**LASPO POST-IMPLEMENTATION REVIEW 2018**

**ROUNDTABLE DISCUSSION**

**9 APRIL 2018, 5.30pm – 7pm**

**AGENDA**

**Chair: Nicola Mackintosh, Mackintosh Law**

1. **Introductions.**

Nicola Mackintosh opened the meeting with an offer from LAPG to facilitate the conversation, not to write or coordinate the response.

Jenny Beck (Legal Aid Practitioners Group, LAPG)

Richard Doughty (Chartered Institute for Legal Executives, CILEx)

Nimrod Ben-Cnaan (Law Centres Network, LCN)

Julie Bishop (LCN)

Ruth Hayes (LCN)

Klara Holdstock (LCN)

Tara Mulchair, Birnberg Pierce

Vishal Misra, (Immigration Law Practitioners Association, ILPA)

Swee-Leng Harris (The Legal Education Foundation, TLEF)

Ian Browne (Liberty)

Emma Norton (Liberty)

Katie Watts (Public Law Project, PLP)

Carolyn Osbourne, Steel & Shamash (Education)

David Wolfe (Matrix)

Nick Armstrong (Matrix)

Polly Glynn (Deighton Pierce Glynn, DPG)

Angela Patrick (Doughty Street Chambers, DSC)

Mary-Rachel McCabe (DSC)

Laura Janes (Howard League for Penal Reform)

Katie McFadden (Young Legal Aid Lawyers, YLAL)

Oliver Carter (Young Legal Aid Lawyers)

Louise King (Childrens Rights Alliance for England, CRAE)

Richard Miller (The Law Society, TLS)

James Sandbach (Law Works)

Carol Storer (LAPG)

By phone

Polly Sweeney (Irwin Mitchell)

Martin Westgate (DSC)

**NM** invited everyone to update the room on where we are now. The review is the priority for the meeting, but there will be an opportunity at the end of the meeting to discuss other work.

**LAPG:** Will focus on what others are doing and will put their own view on behalf of practitioners and clients. Keen to identify gaps, including technical problems around eligibility and gaps in scope. See second edition of Manifesto for Legal Aid.

**RD (CILEX):** CILEX has been excluded from all of the meetings. Given ¾ of members are women, it’s a difficult circumstance for CILEX members to be excluded.

**LCN (Nimrod):** LCN has3 x given evidence to the JCHR on enforcement, and Amnesty International report contains a lot of LCN material. Very limited additional material they can produce on capture of client experience beyond anecdotal evidence. Technical questions arising in not-for-profit provision. (Julie Bishop) – LCN wants to be added to the civil panel. Key contribution for LCN will be on impact of the communities they serve. (Ruth Hayes) – Skills gap in areas which have gone out of scope is really important. There is a decreasing pool of people able to do this work, even if scope was again expanded.

**YLAL:** Not invited to any of the meetings. They have practitioners in all areas of practice. Committee members and ordinary members would be able to give coal face feedback. Have written to the Lord Chancellor.

**ILPA:** Legal aid working group has been looking at how to focus on ECF funding difficulties for immigration matters; also looking at scope for Parliamentary work to increase the transparency of this process. They are very concerned that no immigration solicitors have been invited so far.

**LEF:** Supporting colleagues to participate. They are particularly concerned by all of the access issues raised.

**Liberty:** Asked to join the civil panel, not added but invited to a one-to-one meeting, asked to produce an analytical submission in advance. No date yet provided. They will draw on experience of advice centre.

**PLP:** Not invited. Will be releasing a series of research documents and briefing papers on the impact of LASPO including, but not limited to, ECF.

**Education law group:** Skills atrophy, impact of exclusion on children including increase on budget impact; exclusion up to 40% post LASPO. Education cases simply not getting through the gateway. Basic access to justice questions on education. They will be focusing on ensuring that those issues are brought out during the discussion.

**Nick Armstrong:** Three issues/concerns. First, if it is a discussion about LASPO, it needs to be on the basis that LASPO is understood. Debate post-Worboys was very worrying. LASPO review will do nothing about issues around crowdfunding. Second, even if you make changes to scope and bring things back in will you regain what you’ve lost? The firms that were previously doing prisons work no longer all want to do it. If it isn’t the firms with expertise taking that work on, then is reinvestment going to work. Third, there is an increase in regulatory activity by the LAA, against firms in contracting; this is also sitting alongside a decrease in fair decision making by the LAA. None of this is going to encourage individuals to come back into the market.

