



**SCRUTINY COMMITTEE**

**16:30 to 19:00**

**23 November 2017**

Present: Councillors Wright (chair), Bogelein, Bremner, Coleshill, Grahame, Haynes, Jones (B), Malik, and Thomas (Va)

Apologies: Councillor Brociek-Coulton (vice chair), Bradford, Manning, Packer

**1. Declarations of interest**

Councillor Vaughan Thomas declared an 'other' interest in item 3, 'Access to justice', as he was a volunteer at Norwich Community Legal Service, (NCLS), who were speaking on the item.

**2. Minutes**

**RESOLVED** to approve the accuracy of the minutes of the meeting held on 19 October 2017.

**3. Access to justice**

Councillor Vaughan Thomas introduced the report and welcomed the speakers.

Gareth Thomas, Director of UEA Law Clinic and trustee of the Eastern Legal Support Trust, (ELST), addressed the committee.

Professor Thomas said the UEA Law Clinic was founded in 2012 and it was a collaboration between students and outside agencies. The scheme provided students with a clinical education and there were 250 volunteer undergraduates in the programme.

ELST was a small charitable organisation whose aim was to improve access to justice for the most vulnerable in society. They provided small grants up to £5,000 for strategic projects. The requests for funding they received provided useful insights into the pressures faced by advice agencies.

Professor Thomas said that access to justice was in crisis due to the reductions in legal aid. In the 1980s, two thirds of the population would have been eligible for legal aid. The Legal Aid Sentencing and Punishment of Offenders Act 2012, (LASPO), removed tens of thousands of people overnight from this eligibility. The

Access to Justice Act 1999 previously dismantled the structure of legal aid which had existed since 1949.

He said that access to justice was an essential element of the rule of law in a democratic society. The societal consequences were that the weakest were unable to enforce their rights. This provided an increasing pressure on public services to pick up the pieces. The availability of early access to justice and advice on rights prevented intractable problems from developing.

In the last 4 years of the UEA scheme, students assisting at welfare benefit appeals had recovered over 3 million pounds for households. This 3 million pounds would not have existed in the local economy without this advice being provided.

Access to justice was the responsibility of central government. The Bach commission on access to justice called for the introduction of a 'right to justice act' to ensure everyone received reasonable access to justice.

There was an argument that the legal profession should assume responsibility for access to justice. Lawyers already provided advice, pro-bono work, free representation to organisations such as NCLS.

Norfolk had some excellent local advice agencies which were the envy of most other parts of the UK and these should be cherished. They worked collaboratively together which ensured minimum duplication.

Volunteers were part of the answer but reasonable funding streams were needed to ensure provision, administration, record keeping, office costs, and training.

Janka Rodziewicz, Strategy Manager at Norfolk Community Advice Network, (NCAN), addressed the committee.

NCAN was an alliance of social welfare advice agencies across Norfolk. There were two staff employed to support the work strategically and over 50 member organisations. The criteria to be a member was that the organisation provided some free social welfare legal advice. It was a partnership between the public and private sectors.

Access to justice was important for the rule of law. Access to legal aid enabled people to access the rights that they had such as the right to certain welfare benefits, the right to reside and the right not to be exploited by their landlord.

The current advice agencies in Norfolk were stretched beyond capacity. There was a two month waiting list for some services, it was demoralising for staff and the level of problems staff were dealing with had become more complex. The cuts facing other services such as mental health and the loss of floating support were impacting agencies. This was leading to increased rent arrears, debt and homelessness.

The predominance of mainly short term funding to the sector created an administrative burden of constantly reporting and applying for funds. Every funder required different data to be returned and it would help if this could be simplified.

There was a lot of funding for signposting and not enough to the services being signposted to.

Important to focus on the positive and good work already taking place with Norwich City Council, such as the work on the social prescribing model and the strategic partnership meetings. Work could be improved at strategic boards such as health and wellbeing and a shared focus could be agreed. There would be a benefit from building on work with the private sector. The council was able to draw on funding not available to the advice sector and vice versa. They could improve working together to draw on these funding streams. The funding that Norwich City Council provided should take a long term view and consider the pressures on agencies of reporting.

The agencies worked well together and had adopted a 'no wrong door' model in order that wherever a person turned up they could be provided with assistance. It could help to extend this approach to council officers and councillors in their work to ensure individuals were being signposted correctly.

