

Advice Sector Panel Meeting

Tuesday 4th December, Tavis House

Minutes

Attendees:	Organisation
Lindsey Poole (LP)	Advice Services Alliance
Claire Blades (CB)	Citizens Advice
Karen Ashton (KA)	Law Centres Network
Alan Roberts (AR)	National Union for Students
Eileen Pereira (EP)	Personal Support Unit
Kari Gerstheimer (KG)	MenCAP
Enrique Saenz (ES)	AdviceUK
Kevin Higgins (KH) (via conference call)	Advice Northern Ireland
Rebecca Wilkie (RW)	Litigant in Person Support Strategy
Anne Killeen (AK)	Z2K
Diane Sechi (DS)	Simmons & Simmons (Pro Bono Panel)
Deborah Gellner	Asylum and Appeals Support Project
Paul Yates (PY) (via conference call)	Freshfields (Pro Bono Panel)
Heidi Bancroft (HB)	Secretary to the AJC, JUSTICE
Apologies:	
Michael Reed	Free Representation Unit
Chilli Reid	AdviceUK
Lisa Wintersteiger	Law for Life
Mathew Cunningham	Shelter

1) Welcome and introductions

Lindsey Poole welcomed attendees to the second Advice Sector Panel meeting.

2) Terms of reference

The panel discussed the drafted terms of reference (TOR). HB had drafted a TOR following a similar format to the full Council TOR and she asked for comments from the panel.

Action: Members to email HB with further comments.

3) Membership

There was a discussion on membership and which other sectors should be covered on the panel including refugees and ex-prisoners (in relation to parole boards and ombudsman complaints).

It was agreed that they should characterise issues that affected both the advice and legal aid sector.

4) Digitisation of Tribunals Research Project – Diane Sechi, Pro Bono Panel

DS gave an update on the digitisation research project taken forward by the Pro Bono Panel. She was assisting HMCTS user group on the online Personal Independence Payment (PIP) appeal form. She had originally hoped to research how users were experiencing the user journey but discovered

that there had only been one applicant coming through for assisted digital. She explained that the online PIP form was the appeal form online after an appellant had received a mandatory reconsideration. She thought that HMCTS had underestimated the amount of people who would require assistance with the form. She had changed her remit on what she wanted to research as she believed that HMCTS haven't done enough on stakeholder engagement. It was not only Law Centres or Citizens Advice Bureaux that vulnerable people turned to but also community groups, housing associations, local authorities etc. The panel were formulating questions to see what advice services these stakeholders offer.

Panel members offered their support and agreed to provide assistance with finalising the questions to stakeholders.

Action: a) Panel to inform HB if they were interested in becoming involved in research; b) Panel to send questions to DS/HB for the survey.

5) Polluter pays – Paul Yates, Pro Bono Panel

PY gave an update on the research project he was leading on the polluter pays principle. The Pro Bono Panel were looking at two areas- poor decision-making and poor compliance by state parties. The solution to the two areas is very broad and involved cultural change. The concept had been pursued and rejected many times including in the LASPO response, but they would have another attempt at it. He explained how the fee mechanism would work and asked the panel to let him know if there was any good reports that he could reference to existing problems.

There were concerns expressed by the panel that the fee might give polluters the permission to make mistakes by allowing them to pay for it and that if the political climate changed, cost orders could be made against appellants.

PY asked the panel to email him examples of poor decision-making.

Action: Panel to email PY/HB with examples of poor decision-making by 18th December.

6) Steering Group update – Claire Blades

CB gave an update on the Steering Group meeting. She had updated the group on the discussions in the previous panel meeting and that they had been interested in stopping things perpetually going wrong (through lessons learned mechanisms), in the design of online tribunals and looking at loop mechanisms. There was an update from the Academic Panel and an update on the research projects from the Pro Bono Panel. She felt that the Advice Sector Panel could add value by providing the Steering Group with a different angle by providing information on what they are seeing on the ground. Resources would be tight, but it would be useful to see how they could work well with the other panels and steering group.

7) Update on the Administrative Decision-making and Procedures workshop

LP updated the panel on the workshop highlighting the range of administrative justice issues. DS's case study went down really well and it showed how important some of these issues were. The presentation from the Behaviour Insights Team had also been interesting. CB added that the workshop showed how broad the administrative justice world is and how specialised some people

are in their fields. The advice sector sees a broader view and how their clients are impacted by policy changes. She had also given a presentation on the user journey. Their perspective was essential in feeding back the client experience.

LP suggested the panel find these stories and pull them together. The website would be an opportunity to share these case studies.

Action: a) HB to circulate workshop report; b) Panel members to send case studies to HB.

8) Priorities

LP asked the panel to think of priorities that they could report back to the Steering Group/Council. The panel came up with the following suggestions:

- i) Local authorities practices - council tax arrears and collections;
- ii) Tribunals held in inappropriate settings e.g. magistrates courts;
- iii) GP letters - Perverse incentives with GPs writing letters for people when they claim their PIP;
- iv) Consultation on bailiffs –local authorities charging residents for the advice and help they get in applying for Attendance Allowance on a ‘no win no fee’ basis. There was a question on whether this sort of practice is wide spread;
- v) Tribunal representation for appellants - equality of arms and fairness for tribunal hearings. LASPO review will be more difficult for people to get early advice and without that advice they will get away with poor decision-making.
- vi) Ombudsman schemes - how the advice sector could support this by providing research. They could investigate the issues that have been to court and look at systemic issues. It would interesting to look at where the boundary lies and identify whether it needed reform. It would be worth looking into own-initiative powers and legislative changes to enable them to have more investigative powers. KH to send details on own- initiative powers in Northern Ireland, where this power existed. HB informed the panel that the academic panel were looking into ombudsman reform and it could be the start of a working group, bringing interested members of the panels together.
- vii) ‘Lesson learning’ - how the administrative justice system can remedy underlying systemic problems which are causing or contributing to flawed /poor quality decision-making which is impacting repeatedly on others. One possibility might be for the admin court to refer cases for investigation to the LGO when the individual JR has settled but there is reason to believe that they may be an underlying systemic issue that could be addressed. How can the admin justice system be improved to try and avoid repeat problems by getting to the bottom of underlying causes.
- viii) Assisted digital - CB highlighted the problem of users having to use both an advice organisation and then separately seeking assistance for help on the digital side. There is

an issue of time delay if people need to access advice but the process doesn't allow sufficient time to do facilitate this.

- ix) Quality standards in PIP and ESA assessments - quality standards in the contract used by assessors where they are making decisions on behalf of the state. This was an inherent flaw that was leading to poor decision making. The contracts for PIP would be coming up next year. Contracting out and the quality of decision making may be an issue. Reports were not fit for purpose and even though select committees had expressed their concern, nothing had been changed.
- x) Insufficient access to good quality and early specialist public law advice. One aspect of this is the availability of providers who will undertake legal aid work.

LP asked the panel to have a look at the list of priorities and vote for the areas that they would like to focus on.

Action: a) Send additional areas to HB or LP; b) KH to send detail on own initiative powers in Northern Ireland.

9) Communications including website

HB gave the panel an update on communications for the AJC including the website, twitter and huddle account for sharing information.

Action: a) HB to circulate the website link and twitter address; b) Panel to send HB biographies and photograph; c) HB to invite members to join huddle.

10) Dates of AJC meetings:

Steering Group: 11th January (Steering Group members only)

Full Council: 25th January (full Council only)

Advice Sector Panel – End March (tbc)

Heidi Bancroft
Secretary to the AJC