

JUSTICE-ILAG
Legal aid newsletter
March-April 2009

Opening Note

ILAG has decided to resource the newsletter for the next year. For the next three issues, we will publish bi-monthly. We will then review whether to stay on that basis or revert to the monthly format. We plan to include contributions in each issue. Do think about writing something on developments relevant to legal aid – research, delivery, reform etc. It would also be useful to carry information about legal cases which are relevant to legal aid delivery – such as those of the European Court of Human Rights on the extent to which a right of fair trial requires suspects to be represented in police interviews prior to charge. Send any contributions to rsmith@justice.org.uk: the shorter: the better.

1. Theme of the Issue

Here in London, there are restrained celebrations of the 60th birthday of the establishment of a coherent programme of government-funded legal aid introduced by the Legal Aid Act 1949. The Ministry of Justice and the Legal Services Commission have co-operated on a bill-board display that is slowly progressing from the Houses of Parliament around the country. The UK legislation sparked off a round of development after the Second World War that stretched around the world. The recent ILAG conference in Wellington, New Zealand was testimony that, in very different circumstances, another round of development is occurring in countries as diverse as Fiji, China and the Philippines. Simultaneously, countries with more developed schemes, like England and Wales, Australia and Canada face issues about the control, if not outright reduction, of expenditure. Meanwhile, interesting developments are occurring in the United States where the total funding of civil legal aid may be little affected, in the short term, as increased federal monies are offset by declining revenues from such sources as lawyers client or trust accounts. However, the exciting possibility remains that an Obama administration may lead the US back into the more major role in the development of legal services policy that it had in the 1970s. How will all develop? Read it here first.

2. Reports from Correspondents: Legal Aid Ontario and the Legal Services Research Centre, Legal Services Commission, England and Wales

Legal Aid Ontario: Summary of Current Position

David McKillop

Declining Law Foundation Revenues

Legal Aid Ontario (LAO) submitted its business plan in October 2008 for the 2009/10 fiscal year. The plan indicated that LAO would be facing relatively small operating deficits in 2008/09 and 2009/10. In response, LAO committed to look for additional savings through improved service and administrative efficiencies. Since that time there have been significant changes in the economic outlook for Ontario and LAO. As a result of falling interest rates LAO's Law Foundation revenue has deteriorated and LAO is now projecting much larger deficits. LAO has prepared a draft Strategic Plan that provides a proposed future vision of LAO that it believes could result in the savings required to meet LAO's financial challenges, and, in the long term, provide more service options to LAO's clients.

The following steps are being examined:

- Identifying administrative savings that can be easily implemented that have minimal impact on clients and stakeholders.
- Developing a dependency reduction strategy for Law Foundation revenues.
- Performing program review for potential operational improvements in client programs and research other service delivery models.
- Developing a sustainable long-term modernization strategy.

Further information on these initiatives will be available in the coming months.

New Client Service Centre

On December 1st 2008 Legal Aid Ontario's new Client Service Centre (CSC) commenced operations. In its first three months of operation the hotline received over 10,000 calls. Close to one third of all calls were related to family law issues. The hotline addresses a critical service gap by providing a central source of information and referrals for clients. Development of the hotline continues. In Spring 2009, the CSC will offer clients access to a simplified application process for the certificate program and eligible clients will also be provided with easy access to summary legal advice.

Ontario Civil Legal Needs Project

Legal Aid Ontario is participating in a civil legal needs assessment initiative in partnership with the Law Society of Upper Canada and Pro Bono Law Ontario with funding support provided by the Law Foundation of Ontario. The goal is to improve access to justice by identifying innovative and cost-effective ways for legal service providers to better serve the public's civil legal needs – those not included in criminal law. The project has three main components:

1. An extensive telephone survey of the public.
2. A series of comprehensive focus groups with front-line legal and social service providers.
3. An environmental scan of existing services that promote access to justice.

