it is not a marginal picture. This is at the vanguard of people's experience. Where do they go?

I can give you an example from one of our larger regional law centres. That also illustrates another thing, which is the slowly increasing demand that is also increasingly unmet. Between 2023 and 2025 there has been an increase of 23% in people inquiring; there is an increase of 25% in actual inquiries, because people have more than one problem that they need to get help with.

As for people being turned away, we are looking at an increase of 10.5%, and that is with all the taps turned on as much as possible. It is a real struggle. Partly because of the advice desert structure that we see now, if a law centre cannot pick up a legal case—in some practice areas the shortage is more acute than in others—there may not be another provider for several counties over.

Q80 Matt Bishop: What are the main drivers of recruitment and retention challenges around generalist and legal advice providers?

Liz Bayram: I recognise that part of the evidence I have is thanks to the work we do with the advice workforce development fund, which has been focused very much on looking at the challenges within London. There is a lot of learning from that as well. It will not surprise you that for many individuals looking to join the advice workforce it is not attractive in terms of salary. The challenges around short-term and fixed-term contracts again are not attractive. From the work we have done within the sector and the work of the advice workforce development fund, we are aware that once in an entry point within the sector it is hard to see how you progress and move forward. All of these things make it less attractive. If you have a law degree, many other avenues and pathways provide more opportunity for you in the future.

For the organisations we talk to, there is complexity in how they support and retain staff within those challenges. The work itself is stressful and hard; these cases are complex and difficult. Often, people seeking advice



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from an advice service leave it until it has got really bad before they come. There are lots of emotional reasons why that might be the case. Ultimately, alongside that, there are fixed-term short contracts, because funding isn't longer term.

As for opportunities for more sustainable ways of delivering services, I refer to the previous session and opportunities for more sustainable funding through collective action. Some of those things are real opportunities for enabling the workforce to be more stable and recruit and retain people.

Finally, I would add that many of our members are coming up with quite innovative ways to do it within their local communities. There is a strong process among people who have used the service with lived experience and then join as volunteers and move in, but there is a challenge in how you progress beyond that. Some of the worst stories I hear as an advice network are about those members that have closed because their founder and leader has gone and there is nobody to take over. The big challenge is longevity of career, and making sure that those skills and expertise remain in the sector.

Dr Ben-Cnaan: For us at the Law Centres Network, workforce development is a key priority because of the obvious urgency of it. I would say that law centres do not struggle to attract people; we struggle to keep them. At early career level, interest levels are strong.

Last summer we ran a recruitment plan for eight paid internships and got over 200 applications. The interest is there. I think people struggle with career progression; they struggle with the cost of living compared with the kinds of salaries we are able to pay. I would say that even in better provided areas, such as a large conurbation like London, the struggle is real. One of our larger law centres in London in the past 18 months lost three solicitors and two paralegals. That is in a city and the kind of location that should be attractive to people. It is, but often people leave because they cannot afford to live in London on a legal aid solicitor's salary.

Dr Drake: I would agree with that. One good scheme that more social welfare solicitors are qualifying from is the one Patrick McCann set up. Many from large global international firms have been contributing towards his fund to assist people who are working as paralegals in law centres to be able to qualify as solicitors, but again you hit that ceiling. Once they qualify there is really nowhere for them to go.

Q81 **Matt Bishop:** Can I push back a little on that? What is the solution? What should the Government be doing?

Dr Ben-Cnaan: Where to start? There are several things there. One that I would like to point out is that the Government recently launched their apprenticeship funding reform, which includes removing levy support for level 7 apprenticeships for anyone over 22. We see that as something



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that undermines our ability to train and to offer people progression, because often we find it better to train people already working in law centres, looking to qualify and move into that. It is considerably more manageable for law centres to manage the cost of that as well.

It also overlooks the fact that a lot of entrants into the sector come in mid-career, and it overlooks the fact that we are in a world of work in which most of us will need to retrain at least once. Capping the level 7 apprenticeship levy support at age 22 misses a great human wealth that we could be tapping into. That was one easy win that we asked of Government but was not taken up this time. I hope they come around to it.

Liz Bayram: To build on the apprenticeship theme, one of the things that we are clear is important is to work with Government on, basically, a career pathway and workforce strategy for the advice sector. That starts with some of the entry levels as well. There is no apprenticeship for advice and all the facets of great stuff that goes along with that. We have seen in other sectors, such as in early years and in teaching, those opportunities to grow a professional pathway for people, and it really starts with the apprenticeship opportunity and having something that is tailored and dedicated and, as Nimrod just said, then building into those career pathways to move forward.

There are opportunities to work harder at school career advice and at jobcentre advice about what an advice career is. Those conversations are not being had. Most of the people who join the advice sector, as I said, join because they have used it, or they have not thought about it and they stumble across it. Lots could be done to elevate and help people to understand. We talked a lot about the hard work and how depressing it is, but actually we know from our members that the opportunity to make a difference and to support people is a really positive attribute of the job.

