

ASAP Brazil Conference 2016
Access to Justice and Poverty Group
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Title

‘University based drop-in legal advice services in the UK; widening access to justice and tackling poverty’

Group

Access to Justice and Poverty

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1. INTRODUCTION

In September 2011, London South Bank University (LSBU) opened an innovative inner-city Legal Advice Clinic where trained second and third year undergraduate law students working under the supervision of practising solicitors provide free, immediate, drop-in, face-to face legal advice to the members of the local community.

This paper will describe the set-up and first five years operation of the Clinic and will contextualise the Clinic within the evolving tradition of LSBU as a widening participation, civic university and the recent draconian cuts to civil Legal Aid in England and Wales under LASPO 2012.

The paper will consider the potential for developing university based drop-in legal advice services as a model to help tackle the access to justice deficit and associated negative outcomes for people on low incomes, particularly in jurisdictions (such as England and Wales) where the state is withdrawing from publicly assisted civil legal advice as a result of

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austerity cuts in public financial investment. The paper will also consider the limitations of the model.

2. CONTEXT

It is helpful first of all to set out the context in which the Legal Advice Clinic at LSBU came into being and in which it operates.

2.1 LSBU

LSBU is one of London's largest and oldest educators, founded in the late 19th century with a remit to educate the young people of our locality in a range of practical skills.

In recent years the University and the Law Division have pursued a very successful widening participation agenda resulting in large and diverse cohort of about 160 undergraduate law students on Year 1 of our undergraduate law degree. A comprehensive 2008 survey of the student cohort disclosed that, prior to entering university, 25% of undergraduate law students lived locally in south east London. The same survey demonstrated that law students were more likely to be women (57%) and over 21 years of age (65%). In terms of ethnicity, they were 70% non-white as opposed to 30% white, and black African was the largest single ethnic group (27% - more than a quarter). 52% of full time law students were in paid employment during term time, 80% working nine hours or more. 17% (nearly one in 5) were looking after for at least one school age child².

As a result, LSBU law students are unlikely to have links to the legal professions and are unlikely to have family members or contacts who can find them legal work experience. This deficit has been identified as a key impediment to entry in to the professions in the UK – see the first and second 'Milburn reports' on social mobility and the professions in the UK.³

² James C, Koo, J and Rodney M, 'Mismatches between student expectations and reality: a problem for student engagement', paper given at Learning in Law conference 28-29 January 2011

³ Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions (Milburn, 2009, Cabinet Office Report)
<<http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/227102/fair-access.pdf>> accessed 29 July 2016 and Fair Access to Professional Careers, A progress report by the Independent Reviewer on Social Mobility and Child Poverty (Milburn, 2012, Cabinet Office Report), chapter 3
<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61090/IR_FairAccess_acc2.pdf> accessed 29 July 2016

2.2 Higher Education Reforms and Changes to the Legal Profession

Since 2012 students in England have had to pay up to £9000 pa tuition fees⁴. Students do not have to pay these fees upfront but receive an income contingent loan from the UK Government (via its arm's length but government owned Student Loans Company) which has to be repaid once students earn in excess of a particular income per pa, currently £21,000 pa⁵. The result is a student body ever more focussed on employment prospects post higher education⁶.

At the same time the introduction of Alternative Business Structures (ABS)⁷, costs pressures and the rapid expansion of information technology all continue to bring rapid changes to the way that legal services are delivered in the UK and, consequently, the career opportunities available to UK law graduates. There is increasing use of 'para-legals' and there are less pupillages and training contracts available, the pre-requisites for professional qualification as a solicitor or barrister in England and Wales.⁸

2.3 Social Welfare Law

'Social welfare law' is the umbrella term adopted in the UK for 'everyday' law that impacts on citizens and in particular those on low incomes and living in poverty: the law relating to

⁴ Higher Education Act 2004 and The Higher Education (Higher Amount) (England) Regulations 2010, as amended by The Student Fees (Basic and Higher Amounts) (Approved Plans) (England) (Amendment) Regulations 2012

⁵ The Education (Student Loans) (Repayment) Regulations 2009, as amended by The Education (Student Loans) (Repayment) (Amendment) Regulations 2014

⁶ See for example Temple, P. et al, 'Managing the Student Experience in a Shifting Higher Education Landscape', 2014, HEA

<https://www.heacademy.ac.uk/sites/default/files/resources/managing_the_student_experience.pdf> accessed 29 July 2016

⁷ The Legal Services Act 2007 (which came into force in October 2011) allowed non-lawyers to own and invest in law firms; previously only lawyers could do so.

