



**International  
Legal Aid Group**

*‘Teenager Build ‘UK’s First Robot Lawyer’ To Give Public Free  
Legal Aid – Huffington Post*

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## **EDITORIAL**

What a varied newsletter. First, you get a version of a formal response to a report on introducing online dispute resolution in the English courts. This might seem parochial but the subject matter of online dispute resolution is highly topical and the issues the same for all jurisdictions. Second, there is an appreciation of one of the best law centres in England and Wales, Bristol and Avon, This covers a largish area of the West Country and indicates how it is possible, particularly with a sympathetic local council, to continue as an innovative and effective centre even through what have generally been difficult times for law centres in this jurisdiction. Third, there is a short assessment (longer perhaps to come) of the legal aid situation in Nova Scotia, which should be enough to see off any knowing accusations of too great home coverage. Fourth, as further proof of a satisfactorily international approach is a summary of news on legal services’ issues around the world.

Additionally, you should receive with this newsletter a further edition of updating coverage on digital delivery and legal services. So, enjoy your read. We will back in the autumn. If you have anything that you think should be covered, then get in touch.

Best wishes to all.

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## **ACCESS TO JUSTICE AND ONLINE DISPUTE RESOLUTION: A RESPONSE TO THE REPORT ON THE CIVIL COURTS STRUCTURE REVIEW IN ENGLAND AND WALES**

*Roger Smith*

1. Lord Justice Briggs, a Court of Appeal judge in England and Wales, has recently published an interim report on the Structure of the Civil Courts. This is available at:

<https://www.judiciary.gov.uk/wp-content/uploads/2016/01/ccsr-interim-report-dec-15-final1.pdf>.

It might be regarded as an internal domestic matter but for the fact that the judge’s main theme is the possibilities generally for introducing IT into the working of the courts and, specifically, for creating an online small claims court. This assessment is based on one written for the Legal Education Foundation and available in full at:

<http://www.thelegaleducationfoundation.org/digital/civil-courts-structure-review-lord-justice-briggs>. One of the main themes of the response is to take account of developments around the world, in particular the Dutch *Rechtwijzer* programme developed by the Dutch Legal Aid

Board but also MyLawBC from the Legal Services Society in BC, the BC Civil Resolution Tribunal from its Ministry of Justice and elsewhere.

2. The Rt Hon. Ken Clarke, when Lord Chancellor, noted that access to justice was ‘the hallmark of a civilised society’.<sup>1</sup> Access to the courts has been judicially described as ‘a common law constitutional right’.<sup>2</sup> The right to a fair and public hearing is enshrined in the European Convention on Human Rights.<sup>3</sup> As a result, many of the principles set out by Lord Justice Briggs are not merely desirable: the core of them are constitutionally mandatory. The civil court system must be accessible, transparent and involve proportionate cost.

### **IT is precipitating major change in society at large and that will - and should - transform the courts**

3. There might be some confusion as to whether we are passing through a second machine age<sup>4</sup>, a third one<sup>5</sup> or a fourth technological revolution<sup>6</sup> but there can be little doubt that technological changes are occurring with direct and indirect implications for the court and legal system. Courts that ignore technology will seem increasingly remote from the everyday experience - and expectations - of their users.

### **‘The Reform Principles’**

4. Lord Justice Briggs sets out<sup>7</sup> his reform principles. These are:
  - (a) User-focus.
  - (b) Accessibility.
  - (c) Proportionate and segmented nature.
  - (d) Built on a ‘strong justice brand’.
  - (e) Transparency and accountability.
  - (f) Financial viability.
  - (g) Future proofing.
  - (h) With an appropriate human resources strategy.
5. These seem right but need the following gloss. The rapidly declining numbers using the small claims procedure and the employment tribunal probably illustrates the effect of disproportionately increased fees. More use of IT is to be supported so that costs and fees may be reduced and access increased. This is particularly important if legal aid is to remain at current levels. The duty at common law to retain access to the courts at proportionate cost has been judicially recognised (as noted above) and should be seen as, effectively, a constitutional right.<sup>8</sup> This is rather stronger than the reference in the report to the preservation of a ‘justice brand’ might suggest. The cross-subsidy provisions detailed in the Interim Report could mean that fees from low-income civil users may be funding the criminal courts, longer trials and family cases.<sup>9</sup> There is no problem with segmentation of the court structure as such. This is a well-established practice on which the courts are organised.