Dr Ben-Cnaan: The diversity of the advice sector is one of its greatest strengths. It is truly a reflection of its community and, when it is, there are better outcomes all round. The legal professions have some way to progress in improving diversity. Schemes such as the social welfare fund that was mentioned earlier are a good support for that. That is another priority for us to be able to reflect the community, the variety of age groups and everything that could help make for a better, more accessible service.

Liz Bayram: One aspect of diversity from our membership community that is important to realise is that many of them are quite small, so if they lose one of their two advisers it is very challenging. One thing that we hear from our members is that in order to support apprenticeships and those career pathways, we need also to think about how the individuals who are managing those new entrants are given support with supervision and are given back-up for when those individuals are not trained. It is about looking at the apprenticeship in the round and



recognising that very small organisations may have an apprenticeship without the time and capacity to support them. To do that well, it needs to be supported too.

Q82 Linsey Farnsworth: Dr Drake, you mentioned small claims litigation earlier, and I want to give you the opportunity to speak a little bit more about that, particularly in the context of the impact of regulation on access to justice. I am aware that you have previously argued that removing small claims track litigation as a reserved legal activity would allow advice agencies to provide greater support to the public. To what extent does regulation, particularly the rules around reserved legal activities, affect the ability of citizens to enforce their rights?

Dr Drake: The small claims limit is currently £10,000 for property disputes. Under section 12 of the Legal Services Act 2007, any form of litigation comes as reserved legal activity. You have to be a regulated firm to get involved in representing somebody around that area. It is rightly applied to multi-track claims and fast-track claims, but it is also applied to small claims track, which is supposedly for individuals to be able to represent themselves. The whole system is very complex, and individuals find it very difficult to draft claim forms, defences and witness statements. Because it is reserved activity, as a legal advice centre we cannot assist our clients in drafting. We can tell them what they need to put in, but they have to draft it themselves; we cannot represent them.

Under part 27, on the small claims track—I think it is paragraph 3.2 of the practice directions—you can have a lawyer or a lay person represent you in a hearing, but you cannot have them drafting the documents beforehand. Essentially, you go into a hearing and an individual really does not know what is important to the court.

With most of the clients we work with, I find that what they think is important—my research has reinforced this—is not at all relevant to the legal case, and what is relevant to the legal case the clients have not even picked up on. You then have the clients going into a dispute with what tends to be, if it is a consumer contract issue, a big organisation that can instruct a solicitor to represent its views—even smaller organisations are more used to dealing with litigation—and you have an individual who has absolutely no idea and cannot get representation from a university or legal advice clinic to be able to take them from the start of their claim right through to the very end, because of the restrictions from the Legal Services Act.

My argument is that it is rightly imposed for fast-track and multi-track claims but there is no real logic to it being imposed in relation to small claims track claims. If this were removed so that for small claims track cases you can draft documents, defences and claim forms, it would provide much greater assistance to members of the public who really struggle.



Going back to what you said, the people who are having the difficulties really find it difficult to understand their legal nature. The same law applies in the small claims court as it does in the multi-track and the fast-track, so you have to know the law of contract and the law of negligence. In my view, in the small claims track, people should be allowed either to have lay representation or university legal advice centres. Many are supervised by solicitors. It is not in our interests to go down a regulated route as a university, but we could, through supervision, provide proper assistance and representation to individuals where they are not facing a solicitor from a big organisation when they have a consumer issue.

Q83 Linsey Farnsworth: The circumstance that you have just described clearly sounds to me like a barrier to access to justice, as well as a bit of a blocker for the efficiency of the court.

Dr Drake: Absolutely. When litigants in person go into court, what they believe is the most important issue is not relevant to the legal case. We work in an adversarial system of law. A judge is supposed to sit back and let the two parties fight—for want of a better word—it out legally. If you have one person who is represented by a solicitor for a big company and you have an individual consumer who does not have any representation, the judge has to either ignore the fact that they are a litigant in person or try to advise for relevant legal facts, which turns it into a quasi-European system. That is hard for judges. The result is that cases which can be dealt with in 10 or 20 minutes if lawyers are involved result in 40 or 50 minutes to the judicial system, with cases backing up from those problems.

Linsey Farnsworth: It is also a barrier to access to justice when there are backlogs.

Dr Drake: Absolutely, yes.

Q84 Linsey Farnsworth: My next question is to Dr Lisa Wintersteiger, and it relates to service delivery models. How are organisations that provide legal advice and low-cost legal representation innovating their service delivery models?

