



## **Evidence to the House of Commons Justice Committee**

### **Inquiry into the Impact of Covid-19 on the Justice System**

1. **About us:** Law Centres are not-for-profit law practices specialising in social welfare law, that have been operating in the UK for 50 years. The Law Centres Network is the specialist support organisation serving 41 Law Centre offices across the country. At the specialist end of the advice spectrum, Law Centres provide services that few others provide – legal casework, advocacy and representation – normally at a point when legal problems have escalated and become costly to resolve. 1 in 3 civil legal aid access points operated by not-for-profits is a Law Centre. Over 1 in 5 County Court duty solicitor desks are operated by Law Centres.

#### **IMPACT ON LAW CENTRES**

2. **Impact on services:** All Law Centres are committed to their clients and communities and remain open to serve them during the pandemic. However, some Law Centre services cannot currently be delivered because the relevant court or tribunal avenues are unusable (e.g. all possession proceedings are paused at least until late June). Social distancing requirements have also pushed Law Centres to establish at pace and at cost online and telephone replacements for what are largely face-to-face services for vulnerable people. Advertising the services has also become a particular concern, as more people find themselves in legal need and many are socially isolated or digitally excluded. Law Centres have taken to local newspapers and radio, to hanging signs in local supermarkets and to distributing leaflets in food bank parcels in order to reach new beneficiaries. The impact of each successful client contact is profound, even within current restrictions: as lockdown began, one Law Centre got a client who was sleeping rough into emergency accommodation; within days he was already at work, making supermarket home deliveries.
3. **Impact on finances:** Funding for social welfare legal assistance has always come primarily from public sources (earned legal aid, local authority support where available) and charitable grants, as clients are too disadvantaged to pay for services. Against this longstanding vulnerability of the legal advice sector, Law Centres have sustained the double blow of an immediate hit to their cash flow together with an expected lingering loss of income. The stream of current legal aid work has reduced to a trickle in both face-to-face and telephone-based contracts. Between them Law Centres are losing around £500,000 a month since the start of pandemic restrictions. This level of deficit will continue until restrictions are lifted, and we expect smaller losses to continue for at least six months afterwards, as work picks up.
4. **Inadequacy of support measures to date:** As charities, Law Centres have so far largely been unable to take advantage of the government's Covid-19 support initiatives. The nature of their income means they cannot guarantee to repay business loans or fundraise in order to repay them. All Law Centres have considered furloughing staff members but only some have been able to do so. Most of their lawyers work on both legal aid and grant-funded work and need to remain available to provide client services, so cannot be furloughed. Legal aid contract requirements mean that supervising solicitors cannot be furloughed, as well as at least half of each legal team, even if there is no work at all. The Legal Aid Agency's (LAA) offer of more Payments on Account (POA) is administratively cumbersome to take up and would create additional costs for no income benefit. POAs also fail to address the main problem: not cash

flow but lack of earned income. Considering this, we have said publicly from the outset that to survive the pandemic Law Centres would need grants-in-aid. A recent Cabinet Office procurement policy note on supplier relief outlines supporting suppliers paid by results through payments based on previous billing. This has yet to happen in legal aid.

5. **Impact on sustainability:** In recent years, legal aid has been poorly remunerated, administratively cumbersome and barely sustainable. The pandemic has made it simply not viable. Over a month ago we analysed each member's situation and shared our findings with MoJ and LAA. They show that, if lost earnings are not replaced soon, Law Centres stand to lose £3m in earned income within six months and, having used up their already scant reserves, the half of them most reliant on legal aid income would face closure. Law Centres are not alone: the entire not-for-profit legal advice and rights sector is at risk right now, as are most legal aid providers, that are SMEs. Should the government allow this loss to occur, the specialist expertise and goodwill we have would take years to rebuild, at great effort and expense, with access to justice suffering in the interim. Still, a month and a half into the crisis, there is a distinct lack of urgency to the MoJ response to the dangers to the advice sector and legal aid.

