

## **Pro Bono Panel Minutes**

Wednesday 29<sup>th</sup> May 2019, Freshfields

**Attendees:** Paul Yates (Freshfields), Diane Sechi (Simmons & Simmons), Helen Rogers (Allen and Overy), Marion Edge (Herbert Smith Freehills), Heidi Bancroft (Secretary to the AJC), Alex Walters (JUSTICE) and Jodie Berg (JUSTICE).

**Apologies:** David Boyd (Clifford Chance)

### **1. Online Advice Platform – Jodie Berg and Alex Walters (JUSTICE)**

Jodie Berg (JB) and Alex Walters (AW) gave an overview of their concept paper regarding an online advice platform. The idea had emerged out of the JUSTICE 'Preventing Digital Exclusion' report and out of the need for a solution on how to offer legal advice in a digital space which had not previously been considered. The MoJ were interested in the concept in terms of the provision and build of the platform. The paper was not finalised and they would seek input from the pro bono, advice and legal sector before the final product is produced. AW explained that they had drafted the paper to prompt the MoJ's thinking and to provide legal advice remotely. It could help respond to advice deserts when there was no legal representation.

The panel gave some comments on the paper which would be taken away and considered by JB and AW. The panel would be invited to their roundtable discussion with stakeholders.

### **2. Stakeholder engagement survey – Diane Sechi**

DS gave an update on the stakeholder engagement survey. To date, she had received 327 responses although this was likely to increase as AgeUK would be sending out the survey in their newsletter on 10th June 2019. Whilst she had received some good responses, she expressed concerns that Citizens Advice were unable to send it to out to their network and their feedback would be vital.

DS summarised the results of the survey including both the quantitative data and qualitative information. It was clear from the answers that capacity issues were a huge factor in providing digital assistance.

In terms of the next steps, the deadline for the survey was 17<sup>th</sup> June 2019 after which it would be sent to the Academic Panel for evaluation. They would then put together a provisional report to the Council and seek their advice on what to include in the report.

**Action:** 1) DS to contact Gillian Guy, CEO of Citizens Advice and 2) Members to send DS contacts details for local CABs.

### **3. Polluter Pays Principle – Paul Yates**

PY updated the panel on the polluter pays project. The research update had gone to the Steering Group and the working group had taken place the previous month. There had been some resistance from the tribunal judges but they had decided to test the waters with the Asylum and Support Tribunal (AST) for the pilot. Judge John Aitken, President of the Social Entitlement Chamber, had contacted the AST to seek their agreement and PY would contact him for the outcome. He had objected to the pilot in the Social Security and Child Support Tribunal because money that HMCTS already get from DWP might be at risk, if they were to be charged for the fee. PY confirmed that HMCTS had initially said that the funding they received was when there was a change in the law

which would impact on the tribunal. A set amount was then paid (under an MOU). Given the volume of changes, that was around 50% of the cost.

The Asylum and Immigration (AIT) tribunal judge had informed them that there were fee awards at the AIT Chamber if you won your appeal, although he wasn't aware of any data on whether it had been effective. PY proposed that the panel look at whether there has been a change in the number of appeals since the fee had been introduced, how often it was being used in practice and how many cases attract a fee. He also suggested they find out what schemes were in place in the separate tribunals.

The panel discussed the legality of having a cost instead of fee. PY explained that a lawyer in MoJ had said that they could not call it a fee as would not be for a service and that primary legislation would be needed to change this. The discussion in the meeting was around the meaning of 'fee'. PY would seek a legal opinion on the definition of a fee and whether the mechanism would be a service.

**Action:** PY to seek advice on whether or not polluter pays could be construed as a fee.

#### **4. Other priorities**

The panel discussed additional areas to focus on over the coming year. PY highlighted that they had not yet focused on Stage 1 of triage which had been one of their earlier priorities. This could tie in with the work from the survey.

It was agreed that they undertake a Pro Bono audit looking at what additional resources there were and that they involve the collaborative plan team. It was proposed that they look at which areas were covered by Pro Bono, the number of cases, and the number of end to end cases. The panel agreed to ask a few firms to fill in how many matters started they had completed from the beginning of this year. It was suggested that firms reply in bands rather than specific numbers and that the survey should include areas outside of London. PY would approach Law Works for statistics.

**Action:** PY to approach Law Works on when their statistics will be going out.

#### **5. Annual Report/ Business Plan 2019/2020**

a) Annual report - HB informed the panel that she would be putting together the AJC annual report which would be published in the autumn. She would provide the Council with a skeleton of the report and ask members if they would like to contribute. She would also be asking individuals, who are leading on projects, to provide a contribution. The drafting of the report would take place over the summer period but she would send out an email with a deadline for contributions.

b) Business Plan 2019/2020 – HB explained that there would also be a new Business Plan for 2019/2020. She suggested the panel consider updating the wording for their current projects. Any new priorities for this year would also need to be reflected.

**Action:** HB to send out an email for contributions for the annual report.