Dr Wintersteiger: I am going to be very annoying and slightly circle back, because it relates to the example that I will give you. One thing that we lost in 2012 was the Legal Services Research Centre. It was a world-leading research centre that gave us some of the most important datasets that we have not had repeated since. The impact of unmet legal need is really one of the numbers that you want to be looking for. In 2006, the number that Pascoe Pleasence, who was leading the research centre, came up with was that round about £3.7 billion a year is the cost of unmet legal need in this country. That was in 2006. Canada has since run some aggregated models: just health disaggregated alone has \$75 million of impact. That is your starting point. The problem is that you have far too little supply and far too large a demand. How do you begin to unpack some of that?



One of our solutions, which is imperfect but interesting, is in the private family space. A very large cohort of people—they are all litigants in person, to be clear—come into the family court system with private family issues. Most of them use a range of digital support mechanisms. Plainly, within that complex journey, particularly family and financial arrangement matters—complex stuff—they hit what we would say is a pain point where you just cannot go any further unless you have that bit of assistance. That is not a traditional end-to-end service, because you simply cannot afford it.

What we designed with Resolution, which is a wonderful partner in that innovation track, is looking at the 50 pain points in the journey. I am sure there are more. In an ideal world, you would have a solicitor all the way through. They then move from our digital system, they have read lots of that content, they have used what we have, and then they have a seamless transition to one of the 19 panel solicitors who has a significant amount of pre-emptory information about the case, who will then assist the client on the basis of an hour. The fee is fixed at £120 an hour. That is about 70% less than market rates.

The results are proving to be fantastic for users. Of course, if they could afford the whole thing, they would. We are particularly seeing that they are able to act. They feel more confident when they then have to move into the court situation and address their problem alone—because they will later be alone. They feel more able to put in place the steps that they have discovered through our content.

It is that unbundled, mixed model that we really could not have had in the past because we did not have the tech to do it. We would want to see an expansion of that kind of example. One big barrier is that £120 is still £120 too much for some users. We have a voucher scheme supporting mediation. We would want to see some sort of assistance for that hour or two-hour provision, along with free digital, that gets people through the system. It is a nice way of thinking about scale, getting that full panoply of assistance, and making sure that those really difficult moments can be addressed and you have independent help at that moment. It is still less than ideal, so I do not want to oversell it, but for us it is a real opportunity to expand.

We have done some solid research on the findings and we are really delighted. We now find that the Government's position on either free or paid-for advice has developed a sort of Rubicon. Our digital service is supported to some extent by Government and the Ministry of Justice. The fee-provision part is at the whim and the willingness of family law firms to step in and support. That is a really nice opportunity to test and try to scale.

Q85 Linsey Farnsworth: Can you see a pathway to the testing, trialling and scale?



Dr Wintersteiger: Definitely. The clients are saying, "We can afford £120 but no more." Some people are still left out, so we would want to see some underwriting. Lawyers are saying they can do it. They cannot overburden their wider commercial cases. From their perspective, it is better than pro bono, because the client is supported through the journey. They circle back round to us and go through litigation if they go that far; or in fact, in an ideal world, they avoid the litigation because they decide they are going to settle. That is what you want, isn't it? We need to underwrite those who cannot afford it, and we need to support the lawyers who are being onboarded.

In two years, we have onboarded 19 lawyers. Appointments are up to about 450 per annum. The demand is still too high, so we need to build and scale. Investment is quite low. We need to see those mixed models as being a real opportunity to meet the need from low-income families who need some advice but cannot afford high-street rates.

Linsey Farnsworth: Thank you so much.

- Q86 **Warinder Juss:** Thank you, Dr Drake, for explaining so well the problems that exist with the small claims track. Isn't the big inconsistency that having small claims track litigation as reserved legal activity means that solicitors are not going to want to take on the case because they are not going to get paid?

Dr Drake: They do not get paid anyway, to a degree, in the small claims track. It is fixed costs. Even if you have a £4,000 dispute, it is quite uneconomical to instruct a solicitor to advise you because their costs can exceed £2,000 or whatever, and that will come out of the claim. It will not be paid by the other side in relation to the costs. The position in the small claims track is that solicitors do not really want to become involved in any event, which is what you said.

- Q87 **Warinder Juss:** Have you ever thought about removing the small claims track altogether? Would you ever advocate getting rid of the small claims track? Do you think that might be a way forward?

Dr Drake: I do not think it will allow more people to access justice if you remove the small claims track, because people who have some legal knowledge can access the small claims track. It could be simplified. It is very complex.

In a lot of cases, the same burden is on a litigant in person as it is in relation to a legal professional, which is ridiculous when you have somebody who is qualified, experienced and works in this field every day, and you have somebody who has just come to it. I do not think we should get rid of the small claims track. It was a bit of a backward step when the figure of £5,000 for personal injury was introduced, because that meant a lot of solicitors would not get involved any more with regard to conditional-fee agreements.



In relation to property, it is a good thing that it is a small claims track, because one problem is that if you take on a company and you lose, you essentially have to pay its costs, which is not a threat that individuals have to work against in small claims track litigation. On balance, it is good, but it is so complex. Clients come to see us—this is probably going back to an earlier question—with one problem, and when you speak to them you say, “That’s not your legal problem. This is what your legal problem is.” If they cannot even identify the legal problem, how on earth are they going to pursue a claim, draft a claim form and draft particulars of a claim against a big company that is going to have its solicitors defending the matter?