The final report and recommendations will analyze the findings and establish a roadmap to help stakeholders in the legal services delivery system establish priorities, allot existing resources effectively and identify opportunities for enhanced collaboration and improvement. The use of empirical civil law needs assessments is now deeply entrenched in many legal aid jurisdictions, particularly in the United Kingdom and the United States. Since 2000, studies have been completed in England and Wales (2004, 2007), Scotland (2001), New Zealand (2006), Northern Ireland (2005), and in approximately 15 U.S. States.

David McKillop is Vice-President, Policy and Research, LAO

Summary of the work of the Legal Services Research Centre (LSRC) of the Legal Services Commission of England and Wales

Alexy Buck

The Legal Services Research Centre (LSRC) is the strategic research division of the Legal Services Commission (LSC) of England and Wales. It was set up to inform legal aid policy and reform. The LSRC has a broad remit to conduct strategic research in the civil and criminal justice and related social policy fields. All of the LSRC's research is policy relevant, but the Centre maintains its independent from policy-making.

The outputs of the LSRC are trusted and valued across national and international policy, practitioner, research and other stakeholder communities. The LSRC's biennial international research conference provides a platform for the exchange of ideas and information between leading researchers, policy-makers and government representatives working in legal aid around the world.

The LSRC publishes research in a variety of formats ranging from peer-reviewed academic journals to reports, books and briefing papers. Details of all past and present publications, the research team and projects can be found on the LSRC's website: www.lsrc.org.uk.

Current and forthcoming LSRC research projects include:

English and Welsh Civil and Social Justice Survey (CSJS)

The CSJS is a large-scale representative household survey of people's experience of civil justice problems, the strategies employed to deal with them, barriers to advice, sources of financial support for advice and representation, and the impact of problems and advice. Findings provide a broad empirical base for the development of legal aid and broader civil justice system. The survey has been conducted in 2001, 2004 and, since January 2006, on a continuous basis. The CSJS will become a longitudinal panel survey in 2009. The LSRC has published on a wide range of survey findings (see www.lsrc.org.uk/publications).

Research on Community Legal Advice Centres and Networks

The LSRC is responsible for in-depth research and evaluation on Community Legal Advice Centres and Networks. The research project includes both a process and an impact study, internal LSRC research work and externally commissioned research.

Evaluation of Debt Outreach Advice

The LSRC was responsible for a multi-phased evaluation of debt outreach advice. The pilot services were targeted towards 'hard-to-reach' and financially and socially excluded groups. The evaluation consisted of a range of methodologies. Four reports have now been published.

Users' perspectives on the criminal justice process

The LSRC is currently undertaking a study of criminal legal advice and representation. The first part of this study involved structured interviews with over 1,000 users in the criminal justice system (either detained in Police Stations or being dealt with at Court). The survey gained users' perspectives of criminal defence services and to what extent they understood what was happening to them in the criminal process. The key findings were published in an Interim Report in December 2008. Subsequent to the release of the Interim Report, further structured interviews have been completed in two women's prisons. Finally, semi-structured interviews with solicitors were also carried out to highlight, amongst other things, criminal defence practitioners' views on the legal aid reforms. Analysis of these interviews will inform the final report together with a literature review. An examination of Police custody records is also being planned as part of this project.

Analysis of Spatial Dimensions of Legal Need and Service Delivery

This project investigates spatial aspects of patterns of vulnerability to problems, advice-seeking behaviour, accessibility, awareness of services, and service use. The research also focuses on how rates of service use vary by geographic areas and potential gaps in provision. Current research activity is based around CSJS data, LSC administrative data, small-scale qualitative research, and national and government statistics.

Diversity Monitoring

This project involves monitoring the impact of the LSC's activities on the ethnic, gender, disability and age profile of service providers.

Efficiency of the criminal process

To date, this area of work has been delivered through the Youth Court Study, which, adopting a whole systems' approach, is providing evidence on the extent and nature of delays and cost drivers in the Criminal Justice System.

