JUSTICE - ILAG

LEGAL AID NEWSLETTER

No. 23 January & February 2012 R. Smith

EDITORIAL

Welcome.

A couple of beefy articles and a good range of news this month.

The express purpose of the first article below, on the use of the internet to provide legal services to the poor, is to provoke a response. So, if any thoughts occur to you then send them in – either in terms of arguments to be covered or websites to be consulted. Its conclusion is that much of what is currently on the net is, frankly, worthy but dull. If you disagree let me know. The world must be buzzing with potential models for the future of legal advice through the net and the Dutch cannot be the only country to have explored a coherent, national approach to the delivery of on-line advice and mediation or arbitration.

Roger Smith

Rsmith@justice.org.uk

ARTICLES

The internet and legal services for the poor

Roger Smith

This paper has been written to provoke feedback – particularly from those who disagree with its argument or wish to argue that vital evidence and example has been missed. It has been prepared on the basis of a very initial look at the field and will be riddled, I hope, with points that people will want to take up. It has been prepared in the context of a research project into the use of the internet, telephone hotlines and other means of delivering legal services that do not involve the traditional 'face to face' format. Any feedback would be really welcome and will be received with thanks at Rsmith@justice.org.uk. It concentrates, in the main, on the delivery of legal advice.

Spend a day or so trawling websites for legal advice. It puts claims for the white heat of the IT revolution in a bit of context. I took two topics legal rights in relation to housing disrepair road traffic offences. These are two classic sources of enquiry for, in the first case, the NGO advice sector and, in the second, traditional 'High Street' legal practitioners. Both were, to be honest, enormously disappointing in terms of moving beyond what is effectively the digital leaflet stage.

A tenant looking for advice on dealing with a leaking roof is confronted with a 4,650 word screed on the Citizens Advice Bureau website (http://www.adviceguide.org.uk) ; a better presented and much shorter section on specialist housing advice NGO Shelter's website (http://www.England.shelter.org.uk); a portal site that refers to both of the above and others (http://www.advicenow.org.uk); and clear information expressly transcribed from a leaflet (Coventry Law Centre - http://www.covlaw.org.uk/housing/leaflets/leaflet5.html). These are worthy but pretty dull - particularly the CAB site which it is difficult to see attracting much custom from confused members of the public. None of it is interactive. There is very little use of the visual and none of video.

Most of the road traffic offences information was much the same though there was more glitz in the presentation. The sites often had a commercial purpose so the websites made it much easier to move from getting information to emailing for advice. Sites such as http://www.lawontheweb.co.uk/ or http://www.pattersonlaw.co.uk/ had the facility to email direct from the webpage. Nick Freeman, self-proclaimed Mr Loophole, even had video: http://www.freemankeepondriving.com/.

One road traffic advice site declares itself different (http://roadtrafficrepresentation.com/) and, to be fair, is. It takes you through an interactive process of question and answer to give you advice. My test speeding enquiry seemed to be dealt with well enough. It describes itself as follows:

> Much of this involves a process that can be streamlined and automated, which is what we offer. You are asked a series of questions and your answers produce an automated free diagnostic advice on possible outcomes and penalties if convicted. It replicates the process that a solicitor would ordinarily go through with you, but in much less time and without cost to you, all at a time of day or night that suits you. Our 'virtual office' never closes!

This website is the creation of a solicitor, Martin Langan, who has been an expert IT commentator and blogger for the Law Society Gazette.

Going one step further are apps that use the convergence of capabilities in an iphone. There seem to be very similar products both in the US (produced by Purves Insurance and the subject of promotion at http://www.youtube.com/watch?v=jQQCklN_24E) and the UK (http://croftonsinjuryclaims.co.uk/theaccidentapp/). These allow you to be handily prepared for any road accident in which you are involved. There are standard forms and prompts; capacities to insert photographs; call the emergency services; get your exact location through gps; and email your claim details. Now this begins

to look interesting and really use the possibilities of new technology to do something qualitatively different from what you could do before.