Q88 Warinder Juss: As you said, judges try to take the case through with a litigant in person. It takes longer and, therefore, it adds to the court delays.

Dr Drake: As I mentioned previously, the problem is that we work in an adversarial system. Where a judge has to take sides and try to advise a litigant in person, they are no longer impartial to a degree. I know a lot of lawyers who sometimes complain about that. It is almost like a quasi-inquisitorial system. What could be an hour-long or two-hour hearing is doubled without a lawyer on one of the sides. It takes up all the court process. The judges have to try to explain what legal matters are important because the individuals involved are, quite frankly, lost.

Q89 Tessa Munt: There are people in the community such as health workers, and some groups—dare I say MPs—who might be trusted and certainly seen as a point of contact for members of the public. I certainly know that my team is crucial in identifying what is underneath the original complaint that comes into our office or the concern that somebody raises. Often, we need to direct people into the legal system or to identify and help to them get through that. Are there reforms or investment that could embed those intermediaries’ roles more systematically across some of our public services? Do you have a view about that?

Liz Bayram: Some of the areas of policy focus at the moment around Better Start, health hubs and the health strategy are already embedding advice within there, and we are well aware of some of our members’ innovation in terms of their outreach work, working in doctors’ surgeries and taking their advice to the school gate. All those things are really working well.

Tessa Munt: I live in a very rural area.

Liz Bayram: Yes, there is also, as we said, that challenge of advice deserts and where you can and cannot access information and support. The service of advice is a mixed model. It is about outreach, phone, digital. It is all those things. What I was trying to show was the ability to connect and that a community-based advice service knows its intermediaries and networks to be able to build those relationships as well. There is lots of good practice to build on.



Q90 Tessa Munt: What should the Government do to embed that support more fully? There are health justice partnerships and various other bits and pieces. What do the Government need to do? Go on—fire away.

Dr Wintersteiger: I will throw in a couple of points. The intermediaries that are doing the work, whether they are health providers or wider community groups, are saying that they are being hit by the need. They are not legally trained. They are asking for elements of training, which is their priority. They need free assistance to support their capacity; that is the No. 1 ask. They said, "We don't want to be trained as lawyers, but we need to better understand this legal problem that is coming at us at speed." They want improved referral pathways. That means a mixed model. Some of them said that co-location is brilliant. The food bank said to us, "Please just pop somebody in here." Others said, "We don't need somebody in here. We want a dedicated phone line by our local advice agency so that if I've got somebody with this housing issue, I know it's Sheila I call."

They ask for better digital support so that they can assist. They are doing the digital work, but they are doing it with a real challenge on their hands. On the one side, they want better and more targeted legal information on the topics at hand for them, such as housing, social care, what have you. This is a wider digital barriers challenge, but it is absolutely right. If they are sitting and assisting somebody with a DWP problem or a housing problem, they are acting as the digital bridge. Much the same as the person who also has a barrier to get through the digital system, they are saying, "I can assist this person, but if I need to call somebody, I need to call somebody. Why have we been given an absolutely digital-by-default and only-digital system when we are here as community intermediaries, nurses and so on trying to assist the person?" They are asking for a reasonable alternative to digital pathways to provide the assistance that is there, and some infrastructure support to do what they do better.

The final thing they have asked for, which is part of that training model, is that they are doing the assistance but there is anxiety—and it relates to the regulatory point—that they do not want to go too far. They do not want to be lawyers. They want to help to fill forms, they want to help to make the telephone calls when needed, and they want to know where they need to stop and make the correct referral to the right person at the right time. These are all relatively doable investment capacity needs to make the best of what is there.

Liz Bayram: I am going to bring it down a bit. A lot of advice services are really keen to do that and are innovating, but it goes back to the issues that we talked about before: growing demand and not enough capacity to meet those needs. Often, we hear from our members that they are doing triage. They are trying to look at ways in which they can support intermediaries and help people to self-serve, so that the more complex cases that cannot be dealt with in that way are moving forward.



It is something that many advice services want to do, but it does not work if they do not have that core capacity and funding.

Dr Drake: I will be quick. One thing we have been doing is identifying that the people in the frontline have the public coming to them and saying, "Look, we've got this problem," and they get the same people coming up with the same problem. We have worked with frontline agencies to try to empower the people dealing with the public to give them some legal knowledge of what the position is and give guidance so that they understand some of the law around the area, particularly on housing and landlord and tenant issues. We have also been giving guidance and working with them so that the community can get hold of this guidance and try to understand what their position is. It is maybe not as detailed as what we are giving the frontline agencies.