Alexy Buck is acting head of the LSRC

3. News: Summaries and Links

These reports are largely compiled from news reports 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.

Afghanistan: Fund small NGOs in Afghanistan and similar countries, argues commentator impressed by provision by Voices of Women Organisation of legal aid in divorce cases for women: http://www.dailypress.com/news/opinion/dp-ed_rubin_0314mar14,0,2370865.story;

Canada: McGill students open legal aid centre for artists:

<http://www.mcgilldaily.com/article/18337-artists-legal-aid-clinic-opens>; New Brunswick legal aid cut by 5 per cent <http://dailygleaner.canadaeast.com/cityregion/article/612907> ; causes concern <http://dailygleaner.canadaeast.com/cityregion/article/649493> and impasse as man questions his ownership of a house on which legal aid wants a lien before providing representation: <http://dailygleaner.canadaeast.com/cityregion/article/620351>; report questions value of salaried criminal law offices to supplement private bar: http://centretownnewsonline.ca/index.php?option=com_content&task=view&id=884&Itemid=

[133](#); Fears that cuts in British Columbia criminal legal aid will lead to injustice and/or court orders for representation

: <http://www2.canada.com/nanaimodailynews/news/story.html?id=2aceed33-7d20-4fc2-b607-582dda9fb360>;

England and Wales: Small community law firms with high ethnic minority staff most vulnerable to recession: <http://www.guardian.co.uk/uk/2009/mar/02/recession-community-law-firms-threat>; Britain's most expensive terrorism trial took a year and cost £7.1m in defence fees: <http://www.dailymail.co.uk/news/article-1158355/Defence-lawyers-run-7-1m-terror-trial-paid-you.html>; Legal aid minister deplores 'astonishing growth' of legal aid: <http://business.timesonline.co.uk/tol/business/law/article5841193.ece>; Worries about consequences of cuts to family legal aid: <http://business.timesonline.co.uk/tol/business/law/article5854073.ece>; Defence Solicitor Call Centre and Criminal Defence Services Direct examined in Law Gazette article: small sample suggests quality good: <http://www.lawgazette.co.uk/features/criminal-defence-call-centres-may-work-are-they-justice>; Concern at cuts to legal aid for family law by barrister: <http://business.timesonline.co.uk/tol/business/law/article6094024.ece> and children's lawyers: <http://business.timesonline.co.uk/tol/business/law/article6093997.ece>; Bar raises old chestnut of a contingency legal aid fund: <http://business.timesonline.co.uk/tol/business/law/article6150245.ece>; Judge criticises standard of solicitor advocates in jury trials and points finger at cost-saving caused by legal aid cuts: http://www.rozenberg.net/weblog/archives/2009/04/judge_attacks_i.html;

Ghana NGO opens legal services programme for remand prisoners:

<http://allafrica.com/stories/200903100622.html>;

India: Kasab, the lone surviving alleged Mumbai terrorist, still not chosen legal aid representation and faces a problem because statements in the local language, Marathi, and remain to be translated: <http://timesofindia.indiatimes.com/India/Kasabs-options-for-legal-aid-during-trial-getting-thinner/articleshow/4256980.cms>; he will be allocated a local lawyer from a legal aid panel <http://www.expressindia.com/latest-news/court-to-decide-kasabs-lawyer-from-legal-aid-panel-on-march-30/438293/>; finally, he gets a lawyer who remarks that since the government wants Kasab represented, her role is 'as good as representing the government': <http://www.hindu.com/2009/03/31/stories/2009033155351000.htm>; but she is removed by court for conflict of interest and another lawyer appointed: <http://www.business-standard.com/india/news/update-anjali-waghmare-not-to-represent-kasab/58575/on>;

Ireland: 8 per cent common cut for defence and prosecution lawyers:

<http://www.irishtimes.com/newspaper/ireland/2009/0302/1224242084921.html>; Free Legal

Advice Centre (FLAC) celebrates 40 years as first Irish law centre:

<http://www.irishtimes.com/newspaper/ireland/2009/0420/1224245019804.html>;