From this very practical examination of current possibilities let us shift to the thinking of the futurologists, ably represented by Richard Susskind, whose most recent book is entitled *The End of Lawyers? Rethinking the nature of legal services*[1]. His major concern is with commercially provided legal services. He likes to quote the words of Canadian Sci Fi writer William Gibson, 'The future has already arrived. It's just not evenly distributed yet'. Susskind's thesis is that the technological revolution will drive legal services through five steps that he calls bespoke, standardised, systematised, packaged and commoditised. He argues that 'disruptive legal technologies' will redefine the legal market and legal business. He is specific in his definition of commodity. This is 'an online solution that is made available for direct use by the end user, often on a DIY basis'.[2] The key to arriving at this result will be the process of what he calls 'decomposition' and he asserts that 'any legal job or category of legal work can be decomposed, that is, broken down, into constituent tasks, processes and activities'.[3]

Susskind is close, as he freely admits, to the idea of 'unbundling' or 'discrete task representation' which was developed in the States in the context of facilitating DIY by breaking a case down into its component parts, for some of which legal assistance could be obtained and some be undertaken on a self-representation basis.[4] A major difference, however, is that the original advocates of unbundling, like Woody Mosten in the US, were specifically looking to carve out a role for the lawyer within the process of what was largely self-representation. Susskind, by contrast, admits that you may need initially to capture the lawyer's specialist knowledge but then you can 'de-lawyer' the self-representation process. In this way, the technology becomes disruptive and the model of service delivery may change from the bespoke individual client-lawyer relationship to one which may more closely resemble 'commoditised' publishing than lawyering. From this he derives his provocative title – though he accords it a question mark – the end of lawyers.

The driver for change will be, in Susskind's commercially orientated universe, money. The market will force commercial clients to demand more for less. The expectation of continuing high profit margins will require the big law firms to innovate and, as can already be seen, undertake such initiatives as out-housing elements of their work. And, in all this, the race will be to the swift and the rest will go to the wall. The legal profession, under extreme pressure, will consume (most of) its young. Never again will so many make so much out of the law as

---

[1] OUP, 2010 (paperback)

[2] As above, p32

[3] P42

[4] See Forrest S Mosten 'The Unbundling of Legal Services: increasing legal access;' in R Smith(ed) *Shaping the Future: new directions in legal services* LAG, 1995

they have over the last two or three decades. For lawyers, it is brutal story - for historians, a replay of the fate of artisan craftspeople in the face of Arkwright's spinning jenny.

A comparison of this plausible theorising with the practical examples with which we began rather brings us down to earth. There is little in the websites cited at the beginning of this article to suggest that we face an imminent paradigm shift in the delivery of legal services for those unable to pay for them. And yet, it seems inherently implausible that commercial legal services might change as dramatically as Susskind suggests while legal services for individuals remain untouched. Does the little flicker of light from the iphone accident lamp herald a potential wave of new development?

Governments would, of course, love new technology to provide an excuse for the cutting of costs. The world supplies plenty of examples of interest. Ontario in Canada has established a telephone hotline advice service. The Ministry of Justice in England and Wales wants to go in the same direction and is proceeding with legislation to exclude whole areas of law from subsidised legal advice. The Legal Services Research Centre in England and Wales has published research that questions just over how effective telephone hotlines might be in saving time as against traditional 'face to face' legal services but there seems little about the use of the internet.[5] In the light of so little use of the net's potential, at least in the UK, this is perhaps understandable.

There would appear to be a number of questions to ask in relation to the potential of the internet to deliver legal services to the as an alternative to traditional face to face provision. These include those about:

(a) the technology and access to it;

(b) the programmes themselves;

(c) cost.

Before looking at these three areas in detail, we should check out what Susskind has to say about the impact of his ideas on legal services for the poor. His latest book has a chapter on 'access to law and justice'. This begins with something rather too unusual: a definition of access to justice:

> When I speak of improving access to justice, I mean more than providing access to speedier, cheaper and less combative mechanisms for resolving disputes. I am also referring to the introduction of techniques that help all members of society to avoid disputes in the first place and, further, to have greater insight into the benefits that the law can offer.[6]

Personally, I have a longstanding quibble at this kind of definition. For me, access to justice should mean the establishment of systems, not limited to the provision of lawyers, which allow all people in society to obtain justice in the sense of a substantively fair determination of a dispute, unaffected by the relative wealth and power of the parties to it. However, for the moment, let us not pursue this discussion.

---

[5] N Balmer and others 'Just a Phone Call Away: is telephone advice enough?' Journal of Social; Welfare and Family Law vol 33, issue 4

[6] P232

Susskind proposes six 'building blocks' towards better access to justice and it may be worth listing them as a place to begin thinking about what might be done:

- citizens must be empowered to deal with their legal affairs;
- a streamlined legal profession needs providers that embrace the possibilities of technology;
- there must be a healthy third sector to provide assistance for those whom Susskind says 'are in need of legal assistance [and who] want a kind, empathetic ear with only a light sprinkling of legal expertise' (likely to be a somewhat contentious proposition among the NGO advice sector);
- a new wave of imaginative, entrepreneurial providers;
- easily accessible primary sources;
- an enlightened set of government policies on public sector information.