<sup>1</sup>see <http://www.theguardian.com/law/2011/oct/06/access-to-justice-legal-aid-cuts>

<sup>2</sup>Lord Justice Laws in *R v Witham* below

<sup>3</sup> Article 6

<sup>4</sup> *The Second Machine Age: Work, Progress, and Prosperity in a Time of Brilliant Technologies* Erik Brynjolfsson and Andrew McAfee, Norton, 2014

<sup>5</sup> <https://medium.com/message/failing-the-third-machine-age-1883e647ba74#.sw3y3n6y1>

<sup>6</sup> *The Fourth Industrial Revolution* K Schwab, World Economic Forum, 2016

<sup>7</sup> in Para 1.8

<sup>8</sup> *R v Witham* [1998]QB 575

<sup>9</sup> Para 3.15

There are, however, arguments against the creation of a functionally separate online court (see below. 'Tiered' or 'divided' might imply more permeability between parts of the court than the words in the report might suggest.

### **There should be departments dealing with different elements of introducing online provision within the courts structure but not a separate Online Court**

6. The Interim Report deals with the advantages and disadvantages of creating a separate online court for small claims. At one level, this may be a question of semantics. However, the attention given to the issue in the report suggests an underlying importance. The major advantage of a separate structure may well be psychological. It might assist those seeking to drive the project forward. On the other hand, it might tend to obscure the general direction towards online being expected of the system as a whole. Further, Lord Justice Briggs accepts that the term does not actually imply a wholly online process of determination. Instead, he says that: 'In fact, the true distinguishing feature ... is that it would be the first court ever to be designed in this country, from start to finish, by litigants without lawyers'.<sup>10</sup> The prospective banishment of lawyers from the new court may not actually be an historical first. The small claims procedure was originally designed in response to consumer demand in the early 1970s as operating without lawyers. The intention for both small and large claims is that the court will deal with them through a series of procedures and methods of determination, which may be both on and off line. The danger of identifying small claims as specifically online is that, in practice, this might accentuate a process whereby it becomes a poorly funded area devoid of resources to the benefit of the rest of system. On balance, the arguments might lie against describing the small claims court as *the* online court. Small claims will be a largely but not wholly online procedure within a court structure, the vast majority of whose processes and procedures will eventually be online.

### **Experience in other jurisdictions should be consulted before any final decisions on implementation are made**

7. Lord Justice Briggs' proposals for an online small claims court are almost identical to those, which are considerably more advanced for British Columbia's Civil Resolution Tribunal (CRT). This is designed to come on stream sometime this year and to deal with small claims and a form of housing dispute relating to the common parts of apartment blocks (known as 'strata disputes'). The CRT already has experience that will be of value. For example, although intended to be voluntary, it has decided that it must, for practical reasons, become mandatory fairly soon after coming on stream. This is its explanation.

#### *Why the move to a mandatory CRT?*

- *The original CRTA provided for a voluntary tribunal, meaning that all parties (except strata corporations) must agree to resolve their dispute using the CRT.*
- *The voluntary model provides an opportunity to test and improve the CRT.*
- *However, we are learning that voluntary dispute resolution programs show low uptake and as a result do not improve access to justice or reduce costs.*
- *The proposed amendments will increase access to justice by bringing all parties to the table to resolve their disputes, while also maintaining a person's right to seek resolution in court.*
- *When fully implemented, the combined CRT and Provincial Court small claims jurisdictions will provide a cost-effective and accessible process for resolving small claims.<sup>11</sup>*

<sup>10</sup> Para 6.5

<sup>11</sup> <https://www.civilresolutionbc.ca/faqs/>

8. If replicable in England and Wales, the finding of reluctance by users to choose the online system is relevant to how it is to be formulated. Either the proposal should be put as mandatory from near to the beginning or proposed as much more of a pilot. I favour the second. A continuing off-line adjudicating procedure - effectively as at present - seems to us crucial since it cannot yet be assumed that sufficient numbers of people can deal with online procedures. Evidence from the actual experience of the CRT will be important in this regard.
9. There are a number of other jurisdictions whose experience it would be useful and important to consult. For example, the US state of Ohio has an operating online system for tax appeals which is formulated on exactly the three stage model for a small claims jurisdiction posited in the report. The Netherlands has an online system for the determination of divorce and ancillary measures, which would move a prospective litigant through all three stages in one programme. As an immediate matter, before a final report and certainly before any move to implementation, a systematic evaluation of these should be made. Further, given the capacity of large IT projects to go amiss (as noted with some trepidation by Lord Justice Briggs), it would surely be prudent to delay any decisions on implementation of domestic systems until after there is some experience by others of systems that are actually in action. In matters of technology, early adopters do not always win out - particularly if they cannot afford to make a mistake. The Civil Resolution Tribunal in British Columbia is, as noted above, due to go live later this year. In this country, the work of the London Parking Adjudicator provides some experience of online provision - albeit in a specialist and limited area of work.<sup>12</sup> The *Rechtwijzer v2.0* began work at the end of last year. All these - and, no doubt, others - need to be evaluated.