These people are on the frontline dealing with people coming in all the time with very similar problems, and they are scared of getting the law wrong. Law changes so quickly in a lot of the areas that impact on the least privileged. It is so complex. This at least gives them some idea to be able to give advice and assist individuals in that way.

Dr Ben-Cnaan: You mentioned health justice partnerships; law centres run several of those across the country, and they are quite interesting. Health justice partnerships are not a new invention. They have been available mostly through primary care settings, GP practices and that sort of thing, for years and years. Diversifying that beyond primary care practices and into specialist care and hospitals, reducing bed blocking and all sorts of interesting challenges that the system is facing, are things that we are better documenting the effects of. Yet I think, systemically, there is a barrier in that every integrated care board makes some priorities and could use perhaps a steer, if not more guidance directly, as to how to get into such partnerships. That would be useful. I know from the advice side of such partnerships that it is often very difficult to make inroads into healthcare in order to establish that kind of relationship, and it is always on a local or regional basis rather than something you could copy off a national framework. We need more of that as well.

Tessa Munt: Thank you.

Q91 **Chair:** We will come in a second to our last questions, which are on digitalisation, but, very unfairly, I am going to ask you to give me a quick answer on funding. Given what you heard earlier from Linda Mulcahy, where would you say, from all your years' experience, are the main areas of deficiency at the moment in terms of funding? Have you any ideas where that funding might come from? You have 30 seconds each.

Dr Wintersteiger: Digital innovation has been stymied through lack of capital investment. It is shocking. If I get a bit from my philanthropists, I am lucky. It is the place where scale can start to be met. Where should it come from? I am rather disappointed that lawtech funding has not made its way through to our sector. There have been pots. They have not been



large, but they would make a huge difference. I would really ask for a consideration of lawtech in the next round. I know the Minister is keen to get to the access to justice sector so that we can get on with our R&D and meet the need that is out there.

Liz Bayram: Apart from more for our members, which is always the case, the sustainability of that funding and the fragmentation of it is the challenge. One thing that we would really like to see is that, across Government Departments, advice is funded in different ways in different places, and there is an opportunity to build on some of the work that other nations are doing. You might get more value for that money if you look at it in a more strategic sense around how advice is funded.

In terms of digitisation, we are lucky in some areas of advice like debt advice, where we are getting funding from MaPS, innovation and modernisation of funding. That is helping some of our advice services start to use AI, which is not robots talking to clients; it is helping them to save time and energy so they can focus more on the quality interactions with clients. It is about that review of how funding works and thinking about ways in which it builds more encouragement into innovation for other sectors that are not able to build to scale in the way that we are managing to do because of that MaPS funding commitment. It is learning from what we are doing and doing it better in other areas.

Dr Ben-Cnaan: I would definitely agree with much of what has been said here. We need to bring this back into the discussion, because it is often overlooked. Access to justice is a public good, and it should be treated as public infrastructure and funded accordingly. There should be—and this is something we have included in our written submission as well—an access to justice strategy that goes well beyond legal aid as we have now, or all existing commitments, and looks seriously at what we are looking to provide, and how we will go about creating some sort of road map.

Q92 **Chair:** You are saying that the Government and the MOJ should do this and should map out how access to justice goes across the piece.

Dr Ben-Cnaan: Yes, but it is a wider Government responsibility, as we have just said, given the intersection with health, for example. There are several other intersections across other Government portfolios. Obviously, the MOJ should be at the helm of that. We also need to remember that, for the most part, the kinds of services that we are talking about are fundamentally non-commercial work. The charities in the advice sector are not just non-commercial providers. This is not work that would, in the main, find commercial providers. Clients would not necessarily be able to afford to pay for it. We need to work based on those assumptions in order to create something that is sufficient and stable.

Along with funding, one thing the sector has struggled with over the years is policy and stability, be it direct justice policy or policies in other portfolios that affected the growth demand to law centres and to advice



agencies. We need to systematise that kind of thinking. Sure enough, all the resources are not already there before us, but a road map would be really useful. You are committing to putting in place resources by a certain point in time.

We talked enough about additional funding sources in the previous session with Professor Mulcahy, and that should be listened to very carefully because there are some great ideas there. By now, following several years of the review of civil legal aid, the work of the previous Justice Committee, the work of the National Audit Office and the Public Accounts Committee, all in the space of two or three years, we have enough knowledge of where we need to go. We just need to seize the bull by the horns.

Q93 Chair: Thank you very much. Digging down a bit into digitalisation, you have just mentioned the Public Accounts Committee, which recently did a report that said that about a quarter of people seeking advice were digitally excluded. What do you think are the problems with accessing advice online? What more can Government or anyone else do to deal with that?

Dr Wintersteiger: We have done some evolving work with the OPRC on this. We know there is a digital-first transition that we are all having to address. Court reforms have gone down the same road. It is clear that some people are not able to use such services at all. Some people simply lack some degree of the digital skills that they need. Some of the strategy is about conjoining your pathways to the assistance, so that whether it is an advice worker who is doing that every day, or a social prescriber doing that work, those elements of assistance to the public have to be there. Those assisting people need not just one digital pathway but an alternative.