⁸ In response to these deficits and challenges the Law Division at LSBU had already introduced a compulsory 2nd year undergraduate Law Module, 'Working in the Law' which coordinates applications for a large number of external placements including private solicitors firms and local government legal departments. Then in 2011 we embedded the Chartered Institute of Legal Executives (CILEx) Graduate Fast-Track Diploma into our undergraduate Law degree to offer our students alternative ways to qualify as lawyers in addition to the traditional and increasingly expensive and often unfeasible 'undergraduate Law Degree-Legal Practice Course-training contract' route (solicitors) and 'undergraduate Law Degree-Bar Professional Training Course-pupillage' route (barristers). Fellows of CILEx are fully qualified legal professionals with the same professional privileges and responsibilities as solicitors. Under current arrangements, Graduate Members of CILEx are entitled to become Fellows after 3 years of para-legal work.

housing, family, debt, immigration, employment, education, welfare benefits. So the ‘basics’; the roof over a citizen’s head, his or her job, his or her welfare benefits he or she cannot find work is not capable of work, his or her right to reside in the UK in the first place.

There is an extensive body of research on the significance of the provision of timely social welfare law advice in the United Kingdom. Research findings include: the tendency of social welfare law problems to ‘clustering’; the importance of early intervention to solve social welfare law problems so as to avoid increased social and economic costs down the line; the links between unresolved social welfare legal problems and physical and mental health and well-being; and the problem of ‘referral fatigue’ which sees a proportion of people giving up each time they are signposted or referred on by an agency they approach for help with a social welfare law problem⁹.

This work can be traced back to Genn’s ground-breaking ‘Paths to Justice’ study¹⁰, the first large scale investigation into how UK citizens do, or do not, use the civil justice system to try to resolve basic ‘justiciable’¹¹ problems, by which Genn meant problems that might have a legal solution; problems with housing, welfare benefits, debt and employment: social welfare law problems¹².

2.4 Local Poverty

LSBU’s locality is ranked in the top 8% of most deprived local authorities (average score) out of 326 local authorities in England¹³. Demand for social welfare law advice is

⁹ See, for example: Genn, H. (1999) *Paths to Justice: What People Do and Think About Going to Law*. Oxford: Hart Publishing; Balmer, N. (2013) *Summary Findings of Wave 2 of the English and Welsh Civil and Social Justice Panel Survey*, Legal Services Commission; Pleasance, P. & Balmer, N. (2014) *How People Resolve ‘Legal’ Problems: Report to the Legal Services Board*

¹⁰ Genn (n3)

¹¹ Genn (n3)

¹² There have been 5 further iterations of Genn’s original survey in England and Wales, and her approach and methodology have been adopted internationally – since 1999 there have been 22 replications of her study in 14 different jurisdictions across the globe. See for example; Currie, A. (2009) *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians*, Ottawa, Department of Justice; Coumralos, C. et al (2012) *Legal Australia-Wide Survey: Legal Need in Australia*, Sydney, Law and Justice Foundation of New South Wales; Chen, K., et al (2012) *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Taiwanese*. Paper presented at the 2012 Law and Society Annual Conference, 8 July 2012.

¹³ ‘English indices of deprivation 2015’, Department for Communities and Local Government, 30 Sep 2015 <<https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015>> accessed 29 July 2015

consequently enormous, whereas supply is extremely limited; on a site visit made early in our project development phase to our local Citizens Advice Bureau (CAB)¹⁴ there were 60 people queuing when the doors opened at 10 am and another 30 arrived before the session ended.

