

PSU Response to Call for Evidence from Commission on Justice in Wales

Introduction

The Personal Support Unit (PSU) helps litigants in person (LiPs) to represent themselves through the civil and family courts. PSU volunteers provide:

- emotional support in stressful situations
- guidance on procedures
- practical help with form-filling
- moral support in hearings

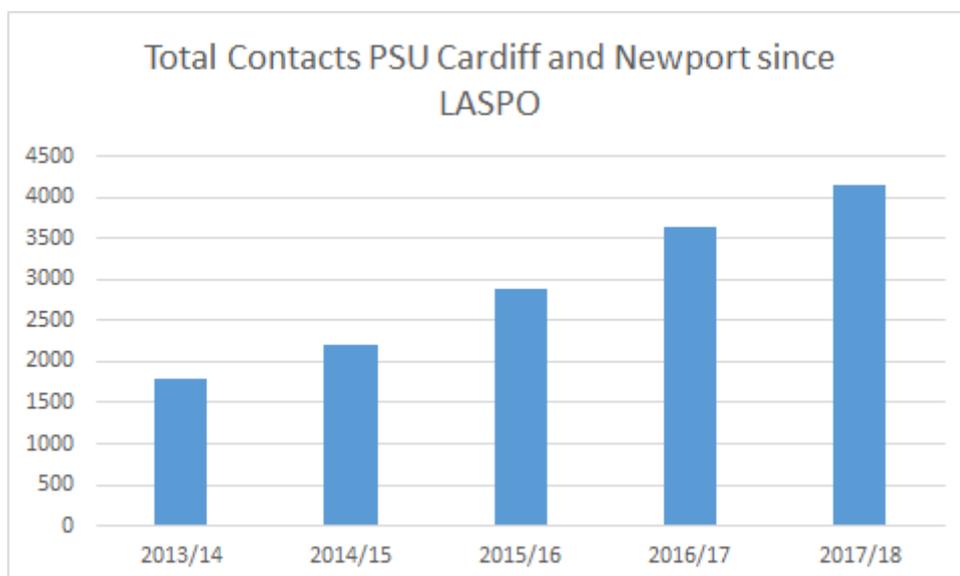
In FY 2017-18, we helped LiPs on over 65,000 occasions across England and Wales. Since the changes to Legal Aid after the 2013 Legal Aid and Sentencing and Punishment of Offenders Act (LASPO), the work of the PSU has increase 5-fold.

In Wales, the PSU has offered a full-time service in Cardiff Civil and Family Justice Centre for over 5 years. Increased demand since LASPO has led us to open an additional one day-per-week service at Newport Civil and Family Court, but we lack resources to extend further into Wales. This evidence is therefore based on experiences from Cardiff and Newport.

While we would welcome more resources to improve services for court-users in Wales, we would like to point out that if reforms were to be developed in a significantly different way from the system in England, we would envisage problems with continuity between the two countries (and, incidentally, the need for a specialised PSU service in Wales).

We would be happy to arrange for an observation visit to the PSU, to further illustrate the comments below.

PSU support to LiPs in Wales, since the implementation of LASPO in 2013:



The majority of cases at PSU Cardiff and Newport relate to private family law, and court proceedings can be particularly stressful and overwhelming for litigants in person at such an emotional time. The support of a PSU volunteer can make all the difference for a person representing him or herself in court:

Case study from PSU Cardiff, April 2018

A mother came to the PSU for help to oppose the father's Child Arrangements Order, and to arrange residency of her children. She was originally a litigant in person but had subsequently appointed a solicitor as she realised her case was more complex than she first thought. Unfortunately, her solicitor was away, so she wanted to apply for an adjournment for an imminent hearing, because she needed more time to look through the papers.

As the hearing was an hour away, it was too late to put in a written application for adjournment. The PSU volunteer explained that the client could attend the hearing and ask for an adjournment at the start of proceedings, and she asked the volunteer to accompany her into court. The client also asked the volunteer to help her work out what to say to the judge to ask for a hearing at a later date. Together, they wrote down some bullet points, which proved really useful to the client in court.

The relationship with her ex-partner had broken down completely, which made her very anxious and she asked for separate waiting rooms. The volunteer worked with the security staff to ensure that the client could wait in a different room. She also wanted the volunteer to sit between her and her ex-partner at the hearing.