What we are seeing from what is now sadly not our research in the UK—because we have lost those wonderful people who were at the Legal Services Research Centre but have gone off to Australia and other jurisdictions—is that if you are thinking about digital capability, you have to think about digital and legal capability together. We work very closely with HMCTS colleagues—that is fantastic—as we do with the OPRC.

This was partly my point about promulgation of law. You have to make less complex the law that is coming to the citizens, especially if you are going to use online systems for it. What you design has to be much less complicated, much more accessible, and it has to not just know how they click through a system of forms for, say, a civil claim but also what they need to know about that civil claim process as a legal element in order to progress that themselves. There are things we know—we know how to do it better—but they are not being implemented at the moment, unfortunately.

Dr Drake: Gov.uk is a fantastic source for information that is out there on a website. It is pitched quite high, though. For people who are



qualified and have experience in law, it is really helpful and useful, but people who do not have that experience and those qualifications can struggle to circumnavigate it. Perhaps something could be done to make gov.uk more accessible.

Can I quickly talk about funding, because it was raised previously? The rule of law is a principle that most law firms, solicitors and barristers would agree is important. So many people do not have access to the law because they cannot access advice. LawWorks said in its last report that 38% of people do not get any legal help with regard to their legal problem. There has been discussion previously about a levy on the big international law firms, and whether they could perhaps contribute more towards the free legal advice sector. The one thing that the Social Welfare Solicitors Qualification Fund showed is that there is an appetite for some of the big firms to contribute and pay some money into a fund to assist in having new solicitors qualifying through. That could be extended to a pot going in for free legal advice, where people could bid for how they would use it and recruit more members to get involved in it. That is something that I wanted to mention.

Liz Bayram: My point was almost to turn it on its head. I do not want us to just think about digitisation in terms of the individuals needing access to justice. It is also about how the services supporting them can develop their technical skills and ability. Some of our members are already using AI to help them to reduce their administrative workload, and with triage and initial recommendations on next steps for the client. All that means the adviser spends less time typing up notes and thinking about paperwork and has more time with the client. That is another aspect of it that the Committee would be good to consider.

Q94 **Warinder Juss:** I have a question on accessing online information, Dr Wintersteiger. Those who are unable to afford access to specialist advice will go to digital legal information and automated consumer tools. How effective are these tools in enabling those with low legal capability to recognise their legal problems and get advice so that they can take appropriate action?

Dr Wintersteiger: It is a design principle. Some of them are not very effective at all and some of them are. Going back to a point that I made earlier about problem recognition, most people do not know that their problem is legal. For long studies, that has not been featured as a barrier for the advice sector, because people just have a problem and they go to their local advice agency. To a certain extent, a similar principle is deployed in online design. Advicenow has a very high cohort of disabled users, people from BME backgrounds, and many people helping somebody else with the system.

What I would say to the Government about their design principles—as the OECD is saying to Governments—is that you start with the lowest levels of legal capability. You assume every user has the lowest levels. They know nothing. They probably do not know their problem is legal, and you



are walking them through that, and they probably have a lot of skill deficits. For example, you can do an awful lot with very well-designed step-by-step content. What you cannot do is address the skills deficit that people often have. In that space, you would be looking at things like either video work or document-processing tools. Thousands of people come to us to get their appeal or their MR considered, because they cannot write a letter or access an advice agency to do so. You start at the lowest level. Those who are the most capable who are using our digital system are already able to get through the simple stuff, and they still glean a lot.

The other absolutely key element is that about 15% to 20% of users are assisting somebody else, and you begin to design around the assisting principles. The MOJ has helped us with designing user accounts where your community nurse, who is logging into our system, is regularly able to deal with multiple people with multiple problems and knows where to go next, particularly with clusters. It is that starting point, recognising that most people do not have high capability and they struggle. Some cannot get on at all, and you must build a bridge to your community support in order to do that.

Q95 Warinder Juss: You said that some of these tools are not effective at all.

Dr Wintersteiger: Yes, I would say so. Can I say this? Yes, I can. Most of them are the ones that are designed by legal institutions, because they still start with the lawyer at the centre of the design principle. We have wonderful colleagues at HMCTS and the regulators, but it is a real problem.

Let's take an example. Legal Choices is a pretty large platform. A lot of money has gone into Legal Choices for some time. It was on the back of the Legal Services Act, was it not, to make sure that the public understood? If you understand legal need and legal capability, you know that giving people a choice to find their lawyer is not really going to tackle the problem that we have in terms of the scale of legal need, because they cannot afford a lawyer. What they need to know is more about their problem and how to get through it. It is an example of not starting where the user is.