Susskind deserves considerable credit for getting a debate going. He is also full of specific ideas – such as the need for 'a web-based expert diagnostic system' which takes a person to the right adjudication procedure for their problem. He foresees the growth of automatic document assembly (fairly straightforward) and, more complex, 'online communities where useful materials are built up using wiki techniques [and where] citizens will record their legal experiences on blogs … and they will pose and answer questions on discussion forums'.[7]

It is time for another transition from theorisation to the practical. We should shift attention to The Netherlands. In policy-making, the Dutch present a stark contrast with the English. It takes them a bit of time; they operate much more on a consensus basis; but, in time, they undertake radical moves on a planned basis. Thus, they fearlessly disposed of their equivalents to law centres and established Legal Services Counters, small local offices based throughout the country, in the mid-1990s. With this went a conscious government policy of seeking to rely on self-help: 'citizens should have primary responsibility for resolving their own problems and conflicts'.[8] The Dutch Legal Aid Board developed a Conflict Resolution Guide to this end as an internet-based assistance tool. This, combined with the Legal Services Counters, is intended to provide 'free initial assistance and primary legal assistance'. Thereafter, with a transparent legal services market and no procedural or institutional barriers to making use of legal assistance, the individual can – or, rather, should – be able to solve their own problems. The Guide (designed by the board in partnership with the University of Tilburg) is in the process of development – recently added is a module on divorce and on-line mediation. The board's own research on this reports a high degree of satisfaction with, of a total of 129 respondents in a small scale – 81 per cent identified themselves as happy enough to come back next time. As yet, there seems no objective research on the provision. The only academic who appears to have written about the project is Jelle

[7] P242

[8] Quoted as government policy in ILAG Conference Paper, P van den Biggelaar and E Borghs 'Self Help and Simplifying the Laws'

van Veenan of Tilburg University which has been a partner in its development.[9] Frustratingly – though reasonably – the web material is in Dutch.

The Dutch are, of course, among the most rational of peoples. Thus, officials of the Dutch legal aid board have been able to report that their government has recognised that it has a role to play in the simplification of the law and that:

> The government has decided to assess new legislation and regulations more critically in future and to apply a yardstick. The government believes that in this way only legislation which is 'really necessary and proportionate and imposes the least possible red tape' will be introduced. This yardstick is known as the Integral Assessment Framework for Policy and Legislation.[10]

Oh, that other governments had the same commitment.

One would have expected the United States, home of silicon valley and the cradle of the internet, to provide good examples of what can be done through web-based materials, particularly because of the relative dearth of civil legal aid funding as compared with the UK or The Netherlands. It would be helpful to be pointed to more US websites. To an outsider on a quick look, it seems very much as if the driver for use of the net comes, to a large degree, from the courts. Judges feel swamped with unrepresented litigants and they have every interest in supporting them up to – and perhaps sometimes a little beyond – the line between providing legal information/advice and legal advice/representation. Thus there are a number of self-help court based programmes with a supporting network of their own (http://www.SelfHelpSupport.org). The law schools are also key players in this field with the Center for Access to Justice and Technology at Chicago-Kent Law School in the fore. The Center has developed an interesting internet package, A2J, which uses a cartoon-type format to progress someone through answers to a series of questions towards an appropriate document assembly. This is how it describes itself:

> The simple act of filling out forms raises unique challenges that the many self-represented litigants have trouble overcoming. Without a very simple front end, a user unfamiliar with web conventions would be unable to use online form systems. To be effective, guided interviews for self-represented litigants must be very simple.
>
> The A2J Author® tool … translated several of the conceptual models for a redesigned court system into a Web-based interface that gently leads unsophisticated users through a guided interview for determining eligibility and collects all the information needed to prepare the required court forms.

[9] Eg J van Veenan 'Online integrative negotiation tools for the Dutch Council for Legal Aid'

[10] P van den Biggelaar and E Borghs as above, p15.

> Elegant, simple and powerfully effective, the A2J Author™ Web-based interface is the "front end" needed to make court document assembly more widely accessible to self-represented litigants.[11]

The drawn figure of a woman takes you through a series of questions, represented along a road to a courthouse through which your answers fill in a form which you can then print at the end of the process. Examples of its use include applications for fee-waiver and name change applications. This is the same sort of interactive process as lies behind the road traffic accident programme discussed above. The A2J format seems potentially useful but a little wooden – particularly to anyone familiar with the possibilities that are usually displayed on an iphone or ipad app. There may well be other examples that need to be considered in any more comprehensive review.

Let me end by offering some tentative thoughts on the three issues identified above. These need to be hammered out in much more detail.