New Zealand: Legal Services Amendment Bill promises free and non means-tested legal aid for victims <http://www.voxy.co.nz/politics/power-legal-aid-bill-helps-victims-crime/5/11433>;

Government announces review into legal aid <http://www.3news.co.nz/Govt-announces-review-of-legal-aid-system/tabid/423/articleID/98181/cat/64/Default.aspx>;

Philippines: Requirement on practising lawyers to do 60 hours free legal aid work proves controversial: http://www.manilastandardtoday.com/?page=ritaLindaJimeno_mar9_2009 and <http://www.negrochronicle.com/?p=4206>.

Scotland: role of salaried public defenders increased at expense of private practitioners:

<http://news.scotsman.com/scotland/Legal-aid-chiefs-39favouring-public.5095287.jp>; legal aid

practitioners pay back £1.6m in overpaid claims

<http://news.scotsman.com/scotland/Lawyers-repay--16-million.5100913.jp>; Scotland bucks

global trends as higher means limits come into force:

<http://news.bbc.co.uk/1/hi/scotland/7986475.stm>;

South Africa: Court orders Legal Aid Board to explain delays:

<http://www.busrep.co.za/index.php?fSectionId=552&fArticleId=4947825>; Impasse over case

as lawyer and Legal Aid Board argue over appropriate resources for case:

http://www.iol.co.za/index.php?set_id=1&click_id=15&art_id=vn20090424054624949C928434.

United States: California proposes right to counsel in civil cases:

<http://www.metnews.com/articles/2009/ab590030509.htm>; In Santa Monica, LegalGrind

opens as a café brokering 'unbundled' legal services: <http://www.latimes.com/news/local/la-me-legal-aid10-2009mar10,0,2785802.story>;

Michigan criminal legal aid slammed by

National Legal Aid and Defender Association review: <http://www.latimes.com/news/local/la-me-legal-aid10-2009mar10,0,2785802.story>;

Legal Services Corporation gets \$40m annual increase in its budget, now \$390m a year:

<http://news.prnewswire.com/DisplayReleaseContent.aspx?ACCT=104&STORY=/www/story/03-11-2009/0004987151&EDATE=>;

self-help court-based centre opens in Pasadena:

<http://www.metnews.com/articles/2009/help031209.htm>; Massachusetts lawyers co-ordinate

lobbying on legal aid with law school deans, retired judges, corporate counsel and managing partners writing in support: <http://www.metnews.com/articles/2009/help031209.htm>; Chicago Bar Foundation founds Legal Aid Academy in partnership with the Practising Law Institute: http://www.dailypress.com/news/opinion/dp-ed_rubin_0314mar14,0,2370865.story; senate proposals for more funding and less restrictions in civil cases: <http://www.politickernj.com/paganm/28552/senate-measure-improves-access-civil-justice-low-income-americans>; New York courts launch volunteer attorney programmes to help litigants in person: http://www.law.com/jsp/article.jsp?id=1202429483964&Economy_Prompts_NY_Courts_New_Program_for_Volunteer_Attorneys; New York courts to establish mandatory caseload caps on public defenders http://www.nytimes.com/2009/04/06/nyregion/06defenders.html?_r=1; Legal aid society establishes homebuying classes: <http://www.theleafchronicle.com/article/20090413/NEIGHBORHOODS01/904130327>; Illinois county opens self-help centre at court: <http://www.pekintimes.com/news/x360589036/Tazewell-County-Legal-Self-Help-Center-opens> and California opens 12th DIY center in Pasadena: <http://www.metnews.com/articles/2009/help031209.htm>; Texas study claims that 'for every direct dollar expended in the state for indigent civil legal services, the overall annual gains to the economy are found to be \$7.42 in total spending, \$3.56 in output (gross product), and \$2.20 in personal income': http://www.lsc.gov/press/updates_2009_detail_T246_R4.php#texasnew;

