

# SEMINAR TO EXPLORE SOLUTIONS TO UNMET LEGAL NEED: SUMMARY

The logo for the Legal Services Consumer Panel is a blue circle containing the text "LEGAL SERVICES CONSUMER PANEL" in white, stacked vertically.

LEGAL  
SERVICES  
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## Impetus to Convene the Seminar

The Legal Services Consumer Panel is an independent statutory body which advocates for consumer focused regulation within legal services. One of our strategic aims has been to encourage fairer outcomes for consumers by reducing unmet legal need.<sup>1</sup> As the ongoing cost of living crisis progresses, the Panel is not assured that legal services regulators understand the full scale of the access to justice gap and how it impacts the rule of law. Regulators must ensure that regulation not only does not impede access to justice but actively promotes it. Accordingly, the Panel convened a seminar to explore solutions to unmet legal need on 31 October 2023 so that stakeholders could forge a common understanding of the barriers to access to justice, open dialogue channels and focus on possible paths forward.

## Barriers

Opening discussions highlighted the overarching problems that plague the current systems within which free legal services are provided, along with the specific legal problems faced by those who find it difficult to get legal help. In summary, potential solutions to unmet legal need should address the following barriers to access to justice as articulated by delegates:

- lack of a regionally or nationally coordinated approach to addressing unmet legal need;
- legal aid deserts (both geographic and in specific areas such as social welfare law);
- shortage of lawyers practising (and entering) social welfare law;
- lawyers' training does not mandate any exposure to social welfare law;
- existing structures discourage the provision of early advice to prevent legal problems from arising or getting worse;
- tendency to support people with legal issues in silos (and not holistically);
- Lack of consistent funding for the free advice/legal sector;
- legal aid structures unnecessarily limit who can be a contract supervisor, do not facilitate cash flow needed to stay afloat and only cover specific legal problems;
- many people do not recognise legal problems or know when and where to get help;
- people in crisis access intermediary organisations that lack legal knowledge;
- many people find lawyers intimidating and hard to engage with;
- online services can be alienating to vulnerable people;

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<sup>1</sup> LSCP 2021-2024 Strategy and Work Programme 2021/22 at <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2021/04/LSCP-Strategy-2021-24.pdf> at p. 3.

- low level of affordability and general ability to access civil justice (ie. UK rated 45 out of 46 similarly wealthy nations on civil access to justice)<sup>2</sup>;
- no-win-no-fee terms are only suitable for very capable people;
- those without legal representation are disadvantaged (in technical expertise and in how the value of their case is perceived).

## Next Steps

Delegates from frontline free advice and legal services agencies, universities, charities, legal regulators and government agreed that there needs to be an overall strategy or agreed approach to improving access to justice in England and Wales. To achieve this, a convener is needed to organise a movement of interested parties to push for urgent action. While there was consensus that work needed to be done to prevent unmet legal need from occurring in the first place by making systems that administer benefits, tenancies and employment disputes fairer, there was also recognition that multiple solutions would be required to buttress access to justice.

Regulators clearly have a role to play with their statutory regulatory objectives to improve access to justice, support the rule of law and increase public understanding of legal rights and duties. They also have a Public Sector Equality Duty to ensure those with protected characteristics are not disadvantaged and encourage a society that is more equal. Practically, they possess data relevant to the discussion on solutions because they research what people need when they face a legal issue.

## Summary of Specific Solutions to be Explored

The following potential solutions were articulated by delegates as ones to explore:

### Service Delivery

- 1) A one stop shop (in person and online) where people can go for help to identify their legal problems and signposting to legal assistance including both online (maybe involving AI) and in person services; the in person one stop shop should where possible be co-located with other services (e.g. health services or libraries), as proposed in the *National Legal Service* and *21<sup>st</sup> Century Justice* policy papers<sup>3</sup>.
- 2) Train Community Legal Champions who interact with those with unmet legal need and/or crisis support workers (in charities, foodbanks etc.) on rights, redress processes and how to challenge decisions so they can help identify legal needs and triage cases for support.
- 3) Increase the uptake of legal services through unbundling and free legal services through graduated user fees.
- 4) Work with stakeholders to improve legal aid rules so that those who are qualified can act as supervisors and cash flow is viable for legal aid service providers.

<sup>2</sup> See <<https://worldjusticeproject.org/rule-of-law-index/factors/2023/United%20Kingdom/Civil%20Justice>> at factor 7.1.

<sup>3</sup> Similar ideas are discussed in Roger Smith and Nic Madge's *The National Legal Service: A New Vision for Access to Civil Justice* (2023) at <<https://www.lag.org.uk/document-downloads/213950/the-national-legal-service-a-new-vision-for-access-to-civil-justice-roger-smith-and-nic-madge>> and the Law Society's *21<sup>st</sup> Century Justice* green paper at <<https://prdsitecore93.azureedge.net/-/media/files/campaigns/21st-century-justice/21st-century-justice-law-society-green-paper-oct-2023.pdf?rev=99dfea0ec14c4093a75f19a1779dccc7&hash=F85B6772209EFE58CFC95E67708818F>>.

***What can be done more urgently: increase the offer of unbundled legal services.***

## **Funding**

- 5) Funding to facilitate access to justice that is joined up across different areas of law so that it is based on the consumer's needs, not just individual issues, to provide more meaningful support.
- 6) Coordinated funding model between government and charities including developing new income streams such as levies on the profession or higher level litigation,<sup>45</sup> IOLTA schemes or expansion of pro bono costs orders.
- 7) Enable publicly backed securitisation of legal aid providers' Work In Progress (WIP) for legal aid providers to draw down on to fund service delivery expansion projects.

***What can be done more urgently: expansion of pro bono costs orders, securitisation of legal aid providers' WIP.***

## **Training and Education**

- 8) Prioritise comprehensive training for all legal professionals on soft skills including being able to communicate clearly and deal with vulnerable people (relevant for all lawyers, judiciary and legal tech professionals).
- 9) Legal professional education must include some social welfare law and law students should understand how to apply their legal skill set to these areas and know where to access up to date tools to facilitate offering accurate advice in these areas.
- 10) Incentivise law students to study and practise social welfare law (including: considering adopting a Teach First model, forgiveness of student debt if practising social welfare law, fees reduction for those who provide sufficient hours working as pro bono student).

***What can be done more urgently: pilot incentivising law student pro bono work.***

## **Regulation**

- 11) National service for law students who must complete a pro bono legal services requirement to qualify (after showing they have the skills to provide these services) where funding is available for those who need it to complete this requirement.
- 12) Encourage law firms to consider the value of pro bono experience (which may also help diversity and increase prestige) when recruiting.
- 13) Require all lawyers to do some public legal education on an annual or biennial basis to help train people within intermediary organisations to help identify legal problems.
- 14) Facilitate pro bono work by maintaining up to date online materials for social welfare law to aid lawyers providing this type of advice when they do not practise in this area.

***What can be done more urgently: encourage law firms to consider the value of pro bono experience and pilot a practising certificate requirement for public legal education to intermediary organisations.***

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<sup>4</sup> Such levies are discussed in *The National Legal Service* proposal, *ibid*.