

Regulators Pioneer Fund 2: interim report Challenges to address inequalities in access to justice

3 March 2022

Background

The Regulators' Pioneer Fund is a Government lead initiative which sponsors projects led by regulators or local authorities which aim to help create a UK regulatory environment that encourages business innovation and investment.

As part of the second round of the fund (RPF2), which overall is seeing £3.7 million invested in 21 projects, the SRA won a grant of

[<https://www.gov.uk/government/publications/projects-selected-for-the-regulators-pioneer-fund/projects-selected-for-the-regulators-pioneer-fund#physical-standards-foradeno-associated-virus-aav-gene-therapy>] £167,856

[<https://www.gov.uk/government/publications/projects-selected-for-the-regulators-pioneer-fund/projects-selected-for-the-regulators-pioneer-fund#physical-standards-foradeno-associated-virus-aav-gene-therapy>] .

This money is being used to support a project which aims to stimulate new approaches and offer new pathways to utilising technology and innovation, to help remove long standing and growing inequalities with access to justice.

As part of this we aim to explore the ethical and consumer protections needed to build public confidence and trust in online services. Our approach aligns with the UK Government's priority to boost the fast-growing digital economy, and 'level up' the country by tackling geographic and socio-economic inequalities in access to justice.

Many commentators have noted that the Covid pandemic has widened the global gap in access to justice. It has exacerbated the unmet needs for those in vulnerable groups, putting more pressure on the advice sector and pro-bono services and the courts.

There has been an increase in the problems that many people face, including job insecurity, debt, eviction or domestic violence, at a time when it is harder to get legal support and particularly legal advice. This justice gap burden has tended to have a disproportionate impact on those already experiencing marginalisation, including women and girls, migrants, people with disabilities, LGBTi+ communities and racial and ethnic minorities. Particularly affected are people in poverty or those close to the poverty line.

As a result of the pandemic and the increased cost of living, people on low incomes have suffered a significant negative impact on their ability to afford essential services and pay household bills. People living in deprived areas

Open all [#]

Our approach

The pandemic has accelerated the adoption of technology by the consumer advice sector, in order to allow them to continue to deliver their services in a period of increased demand. New platforms, information sites and ways of working have been rapidly implemented. As we recover from the pandemic, the task now is to understand how best innovation in service delivery can be used to improve legal advice service provision and increase access to justice for citizens. This must recognise that some people face multiple barriers to accessing services online and that people value individual help even when dealing online with a problem.

We have been reviewing how existing research and datasets might provide fresh insights in to localised legal provision, specifically whether there are regional differences in legal needs and the digital divide. Evidence suggests some people have adapted to the pandemic-driven switch to online services whilst others have fallen even further behind. The digital divide is not binary. Some people need varying degrees of support to access services online and there are some people where access to in person one-to-one assistance will be especially critical.

Our insights so far are summarised in this report. They will also inform the series of virtual justice innovation challenges we will run during the next phase of work. These challenges are aimed at developing practical solutions to the problems we have identified. These innovations in service delivery may involve technology but could also involve non-tech elements. We are currently focusing on Wales and the West of England Combined Authority [<https://www.westofengland-ca.gov.uk/about-us/who-we-are/>] areas. We think there are applications across other regions, and we encourage others to take them on.

We will also be continuing to explore options for how pro bono partnerships can offer greater impact.

To help achieve this we have pulled together a consortium of five organisations who will work with us to achieve this. The consortium partners are:

- Swansea University's Legal Innovation Lab and Law Clinic
- West of England Combined Authority (WECA)
- The University of the West of England's Business and Law Clinic



- University House Legal Advice Centre
- The Information Commissioners Office (ICO)

Our approach has been built on the following innovation principles:

- **Problems:** in order to identify and frame localised access to justice issues we are identifying a series of problem statements where technology may have a role in solving
- **People:** understanding providers' and users' experiences, including how technology is currently being used, inform our problem identification and those factors that should be considered for these users. We are working with wide range of stakeholders in the pro bono community to identify how tech could address specific gaps in legal provision.
- **Facts:** investigating how existing research and data can be exploited to provide fresh insights into solving localised access to justice issues.
- **Solutions:** we will map existing assets and tools to identify potential new solutions. We will look to develop and test some of these in the second phase of the project.
- **Targeted** the delivery of legal services through a digital channel must achieve the right balance between legal, emotional and digital support. The impact of digital divide will apply very differently across the range of services and people that access legal help through advice agencies. It is important we identify the right points for where technology can contribute to innovation in service delivery in the advice sector.
- **Futures:** building a legacy, through our engagement with government and local agencies, funding bodies, law firms and the specialist advice sector.