The message coming out of most advancing jurisdictions is that if you are not thinking about user-centred design, whether it is the court or the grassroots level, you are going to get it wrong and you are going to waste an awful lot of money and create an awful lot of barriers. There are lots of digital services that are very lawyerly, like court documents that nobody can understand unless they are a lawyer. It has to be flipped. What does a person need to know and be able to do, crucially, to get through that next stage?

Q96 Warinder Juss: We are talking about vulnerable people and people with low legal capability who are in need of help. What more should we be doing to safeguard those people from misinformation?



Dr Wintersteiger: That is a very good starting point for a question. We talked about the £3.7 billion cost to the health service, and there is loss of home and breakdown in relationships. It costs us. It costs the public purse and individuals. It costs us in trust. We have seen such a decline in trust in institutions and Government. The message from our recent Nuffield partnership with a group of law centres, us as digital, and university providers, was saying, "You must have an ecosystem. You can't just put money in one direction. You've got to build digital. You've got to build and support advice agencies. You need specialist providers and you need your trusted community bridges. You have to build those together from the bottom up, because you're losing people."

For me, the most striking part of the work in the community, when we did a deep dive post covid, and into the cost of living crisis, was that asking that community about rights in the law got nothing but negative responses. They were absolutely at the end of their tether with trust in their institutions. You scale that up, and then you see the kind of outcomes the OECD has, which is that only one in four people believe in their Government, and that makes them prone to misinformation. We are also seeing that. There is a question later about quality standards. With the thrust of misinformation and people at such low levels of capability, you have a perfect time bomb of people not trusting justice institutions.

Q97 **Warinder Juss:** How do we remove the barriers to accessing online legal services for those who are digitally excluded?

Dr Wintersteiger: Some networks of provision are digital only. There is library work. There is digital support work going on. From a justice-specific perspective, we know from data and the precursors that if there is no advice-based or legal capability element in there, you are not going to get the help you need. If you are dealing with a justice issue, just being able to be taught how to move your mouse around is not cutting the mustard.

It is about collaboration. It is about reaching the people who are completely offline and doing it through the community intermediaries that people trust. They do not trust bigger institutions. They trust their health providers. They trust their advice agencies. They trust their faith groups. It is about finding those key intermediary groups and providing that support. They are being left behind, and it is having a catastrophic effect, but there are ways we can bridge.

Warinder Juss: It is about getting that community support.

Dr Ben-Cnaan: I want to pick up on several things Lisa touched on. First, none of us is under any illusion that digitalisation is by itself a silver bullet—not with a quarter of the population digitally excluded. We are talking about 16 million people, which is quite a lot. The problem is not lack of information. We are pretty much rolling in it—online, that is. It is about how fundable it is, for lack of a better word, how findable it is, and how accurate and trustworthy it is. I am concerned, because there were



opportunities, and there have been for some years, to do something about that.

For example, in the immediate aftermath of LASPO, a body called the Law Commission was put together to try to see, with the much reduced resourcing the sector had, how to make the most of what we had. One idea that was raised even then was kitemarking reliable sources that already exist online, to give them some sort of privileged status so that people who know nothing else would know that this would be a more trustworthy source of information. That was never taken up because of Government refusal. That is one thing.

Yes, some online tools that are meant to be stand-alone for people to self-service work, but some legal bodies may not have been up to par. I have not seen that promising a performance on the part of the Ministry of Justice. To give an example, several years ago it launched an online tool to help people to understand what to do when they encountered disrepair in their rented home. It follows the gov.uk guidelines. The language is simple and pitched at the level of a 14-year-old. It is accessible in that respect. Ultimately, if you go through it now to the end—it is still available—it is sensitive to your circumstances and all that, but the picture it generates does not answer a specific question that I would want to know: where do I start? It tells me options. “You could contact this, or contact that.” Where do I start? What do I do first? What do I do then? It is not designed with the practical needs of advice seekers in mind. It is not just there to inform, of course; it is there to guide practically in action.

There are very good examples of how to do that. The Advicenow website is obviously one of them—I would say that, wouldn’t I? I would like to give a nod to HMCTS—the Courts and Tribunals Service—for taking a long-awaited step in the way that it is commissioning for assisted digital services. The courts system has invested considerably in digitalisation with variable results. What it has been doing now in commissioning for the next contract of providers for the assisted digital service is breaking it down so that it is not restricted to one national provider, and allows smaller regional advice sector actors to come in and invites their input to co-design a delivery that makes use of what is already there and supports what is already there through that. We could be doing so much more in that vein.

Q98 Tessa Munt: I just looked it up, and it says the gov.uk website is not kitemarked. That is quite interesting. It says it is for physical products and specific service quality standards, which I would have thought was what that was, but it is clearly adrift somewhere.

On current technological developments, and to try to get you to look forward a little bit, let us do a bit of future gazing. What might be there already and what might come along that will help us with access to justice? Is there some scope between the advice agencies and the legal



tech sector to try to improve all this? Does one of you want to have a pop at that?