**Polly Glynn (DPG):** Instinctively concerned. It seems very surprising that practitioners haven’t been invited to participate more proactively. Surprising that no one is able to speak to the business cases. Whole areas of law have been decimated where work not sustainable, housing, benefits etc. No proactive planning for clear gaps.

**Laura Janes (Howard League/LAG/JustRights):** Lobbying for inclusion from some of the organisations to be included but without complete success currently. LJ will attend the Crime session. Another colleague will attend the not-for-profit session. They are really concerned about the complete lack of transparency, excluding people and undermining the process from the outset.

**Mary-Rachel McCabe (DSC):** Concern about impact on housing of lack of benefits advice, as a housing practitioner. That HLPA hasn’t been invited is very disappointing.

**CRAE:** Not invited, but Just for Kids Law invited. Confused as to how the split has been determined. CRAE does more on policy. They’ve got in through their CEO. Education and exclusion are a priority; separated children in the immigration system; child trafficking.

**Richard Miller (The Law Society):** They produced a report recently on LASPO. Always MOJ is asking for “hard data”, but they aren’t interested in qualitative research, which is being dismissed frequently as “anecdotal”. The housing deserts issue remains a massive problem, where the fading away of expertise is plain. It is simply not economical for many to do that work left in scope. The Early Advice report is gaining some political traction beyond the MOJ. The means testing report, produced with PLP, has been well received. Research is about to be published on the “aging” of the criminal duty lawyer scheme. The youngest they could find in some areas was over 50 and there is a real concern that it is going extinct. On the telephone gateway, sufficient to say it isn’t working and isn’t being used. It is ripe for being scrapped. No stabilisation, just a continuous drop.

**James Sandbach (Law Works):**  Pro bono shouldn’t be considered as an alternative to legal aid. They have been invited to participate in the not-for-profit sector consultation. More rational and coherent approach to scope/making the system more accessible for vulnerable clients/early advice. Need to stress the third sector impact of LASPO, almost all of third sector funding went. It isn’t an alternative to legal aid. Need to keep on emphasising that there needs to be continuous and integrated provision. If they wanted to fulfil some of the objectives of the LASPO review, investment in the third sector advice provision might help.

**Martin Westgate QC:** Not much he can add beyond saying that the list of people at the consultative groups is hugely disappointing. He will attend the first meeting for the Bar Council. From the Bar’s perspective, we are least well equipped to speak to the front line issues that are arising. By the time it gets to us, the information we have might be gleaned from the figures in any event, beyond our own impression of impact on clients and the market. The way they’ve chosen the people who will be there is difficult to fathom. Bar Council may have the resources to conduct some of the statistical analysis that might be helpful.

**Polly Sweeney**: Will assist with LAPG but particularly concerned that individuals who are at the front line are not being heard. MOJ proceeding as usual to act without evidence and then expressing surprise afterwards when individuals have left the market (housing, benefits).

**Carol Storer:** Sent all relevant contact information including email addresses to MoJ officials weeks ago because was concerned that they would invite the wrong people. When she found out who was attending, she emailed again but it made no difference. Encourages everyone to ask for one-to-one meetings (but later on there was discussion of whether or not it would be better if groups got together and tried to meet that way). Question next is how to protest the process so far (possibly contact Bob Neill, Chair of the Justice Committee). The MOJ are keen on statistics, we should be providing them with key analysis of the quarterly statistics information that is produced. Re HLPA not being invited, CS understands that they are writing to the LC to support PLP’s letter.

**2. Consultative group meetings.**

There will be four consultative groups:: crime on 16 April; family and the advice sector (that’s two separate meetings on 18 April); and civil on 20 April. Real concern expressed in correspondence led by PLP about transparency in that process, including in respect of who will be attending. On the family side, for example, there are no practitioners.

**Civil:**

1. a. Bar Council
2. b. Citizens Advice
3. c. Law Society
4. d. Legal Aid Practitioners Group
5. e. Legal Services Consumer Panel
6. f. Litigants in Person Support Strategy
7. g. Professor Alan Paterson
8. h. Professor Dame Hazel Genn
9. i. Professor Jane Martin
10. j. Professor Roger Smith OBE

**Crime:**

1. a. Academy of Expert Witnesses
2. b. Bar Council
3. c. Criminal Bar Association
4. d. Criminal Law Solicitors Association
5. e. Dr Vicky Kemp
6. f. Howard League for Penal Reform
7. g. Law Society
8. h. Legal Aid Practitioners Group
9. i. Prisoner’s Advice Service
10. j. Professor Ed Lloyd-Cape