Our research

Drawing on existing research and data, we are developing a framework which helps to understand people's every day legal problems and experiences with the justice system. This is adapted from an empirical tool developed by the Organisation for Economic Cooperation and Development (OECD), an intergovernmental economic organisation, and we hope could be adopted by others to gain other localised insights.

We are also engaging with our partners in the BEIS Agile Nations programme that aims to draw on best practice internationally. Agile Nations is a regulatory agreement designed to foster cooperation on innovative regulatory practice between participating government bodies in the seven signatory nations. This reusable framework will include:

- **An intelligent service map.** There have been valuable contributions from work carried out by the Law Society on legal

[<https://www.lawsociety.org.uk/en/campaigns/legal-aid-deserts>] I aid deserts

[<https://www.lawsociety.org.uk/en/campaigns/legal-aid-deserts>] that map or provide registers for parts of the justice ecosystem, for example courts, legal aid providers or law centres [<https://www.lawcentres.org.uk/list-of-law-centres>] . We are working with an external company [glass.ai] to pull together data underpinning existing maps and registers and mine new information on providers of legal services. This will be presented as a single service provision map.

- **Regional analysis of legal needs and people's legal confidence.** We are drawing on key data from the latest LSB user needs survey for regions, which includes those geographic areas we are focusing on. We will draw out any trends or key differences across regions. We are also using the Citizens Advice data dashboard to identify regional trends in legal needs and justice gaps.
- **Developing indicators of particular vulnerability within a specific location.** Working with WECA, we are drawing on several datasets to show where there are particularly vulnerable people, facing multiple barriers to accessing justice. The intention is that this work could be replicated for other local areas. This could be used to better target online and offline resources based on individual's specific needs.
- **Understanding the range of self-help tools** including simplified benefit and court and tribunal forms that are available or in development and how these might map across to access to justice gaps.
- **Summarising best practice internationally** we have reached out to our Agile Nation partners as well as research being undertaken at UWE. With research undertaken in Canada by Legal Aid British Columbia on achieving digital equity in access to justice [<https://net4justice.notion.site/Achieving-Digital-Equity-in-Access-to-Justice-Final-Report-2dd913e676d44915a9cedb207f070c9b>] has some important learning that are applicable across all Nations.

The first three research phases of the project have been completed, while focus now moves to concluding the solution ideation phase, as part of an open innovation challenge, and planning the legacy for the project.

Our analysis will provide further insights for participants to contextualise these justice innovation challenges. We will also publish this framework and analysis in our final report to make it available for others to use and inform future initiatives to solve justice gaps, funding programmes, as well as resource and training requirements at a national and localised level.

Workshops with consumer advice agencies

Our consortium has hosted two workshops with advice agencies to explore how technology can support access to justice and understand the challenges this brings. It included how technology is currently being used and the customer experience shaped by its application.

Our workshop participants were drawn from Bristol, the southwest of England and from across Wales. They came from a range of sectors and specialities, working in urban and rural advice agencies, university law clinics, ethnic and demographic advocacy groups as well as local authorities and national bodies.

These events were designed to highlight what the issues were in the application and use of technology. Set in the context of the impact of the coronavirus, both workshops looked at the main impacts that the rapid shift of the use of technology had brought to the advice sector. These included both benefits and disadvantages for different types of consumers, reflecting both their personal circumstances and their ability to interact successfully with the technology. The workshops also sought to identify elements that might improve the situation for clients, both in identifying technological improvements to increase access and availability and in improving collaboration between advice agencies in terms of referrals, the sharing information

We have also undertaken extensive engagement with those offering legal advice on a pro bono basis to understand what the opportunities are for technology to boost the impact of pro-bono partnership services.