Judi Lincoln, advice and volunteer manager, Norwich Community Legal Service, (NCLS), addressed the committee.

NCLS benefited from the pro bono support that 65 solicitors provided. In 2016/17 a rough estimate of the value of this work was £135,000.

NCLS were experiencing an increased pressure on their services. Client numbers had increased by 40%, up to 3,000 households and was rising. As capacity had not been identified resources were being stretched to try to meet the need. The changes to the family court system and the lack of available representation, since there had been cuts to legal aid were having a detrimental effect. Individuals were asked to navigate the system as a litigant in person; this took more time and clogged up the courts. It increased stress for clients and impacted negatively on their mental health.

NCLS provided a preventative mediation service, working with households in rent arrears resulting in 70% of cases not being brought before the courts.

Good partnership working existed within sector including good engagement Norwich City Council. NCLS benefited from the volunteer UEA law students who completed welfare rights work. Family work was staffed by volunteers; this was technical, legal work and would benefit from lawyers doing it. They had 23 community volunteers.

The not for profit sector relied on a thriving commercial sector from which to call on for pro bono support, however, cuts to legal aid were affecting this sector too. For many firms legal aid work was no longer commercially viable. She echoed the comments from the previous speakers on applying for funding being an administrative burden, the sector needed realistic, sustainable funding.

The sector would benefit from strategic support in terms of getting engagement from MPs or other partners and giving a voice to the concerns of the sector in the local area.

The chair welcomed Sue Bailey, President of the Norfolk and Norwich law society.

She said she was a partner in a family law firm and as a family lawyer and mediator worked with couples experiencing relationship breakdown.

The law society provided a voice to its local members; it supplied information and updates on changes to law. Part of this involved providing support to local members to work in the community doing pro-bono work.

To set changes to legal aid in context, in March 2013, family law stopped being means tested and clients had to show another factor to get legal aid, such as domestic abuse. If this had never been reported (as was often the case) and the applicant could provide no evidence then access to legal aid was denied.

The private sector had been impacted by the reduction in funding of matters. Most firms carried out divorces for a fixed fee in Norfolk and on average this cost £450-£650 but the legal aid rate was set at £146. Solicitors needed to do four times the amount of legal aid cases to make up one privately funded case. Legal aid only worked for private firms if they could turn over a massive volume of cases. The limited numbers of applicants who now qualified for legal aid made this no longer viable.

The impact of litigants in person in family courts, was that cases took longer, leading to longer resolutions for families, impacting on contact arrangements for children, animosity between separating individuals was higher as they were having to talk directly to each other and there were higher costs for other service users.

The NCLS, family support service provided invaluable support to people, matters were resolved more quickly and applicants were provided with greater support.

Local courts had so much work they were unable to cope. The closure of Kings Lynn County Court, Lowestoft and Bury St Edmunds Magistrate Courts increased the work of the County and Magistrates Courts in Norwich by 67% and 62% respectively. For example when trying to schedule a one hour hearing that week, the first available slot offered was 4 February 2018. The introduction of a centralised telephone system for the courts resulted in it taking a long time to get any updates on cases.

The impact upon people was that they gave up; children were left in difficult situations, not having a relationship with a parent.

In civil cases the costs were prohibitive. For any claim being made for amounts above £10,000, the court fee was 5% capped at £10,000. This meant a builder who was owed £15,000 had to pay £750 to make an application before they received any advice.

In criminal law, there were a very limited number of firms offering this support in Norwich. Fees had been capped. Criminal practitioners needed higher paying cases to balance out those paid at a lower amount. The law society were concerned about the impact on firms. There was a risk of defendants turning up at court without

any representation and young solicitors were not entering into criminal law as it did not pay.

The Housing Possession Court Scheme was legal aid funded and provided a solicitor at court on the day of housing hearings to offer advice. It was available at Kings Lynn, Great Yarmouth and Norwich courts. Tendering for the new schemes to operate from October 2018 was taking place and those tendering were now required to operate in a wider area. Those currently providing this service would not apply as it was not economically viable to cover such large distances.

She added it was important to end on positive note, the work with NCLS was going well, two to three times a week solicitors attended to provide advice sessions which lasted two to three hours. Households were offered 15 – 45 minutes of free advice. They could then access private advice at a reduced rate.