2.5 Restrictions to Legal Aid

In April 2013 LASPO 2012 came into force. This drastically reduced the Legal Help scheme, which had previously funded a network of pre-action social welfare law advice for people on low incomes in England and Wales, delivered by solicitors and other legal advice providers. Welfare benefits and employment advice is now out of scope altogether and simply unavailable under the national Legal Aid scheme; housing, debt, education and family advice has been severely restricted. LASPO has heaped further enormous pressure on the local social welfare law advice network.

3. THE CLINIC SERVICE

So in order to address the above constellation of factors – students demanding and needing a boost to their employability, a poor and disadvantaged local community, an acute lack of the social welfare law advice the research says is so important for health and wellbeing, and all of this made so much worse by LASPO and the cuts to Civil Legal Aid – in 2011 we developed and established our own in-house LSBU Legal Advice Clinic, a free drop in face to face general social welfare law advice clinic staffed by LSBU law students and supervised by experienced social welfare law solicitors on the LSBU staff, including the author.

It will assist now to describe in outline how the Clinic operates.

The Clinic premises are part of the campus but on the high street, on a busy bus route, with a ‘shop front’, a large street-level reception area, three interview rooms and a lockable back office.

¹⁴ Citizens Advice UK operates a network of information and advice bureaux across the UK where local people can access free information and advice about social welfare problems. The first CABs were established in 1939 on the outbreak of the Second World War and grew in peace time with the advent and expansion of the UK’s welfare state. In recent years central and local government funding for CABs have been cut and services squeezed.

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Working in pairs, under close supervision, trained law student volunteers interview drop-in clients and provide basic information on any legal topic, give generalist advice in social welfare law matters signpost and refer to appropriate local advice agencies and legal services or refer to the Clinic's own evening sessions

At the Clinic's evening sessions the students shadow pro bono solicitors from four large local private Legal Aid law firms who provide specialist legal advice in family, housing & employment. The Clinic is open throughout the academic year. Drop-in opening times are currently Tuesdays 10am-1pm and Wednesdays 10am-1pm & 3pm-6pm, a total of twelve hours a week. Evening sessions (accessible via initial assessment at the day-time drop in) are on Thursdays 6pm-9pm.

3.1 Day-time Drop-in

There are five students on duty at each day-time drop-in session. Reception duties are rotated. On reception the students enhance their transferable skills: meeting and greeting; collecting initial data (name, address, enquiry type etc); managing a queue of clients who are often vulnerable and chaotic and who can get frustrated. The remaining four students work in pairs; we have two teams of two students working simultaneously. Each advice team is accompanied by a supervising, university-employed solicitor with experience and expertise in social welfare law.

First, we take instructions: that is, find out what the problem is, gather all the relevant information and identify what the client wants to achieve. Next the interview is paused briefly and the client waits while we go to the back office and research the issue, using a variety of sources including Advice Guide (a publicly available web resource maintained by Citizen's Advice), Advisernet (a subscription resource also maintained by Citizen's Advice and comprising the most comprehensive social welfare law resource available in the UK) and key practitioner books published by Child Poverty Action Group, Disability Rights UK and Legal Action Group¹⁵. Then we return and feed back to the client the advice we have researched. Finally we write up a succinct advice note once the client has left. We have a maximum of one hour for the whole process.

¹⁵ Precisely the same resources used at the Law Centre the author previously worked for.

3.2 Evening Specialist Advice

In the evening sessions the students shadow volunteer external solicitors as they give specialist advice to clients referred from the day-time drop-in, and assist the volunteers solicitor by taking a full attendance note of the interview and writing it up.