The technology and access to it

An obvious issue in considering the use of the internet for legal services to the poor is the existence of the 'digital divide'. Information on this is changing all the time and the issue of the divide is deliberating being challenged by the UK government which has a policy of 'digital by default' for services and has appointed Martha Lane Fox as its digital champion. The UK is a well wired society. According to the Boston Consulting Group, internet sales are expected to rise to 10-13 per cent of GDP by 2015 and currently account to around 7 per cent. However, a third of all households have no access to the internet, of which almost a half are in the lowest socio-economic groups (D and E), 38 per cent are unemployed; 39 per cent over 65; and 70 per cent in social housing. Although 55 per cent of the population overall used government websites sometime last year only 15 per cent were living in the most deprived areas. This has a disproportionate effect because 80 per cent of government interactions are with the bottom 25 per cent of the population. It is benefits not tax that leads to most citizen-government interaction.

Susskind takes a robust view of the argument that the digital divide impedes access for the poor: 'overstated and sometimes disingenuously so'.[12] He thinks that many who are not themselves web-users have someone else who can access it for them: 'many elderly people fall into this category'. Others can get advisers to get access for them.

[11] http://www.kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology/a2j-author

[12] P245

Another argument might be, although Susskind does not make it, that we are at an early stage in terms of the use of the web. There will be a moment, already come for some, when the phone, TV, computer and video collapse into one and when an ability to type is not essential for communication because of voice recognition software. At that point, it would seem likely that access will explode. A critical point may well be when you can move seamlessly from information on the net to calling an adviser by video phone. That would integrate a form of face to face provision within an internet structure. If linked to easy ways by which documents could be distributed then there really would be the possibility for new forms of service delivery.

It is conventional among the advice and legal aid sector in the UK to say that there will always be types of people and cases for which internet solutions are impossible. That is, no doubt, true. But, it is undoubtedly more creative to begin with the opposite assumption and try to build provision which could be accessible to all provided that there are ways of dealing with those who need to face to face services. Administratively, this is a tough ask.

The programmes

Researching existing programmes makes you realise what an early stage we have reached in the use of the net. Existing offerings just do not represent the level of sophistication that we would expect in our own use of Apple's cutting edge technology. That will change and it may be useful to contemplate what is required. Programmes need to be much more visual and much more interactive. Advice programmes need to integrate with adjudication/mediation programmes so that you can move seamlessly from preparing your case to processing and presenting it. That requires the courts and tribunals to integrate their systems with those used for advice – probably a massive but not impossible ask. The Dutch on-line mediation programme needs to be watched carefully because it would be a tremendous boon to have a programme which was basically a digital process but where, if the parties got stuck, human intervention was possible. Such an integration of the human and the digital is surely where some very effective future developments lie.

There is an issue about how the programmes are produced. Susskind has the interesting idea of a wiki methodology where all can freely contribute. You could, presumably and for instance, see a situation where, in England and Wales, the CAB service opened up access to its information programme and was responsible for its final form rather than the whole drafting process. The idea would be to move to a Wikipedia type approach to an information system. The logical system in the perfect world would be one central information system – even perhaps run on the direct.gov website. However, the problems of a dominant provider are clear. Little Coventry Law Centre's information on employment law is miles more accessible than that on the CAB website. There needs to be a degree of innovative competitiveness. Perhaps there could be two main rival systems – one by

the advice sector and the other from law centres. There certainly needs to be a drive to more interactivity; more attractive layout; more visuals. Funding could be based on some sophisticated counting of hits or satisfied customers.

There certainly needs to be a repositioning of internet-based advice. It is entirely logical for advice to be digital by default – the mantra of the UK government in relation to its own services. Those giving advice on legal services should aim to provide it self-sufficiently on the net with the express aim, as in The Netherlands, that people will self-represent. There are certain implications just from that. It will be difficult to maintain charges for information so that there should be overt acceptance that information is being provided for all and for free. Then further support should be provided as necessary. The first line of support should be through skype or telephone to someone physically present but not in the room. Advisers in offices should be the second line of support. That requires a considerable retooling by the advice and law centre sector.

Cost and organisation

Outside the commercial field, who will fund the costs of delivering internet based advice services? It can only be government and the current cuts are an indication of its decreasing willingness to help the poor in terms of income and direct services let alone advice. There is a one-off opportunity when cuts mean that expensive face to face services are being dismantled but, once taken, the likelihood is that government will take some persuading that it should properly shoulder its burden. As in the US, the courts may feel some level of payoff in dealing with litigants in person but that may not release very much cash. This is a major problem and it may, from an activist's position, support the argument that use of the net is to be resisted. An inadequate investment of a decreasing sum in internet advice would just be to create a rusting and increasingly useless form of provision.

