

cover most areas of law and employ about 150 people. It's a limited company, I'm one of two directors.

I've been there since 2000. I came from a firm called Gosschalks, which decided that legal aid was not something that fitted in with the firm. I took the whole criminal department to Williamsons, with no one losing their job.

Q: How would Williamsons fare under the proposed arrangements for duty contracts?

A: We are certainly the biggest crime practice in the area and in the proposed procurement area. There is no guarantee that we would get a duty contract. But, even if we do, that in itself has problems because our proposed procurement area would have to expand by about 40%. And we would have to show that we had the capabilities of covering that extra geographical area.

When the proposals come out, we'll have a very serious look: is it worth continuing doing crime? The criminal department is 20 strong, so, if we didn't get a duty contract or a decision was made not to do crime, we would have some very difficult decisions to make.

Q: Has anything good has come out of the campaign, professionally or personally?

A: I've really enjoyed my time as chair. It's been an eye-opening experience to see at close quarters how government works, how the Law Society works and, if you like, how the dirty world of politics works. And I've met wonderful people and formed some very close relationships with people in London – Nicola, Paul, Jon, Akhtar and many others.

Q: What is your background – ie family and education?

A: I'm a Yorkshireman, born and bred in Hessle (a village outside Hull). I'm not a Law graduate; I did part one and part two professional qualifying examinations and a four-year training contract – at the end of which, I could take a Rank Xerox photocopier to pieces and put it back together again blindfolded.

I had left school in the middle of my A levels. I decided, aged 16, that I wanted to be a farmer, which was about as irrational a decision as a child could make. I had no relatives or even anyone I knew who worked on a farm. I lived on my own in accommodation on a farm, worked a 70-hour week for £10 and, at the end of two years, accepted that I had made a mistake.

I went to a College of Commerce and did a business studies course, part of which was Law, which was the first subject I really ever enjoyed. And so, as I've said in many an after-dinner speech, I went from shovelling it to talking it!

Q: What are your activities outside work? How often do you go to the races?

A: I do enjoy watching horseracing and the whole experience of the day at the races, and, during the flat season, will probably go about half a dozen times. I also enjoy skiing and travelling. But what I'm doing at the moment with the CLSA is all-consuming and I have no spare time at all. When you haven't seen people for a while, they ask you what you've been doing and I realise that, apart from CLSA business, I haven't done anything!

Universities Look at the Cuts II

The second of two reports on conferences on legal aid funding restrictions, held by the University of Warwick and Monash University (Victoria, Australia). The second conference focused on the Australian perspective. (For the first report, see the London Advocate issue 81).

Since 2013 and continuing into 2014 (and beyond), financial restrictions and prescriptive changes to social, legal and welfare services, underpinned by a government rhetoric of austerity, have significantly increased demand for services in Australia, while simultaneously increasing the extent of unmet need. In this resource-stricken environment, a hierarchy has emerged which has fuelled a robust contest in Australia's contemporary legal arena between a perceived prioritisation of government-funded serious criminal cases above, and at the expense of, criminal representation in the lower courts, and serious civil and family law matters.



Members of the Warwick and Monash University Access to Justice research Team (L to R) (from Monash) Associate Professor Bronwyn Naylor, Professor Jude McCulloch, Dr Asher Flynn; (from Warwick) Ms Natalie Bryom, Professor Jackie Hodgson.

This has raised some important questions for practitioners, activists, academics and stakeholders alike, namely: who deserves legal aid? Should we seek to provide more people with fewer services, or spend more money assisting fewer vulnerable clients? Who is the core client of legal aid services? Or does it only matter when it is someone we can identify with?

Workshopping the legal aid cuts

These questions were the key focus of the Monash University and University of Warwick workshop held on 21 July in Victoria, Australia. This was the second workshop (the first was at Warwick in March 2014) to examine the implications of cuts to legal aid funding and services across England and Wales and Victoria. A diverse range of stakeholders and groups were in attendance, including: Victoria Legal Aid, Victoria Aboriginal Legal Services, the Law Council of Australia, the Criminal Bar Association, the Law Institute of Victoria, the Women's Legal Service Victoria, the Federation of Community Legal Centres, legal practitioners, members of the judiciary, a range of Victorian legal centres, the Australian Productivity Commission, and academics from Australia and the United Kingdom.

The workshop provided a forum to debate the ways in which we as practitioners, academics, activists and stakeholders should or could respond to prescriptive legal aid policy decisions. The discussion centred on three key themes:

■ **effects on service provisions** – which examined the implications and conflict in funding priorities, for example, the prioritisation of serious criminal cases above minor criminal or family/civil law matters, and the difficulties in negotiating reduced funds with a growing pool of unmet legal need;

■ **the impact on the legal profession** – which examined the emerging implications for the legal profession, and court systems more generally, such as how the changes are impacting on lawyers and their relationship with clients, how they are impacting on court delays and what the new role of the judge becomes; and

■ **the broader social consequences** – which examined how the cuts are impacting beyond the more obvious consequences (eg the scarcity of legal representation or advice) and what the broader impacts might be on social welfare reform, policy decisions and incarceration rates.