The Client was visibly nervous in court, and afterwards she said she hadn't understood anything that was said to her during the hearing. Fortunately, the volunteer had taken notes, including the court directions, so he took the time to explain what had been said during the hearing. The volunteer made sure the client understood the directions and the consequences of failing to comply, and told her to pass the information on to her solicitor.

Responses to questions

1. What is working well in the justice system in Wales?

The experience of the PSU Manager in Cardiff Civil and Family Justice Centre largely compares favourably with some other centres in England. It appears that the volume of users in Cardiff is managed reasonably efficiently.

- The counter service in Cardiff is a particular advantage: although public access times have been reduced from all day to 10-14.00, court staff are still available for general enquiries, whereas most counters in English courts are now open only by appointment, and for very specific activities
 - We recognise that court staff are under their own work pressures, but this sometimes means they are not always as helpful as they might be to LiPs

- Hearings appear to be managed effectively, and – as far as we can tell from working with clients - are usually scheduled within acceptable time periods
- When PSU volunteers are in court, they largely observe that Judges are helpful to LiPs, particularly in Cardiff, but perhaps a little less so in Newport
- Wi-Fi provision in Cardiff is faster than our experience in some English courts
- The recent refurbishment inside the court building at Cardiff has improved the feel of the court experience for LiPs.

What is working not so well?

- The collapse of the advice sector in Cardiff has had a significant impact on LiPs:
 - The Cardiff Law Centre closed around 2015, and clients would come to the PSU, saying ‘Where do we go now?’
 - CABs in Wales only offer a limited service, and the support for employment law cases appears to be over-loaded at present – although the move of the Cardiff CAB to the central library seems to have made the service more accessible
 - To help mitigate these effects, LawWorks, the PSU and local lawyers have worked hard to set up pro bono advice clinics in court – which are well-used, but are dependent on the good will of the local legal community.
- Money claims submitted to the CCMCC in Salford appear to be subject to up to 12-weeks delay for some PSU clients
- Access to interpreters is not easy or convenient
- There is little provision for immigration or asylum cases, which were removed from scope for legal aid support. (We have seen minimal increase in demand in London, as there are still some specialist agencies available for these complex cases).

Case Study from PSU Cardiff, ongoing since 2016/17

A Nigerian citizen has been coming to the PSU for help since 2016. As the CEO of a petro-chemical company in Nigeria, he was the victim of a Boko Haram attack on his plant, and there is now a Fatwa on his head, and his assets have been frozen. He is seeking immigration status to remain in the UK, but was not permitted to apply for a Judicial Review. He had been in a detention centre where he had suffered a stroke, and his condition is deteriorating markedly, such that he is now in a wheelchair, and is therefore especially vulnerable.

Over a lengthy duration we have helped file numerous applications to court and have attended hearings with him and his wife. The last hearing was an appeal application which was dismissed. The client became extremely agitated and suffered an anxiety attack in court. The volunteer and his wife managed to calm him down and see him through the process.

Although this was a negative outcome, the volunteers felt they had given a very vulnerable client the support he'd needed to navigate through the British court system. After the hearing, the judge was kind enough to come to the PSU and give his appreciation of the volunteer who had dealt with the situation that day.

Are there examples of innovation and good practice, in Wales or elsewhere?

The presence of a PSU in a court centre often leads to other developments to support LiPs:

- Collaboration between PSU, Law Works & local solicitors leads to law clinics on-site in court. The proximity of the clinic/s and the PSU means that clients can easily access initial legal advice, which can then influence effective progress of their cases, and they can be referred back to the PSU for procedural support.
 - In Cardiff, 95% of clients referred to the on-site family law clinic are directed from the PSU
 - On housing days, legal advisers from Shelter are also present to help with housing matters, attending emergency hearings approximately once a week.

Case study from PSU Cardiff, June 2018

A lady came in to the office distressed and very upset: she had just found out she had county court judgments against her, but had no knowledge of any court proceedings, and had no paperwork. I booked her a next-day appointment at the weekly debt clinic in the courts, and reassured her that I would be there to show her where to go.

At the clinic, the lady saw a solicitor from Shelter Cymru, who gave her an hour's free advice and she came out looking much happier. She found out what the CCJ was for and the solicitor had helped her made an application to court to deal with it.