### Small claims: Three stages and advice/information

10. Lord Justice Briggs adopts the three stage or tier approach for the online court suggested by a Civil Justice Review committee chaired by Professor Susskind (<https://www.judiciary.gov.uk/wp-content/uploads/2015/02/Online-Dispute-Resolution-Final-Web-Version1.pdf>).
  1. Stage 1 will be 'a mainly only automated process in which litigants are assisted in identifying their case (or defence)';
  2. Stage 2 'will involve a mix of conciliation and case management'.
  3. Stage 3 'determination by judges ... either on the documents, by video or face-to-face hearings but with no default assumption that there be a traditional trial'.<sup>13</sup>
11. This is a methodology which can be seen in the existing approach of the Board of Tax Appeals for the State of Ohio and, again, it would be prudent to seek some feedback on how it works.<sup>14</sup> It is also close to the procedure proposed for British Columbia's Civil Resolution Tribunal (see above). The extent to which courts and their officials can give advice on the phrasing of procedures can raise tricky ethical issues - e.g. in relation to independence and the avoidance of advice to litigants - and again it would be worth exploring how these are being dealt with. For example, in relation to the overlapping jurisdiction noted by Lord Justice Briggs in employment matters would a court official be correct (even allowed) to advise avoiding the tribunal and going to court because of lower fees? If so, how does this impact on Government policy? Stage 1 needs further consideration. There probably need to be a number of routes into the court. Repeat players will not need the same assistance as those involved in litigation for the first time. There also needs to be integration between the general advice available and that provided by the court.

<sup>12</sup> <http://www.londontribunals.gov.uk>

<sup>13</sup> Para 6.7

<sup>14</sup> ref

12. There is another model for Stage 1 - the *Rechtwijzer* designed for, and now in operation by, the Dutch Legal Aid Board. This uses a sophisticated guided pathway approach to determining the issues at stake for the parties. It has impressed other jurisdictions and its approach is being copied in British Columbia by its Legal Services Society in a MyLawBC site (entirely separate from the Civil Resolution Tribunal and soon to come on stream) and by Relate in England and Wales (planned to be operational in the summer). Its model is to reach out to someone unsure of their position and to guide them through a series of interactive questions to the best way of presenting their case. In doing so, the websites go significantly beyond the traditional role of a court in helping someone to identify their problem. This is entirely appropriate for a website produced by a Legal Aid Board or other independent organisation: it might be problematic for a court - though the US State of California, for example, has a range of self-help provision for litigants in person, both on and off line. This needs further consideration.
13. It might be that Stage 1 should be shared by the courts with the independent advice agencies providing online assistance already - the Citizens Advice service and Law for Life through the [citizensadvice.org.uk](http://citizensadvice.org.uk) and [advicenow.org.uk](http://advicenow.org.uk) websites. Thus, there might be three ways through to the small claims court: external interactive website such as one of these two but linked to a court Stage 1 site; an interactive Stage 1 court site with such elements as online automated document assembly to assist unrepresented litigants; and, for those who are experienced users, online electronic filing (when provided) as for the rest of the courts.
14. Stage 1 will raise multiple questions that require strenuous user input (being sought for both the Dutch and British Columbia models). For example,
1. Should the court Stage 1 site be mobile compatible (the CRT considers this necessary and is developing it)?
  2. What personal assistance is, in practice, required by litigants in person? California runs, for example, classes for litigants in person and the lesson seems to be that people need face to face assistance to make maximum use of online provision. This will need to be costed into an online structure.<sup>15</sup>
  3. How can litigants in person pay electronic fees if they have no credit or debit card?
  4. How do you preserve channels for experienced users to access the court which contain shortcuts inappropriate for litigants in person?
  5. How do you authenticate access by litigants in person to their electronic court file while maintaining sufficient privacy and security? Some courts in California are turning to forms of electronic identity cards that will do this:
  6. How does the general small claims procedure relate to the existing provisions for bulk money claims?
15. Furthermore, the lesson from any IT project is that you need to build it on the iterative principle of 'building to fail' i.e. building in recognition that success will be built on successive failures as problems are ironed out after practical testing. Such agility may prove difficult for a court service. That might suggest, all the more, that not for profit agencies are funded for the best part of Stage 1. Certainly, the courts service needs to be bold enough to open up decision-making on Stage 1 to wide consultation. It is vital that user views and user-testing are deployed in developing online procedures to be used by litigants in person. This has been done with multi-disciplinary teams working on the issue in British Columbia and The Netherlands. The best way of institutionalising this process would be to establish a team with representatives from the main stakeholder groups - the major advice sector agencies, the money advice sector, the law centres and the legal profession. This could be chaired by a judge, but the process must be collaborative.

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<sup>15</sup> ref and more

### Suitable cases for online procedure: the value of a phased approach

16. The interim report suggests that a list of cases, which should, 'at least provisionally', be kept away from online determination.<sup>16</sup> They are:
  1. most housing possession cases;
  2. injunctions and non-monetary relief claims;
  3. class claims;
  4. claims by or for minors and other protected parties.
  