Members had an opportunity to ask questions of speakers.

In response to a question from Councillor Wright, NCLS advised the background of their community volunteers was varied and included mature students, retired professionals and parents with free time. Most worked in their benefits advice section as they did not advertise for volunteers to work in their family support service as it was very difficult work and particularly emotionally demanding.

In response to a question from Councillor Bogelein, on representations at tribunals the speakers advised her to refer constituents for advice to NCLS and that whilst the principal was that tribunals were set up for individuals to represent themselves, in reality they were often complex cases where individuals benefited from legal advice where possible.

In response to Councillor Beth Jones' question regarding areas where a specific increase in need had been seen, Judi Lincoln offered to come back with figures. Sue Bailey said in her experience of working at NCLS, 50% of households were accessing IT via their phones. This showed there was a need for access to IT. The courts wanted applicants to access via online forms but one form could be over 20 pages long and it was not achievable to complete using a phone.

Gareth Thomas advised that community engagement projects were available to students across the university and Janka Rodziewicz confirmed they got assistance from social science students with the analysis of their statistics.

In response to a question on why cuts were instituted the speakers felt that there had been a perception that too much had been spent on legal aid and that efficiencies could be made.

Councillor Bremner raised concerns over availability of immigration advice. NCAN advised they were undertaking training to enable them to offer some advice.

(Councillor Haynes left the meeting)

Councillor Grahame was concerned about an increase in enquires from EU nationals due to Brexit. Judi Lincoln advised they had experienced initially a dip in enquires

but there was the feeling that people were 'hiding in plain sight'. Janka Rodziewicz advised CAB had received some national funding to provide Brexit advice.

Councillor Bogelein asked if it was possible to challenge cuts on an equalities basis. Gareth Thomas said there had been attempts to restructure and refocus the context of challenges to cuts to public funding. Challenges to the employment tribunal free of £1,200 were recently successful premised under a common law right to access justice.

(Judi Lincoln left the meeting)

Councillor Bogelein added that if 84% of negative decisions on welfare cases were overturned at appeal then how could councillors challenge the fact that the Department of Works and Pensions (DWP) were not fulfilling their role.

Gareth Thomas responded that unless cases hit the higher courts then these not picked up. The work of the student volunteers with NCLS was being fed into a larger national report that Baroness Hollis was reviewing. In response to Councillor Wright, he said judicial reviews only applied where an area of law was irrationally applied or there was policy principle at question.

In response to a question Gareth Thomas said that the council could help the situation by making sure if funding was available, it was not short term as this corroded time and energy and also could work with advice agencies to help with funding applications.

Sue Bailey suggested that if there were some funding which could be provided to the private sector to provide legal advice at a reduced rate, this could provide a middle tier of advice.

Janka Rodziewicz added that the future was unknown so the continued good will from Norwich City Council was of great value.

The chair advised that at the next meeting the committee would formulate their recommendations based on the representations heard.

**RESOLVED** to consider the information heard at this meeting and formulate recommendations to be heard at the scrutiny committee meeting on 14 December 2017.

#### **4. Scrutiny committee work programme 2017-18**

The chair presented the report.

**RESOLVED** to note the work programme 2017-18.

#### **5. Update of the representative on the Norfolk Health Overview and Scrutiny committee**

The representative was unable to attend the meeting and a written update had been provided to the committee prior to the meeting and is appended to these minutes.

Councillor Bogelein asked if the representative could raise a question regarding the cuts to the support to sheltered housing.

**RESOLVED** to

- (1) note the update from the NHOSC representative; and
- (2) ask the representative to question what the effects on the health service would be if the supported sheltered housing service was not provided and would it fall within the commissioning of the Clinical Commissioning Group's remit in future.

## **6. Pre-scrutiny of the proposed budget consultation?**

The director of customers and culture provided an update on the budget consultation. She said the consultation would commence in the next week and a questionnaire would be circulated to members of scrutiny committee as part of the consultation process.

Last year members signed up to a two year budget projection and a number of questions were raised as part of that consultation process. This year there would be only two budget questions;

- (1) Do you want to raise council tax?
- (2) If so, by what percentage?

There were also elements of the council tax reduction scheme which would to be consulted on in due course.

**RESOLVED** to ask the director of customers and culture to circulate the text of the budget consultation to all scrutiny members for comment.

CHAIR