This work has offered great insights about the problems that need to be addressed and which can inform the innovation justice challenges that we are running in the next phase of the project.

Key insights

Legal service providers can be difficult to access

- The rapid switch to online advice services has proved particularly difficult for some groups seeking advice including those where reading and writing levels may potentially be lower. In addition to digital literacy skills required to interact with systems, there is also the lack of hardware needed to operate easily online. This has also led to increased reliance on external support to obtain advice and services.
- Groups who struggled with or did not use technology prior to the pandemic may be even further isolated, as many government and support services – including with legal help and advice – have moved online. For people that rely on or prefer on face-to-face appointments, clinics may have limited opening times, available spaces or be geographically remote.
- Other groups have benefited from the online move, for example because technology might break down their isolation or allow for anonymous interaction if that is preferred. Homeless people who are willing and able to embrace the technology are notable beneficiaries, for example through using apps on smart phones to access services. An example is in the way some NHS Trusts and Local Health Boards have moved to offering online



consultations, providing many patients with greater flexibility in how and when they attend appointments although we were cautioned that careful engagement with people is needed and that a one size fits all approach does not necessarily work. We also heard that whilst there is still scope for improvement in how to involve and support people with visual impairments to use technology that use screen readers during the pandemic has opened work opportunities for them.

- Advice centres also said that finding ways to engage with the most difficult to reach that need their services in the design of legal technology tools is an issue.

A skills gap is limiting the provision of pro bono services

- Our work led by University House Advice Centre with pro bono stakeholders, including with the profession-led UK Collaborative Plan, is drawing out new ideas to enable our pro bono services to have greater impact. The plan sets aspirational targets for pro bono hours as well as well as commitment for participating laws firms to work collaboratively to develop the systems and infrastructure to allow regional pro bono services to thrive.
- Virtual pro bono clinics are attracting far more senior lawyers to get involved, but there are still barriers and pressures. This results in lawyers becoming less likely to get involved in pro bono advice as they progress in their careers. As a result, there remains a shortage of legal advisors to staff free legal advice clinics. Often, lawyers want to volunteer but they do not feel confident that they can advise on areas of law beyond their expertise. Law firms are also nervous about releasing their lawyers to offer pro bono support on areas of law beyond their expertise. Approaches from local firms to offer pro bono services are therefore sometimes not been taken up because university law clinics are not resourced to provide the social welfare training and supervision required.

Language barriers

- Legal information is often communicated in a way that is complicated to understand. This means that people do not know their legal rights or entitlements, whether their problem is a legal one or how to find useful information and answers to resolve their issue.
- This is even more problematic for non-native speakers. Most online advice and technology (including webchat) to support this is in English. Technology interfaces need to be offered in the language that a user is most comfortable with and should not need to default back to English. If there is a need to switch between one or more languages, this needs to be made as easy as possible. Telephone advice is also made more difficult when using interpreters.



- A specific issue in Wales is the increasing divergence of Welsh and English law in some key areas like housing. As well as overcoming language barriers, systems need to be able to recognise this difference and provide information appropriate to the jurisdiction.

Support is needed to adopt technology and manage with data privacy and security risks

- There are set up and ongoing maintenance costs with increased use of technology. Many smaller agencies lack the funds and internal expertise to use their systems. There was positive feedback when moving to a cloud-based system or making use of Microsoft applications. The use of technology has evolved over time with moves to make it simpler and more streamlined to use. Others had found other software like SharePoint difficult and resource intensive.
- There are also security and confidentiality risks that need to be addressed. The use of tools such as WhatsApp have clearly benefited some clients, but the agencies raised worries about data privacy issues, accurate record keeping where contacts are derived from multiple sources the use of personal phones as the host for social media tools and well-being issues about being constantly available.
- These issues might be addressed by support tools whereby advice agencies can share their experiences of how they are using technology, the challenges they are facing and access best practice and guidance to solve these.