17. It might be preferable to consider the nature of claims, rather than types of cases, which would be unsuitable for online determination. If we can safely identify these - and see online procedures open to the all courts - then it will be easier to look at matters like uncontested divorce which would fit easily within the online structure but be outside any small claims court. The approach of the civil and family courts to the introduction of online procedures should proceed together. The IT considerations are the same.
  
18. The nature of case which is, prima facie, unsuitable for online resolution might include:
  1. Those with a high degree of factual dispute;
  2. Those involving a complicated matter of law;
  3. Those where one or more litigant is unable or unwilling to handle satisfactory online resolution.
  4. Those where there is the threat of violence between the parties.
  5. Those where public policy suggests it is unsuitable or the issue at stake is a matter of public law.
  
19. In such cases, offline resolution must remain. The category of those unable to handle online resolution needs to be determined in practice. It certainly cannot be assumed that everyone will be able to handle exclusively online transactions - and this may prove to be a problem for British Columbia's proposed mandatory use of its online court. Research commissioned by TLEF suggests that, of the population formerly entitled to civil legal aid before 2013, the proportion of those willing and able to operate online may be as low as 50 per cent.<sup>17</sup> It certainly cannot be assumed that effective access simply equates with access to the internet. That will be a maximum figure from which deduction needs to be made for those with insufficient language, cognitive and technical skills to use that access. And, on the other hand, we do not yet know definitively how many people can use access if assisted - though courts in, for example, California assert that person-to-person assistance - though not necessarily individually and often through collective classes - can make an enormous difference.
  
20. No advance position on the limits of access need be taken if the approach to implementation is phased, gradual and subject to the maintenance of existing systems. We can see by experiment what is possible. We would strongly recommend, therefore, the avoidance of any 'big bang' approach. The courts might begin with offering online as an option induced by lower costs to current small claims litigants without prejudice to how far this might ultimately extend as lessons are learnt. The experience of HMRC in raising participation levels in this voluntary way suggests that it works as users experience see the benefits. The concept of 'beta' testing is routine in the online world even it is foreign to the usual model for creating judicial rules. Adjustment must be made.

<sup>16</sup> Para 6.43

<sup>17</sup>Chapter 2, *Digital Delivery of Legal Services to People on Low Incomes* R Smith, LEF, <http://www.thelegaleducationfoundation.org/digital-report>

21. The degree of judicial accountability for decision-making in the online procedure needs to be clear. Non-judicial members of staff may well be able to assist in procedural matters. Adjudication is, however, a judicial function which may not properly be delegated to someone without the independence to be expected of a judge. It would not surely be proper for a member of staff of the Ministry of Justice to decide disputes. There would need to be a method for the retention of responsibility by a named judicial figure for the final determination of claims.

### **Targets, monitoring and research**

22. A major omission with many IT projects is lack of sufficiently specific initial goals and a failure adequately to measure performance. The courts need to enter into this reform with specific targets to meet. For example, Lord Justice Briggs reports that the target for resolution of a small claim is 30 weeks. He says that this is 'particularly by comparison with some neighbouring jurisdictions, reasonably satisfactory'. He does admit: 'that is not to say the targets ... are invariably or habitually met'. He even accepts that the 'fast track' might not 'truly' be fast. The courts have to take their place in a world where, in sales transactions, user expectations is set by Amazon's next day delivery service.
23. An exciting dimension to the rebuilding of the small claims court would be to work backwards from user expectations. It would be possible to begin with a target time frame - say 15 week determination of a 'routine; small claim. Furthermore, the courts might replicate private sector ways of working to begin also with a target price for the whole process from issue to hearing. The challenge would then be to build a system within those constraint. A framework for the measurement of success comparable to that in private sector would also be provided.
24. Lord Justice Briggs' report is noticeable - and, perhaps, the more readable - for its lack of detailed statistics and its absence of consideration of independent research. This may be appropriate for a report designed to induce debate: it will not be appropriate in the final report as we move towards decision-making and implementation. We need to know how many of what kind of cases are being expected in different routes through the courts. We also need figures to provide operational targets.

