

## **Additional Evidence from Citizens Advice Scotland following the Committee roundtable session on Legal aid on 29/9/21**

### **Early intervention and prevention and the role of advice**

Citizens Advice Scotland (CAS) considers that early intervention and prevention is key and that people should be able to access advice and support in order to resolve disputes at the earliest stage. The earlier people access advice and support and attempt to resolve disputes the less impact, cost, distress it may cause - if the individual feels this is the right approach for them. Some will always choose to pursue court action.

Relatedly individuals need to be made fully aware of their rights in terms of accessing justice and resolving disputes and this underlines the need for a strong and appropriately funded advice sector so that Citizens Advice Bureau (CABs) and other specialist advice agencies can fully support individuals in making them aware of their rights and options. Polling for CAS during 2020 highlights cost is a barrier for people when seeking advice on legal issues and people can be unsure where to start or navigate the process. Also, it should be remembered that a power imbalance can often exist between users of legal services and the profession and that legal services may often be required by people in vulnerable or stressful situations such as bereavement or relationship breakdown. They are not something that may be frequently used by many people which can make it difficult to navigate the process, find a practitioner or service, and understand if any cost is reasonable. This again highlights the need for a strong free advice sector where free and impartial advice can be provided and this is something the Citizens Advice network in Scotland does on a daily basis and has done for over 80 years.

### **The legal aid system, reform, and funding models**

Users must be placed at the heart of the legal aid system and this should be key to any reforms made. This was a central recommendation of the independent review from a few years ago and should be taken forward in any new legislation relating to legal aid. It is crucial the voice of users and their representatives is heard and the user as the individual who is accessing legal services via legal aid should remain a focal point of any future reforms to the legal aid system.

No-one should be excluded from accessing justice on the grounds of cost and the legal aid system should help ensure this does not happen. While the legal aid system is there to help, issues with lack of solicitors in certain areas, or covering certain specialist areas of law means in reality some people may be excluded from access to justice due to geography or the issue they are seeking help with. Individual CAB ranging from the Borders to the Highlands report issues with clients being unable to access practitioners who are able and willing to take on legal aid cases. In the Highlands there are specific concerns in relation to the availability of practitioners for family law and domestic abuse cases. Given the current and ongoing issues with access and in order to place the user at the centre of the process there should be a

significant shift in resources from within the legal aid fund to invest in more early intervention and prevention approaches and alternative dispute resolution.

This may require re-balancing of the legal aid budget to focus on advice and earlier resolution of disputes. Greater use of grant funding is likely to be beneficial here and may reduce the call for support via judicare. Reconsideration of the funding model in this way could also assist with the issues identified in relation accessing practitioners in particular areas of the country or for specific areas of law.

One consideration should be expanding the grant-aided part of legal aid spend to boost preventative advice, better triage and signposting, and reducing the need for the demand-led judicare element. An innovative, mixed funding model could aid earlier intervention and lead to earlier, less costly resolution of legal problems and disputes.

By way of an example given a large proportion of civil cases last year were simple procedure and civil legal aid is not available for most of these, CAS believes this gap needs to be addressed. Individual CAB report that people are struggling to navigate the simple procedure process despite these being low value claims. People can struggle to access support to present their case in court as there is not national provision or funding available for in court advice or lay representation. Currently organisations are able to apply to SLAB for grant funding which can support projects providing this support, however there is not consistent or national provision. CAS believes there needs to be consistent national coverage and extension through more grant funding. This would allow greater provision of such support across the country and this may also assist with an early intervention and prevention approach.

In summary CAS would welcome extension of the legal aid regime to

- Provide better triage before referral to solicitors
- Provide better coverage for areas of the country and areas of law where there may currently be issues in accessing advice or representation.