## IMPACT ON ACCESS TO JUSTICE

6. **Increased demand:** At the height of the global financial crisis (2008-2010), demand for Law Centre services increased by 30%. They were better funded then and so better placed to meet that surge. The Covid-19 economic damage is more abrupt, severe and widespread, and Law Centres have been weakened by a decade of policy changes and public funding cuts. We are seeing increasing demand for assistance, especially that which is not covered by legal aid, such as with employment and benefits problems – ones that, if unresolved, would increase burden on public services such as legal aid, housing, health and social care. That the legal aid system excludes these services from scope demonstrates its unfitness for its own purpose: providing access to justice to disadvantaged people for legal problems typical to their circumstances.
7. **Unmet need:** Much demand is not being met, and we see this daily through the longer call queues to Law Centre advice lines, or through the experiences of new clients who have come to us late in the unfolding of their problem, increasingly with signs of worsening mental health. Digital exclusion as a hurdle for accessing justice remains a concern for us, as does the ability of people to even access a telephone advice service with no remaining credit on their mobile phones. Given this surge, we and others have repeatedly asked MoJ to launch an awareness raising campaign for legal aid, the like of which it had meant to pilot just now anyway, as part of the Legal Support Action Plan. Their refusal to do so is frankly baffling.
8. **Room for improvement:** The courts and tribunals have already been in flux over the past four years due to the court reform programme, which is now about halfway through. The rushed adaptation to public health restrictions on top of the planned changes has therefore gone understandably patchily, with instances of representatives being effectively sidelined. Members have told us of unreliable communications with clients and their Law Centre representatives: letters regarding hearings arriving late due to postal delays; and clients contacted about listings or postponements while their named Law Centre representatives were not and found out through their clients. In other cases, Law Centres reported that their representatives were not patched into benefits appeals hearings conducted over telephone, apparently because of a lack of line capacity, meaning that their clients suddenly found themselves on their own in the hearing. This must not be allowed to continue.
9. **Foreseen problems:** While the above examples may represent exceptional incidents, other issues are manifestly systemic but are still waiting to be addressed. Delays caused by Covid-19 conditions are increasing the risk that many people suffering workplace discrimination or harassment would not be able to collect evidence, get legal advice and submit their claims to the Employment Tribunal within 3 months. We and other organisations have written to alert

the Lord Chancellor to this and to ask him to extend the time limit to 6 months – as the Law Commission has since suggested, too. Elsewhere, the digitisation of the immigration appeal process was always going to change the structure and duration of representatives' work – many of them legal aid lawyers – but consideration for changing the legal aid fee structure has come very late and has yet to be acted on – now in haste, as remote hearings are required. Remote immigration appeal hearings are being rolled out despite known problems with the integration of interpreters into them, which HMCTS has acknowledged and is still sorting out. In general, remote hearings are being rushed in without a crucial stage of controlled experimentation. Therefore, we think their efficacy should be openly monitored and formally reassessed when the pandemic restrictions have been lifted. What is tolerated now despite shortcomings should not on that basis be regarded as a success and left in place by default.

10. **Need for oversight and joined-up planning:** The many concurrent changes make proper oversight a vital need in order to ensure that access to justice is not damaged in the process. However, despite repeated promises of improvement HMCTS data collection remains woefully lacking: the service does not know how many litigants were represented in hearings; nor can it say how many in-person hearings are adjourned compared to those moved to remote channels. Along with other external stakeholders, we repeatedly ask HMCTS to share more of the data they do collect, to make our engagement more fruitful. As the National Audit Office pointed out, this is necessary for the systemic HMCTS changes to succeed. It is also needed in order to avoid previous issues. It took two weeks for possession proceedings to be finally stayed throughout England and Wales, during which some courts started to close and listings practice varied widely from one court to another. It is crucial for preserving tens of thousands of homes as the pandemic rages that the end of the stay next month, which is expected to trigger a deluge of cases, is managed better than its start.

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1 May 2020

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