### **Recognition of the Need for Help for Litigants in Person within the Court Process**

25. The work of the civil courts, as the interim report makes clear, is being transformed by the demise of legal aid for large areas of work. This challenges the underlying assumption that both parties will be legally represented in the majority of cases. It challenges the role of the judge. It challenges how procedures can operate. We need to learn from the experience of other jurisdictions that have more experience than we have (because of the formerly relatively high levels of legal aid and representation in our jurisdiction).
26. The Legal Education Foundation is about to publish an examination of the work of the self-help centres in the California courts. A senior administrator in one of California's counties advanced the proposition that this provision more than saves its cost by empowering litigants who would otherwise be unable to handle working on their own. The provision provides online, telephone and physical assistance, offering major training programmes for small groups of self represented litigants. The self-help centres have facilitated the integration of video and training within the court process beyond what is possible with the Personal Support Units in our courts or the limited assistance provided by such as the Royal Courts of Justice CAB. Any restructuring of the courts must allow for expenditure on, employment and accommodation of staff whose job is to help litigants in person within the court service. The

Ministry of Justice or the Courts themselves should urgently investigate how other jurisdictions, such as California, provide assistance in situations where legal aid is not available. A spine of full-time staff will be required, albeit that volunteers can be deployed. It would also seem likely that simply providing telephone assistance will not be enough. The success of courts in California, such as those in Orange and Los Angeles counties, in providing assistance through dealing with groups of litigants facing the same problems by way of collective training should be noted. It is through ways like this that jurisdictions without levels of legal aid at our traditionally high levels have learnt to cope with large numbers of self-represented litigants and we need to learn the lessons of this. There needs to be specific consideration in the final report of how to deal with the issues raised by litigants in person and whether court-based assistance such as that provided by the Personal Support Unit or the Royal Courts of Justice CAB can be better developed.

## Conclusion

27. Thus, the general thrust of Lord Justice Briggs' report is to be welcomed. But the devil, as ever lies in the detail of implementation. It is greatly to be welcomed that Lord Briggs does now seem likely to travel to the West Coast to see BC and California as well as discussing the *Rechtwijzer* with those concerned in its development.

## LOOKING FORWARD OVER A SHOULDER: BRISTOL AND AVON LAW CENTRE

*Roger Smith*

It is nigh on forty years since I last worked in a law centre. So, if a lawyer from the glory days of the early seventies goes back to a centre generally acknowledged to be one of the best of the current crop, how much is recognisable; how much has changed; and what are the issues of wider relevance? Those were the questions to be asked in a recent visit to Avon and Bristol Law Centre.

Much remains unchanged. The building is certainly in the same style: functional public office - lino on the floors, premises in a single story office that once held Bristol's trading standards department. The staff (with exceptions to come) are little different from the early days - hair a bit shorter; dress a bit smarter; same commitment to clients. The centre's areas of work are broadly the same: social welfare (or, as I would prefer it, 'social justice') cases, public law, no family, no crime.

The centre is much bigger than most in the 1970s. It has a complement of over 20 staff, 16 full time equivalents. Its catchment area is large and somewhat fluid - a mix of services funded for Bristol residents, other elements of the former Avon Council and various legal aid contracts that take the centre down to the tip of Cornwall and out into Wales. These reflect a much wider range of funders for one centre than was usual in the days when most just got a block grant, with few conditions, from their local authority. This law centre pulls together funding from local authorities, foundations, trusts, legal aid in a way which is more reminiscent of the way that national organisations, like CPAG or JUSTICE, operate than one which is locally based. Clare Carter, the centre's director, and Will Stone, its chief supervising solicitor and leader of the employment and discrimination team, both thought that the formation and then the split up of the former Avon council had been a particular factor in encouraging the centre to look outward beyond a narrow range of services to a narrow catchment area. Indeed, more generally, one of the distinctive features of the law centre has been its capacity for partnership. It places itself firmly as a second tier agency taking referrals from those organisation delivering primary advice. Other Bristol agencies have been happy to see it as the lead agency for Bristol's Advice Services Transition Fund with its membership of other primary advice providers.

One of the big differences, however, from the early days is the nature of the law centre's management. Founded in 1984, the centre had until recently been a collective. But, four years ago,

it appointed Clare Carter, a former family lawyer, as director. After a rather untidy period with a couple of interims and a maternity leave, the management structure is developing further. The centre has just got itself a practice manager to whom its team leaders will report. Jane Rivers used to work for the Legal Aid Agency and helped the centre as a consultant before taking up her post. She explains her job: 'My main role is to manage the caseworkers' performance. People have been focused on doing everything for each client. I am trying to ensure that this takes place within the constraints of funding available.' The centre records time on cases: 'it starts a conversation about what people are doing'. It expects four hours of work for clients a day and the hitting of various outcome measures. It has begun measuring cost and putting a value of work undertaken. This, admits Ms Rivers with likely understatement, 'involves a bit of a mindset change'. But, the centre's success in more than surviving when many other NGOs in the field have sunk without trace provides a pretty good argument for the new approach.

A sideways insight into the centre came from Sarah Sadek, the trainee who was able to compare it with the London legal aid practice in which she had worked before coming to the centre: 'There was a lot of change in the private sector so I am not shocked by change. There is much more integration of law here - for example looking at mental health issues in an immigration case. In London, there was never enough time to look at anything other than the immediate case before you. And the cases here are more complex. That may be because of the greater number of referrals from other voluntary sector projects like those dealing with refugees or the victims of trafficking.' And how does she find the centre? 'I would definitely say that this is the happiest place that I have worked'.