Commercial case management systems may not be suited for the advice sector

- The free legal advice sector relies on a multiplicity of commercial case management systems which may not be well suited to them. They do not easily interact with government systems or work together to be able to exchange data easily and securely when advice agencies make referrals. Tailoring these systems and implementing manual 'work arounds' can be very labour intensive. Issues have also arisen as many universities have had difficulty in getting the case management system approved by their legal team. They then use inefficient 'work around' system.

Lack of visibility and trust in self-help tools

- Whilst there are some useful online sources of legal information such as provided by Citizens Advice [<https://www.citizensadvice.org.uk/>] and other websites these often contain static information about services offered and links to resources. There is lack of trust and visibility of interactive self-help tools that are being developed, for example, chatbots such as Access Social care's Alice [<https://www.sra.org.uk/sra/research-publications/legal-access-challenge/>] , which is now open source. Also, web-based platforms that can generate



customised documents/forms using information from user responses to a questionnaire. These tools can be either used directly by the public or to support face-to-face advice provided by an advice agency or law firm. They are being developed for example to help complete documents required in employment and family law court and tribunal proceedings. These forms are available from the HM Courts and Tribunal Service. They can be searched through the form finder website. HMCTS recently worked with colleagues from MOJ Digital & Technology [<https://mojdigital.blog.gov.uk/>] to improve usability and make forms and guidance easier to find.

- Another potential area where a simplified form could be helpful would be for disability benefits appeals which is one of the highest volume problems seen by community advice agencies. And we heard that charities supporting people with mental health issues had to help complete very lengthy forms that they struggle to complete.

Limited signposting tools to connect across agencies/manage capacity

- Within their own organisations, advice staff have used technology to share workloads more easily between individuals or offices. Where physical offices were closed, it also has had a positive social impact, by maintaining staff contact and making meetings more efficient. Advice agencies observed that the multiple channels now available for people to contact them can make a consistent approach to recording and securing information has become challenging.
- The advice sector is also finding ways to better connect to enable the sharing of workloads across agencies managing capacity and connecting people to agencies or professionals with the required specialism. For example, the LawWorks tool [<http://www.lawworks.org.uk/>] , part of its not-for-profit programme, helps connect volunteer solicitors with small not-for-profit organisations in need of legal advice.
- In other cases, clients are over-referred onto organisations that lack the capacity to take on more cases. This can lead to clients being passed around advice agencies. This is particularly acute at certain times of the year. University clinics have significantly reduced availability outside term times. Some clinics do not have the required specialism to support a client so need to refer a case on. However, they do not know the capacity of the clinic to whom they are referring. While some areas may not offer an appropriate agency able to help, those in other parts of the country may have capacity.
- Where there is a referral to another agency, advice agencies also mentioned that tools that help them to export information securely to another agency would be useful. We also heard that where there may be multiple agencies involved in a trusted single point of contact would be helpful for people needing help.

Some funding sources for specialist services may not be accessed

- There are financing sources that are available for paid for specialist advice that are not being used. There remains a lack of awareness of legal aid eligibility, and it is not easy to check whether insurance policies people hold may cover legal expenses. Evidence from the LSB Legal Needs Survey 2020 [<https://legalservicesboard.org.uk/news/largest-ever-legal-needs-survey-in-england-and-wales>] highlighted that among people responding about a legal issue eligible for Legal Aid, who have a household income of £32,000 or less, 85 per cent did not think they were eligible for support. It has been suggested by the advice sector that creating an insurance checker would allow individuals to confirm easily whether any of the insurance policies they have include legal expenses insurance suitable for the legal issue they have.

Next steps

As part of a series of planned activities following the conclusion of the RPF2 funded project, we will:

- Run a series of justice innovation challenges during 2022 to highlight areas of focus for our work and to show where targeted application of legal technology can produce positive change for those who need access to legal advice.
- Publish a final report setting out the outcomes from the challenges and further insights from our research. We will also Increase our collaboration with other partners to expand what we have learned and see how it could be applied to other areas of the country and other areas of legal need.
- Set out a programme of activities that will create a legacy for the project following the conclusion of the funded part of the project which ends in March 2022.
- Develop the project into a reusable programme that could be repeated in a different region within England and Wales