There is one political demand which must be accepted as underlying any government funded provision. The aim of the exercise in access to justice and the aim of the much abused concept of access to justice is the delivery of advice and support to all members of society so that any dispute with government or others is resolved on its basic intrinsic legal merit. In other words, we need the objective of policy to be the provision of a society which is substantively fair in the resolution of disputes. Anything less is woolly nonsense in which 'access to' justice becomes a qualifier rather than an expansion. Let us hear it for Justice Hugo Black who put the same point in *Griffin v Illinois*: 'There can be no equal justice where the kind of trial a man gets depends on the amount of money he has'.[13] And, of course, it is not just trials: it is all forms of adjudication. This is the point made above.

[13] Quoted in P Edelman 'When Second Best is the Best We Can Do: improving the odds for pro se civil litigants',

All political parties should be able to sign up to the aim of delivering substantive justice to all. Of course, some litigation will always require legal representation. However, if this is accepted as the basis from which we judge success or failure then we could start to see what might be done.

Measuring the 'outcomes, quality, effectiveness and efficiency' of Legal Assistance Services – Australian Developments.

Dr Liz Curran

On 30 January 2012, the Australian Government released information for a tender for a review/ evaluation of Legal Assistance Services across Australia.

The Commonwealth Attorney General's Office is to review and measure legal assistance services under a recent National Partnership Agreement which commenced on 30 June 2011 between the Commonwealth, State and Territory Governments.

The 'legal assistance sector' covers the four Commonwealth funded programs:

- The Legal Aid Program (Legal Aid Commissions)
- Aboriginal and Torres Strait Islander Legal Services – ATSILSs
- Community Legal Centres – CLCs, and
- Family Violence Prevention Legal Services - FVPLSs.

In Australia, Legal Aid Commissions provide a 'mixed model' of legal aid utilising both salaried legal aid lawyers and private practitioner for grants of aid for representation, and advice. Legal Aid Commissions also provide legal information services, community legal education and law reform.

The stated purpose in the tender documentation of the review is to:

- assess the progress of the Commonwealth and States in achieving the objectives, outcomes and outputs of the NPA on Legal Assistance Services, and to
- establish a robust evidence base for policy and program implementation for legal assistance services across Australia which are efficient and cost effective.

The tender documentation[14] describes the legal assistance sector as aiming to provide an integrated range of legal services to disadvantaged Australians including Indigenous and other culturally and linguistically diverse client groups.

14 See Review of the National Partnership Agreement on Legal Assistance Services, AusTender's documentation

The review will only look at services funded by the Commonwealth and to services provided for Commonwealth purposes. State only funded services will be outside the scope of the review.

There are two parts to the review. Part A will be a review of Legal Aid Commission services funded under the NPA. Part B will be a broader review of all Commonwealth funded legal assistance programs administered by the Attorney-General's Department, and will be conducted in four stages. Part B will involve analysis of the legal assistance sector as a whole and its contribution to a national system of legal assistance that is:

- integrated
- efficient
- cost-effective, and
- focused on providing services for disadvantaged Australians in accordance with the Access to Justice Principles of accessibility, appropriateness, equity, efficiency and effectiveness.

There are approximately:

- 8 Legal Aid Commissions (with an additional 71 legal aid offices)
- 9 Aboriginal and Torres Strait Islander Legal Services (with an additional 77 regional offices)
- 138 Community Legal Centres (CLCS), and
- 14 Family Violence Prevention Legal Services (with an additional 16 regional offices).

Currently, only Commonwealth legal aid is administered under an NPA. In the case of the other three programs (ATSILS, CLCs and Family Violence Prevention), Commonwealth funding is provided directly to service providers under three year funding agreements.

The agreement for CLCs differs. In the case of CLCs case service providers that receive funding from State and Commonwealth sources, they receive it pursuant to a tri-partite agreement (where the State also provides funding to those service providers). This arrangement still maintains complete State/Territory and Commonwealth autonomy in funding amounts, but monitoring and reporting are achieved through the use of common accountability requirements, including standardised reporting templates and use of the same data collection system.

< https://www.tenders.gov.au/?event=public.atm.show&ATMUUID=2BD068B9-C0AE-AB3C-0B5ABD93ECCF3633>.

Policy frameworks including the Attorney General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System'[15]', the COAG Reform Agenda as to social inclusion and indigenous disadvantage are to be considered in the Review.

The NPA expires on 30 June 2014 and requires legal assistance services to:

- Increase their focus on early intervention and prevention services
- Encourage greater collaboration among legal and other service providers
- Finding better ways to help people resolve their legal problems
- Address social exclusion including indigenous disadvantage
- Adopt a more holistic approach to resolving people's legal problems
- Improve targeting of services to disadvantaged communities and the wider community
- Support the principles of the Australian Government's strategic framework for access to justice.