You can tell that the centre has put the hard yards into planning. It has Lexcel accreditation. There is a strategic four-year business plan from 2013 supplemented by annual ones. In the modern way, missions are declared; values are specified; key achievements listed; strategic objectives identified; and actions specified in the fashionable SMART style. The reality seems in pace with the words. The funding strategy has twelve potential donors lined up for a phased approach - so far it has proved remarkably successful. It all represents an enormous amount of work and provides the kind of framework necessary for survival in the modern world.

The centre stitches together funding in the current year of around £800,00 a year. About a quarter comes from Bristol City Council for work in specified areas such as employment, discrimination and housing. There are legal aid contracts for upper tier representation in social security and public law (taking the centre beyond its narrow catchment area). Transition funding is also helping with benefits work. A Comic Relief project is chipping in. The centre has even managed to raise a small amount from paying clients - though currently little more than £2000 in the year. The centre has a successful Legal Advocacy Support Project (LASP). This gives law students pro bono experience of advocacy in social security appeals. It is a sort of mini Free Representation Unit limited to social security cases with students trained for placements of a minimum of 30 weeks. The centre has had about 10 to 15 students working with it, largely from the University of Law and the University of the West of England based in the city. Andy King, its manager, is enthusiastic: 'It is such a joy to work with such enthusiastic and bright young minds. We choose the best students. Most get firsts. We are interested in the extent to which we might be able to scale this up. We are looking to expand. It will be interesting to see if the LAASP model can develop into working with particular groups of clients such as those with a disability such as ME or work infields like homelessness or housing possession'.

As one would expect, the external world of legal aid cuts and the internal requirements of contracting impinge on the work of the centre. First, unlike Belfast where law centre staff reported increasing competition from private practice providers in fields like mental health, Bristol - according to team leader Roman Mulqueeney, is facing a retreat of practitioners from areas which once were funded relatively generously by legal aid. Second, the withdrawal of legal aid in family cases is impacting in variety of ways. Some of these were not probably foreseeable such as where a family issue intersects with something else as when issues arises over the care of the children of a mother suffering from episodes of mental disorder. At the very least, there needs to be more flexibility in the application of the cut. Third, the patchwork nature of different entitlement for different types of cases

leaves clients with decisions on eligibility which it was quite difficult for them to understand. The funding mix exacerbates the mess that is currently legal aid scope.

And, so, the overall judgement? There is little doubt. This is an effective organisation and, for all the tensions that there must have been about change, it would be surprising if it were not, therefore, a good place to work. It is well organised; well, if a little precariously, funded and well managed. It clearly lives in harmony with its council - which is creditably committed to advice and representation - and with agencies that might, in other places, be its competitors. In any rational world, Avon and Bristol Law Centre would be seen as a replicable model of social justice provision - differing from community law centres in Australia and Ontario by being primarily 'second tier' and operating by referral from, and integrally linked to, surrounding primary agencies. If legal aid funding were ever to flow back into social justice then replication of its model might be a better and more controlled way of expanding provision than reinstating the old private practitioner advice scheme.

The big question which looms out of law centres' past is the balance of individual casework and the collective or strategic - whether in terms of community work or legal test cases. For Clare Carter, the key issue is understandably 'the pressure of resources to meet the changing basis of need. We are having to focus our resources on those that need it.' And, one might add, those for whom some funder will pay. Here the centre encounters a contemporary issue of importance in a number of jurisdictions and on which work is being done in, for example, the US, British Columbia and Australia which might profitably be brought together. What outcomes can be shown from the work of a law centre and how can they be measured in a way that potential funders will accept and understand? In the old days, this was the point where the answer tended to dissolve into a somewhat vague rhetoric. Now we need to develop a sufficient sensitive methodology to reflect sufficiently sensitive outcomes. The success of Bristol and Avon Law Centre puts it in as good a position as any to contribute to this international debate. And, as you would expect, this is a question on which, down in Bristol, work is being done.

## LEGAL SERVICES IN NOVA SCOTIA: A SHORT NOTE

*Roger Smith*

Nova Scotia is remote and it feels like it. I thought I would take the train to Halifax and back from Montreal. Each trip would take a day and a night: it was not realistic. Interestingly, Halifax Station is vast and apparently remains ready to function as it once did when the port was the major point of entry to vast numbers of immigrants and other travellers. The facilities for processing New Canadians are now a museum: the town has the not unattractive feel of having passed its peak. It retains a real charm; the people are friendly; and the coastline spectacular. It is good tourist destination but how does it fare if you visit to explore its legal aid?

I had only a passing visit last summer - just long enough to explore the surface of Nova Scotia's legal services provision and Halifax's coffee shops (top recommendation - Steve O Reno's - way, in my view above the rest).

For an English lawyer, there were three particular things to take away.