**Advice and Third Sector:**

1. a. AdviceNow (LawforLife)
2. b. Advice Services Alliance
3. c. Advice UK
4. d. Bar Pro Bono Unit
5. e. Citizens Advice
6. f. Howard League for Penal Reform
7. g. Just for Kids Law
8. h. Law Centres Network
9. i. LawWorks
10. j. Legal Education Foundation
11. k. Personal Support Unit
12. l. Nuffield Foundation
13. m. Refugee Council UK
14. n. Shelter
15. o. Victim Support

**Family:**

1. a. Bar Council
2. b. Coram Children’s Legal Centre
3. c. Family Law Bar Association
4. d. Family Mediation Council
5. e. Law Society
6. f. Professor Mavis Maclean
7. g. Professor Rosemary Hunter
8. h. Resolution
9. i. Women’s Aid

**ACTION: Carol will circulate the full list of participants for each consultative group meeting (see above) together with information on what the topics will cover. Each session will last for 3 hours. The letters sent out to participants (received about an hour before this meeting) suggests that there will be three meetings in each category.**

**NM** emphasised the issue raised in the PLP letter. What is the purpose and scope of the review? How is it going to progress and who will decide how it learns anything?

**JB** emphasises that the questions being considered at the Consultative Groups are not ones which can be addressed by those attending. It does smack of conspiracy, not cock up.

**DW** suggests that now we know who is attending, shall we all write again and say, please clarify how these meetings fit into the bigger picture (follow-up to the PLP letter).

**NA** suggests this meeting might help identify some key issues that we expect the review should cover. For example, Grenfell and housing advice access. No housing representation in whole sections of the country. Will the LASPO review cover these questions, and how?

**JB** notes that these consultations are always hopeless anyway. Entirely reliant on the minute taker. It almost doesn’t matter who is there. Might be better to put more efforts into not expanding those meetings, but thinking about what they really need to get the depth of information they need to get this right? It is all complicated stuff. They’re pretty happy about some of these impacts that are plain. It is vital that YLAL are represented. We need to think strategically about the format they think will work.

**NM** very concerned about one-to-one meetings. Bringing in people singularly, may mean that the only focus is on the labels being set by the MOJ, e.g. “family”, “civil” or “crime”.

**CS** emphasises the timescale. The time that they will take to do this properly is significant. If done properly it can’t be quick. Every delay means that they’re not making progress and they’re refusing to answer any intervening questions which have been raised (all being kicked off to be considered after the review).

Law Society **RM**, approach of those attending the meetings need to be emphasising what needs to be done, rather than trying to participate in what will be pointless meetings on substance. Let’s not shy away from saying the system is broken. We shouldn’t enter into the “no money left” discussion. We need to show that there’s a massive problem. Even if they don’t agree, they will need to report what they’re being told.

**PG** agrees that these meetings are pointless. Realistically the meetings could be used to try to pragmatically use them to ascertain what and how far officials might be willing to be pushed on low hanging fruit (e.g. Grenfell). Are there smaller areas of Daily Mail friendly improvement where we could make even an inch of gain?

**RH** surely the MOJ must be under some pressure given flight from the market.

**JS**: The review is very narrow. The MOJ isn’t simply getting the message about the crossover between legal aid policy and the work of other departments. We aren’t likely to get proactive investment in legal aid. We do need to have proposals on how to spend the money they have more wisely.

**3. Transparency and Accountability.**

As above. The concerns of the group were all grounded both in a lack of transparency and engagement.

**JB**: Is there anything that might come out of this engagement around the meetings which we could just treat as a consultation document? Get the questions being asked out to those who have the skills to answer them, get them to produce a hard, full answer, which those in their field can support and get behind it.

**RD (CILEX):** Problem is that none of this feels very open or public. Justice Committee? Is Bob Neill likely to want to do anything proactively under the cover of the Justice Committee? Is there a role now for us to whistle-blow how poor the review is so far to the Justice Committee team?

**4. Parliamentary engagement.**

Questions raised about whether engagement with the Justice Committee should now be proactive, to try to pressure the MOJ now? (**NA**) It is plain that the Justice Committee are watching how the review is being conducted and will be very engaged in the outcome (**AMP**). Do we think they’ll want to keep their powder dry?

**5. Next steps.**

**LAPG may consult those attending the meeting on issues arising which are plainly needed in responding to the review.**

**ACTIONS:**

* **Letters sent to all four consultative groups will be circulated to this group for consideration.**
* **It may be that we can then look at the questions being asked and use those as the basis of a “consultation document” to populate a written response to.**
* **Carol will also send some of the documents core to the review.**
* **LAPG will look into ways of populating a database of who will be interested in aspects of the review, and work already done on specific issues as a resource for joint working.**

**6. AOB.**