4. Reports:

Australia

National Association of Community Legal Centres – <http://www.naclc.org.au> Law Graduates for Community Legal Centres (CLCs) in Rural, Remote and Regional Australia - <http://www.naclc.org.au/news/2333.html> A NACLCLC Project to identify and support Practical Legal Training Students for Work Experience Placements in CLCs in Rural, Remote and Regional Australia - <http://www.lawgraduatesrrrclc.com.au/index.html>

Victoria: webcast of Pascoe Pleasence of the LSRC on the topic of emerging global responses to meeting the legal needs of disadvantaged and poor people: <http://scv2.webcentral.com.au/vla2/>

China

Hong Kong SAR: Legal Aid Department – <http://www.lad.gov.hk/english/home/home.htm>

March 2009: LAD News Issue No. 35 - http://www.lad.gov.hk/english/pub/lad_new.htm announcing more electronic portal for communication with clients.

England and Wales

The Justice Gap: whatever happened to legal aid? Steve Hynes and Jon Robbins, Legal Action Group, see www.justice.org.uk.

The LSC's Strategic Plan for 2009–12,

http://www.legalservices.gov.uk/docs/about_us_main/Strategic_Plan_2009.pdf

The LSC's first Client and Public Engagement Strategy has been published;

http://www.legalservices.gov.uk/aboutus/our_client_and_public_engagement_strategy.asp

Reaching Further: Innovation, Access and Quality in Legal Services, Legal Services Research Centre, papers from conference in 2008, £12 inc p and p:

<http://www.lsrc.org.uk/publications/ReachingFurtherOrderForm.doc>.

Launch of 60 years of legal aid micro-website (<http://www.legalaid60.org.uk/>) - Exhibition highlighting the importance of legal aid to travel the country -

http://www.legalservices.gov.uk/aboutus/whats_new_9576.asp?page=1

New Zealand

April Edition of LSA News http://www.lsa.govt.nz/documents/lsa_news_april09.pdf

Scotland

March 2009: Supply of civil legal aid and advice and assistance -

http://www.slab.org.uk/about_us/research/Supplyofcivilassistance.htm; Summary National Results -

[http://www.slab.org.uk/about_us/research/Patterns_Supply/Overall_patterns_brief\(national\).doc](http://www.slab.org.uk/about_us/research/Patterns_Supply/Overall_patterns_brief(national).doc); Summary Local Results -

[http://www.slab.org.uk/about_us/research/Patterns_Supply/Overall_patterns_brief\(local\).doc](http://www.slab.org.uk/about_us/research/Patterns_Supply/Overall_patterns_brief(local).doc);

Maps of change over time, by local authority area -

http://www.slab.org.uk/about_us/research/Patterns_Supply/Maps_of_change.doc; Summary

results by local authority area -

http://www.slab.org.uk/about_us/research/Localauthorities.htm; The Board's response to the

findings - http://www.slab.org.uk/about_us/research/Patterns_Supply/Patterns_response.doc

United States

Justice denied: America's continuing neglect of our constitutional right to counsel, The

Constitution Project: <http://www.tcpjusticedenied.org>;

The Impact of Legal Services on Economic Activity in Texas: an analysis of current efforts and expansion potential; The Perryman Group,

http://www.lsc.gov/press/updates_2009_detail_T246_R4.php#texasnew;

5. Research and Events

'Delivering legal aid services across diverse communities', ILAG, 1-3 April 2009, Wellington, New Zealand.

6. And finally

This newsletter has been compiled by Roger Smith of JUSTICE with assistance from Colette Miller of the University of Strathclyde. If you would like to be taken off the circulation list; add someone or contribute some content: contact rsmith@justice.org.uk.

ILAG was established in 1992 as a way of bringing together academics, administrators and others interested in the development of legal aid. ILAG is constructing a website at www.ilagnet.org. JUSTICE is a UK-based human rights and law reform organisation dedicated to advancing human rights, access to justice and the rule of law. Its website is www.justice.org.uk.