First, and no doubt aided by the closeness of the legal community, the province has an access to justice coordinating committee that follows the model in other Canadian provinces and some US states. It is chaired by the Chief Justice and its role is to 'provide leadership to a cohesive and collaborative approach for access to justice initiatives in Nova Scotia' ([http://www.courts.ns.ca/News\\_of\\_Courts/news\\_docs/NSA2JCC\\_Terms\\_of\\_Reference.pdf](http://www.courts.ns.ca/News_of_Courts/news_docs/NSA2JCC_Terms_of_Reference.pdf)). It brings together the main players in the province - among them, Nova Scotia Law Aid, the Minister of Justice (the co-chair) and leaders of the Bar. This is a model which we should follow: it is proving its worth in a number of Canadian jurisdictions.

Second, strapped for cash as it is, Legal Aid Nova Scotia makes considerable use of salaried lawyers which it clearly finds an economic form of delivery. Of the near 20,000 cases in which it funded full service representation nigh on 16,000 were provided by staff lawyers. Its two largest areas of work are respectively family and crime. Under chief executive Karen Hudson, there has been an emphasis on seeking to provide some level of service more widely than previously. Thus, there is an enhanced duty counsel program and more emphasis on legal information. Some of the cost appears to have come from getting staff lawyers to take on more major criminal cases. There are, however, limits - as the 2014-15 annual report makes clear, 'Staff complement will have to be increased. Present staff levels are at capacity. Staff have stepped up to the plate and have answered the call to "do more with less" but as the number of those we service increases, so must those who provide the service.'

The organisation can espouse a distinctively poetic style of discourse somewhat rare in most legal aid annual reports. How about this from the website homepage?

*Legal Aid is the whetstone to the sword of Justice, ensuring that her strokes are measured, efficient and accurate when dealing with wrongdoing. Legal Aid also ensures that her scales are calibrated to take into account the rights and interests of the most vulnerable.*

*We have evolved from a time when one's wellbeing and security depended on who had the ear of the King. Through the sacrifice of generations, we have become a society based on the rule of law. We are a society that holds sacred both the blood of those fallen in defence of our values and the ink of statesmen.*

*Our history teaches us that legal aid is not a charitable endeavour but a necessary enterprise if we are to preserve government based on the rule of law. Without legal aid, those outside the corridors of plenty will come to regard our system of justice, at best, as out of reach or not involving them. At worst, they will hold it in contempt and see it as an instrument of oppression.<sup>18</sup>*

To which, you can only really say 'Right on'.

Finally, the Province has an active Legal Information Society (<http://www.legalinfo.org>) dedicated to the public legal education function which Canadian jurisdictions tend to take seriously. This provides legal information on its website in the way that you would expect. It also runs a 'public navigator' program in which non-lawyers are trained to provide assistance to self-represented litigants and which is cautiously claimed by the society in its latest annual report as one which 'appears to be the first of its kind in Canada'.

## NEWS

The news items shown below are largely compiled from articles on the internet, found on the basis of a simple search for terms such as 'legal aid', 'access to justice' and 'pro bono'. Therefore, readers must, just as buyers, beware of authenticity. The links worked at the time of writing but some will obviously fail after a period of time.

Paul Ferrie, who is ILAG's Researcher and Online Editor, collates these news items. Paul, a graduate of the University of Strathclyde Law School, is also a solicitor with Scottish firm, Waddell & Mackintosh.

If you would like to suggest or write an article for inclusion in this newsletter or the ILAG website, please contact Paul by emailing [paul.s.ferrie@strath.ac.uk](mailto:paul.s.ferrie@strath.ac.uk). Paul can also be contacted via Twitter

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<sup>18</sup> <http://nslegalaid.ca>

(@psferrie) – and LinkedIn (<http://goo.gl/l9cmNd>). Please note, Paul's work with ILAG is undertaken on a part time basis and he will revert to you as soon as practicable.

## Australia

[ABA tackles Indigenous incarceration and legal aid shortfall](#) – Lawyers Weekly  
[Community legal centre funding must be restored](#) – ABC News  
[Legal aid online chat service surpasses 1,000 users](#) - Lawyers Weekly  
[Legal aid funding cuts highlighted as Law Society of SA seeks more federal money](#) – ABC News  
[Legal bodies urge government to rethink legal aid cuts](#) - Lawyers Weekly  
[Thousands more to get help as Victoria Legal Aid lifts thresholds](#) – The Age

## Canada

[Access to justice is more than a buzzword at IDEALaw](#) – The Coast  
[Reasonable Doubt: Why Better Access To Justice Is Every Canadian's Issue](#) – Now Toronto  
[UVic Law launches new access to justice centre](#) – Canadian Lawyer Magazine  
[Veterans Legal Assistance Foundation established to provide Canadian veterans better access to justice](#) - Newswire