Increased (unacknowledged) costs

The failure of Australian and English governments to consider the far-reaching consequences of reduced funding and restrictive policy measures for the services provided by legal aid, private practitioners and community legal centres was a common issue

identified across the day, with arguments that a reduction in funding to legal aid services and legal centres would only lead to increased delays at every aspect of the criminal and civil justice processes, and ultimately increase financial and social costs for the community.

It was unanimously agreed that legal aid funding cuts and prescriptive restrictions as to what services can and cannot be delivered, would not produce significant savings. In a law and order climate, where we are witnessing changes to judicial sentencing practices, such as the introduction of baseline sentencing, and a stronger focus on punitive measures involving mandatory jail time, restrictions on front-line and holistic legal service provisions will create what many of those practising law describe as “a perfect storm”.

In the criminal context, a primary concern identified was the seeming disregard for the impact of resource cuts and policy changes to representation in the lower courts and the overall devaluing of the magistrates' court. The diminishing worth of Victoria's lower court was identified as problematic both in regards to unrepresented defendants having to navigate an increasingly complex legal system, but also for practitioners, who could no longer rely on the magistrates' court to provide them with a training ground or the experience needed to then run cases involving more serious indictable offences in the higher courts.

Final layer of protection

Like England, in Victoria, numerous incentives are available to defendants to revoke their right to trial and plead guilty. These vary from sentence and charge discounts, to plea negotiations and even indications of the likely sentence from the magistrate. The pre-trial process itself is swarming with multiple hearings to facilitate early disclosure, discussion and resolution. Yet a policy decision has been made to remove an accused person's right and capacity to access legal aid in all matters deemed unlikely to result in a custodial sentence. This decision has been justified on the basis that those facing the most severe form of punishment should be prioritised when there is a reduced pool of funding available.

However, in light of the incentives provided to defendants to plead guilty, and the serious implications that arise from a guilty plea (eg registration on the sex offender's registry), there are some significant concerns arising from this policy decision. The potential for injustice arising from an induced guilty plea is a serious miscarriage of justice, on a par with the threat of a false conviction due to an error at trial. It is therefore vital that any changes to the provision of legal aid take into consideration how

the current system incentivises defendants to plead guilty, and what this means when there is no lawyer to act as that final layer of protection to accessing justice.

These concerns are equally felt in England and Wales where even those accused persons facing prison can risk loss of liberty without access to proper legal advice. In this jurisdiction, the legal profession has already absorbed reductions in fees over many years and the current proposals threaten to put many firms out of business. Across a range of areas of law, there is already a significant loss of practitioners with vital experience and expertise threatening the integrity of the English and Welsh legal system.

In a similar vein to the Warwick workshop, participants at the Monash event discussed the need to ensure that changes to legal aid funding and policies did not result in a two-tiered system of justice: one for those who can afford legal representation, and one for those who can't. This discussion was also framed around a wider social phenomenon where individual labour is replacing service provision. This is seen as the rise of "managerialism"; which is essentially the idea that individuals need to become more self-sufficient and self-capable of completing tasks independently of government or social welfare assistance, and those who cannot achieve this should be demeaned for failing and should take responsibility for their own incompetency.

This concern was linked with the reducing sense of broader social responsibility becoming entwined with government policy in such a way that any debates around welfare provisions, including how to best fund criminal law services, have shifted to questions of

deservingness, as opposed to rights. In this way, the public can be led to accept these stringent, dangerous changes to basic legal service provisions, and the legal sector find themselves forced into a position where they must question not what unmet need can be met, but what unmet need can they afford not to meet.

Where to from here?

A real fear exists within the legal profession that ill-considered, quick-fix resource and policy restrictions in the area of legal aid, combined with a punitive law and order agenda, will irreversibly damage fundamental understandings of due process and the rule of law.

Accordingly, the workshop identified the need to continue to publicly highlight the importance of meeting legal need, both on the front-line and through funded research that examines, critiques and advises how changes in government policy impacts on all members of the community. Our research hopes to contribute knowledge to this important area by seeking to measure the wider economic and social costs resulting from the funding and policy changes, as well as the impact on individuals and their ability to access justice.

A report on the Victorian workshop will shortly be available at

<http://www2.warwick.ac.uk/fac/soc/law/research/centres/accesstojustice>

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Penfriends

Penfriends makes it possible for volunteer correspondents, in the community outside prison, to write to prisoners and receive letters in return – and to do so in safety. We operate with the approval of the National Offender Management Service. Volunteers are provided with a PO box address – to keep personal details secure – a code of practice, an advice service, and training, during which a former prisoner alerts them as to how dangerous some prisoners can be.

Penfriends operates a highly supervised system: all letters are checked before they are forwarded. Volunteers never meet their penfriends. Over 15,000 letters have been exchanged since we began our operation ten years ago. This is what one penfriend wrote about us:

“Penfriends are a life-saver and, most of all, a caring scheme... thank you so much, penfriends, a life-line, a letter of connection and hope.”