3.3 Student Progression

Each student works a minimum of 12 x 3 hour shifts during their placements. Together they advise 18-20 clients a week. At the start of a student's placement the supervising solicitor models every stage of the four-part advice process. But very quickly the supervisor moves to collaborating with the students in the process; almost immediately requiring them to do the research and write up the note; next inviting them to feed the advice back to the client when they go back into the room; and finally encouraging them to take initial instructions, the part of the process we consider to be the most challenging – going into the interview room without forewarning of the issues, making sense of the client's story and asking all the necessary follow-up questions. By the end of their placement the intention is that a student will have progressed to taking the lead in each of the four stages of the advice-giving process.

This approach echoes the Dreyfus & Dreyfus model of directed skill acquisition – the classic model of how students acquire skills through formal instruction and practising.

Anyone who wishes to acquire a new skill is immediately faced with two options. He can, like a baby, pick it up by imitation and floundering trial and error, or he can seek the aid of an instructor or instructional manual, The latter approach is far more efficient, and in the case of dangerous activities, such as aircraft piloting [and providing legal advice], essential¹⁶

The Dreyfus brothers' model proposed that a student passes through five distinct stages in skills acquisition: novice, competence, proficiency and expertise and mastery. Our clinic student's progression can usefully be viewed through the same lens.

¹⁶ Dreyfus S & Dreyfus J (1980) 'A Five-Stage Model of the Mental Activities Involved in Directed Skill Acquisition' California <<http://www.dtic.mil/dtic/tr/fulltext/u2/a084551.pdf>> accessed 29 July 2016

The supervisor remains with his or her pair of students throughout the process ready to step in and take over in the event case the students are unable to deal with a particular aspect of the process. As a result the model is an expensive one and there are no economies of scale; if we want to expand the Clinic service we have to involve more supervisors. This is a problem with the model and limits its potential in terms of scalability.

3.4 Recruitment

There is an annual equal opportunities recruitment process (a five page application form and a structured interview) and students are selected on merit, according to a person specification which puts the emphasis on reliability and commitment, interpersonal skills and being open-minded and non-judgmental about clients and their problems.

3.5 Training

Student volunteers are provided with two days of initial training by the Clinic's supervising solicitors and local CAB staff. There is an additional one day refresher training at the start of Semester 2. Students have continuous on the job training and always work in pairs under supervision of a practising solicitor.

3.6 Outputs

The Clinic has been inundated with enquiries since opening. Between September 2011 and May 2016 we have conducted more than 2,500 face-to-face client interviews. The vast majority of our Clinic enquiries fell into the standard social welfare law categories (figure 1) i.e. precisely those areas of law removed from the Legal Aid Scheme by LASPO.

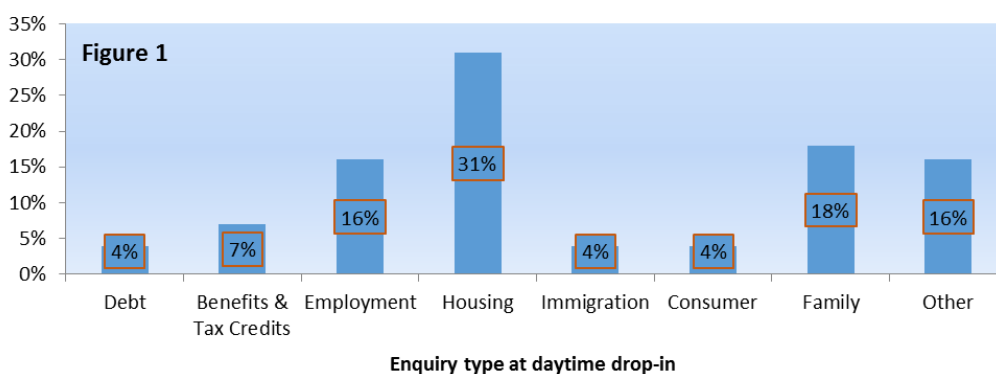
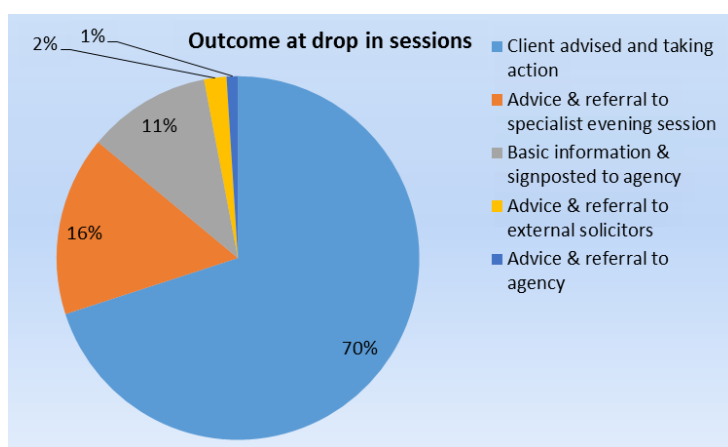