In the second half of 2011 this author undertook research on behalf of Legal Aid ACT (LAACT) which looked at LAACT and the quality of its legal services to clients. This research for LAACT, after it was commissioned, coincided with indications by the Commonwealth Attorney General's Office that it is would be imminently reviewing and measure the outcomes of legal assistance services under the National Partnership Agreement. The research therefore also anticipated the review by trying to provide a definition and approach to the measurement of 'successful outcomes' referred to in the National Partnership Agreement in a legal aid services context.

Interestingly, service delivery and humanitarian agencies are increasingly being asked to report and measure results based outcomes world-wide. Surprisingly, very little outcome measurement has been undertaken internationally or domestically although there is some literature on how one might go about it. The Legal Services Research Centre in the United Kingdom has also tackled the issue.[16] The international literature overwhelmingly concludes that results based outcomes are difficult and challenging areas to measure.

---

15 See Attorney General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System', <http://ag.gov.au/a2>

16 M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 10.

The research for the LAACT project, undertaken by this author, used a range of approaches. These included focus groups to inform the research with those engaged in delivering the services and a former client. This informed the development of instruments for the research over a two week 'snap shot' period from 9 November -23 November 2011. This 'snap shot' consisted of interviews with clients and lawyers after client interviews; an on-line survey (with in-house and private lawyers) and with clients at the end of a matter; questionnaires of clients; interviews with stakeholders and case studies. The research approach which was participatory action research involved what could be described as a '360 Degree analysis' which engaged clients, those who deliver the services, and external stakeholder viewpoints and experiences of the system. Warnings about the dangers of outcome based measurement where the outcomes were outside the agencies control from focus group recipients and developmental research internationally were taken on board and outcomes were defined accordingly and in consultation at each stage.

The indicators developed to measure 'outcome' were based on those elements identified as essential for the outcome to occur. The point of multiple research approaches was to check and verify responses against each other, to enable different stages and parts of the service's activities to be examined and measured up against those elements deemed to be indicators of good outcomes or quality legal services. Through this methodology the research was able to look at different aspects of the service such as a client interviews, or through stakeholders' eyes to view the service's interface with the court and the other party, in addition to the service's relationships with significant networks and community agencies.

The research has tried to reconcile the aims and objectives of the NPA with the actual realities of what legal aid services provide and can provide with a realistic measurement of things within a legal aid services ability to control.

Legal Aid services are complex and operate at different levels. Within a legal aid service different objectives and intentions sit behind each program and so they cannot be measured as a whole without first understanding the nature, complexity, layers and funding requirements that drive each of the many parts. This complexity is insufficiently understood by public officials often unfamiliar with the actual practise of legal aid services, and the challenges of assisting vulnerable and disadvantaged clients who recent research confirms make up the legal aid clientele.[17]

17 A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups' (June 2005) 39(3) *Journal of Social Policy and Administration* 302, 318-320; R Moorhead, M Sefton and G F Douglas, 'The Advice Needs of Lone-parents' (2004) 34 *Family Law* 667 and A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour' (2004) 38(3) *Journal of Social Policy and Administration* 253-269; S Ellison, L Schetzer, J Mullins and K Wang, *The Legal*

The Report detailing the research approach and the findings is due for public release shortly. Immediately after finalising the LAACT research, this author was retained by the Commonwealth Government to conduct a literature review. The literature review will consider issues of effectiveness and efficiency additional to the scope of the LAACT research which focuses on outcome and quality.

Submissions for the tender close on 24 February 2012. It will be of interest to many overseas agencies who are similarly grappling with the challenge of measuring legal aid service outcomes, to observe the approach taken in relation to this Australia-wide review. Stay tuned.

Dr Liz Curran
13 February 2012

Needs of Older People, New South Wales Law and Justice Foundation, New South Wales (2004) (The New South Wales Law and Justice Foundation http://www.lawfoundation.net.au/report/older); C Coumarelos, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas*, New South Wales Law and Justice Foundation <http://www.lawfoundation.net au/report/survey2006>; New South Wales Law and Justice Foundation, 'On the Edge of Justice: the legal needs of people with a mental illness in New South Wales (2006); 'No Home, No Justice? The legal needs of homeless people in New South Wales (2005) and 'The Legal Needs of Older People in New South Wales (2004); "Access to Justice and Legal Needs, Stage 1, Public Consultations (2003) and Qualitative Legal Needs Survey: Bega Valley (Pilot) (2003) https://www.lawfoundation.net.au/publications; L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People, La Trobe University & Victoria Law Foundation (2007); L Curran and M Noone, 'The Challenge of Defining Unmet Legal Need' (2007) 1 Journal of Law and Social Policy 63-64; A Buck and L Curran, 'Delivery of Advice to Marginalised and Vulnerable groups: The Need for Innovative Approaches', Volume 3 Art. 7 The Journal of Public Space, 2009, 1-29; L Curran, 'Relieving Some of the Burdens on Clients: Legal aid services working alongside psychologists and other health and social service professionals', Vol 20 No 1, The Australian Community Psychologist, June 2008; L Curran, 'Making Connections: the Benefits of Working Holistically to Resolve People's Legal Problems' Murdoch University On-line E- Law Journal 2004, Vol 12, No #1 & #2 http://www.murdoch.edu.au/elaw/issues/v12n1_2/Curran12_1.html>.