## China

[Activists Sentenced; Women's Legal Aid Center Closed](#) – China Digital Times  
[China Detains Swedish Legal Aid Worker](#) – China Digital Times  
[China legal aid centre closed over foreign donations](#) – Mail Online  
[China releases Swedish rights activist Peter Dahlin](#) – BBC News

## England & Wales

Bar Council criticises Lord Justice Briggs proposals for on-line access to justice  
<http://www.barristermagazine.com/bar-council-warnings-lawyerless-courts-will-entrench-two-tier-justice/>  
[CMA to study legal services market over standards and regulatory concerns](#) – Solicitors Journal  
[Court of Appeal rules Government cuts to legal aid for victims of domestic violence 'legally flawed'](#) – Independent  
['Going into legal aid work now is career suicide'](#) – The Guardian  
[Labour access to justice commission to meet formally for first time](#) – The Guardian  
[Lawyers fees and legal aid cuts block access to justice, warn top judges](#) – The Telegraph  
[NAO: Criminal justice system not delivering value for money](#) – Solicitors Journal  
[Teenager Build 'UK's First Robot Lawyer' To Give Public Free Legal Aid](#) – Huffington Post  
[Top judge warns rise in court fees 'risks access to justice'](#) – Banbury Cake  
[Solicitors welcome Gove's legal aid retreat](#) – Law Society Gazette  
[Supreme Court to consider tribunal fees and legal aid residence test](#) – Solicitors Journal

## Fiji

[Justice Accessible For Everyone](#) – Fiji Sun Online  
[Legal Aid For All, Says A-G](#) – Fiji Sun Online

## Gambia

[Access to Justice, Legal Education Project Launched](#) – All Africa  
[Gambia Ranked 126th In The World On Access To Justice For Children!](#) – Freedom Newspaper

## India

[Centre to give Rs 148 crore to National Legal Services Authority](#) – DNA India  
[Government considers legal backing for mediation](#) – Times of India

[NE students get legal aid cell at NIT Jamshedpur](#) – Times of India

[Odisha to have legal aid centres in panchayats](#) – Times of India

[Osborne: India to liberalise legal services](#) – Law Society Gazette

## Malaysia

[Malaysia is 130th in children's access to justice report, below India, Bangladesh, Sierra Leone](#) – Malay Mail Online

## New Zealand

[Financial nightmare of being wrongly accused of a crime](#) – Stuff.co.nz

[Māori Party supports review of the justice system](#) – Radio New Zealand

[New criminal legal aid fees 'a welcome first step'](#) - Voxy

[The Dangers in Rise of Self-Represented Litigants](#) – LawFuel

## Northern Ireland

[Justice in state of limbo as legal aid row delays cases](#) – Belfast Telegraph

[Legal aid dispute: Lawyers and DoJ enter mediation](#) – BBC News

[NI legal aid dispute over fee cuts is resolved](#) – BBC News

## Pakistan

[People don't have access to cheap justice, says SC chief justice](#) – Daily Times

## The Philippines

[PH ranks 58th in the world in children's access to justice](#) - Inquirer

## Republic of Ireland

['State disregard' for access to justice during recession](#) – Irish Examiner

## Singapore

[MinLaw 'committed to promotion of access to justice': Indraneel Rajah](#) – Channel News Asia

## South Africa

[Rape in South Africa: why the system is failing women](#) – Times Live

## Scotland

[Anti-rape groups hail legal aid ruling](#) – BBC Scotland

[Fourth monitoring report on the availability and accessibility of legal services published](#) – Scottish Legal Aid Board

[Justice system needs radical overhaul so sex crime victims are fairly treated](#) – Herald Scotland

[Law Society seeks solicitors' views on impact of court closures](#) – Law Society of Scotland

[Law Society sets out its priorities for next government including simplification of legal aid](#) – Scottish Legal News

[Report says "work still to do" to make Scotland fairer](#) – Kaleido Scot

[Scotland waits nine years for legal reforms](#) – Herald Scotland

[Scottish ministers overruled on abuse victims' legal aid rights](#) – Common Space

[Top judge hints at further reform for the country's legal system](#) – Herald Scotland

## United States

[Access to Justice Helps New Yorkers Navigate Courts](#) – WXXI News

[Dallas Volunteer Attorney Program Equal Access To Justice Campaign Exceeds \\$1 Million In Donations](#) – Dallas Weekly

[Release of Civil Legal Aid Research Workshop Report](#) – U.S. Department of Justice’s National Institute of Justice and Office for Access to Justice with the National Science Foundation  
[Renewed, independent Access to Justice Commission to advocate for legal aid](#) – The Daily Record  
[Texas Legal Hotline Opens for Sexual Assault Survivors](#) – Public News Services

For more information about the work of the *International Legal Aid Group*, please visit our website which can be found at <http://www.internationallegalaidgroup.org>.