Figure 2 illustrates the outcome at the day-time drop-in sessions: the great majority, 70%, the blue portion, being resolved in the sense that the client is now able to take action and has no immediate need for further legal advice (though they may return to the Clinic or another service at a later stage, when there has been a further development). Another substantial portion, 16%, orange, being referred to our own evening sessions and just a small portion, 11%, grey, being given basic information and signposted on i.e. the overwhelming majority being handled internally in our daytime or evening sessions.



4. BENEFIT TO STUDENTS

The drop-in model we have pioneered thrusts students straight in at the deep end of experiential learning; making them the first point of contact with clients (many of whom are vulnerable and chaotic in the way they present) and having them contend with clients' problems unmediated by the prior assessment of an academic or practitioner supervisor.

Students have to deal with people who frequently present with no readily identifiable justiciable problem and they learn to help clients in translating their problems into established legal categories. They learn how to explain legal concepts and processes, which may be completely new to people, precisely and concisely.

Students develop their interview skills, their practical legal knowledge and their understanding of client care and professional ethics – particularly the need to be non-judgemental and non-discriminatory in relation to clients and their problems, and to provide the best possible service within the time-constraints of a busy drop-in service. They also learn to write quick, accurate, concise case records.

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All of which, we suspect, leads to a significant enhancement of clinic students' confidence, transferrable skills and employability.

5. BENEFIT TO CLIENTS

Most university legal clinics in the UK adopt what can be labelled the 'letters of advice' model. Typically in this model, an administrator fields telephone enquiries and the supervising solicitor decides if a case is suitable to take on (in terms of urgency, complexity and available supervisory expertise) and has educational benefit. If yes, a team of students undertake preliminary research and then meet the client for a fact finding interview (no advice given). Students then do more research and produce a letter of advice which is reviewed several times by the supervising solicitor before being sent out to the client usually two, three or more weeks later.

It is submitted that there is a structural problem with the 'letters of advice' model in so far as social welfare law clients are concerned. Social welfare law clients – who may be facing debt, loss of welfare benefits, threatened eviction from their home, dismissal from work – will often require immediate advice by virtue of the nature of those problems and cannot wait for several weeks to get advice they need now. In his previous role as managing solicitor at Camden Law Centre, the author would often be approached by a particular university Legal clinic operating the letters of advice model seeking clients. The author was seldom able to make referrals because of that gap between first contact and advice provision built in to the 'letters of advice' model.

At any rate, client feedback in relation to the LSBU drop-in Clinic is overwhelmingly positive. Since September 2014, we have been surveying each client assisted and more than 95% say the advice they received helped them understand their rights; more than 95% say they have confidence in the advice given; more than 95% rate our service overall as excellent or good (more than 75% rate it as excellent); more than 95% would use the service again; and more than 95% would recommend the service to others.

Clients' free text comments include: "Informative and relevant to the issues raised. Excellent service, would recommend to others."

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“I think this is a remarkably worthwhile service – both for members of the public concerned about their legal standing and for law students to deal with real rather than theoretical cases.”

“The people were really thorough and gave three options. It was very helpful and I feel empowered and ready to send off emails and follow this through.’ ‘

Excellent service. I now understand what I need to do.”