News

These reports are largely compiled from news articles on the internet on the basis of a simple search under the words 'legal aid'. Readers must, just as buyers, beware of authenticity. The links worked at the time of writing but some will fail after a period of time.

This section is compiled by **Paul Ferrie** of the *University of Strathclyde*. If you would like to suggest news articles for inclusion in this newsletter or have any comments please contact Paul by emailing paul.s.ferrie@strath.ac.uk

---

Australia:

Legal Aid rates imperil justice – counsel – Sydney Morning Herald – 11/01/12 [Read more]

***TechnologyOne* to streamline legal aid in WA and SA** – Computer World – 06/02/12 [Read more]

Australia's legal services under review – Lawyers Weekly – 31/01/12 [Read more]

Law Council lobbies for legal aid largesse – ABC – 01/02/21 [Read more]

Canada:

Legal aid underfunding is hurting poor, lawyer says – CBC News – 03/01/12 [Read more]

BC trial lawyers' job action ties up provincial courts – CTV – 04/01/12 [Read more]

Local lawyers not impressed with justice system review – CFJC TV – 09/02/12 [Read more]

Tepid response to the B.C. justice reform plan – Legal Feeds – 15/02/12 [Read more]

Legal aid in crisis – The Townsman – 20/02/12 [Read more]

"Access to justice is a basic right." Chief Justice of Canada speaks on how "our justice system has failed our middle class" – The Omega – 29/02/12 [Read more]

Chile:

Piloting Justice in Chile – Harvard Law School – 17/02/12 [Read more]

China:

More disadvantaged Chinese receive legal aid – China.org.cn – 07/02/12 [Read more]

Legal aid bill may breach Basic Law – Macau Daily Times – 10/02/12 [Read more]

The Democratic Republic of the Congo:

Legal Aid for Rape Survivors – All Africa - 23/02/12 [Read more]

England & Wales:

Can Tension Between Legal Aid and Pro Bono Be Resolved? – Legal Cheek – 03/01/12 [Read more]

Legal aid cuts will save less than half government's forecast, study finds – The Guardian– 09/01/12 [Read more]

The impact of cuts in legal aid on charities – Labours List – 09/01/12 [Read more]

Legal aid survey shows most Londoners are against cuts – The Guardian – 10/01/12 [Read more]

Report highlights 'knock-on costs' of legal aid cuts – The Independent – 10/01/12 [Read more]

'False' savings from legal aid cuts – The Independent – 10/01/12 [Read more]

Peers manoeuvre as Legal Aid Bill makes stately progress – BBC News – 11/01/12 [Read more]

Legal aid cuts will put domestic violence victims at risk, report warns – The Guardian – 18/01/12 [Read more]

Life after legal aid: the fight back begins – The Guardian – 19/01/12 [Read more]

Litigants in person could struggle to secure access to justice – Law Society Gazette – 19/01/12 [Read more]

Law firms could face claims for overpaid legal aid – Lawyers Defence Group – 23/01/12 [Read more]

Legal aid reforms under scrutiny as peers criticise proposed cutbacks – Legal Week – 27/01/12 [Read more]

Legal aid bill: why the media's silence? – The Guardian – 30/01/12 [Read more]

Roger Smith: legal aid reforms 'unsustainable' – Law Society Gazette – 09/02/12 [Read more]

Government scraps plans to extend access to justice – Accident Claims – 10/02/12 [Read more]

Family law revisions could be hampered by legal aid cuts – The Co-operative Legal Services – 13/02/12 [Read more]

Small claims reshuffle to speed up access to justice – Law Careers. Net – 15/02/12 [Read more]

Justice will not be done – The Guardian – 27/02/12 [Read more]

Civil legal aid 'squandered' – Isle of Man Today – 28/02/12 [Read more]

Will plans to scrap legal aid for clinical errors put people off claiming damages? – The Guardian – 28/02/12 [Read more]