Dr Wintersteiger: I will start with the negative. I know colleagues have some good positives, which I haven't. It is important that the Committee hears this, because we have been pressing this point. We are a year into Google AI overviews. It is the single biggest AI platform. The health sector has been moving very quickly to try to raise flags. It could be an opportunity to synthesise great information, the best-quality, verified justice information or health information, so that users get to their law centre, to us, or to the better bits of gov.uk. The reality is that we are seeing a huge decline in click-throughs, by 15% to 30%, depending on the different types of provider. People are not being sent always to localised provision. You might look up your health and safety, and find yourself in New Jersey. In the health sector, we have examples of false advice on pancreatic cancer.

It has hit us at such a speed that anything else we are doing on tech development has had to pause completely. I have spoken to Citizens Advice and law centres. Our good content is no longer being made available because we are being absolutely swamped by, particularly, Google AI. We are trying to talk to it. There needs to be a sector-wide response and some sector-wide advocacy, as health is doing, at speed. Getting a handle on that and using the better opportunities of Google summaries so that the best stuff is there for users could be a bonus, but at the moment all our innovation track has been ground to a halt because pretty much every advice agency, particularly on the digital side, is no longer able to meet the needs of users in the same way, because of such a fast disruption in the last year.

Liz Bayram: To building on that, we are moving from search and traditional pathways to answer engines. New generations come on. I have teenagers, and they do not search: they want the answer, they believe it and they go. The challenge is immense, and the generations that will come in the future needing advice will look very differently at the way they do it.

We are doing work with advice services around how they use their own small language, their own content and information to enable them to answer clients better. It is a really important part of that process to recognise that the source of the information has to be controlled and managed. That whole effort around where the good-quality information that AI can build on and use is important. There is a real opportunity for Government to build on how that is understood, kitemarked and recognised as, "This you can trust; this you have to question."

We are at the very early stages of working with one organisation with which we are doing a lot of AI work, in terms of how AI might at some point become the first person to ask the questions of the advice seeker, rather than behind the scenes. That is a way off. They are looking at



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generating models of AI that can understand human emotion and body language as well as what they are actually asking. Often, we hear from our advice services that it is not the thing they come in to tell you about: "I'm about to lose my house. I haven't paid the rent." When you ask the right questions, you feel the whole problem.

It is a way off, but there is the rapidity with which advice is moving in the direction of using AI. If it is harnessed in the right way and it enables advisers to help those who can self-serve in a more effective way, so that you get the answer at the end and not a whole range of options, then it frees up the advice services and specialists to focus on the individuals who will always be in that place of digital exclusion because they live in rural Wales and there is no phone signal anyway, so you cannot get any digital access, or there is complex need.

As part of thinking about how we support digital exclusion now, we have to fast-forward four years, because it is moving and changing fast. Forty per cent of our members are really keen on considering how to use AI, but only 4% have done it, because there just is not the resource, time and money to help them to do that. It keeps coming back to that really boring thing. The opportunities to grow and move that forward in a more co-ordinated way should help us to get more people access.

Dr Wintersteiger: In addition to the R&D investment—because we are starved; we do not have proper R&D money and we need that investment—it is good to see the Government making several announcements on very large partnerships with some of the big tech providers. We would want to see some of that capacity being brought on. I have been able to attract good Google talent on to my board. That is rare and hard to find. There needs to be a construction of these large partnerships. Help us to build that capacity. Invest in us. You will get some great wins. There is a great opportunity there, but it is about managing risk as well. It takes a little bit of investment and some good people to be involved.

Dr Ben-Cnaan: They need to be partnerships that run the distance as well. Part of the problem we see in law centres is that tech partners would come to us with their predesigned products, looking for adaptation rather than having the kind of knowledge that we have serve as the basis of that innovation. We would love more of that.

In terms of the funding structure, it is important not to think about it just as seed funding. Seed funding for initial development up to minimum viable product, and that sort of thing, is all well and good, but we need to think about longer-term development. Once you have a product, you need to factor in its maintenance, its further development and its branching out, and we are really barely at the foothills of that in terms of what is available at the moment.

Dr Drake: AI has been around for three years. It has developed quickly. Who can predict what it will be like in another three years' time, given



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how rapidly it is developing? One of the really big problems with AI is that it extracts all the information from the websites with regard to legal information. It does not know what is right and what is wrong. It is that information that it is extracting. If AI could recognise what is good law and what is not good law, or what sites do provide the right information, that would be incredibly useful.

Tessa Munt: We have had judges using duff cases that just don't exist, haven't we? A bit of rigour is needed in all this. You have answered everything that I wanted to ask.

Chair: Very good.

Tessa Munt: Top job.

Chair: It is a good panel, concise and accurate—when we come to mark you later. That is all we have for you this afternoon. Thank you very much indeed for attending. It has been very helpful.