“A very professional and courteous service. Pleasantly surprised at how dynamic the team of student advisers were, under the expert leadership of the professional solicitor. The service I received was exemplary and will lead to me suggesting the service to others positively”.

6. ROLL OUT AND FURTHER RESEARCH

The question then arises whether the potential exists for developing university based drop-in legal advice services as a model capable of roll out in order to help tackle the access to justice deficit and associated negative outcomes for people on low incomes, particularly in jurisdictions (such as the UK) where the state is withdrawing from publicly assisted civil legal advice as a result of austerity cuts in public financial investment.

It is still early days but the signs are encouraging. In 2012, the Clinic was singled out for praise by the influential university think tank Million+ for involving students in a valuable community service while they gain real-world legal experience, develop transferable skills and enhance their employability prospects.¹⁷ In 2013 we published a 70 page open access manual for use by other UK universities interested in setting up a drop in Legal Advice Clinic¹⁸. Several UK universities have since incorporated a drop in element to their clinical provision, for example Portsmouth University, England now offers general social welfare law advice on a drop-in basis.¹⁹ And in 2014 the Plymouth Fairness Commission – an independent advisory body comprising key statutory and voluntary sector stakeholders –

¹⁷ “Teaching that Matters’, Hadfield M et al, Centre for Development & Applied Research in Education,, Million+, 2012 < http://www.millionplus.ac.uk/documents/TTM_FINAL.pdf> accessed 02 August 2016

¹⁸ Russell (n3)

¹⁹ See Portsmouth Law School’s webpages < <http://www.port.ac.uk/school-of-law/free-legal-advice-for-community/further-details-of-the-general-legal-advice-available/>> accessed 02 August 2016

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issued its Final Report citing and detailing the Clinic as a model for adoption in Plymouth, England²⁰.

Frankly, the author has been surprised at the high problem resolution rate achieved by the LSBU Clinic in its daytime drop in sessions (see section 3.6. above). His is a background in Law Centres where a full casework service is typically seen as a necessary adjunct to initial drop-in advice. His expectation was that the completion rate would have been lower. We are therefore planning longitudinal research on the longer term impact of initial drop-in advice 'down the line', by conducting follow up surveys and in depth interviews three to six months after the initial advice delivered at our the day time drop-in sessions. The questions we want to investigate include: Was our advice followed? How worried and anxious do people feel about the problem now? Has the problem been finally resolved?

There is also scope for researching the impact of working in the Clinic on students' academic grades and their employment prospects. In conjunction with social scientists in LSBU's School of Law and Social Sciences we are starting to investigate the raw data to see whether there is any correlation between a placement in the Clinic and (1) academic achievement, and (2) securing a legal professional position on graduation. We are alive to the difficulties of isolating the impact of the Clinic experience on these matters and our work on this is at an early stage.

There is an animated and lively debate on possible ways forward for social welfare law services in the UK. Ideas being explored include (1) harnessing advances in technology to provide interactive web-based advice services, and (2) the co-location of social welfare law advice and medical services in GP practices; a model for delivery which both makes explicit the established links between prompt high quality social welfare law advice and health and wellbeing, and potentially opens up another source of funding – the health budget – for social welfare law advice²¹.

²⁰ Plymouth Fairness Commission Final Report 2014 <http://www.plymouth.gov.uk/pcc_fairness_bro_lr.pdf> accessed 02 August 2016.

²¹ See for example: 'Tackling The Advice Deficit: A strategy for access to advice and legal support on social welfare law in England and Wales', Report of the Low Commission on the future of advice and legal support, 2014 <<http://www.lowcommission.org.uk/dyn/1389221772932/Low-Commission-Report-FINAL-VERSION.pdf>> accessed 03 August 2016; 'Getting It Right In Social Welfare Law', Second Report of the Low

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The author thinks the drop-in model of clinical legal education described above can make a material contribution to the patchwork of social welfare law advice provision in the UK, and other jurisdictions, but more research on its impact and some imaginative thinking around its scalability are required.

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