Bishop of Gloucester: why cuts to legal aid should be rejected – This is Gloucestershire – 29/02/12 [Read more]

Government announces legal aid concessions – Law Society Gazette – 29/02/12 [Read more]

Legal aid U-turn for brain-damaged babies and domestic violence victims – The Guardian – 29/02/12 [Read more]

Fiji:

Legal aid for Pacific on HIV – The Fiji Times – 21/02/12 [Read more]

India:

Legal aid clinic set up to reduce litigation – Punjab Newsline – 15/02/12 [Read more]

Young lawyers bridge justice gap – IBN Live – 14/02/12 [Read more]

Legal aid clinic on Steel City campus – The Times of India – 26/02/12 [Read more]

Indonesia:

Govt, House agree to ratify mutual legal aid law – The Jakarta Post – 22/02/12 [Read more]

Jamaica:

Ministry Reforming Justice System – Jamaica Information Service – 10/02/12 [Read more]

Kenya:

Lawyers protest ICC legal aid budget cuts – The Star – 28/02/12 [Read more]

New Zealand:

Legal aid funding changes drive lawyers away - Waikato Times – 15/02/12 [Read more]

Legal aid fee could 'hinder the poor' – 3 News – 16/02/12 [Read more]

Legal aid overhaul may mean less access – News Talk ZB – 17/02/12 [Read more]

Lawyers seek court review of new legal aid fees – New Zealand Herald – 27/02/12 [Read more]

Legal aid bill deferred – Voxy – 27/02/12 [Read more]

Legal aid cuts challenged in High Court – Voxy – 27/02/12 [Read more]

Law Society to watch judicial review proceedings closely – Law Fuel – 28/02/12 [Read more]

Northern Ireland:

The Department of Justice has today published its response to the Public Accounts Committee report on Managing Criminal Legal Aid – NI Department of Justice – 26/1/12 [Read more]

Republic of Ireland:

Criminal legal aid faces random means-testing – Irish Times – 05/01/12 [Read more]

Legal aid scheme fails to make €5m saving – Irish Times – 17/02/12 [Read more]

Legal aid group slams Govt delay on personal debt laws – Irish Examiner – 23/01/12 [Read more]

Delays of up to 10 months to see Legal Aid Board solicitor – Irish Times – 25/12/12 [Read more]

Call for changes to legal reform Bill – Irish Times – 27/02/12 [Read more]

Scotland:

Scots law should be 'simpler and cheaper' – Scotsman – 23/01/12 [Read more]

Advocates voice concern over legal aid changes – Journal Online - 25/01/12 [Read more]

No cap on legal aid contact funds – Herald Scotland – 08/2/12 [Read more]

Legal aid team members exonerated in ESTO report – Journal Online – 24/02/12 [Read more]

Scottish Government funding to combat effects of economic downturn – Scottish Government – 29/02/12 [Read more]

South Africa:

Judging the judiciary: more questions than answers - Daily Maverick – 29/2/12 [Read more]

United Republic of Tanzania:

Women Lawyers Bringing Legal Aid to People – All Africa – 16/02/12 [Read more]

Experts Decry Lack of Legal Aid Services – All Africa – 20/01/12 [Read more]

United States of America:

Legal Aid Groups Planning Major Layoffs in 2012 – The Wall Street Journal – 26/01/12 [Read more]

Arkansas Access to Justice to Receive $2 Million – The Sun Times – 10/02/12 [Read more]

Legal Aid Group Faces Steep Funding Cuts – NBC Connecticut – 10/02/12 [Read more]

Holder Promises to Expand Legal Aid for Indigent Suspects – The Cypress Times – 11/02/12 [Read more]

ABA Puts the ALL in Equal Justice for All – National Centre for Access to Justice – 13/02/12 [Read more]

Budget cut hits region's legal aid groups – The Washington Post – 13/02/12 [Read more]

Obama Proposes Budget Increase for Legal Services – The Blog of Legal Times – 13/02/12 [Read more]

Legal Aid of West Virginia Cuts Positions – The State Journal – 14/02/12 [Read more]

Website offers free legal aid – The Tennessean – 16/02/12 [Read more]

Memphis Area Legal Services gets IRS grant – Memphis Business Journal – 17/02/12 [Read more]

Access to the Miami courts? – The Miami Herald – 20/02/12 [Read more]

Cuts in legal aid would harm those already financially strapped – The Seattle Times – 29/02/12 [Read more]

Final Note

This newsletter has been compiled by **Roger Smith** of **JUSTICE** in London, UK. If you would like to be taken off the circulation list, add someone to it or contribute content, please contact Roger by emailing rsmith@justice.org.uk.