



## **YOUNG LEGAL AID LAWYERS**

### **Response to the Ministry of Justice's Survey on the Housing Possession Court Duty Schemes**

**10 June 2019**

YLAL responded to the following questions from survey:

#### **Considering the scheme as a whole, are you able to give examples of what works well?**

Young Legal Aid Lawyers (YLAL) considers it to be a key benefit of HPCDS that it is accessible: no eligibility calculation is needed for clients and all those in need of help can be assisted. It enables caseworkers to meet vulnerable people who would otherwise be unable to find advice from local services, which is an important source of case for legal aid providers.

#### **What does not work so well?**

It is our members' view that by the nature of the busy court lists the fast-paced environment makes it difficult to take instruction, speak to the other side, make representations to the Judge and keep notes of the case. This seems to be an unavoidable issue.

#### **What would you change and why?**

The legal aid landscape needs to change and comprehensive early legal advice needs to be brought back into scope. Our members see individuals at crisis point. Early intervention would stop problems escalating and would reduce the strain on HPCDS caseworkers.

We recommend that all of social welfare law is brought back into scope for early legal advice. In the context of the HPCDS, it is particularly important that assistance with issues relating to Housing Benefit, Universal Credit housing element and Discretionary Housing

Payments are brought into scope. Advice should be available for a broader range of circumstances, not just immediately prior to individuals receiving notices of seeking possession (NSP). Bringing these areas into scope would ameliorate some of the pressure on the HPCDS and save stress for the tenant, time of the court and public money.

### **YLAL considers there to have been an increase in demand for HPCDS.**

#### **What factors have caused that? For example, changes in court estate, change within local authority homelessness policy?**

Various factors have caused an increase in demand upon HPCDS services for our members.

YLAL members in areas where Universal Credit has been rolled out note that there have been significant increases in homelessness. The unavoidable five week wait when clients are moved across quickly causes a level of arrears that individuals find very difficult to get out of when earning a low wage. Local authorities are serving notices seeking possession for arrears of a few hundred pounds brought about by this change, despite knowing the specific cause of this (for example, when advisers have made income officers aware of the cause of hardship), and there has been limited support generally surrounding these changes. Judges are empathetic to the hardship caused by the change in benefits, but there is a limited understanding from the bench on the process of the administration of the benefit.

Outside of the HPCDS, the courts seem to be overstretched and cases are being listed for months in the future. One member noted that in their local court, despite there being five court rooms there is always only one or two in use. Courts seem to be clearly under-utilised despite the increase in need. Across the country, courts have been closed as part of the reform programme, making it increasingly difficult for individuals to access the court. This particularly affects people with disabilities.

Moreover, many people have no idea about their rights until they are receiving advice, understandably, and this advice is harder to find with more legal aid organisations closing.

#### **What factors influence your decision to bid for this work?**

Many of our members bid for this work as the HPCDS is a significant part of their income and a way of finding and helping the most vulnerable people in society.

#### **What would make this work more attractive?**

The work is already attractive, however a higher rate of pay/enhancement option for cases that take a particularly long amount of time would improve our income when considerable time is spent outside of the office.

#### **What would make this work less attractive?**

If it were only available to those financially eligible for legal aid.

### **The size of the scheme in respect of the number of courts included within a scheme make undertaking the HPCDS:**

Our members must consider the expected footfall and fee income and the cost of it working.

There is a risk that the bundling of courts will make the schemes less local, especially in areas outside of a large city, and this will remove this work from the practices of dedicated legal aid providers who have been running the scheme for years if they lose the contract at the next tender. This would remove the integral aspect of face to face advice from experienced duty advisers, for example if a firm with a commercial objective were to take over the scheme and send lower cost fee earners to cover the sessions.

### **Are there geographic characteristics that have made the delivery of HPCDS work more challenging and if so, what are they?**

There are housing legal aid deserts across the country where there are no housing advisers to provide this work with capacity for the follow-up it entails. Even in areas that are not strictly housing legal aid deserts, the scarcity of advice means that even those who are aware of their rights suffer from referral fatigue or have nowhere to turn to for advice and representation at an early stage. This lack of advice provision for tenants puts significant pressure on the HPCDS.

Moreover, the proposals of extended hours and hearings beginning at 8am would require caseworkers and clients to be leaving the house at 6am to be on time which is not conducive to meeting family commitments or not being forced to work anti-social hours without remuneration. Some clients cannot afford travel options other than bus/walking and in the rush hour traffic it may be impossible to reach their hearing in time. Unlike court staff and judges, we are not shift workers and keeping the established services running should remain a priority. This issue is not specific to the HCPDS.

### **What would help to overcome these challenges?**

A full assessment of the benefits of extended hours when the courts are being underused each and every day. They could be utilised better during the standard hours.