- Court staff and Judges often share training/learning with PSU volunteers, enabling volunteers to help LiPs understand the court perspective, and court staff to appreciate the specific difficulties for LiPs.
 - For example, this leads to volunteers helping clients to complete forms more accurately, thus saving time for everyone.
- PSU volunteers frequently refer LiPs to other services, and to useful self-help materials – eg. the Law for Life website, AdviceNow, which includes helpful videos designed for LiPs, about what to expect in court
- 'CLOCK' is a similar service, originating from Keele University and delivered by students, which operates in some areas without PSUs.

2. What are the barriers to improvement, and how could they be overcome?

Economic:

On a daily basis, PSU volunteers see the impact of poverty arising from the decline of heavy industries in Wales, with family breakdown being the most common type of case we see, followed by housing and debt. The decline in town centres has led to the general decrease in statutory and charitable support services, so that people who can't afford to pay for lawyers struggle to find free or affordable advice.

Social:

A general lack of public legal education means that people often don't know that they have a legal problem until they're summoned to court, and if they do know, they often don't know where to look for help. The legacy of a manual workforce exacerbates this problem, and often leads to a last-minute approach to legal preparation. The people most in need of professional advice are often the least able to pay for it. They may therefore have little hope of achieving justice in a court process delivered by professionals.

Case study from PSU Cardiff, June 2018:

Our client was the maternal grandmother of two children who were about to be taken into foster care due to domestic violence. She was worried that the children would be separated and taken out of the care of family members, so she sought to become their guardian. Unless she could submit the required forms within 2 days, however, it was likely that any further action by her would be too late.

By working patiently with her to fill in the forms, the PSU volunteer helped her overcome her anxiousness about formal court documents, and made her feel involved in the situation, resulting in her submitting the relevant documents before it was too late.

Geographic:

The combination of an urban south coast and distant north coast, with rural communities in between, means that sources of help are patchy, and are largely focussed in the urban south, leaving the majority of the population with very little help: PSU Cardiff commonly refers LiPs in North Wales to PSU Chester for help.

Public transport provision has a major impact on access to legal help and court services: for example, Blackwood Court serves the population around Merthyr Tydfil, but with no trainline and poor bus routes, it is difficult for LiPs to travel to the centres of help based in Cardiff and Swansea. Travelling to urban centres for ongoing help, or for several hearings, causes numerous practical difficulties, such as costs and inconvenience of transport, childcare needs, and sometimes the necessity to give up a day's work.

Technological:

Although we have little information specific to Wales, research suggests that some 10% of the general British population are – and will largely remain - digitally excluded, and around 30% need support with online services. The Manager at PSU Cardiff estimates that around 90% of their clients need help with IT - which means that extra provision will be essential as more court services are delivered online.

How could they be overcome? Please see comments on page 7-8 below

3. What problems face the people working in the system, and the people affected by it?

People working in the system will explain their own problems, but our observations, as a support service operating in court, mainly relate to the rise in LiPs after changes to legal aid, combined with budget cuts across the MOJ. They include:

- Fewer staff to cover the workload, and more use of agency staff, who often have less experience of detailed court work - leading to back-logs of work, and less time available to help court-users – eg: staff who want to help clients don't have time to do so, which affects staff morale, and can leave users feeling unsupported
- Staff working on the counters are under pressure to achieve administrative targets, which makes the public-facing work unpopular, and can sometimes lead to poor service
- New pressures for judges & barristers, who often have to deal with imbalance in court, and need to allow more time to help LiPs deal with court process.

Our experience of problems facing the people affected by the system is generally similar across England and Wales – although comments under Question 1 suggest that Cardiff Civil and Family Justice Centre is more efficient than some other courts. (We only have direct experience of Welsh courts in Cardiff and Newport).

Case study from PSU Cardiff, March 2018, by a PSU Volunteer:

A client came in stressed and anxious, and confused about how to deal with her case. She wanted information regarding child welfare, and needed help to complete a C100 form. I sat down with her, made her a cup of tea and talked through her worries and concerns. After reassuring her, I helped her fill out the C100 form, and showed her some websites she could go to for more information, such as "Advice now."

I then took time to explain the court process and answered some questions, which helped her to calm down, so that she was a lot less anxious and much more confident about representing herself. She said how helpful we had been at the PSU, and that she wouldn't have been confident enough before seeing us, to fill out these forms by herself.

- Lack of public legal education means that LiPs often don't know where to start with a legal problem.
- If they identify that they have a legal problem, they don't always know how to weigh up the value of paying for legal advice: what may seem an expensive outlay could be a prudent investment in the longer term, if it helps avoid legal action, or helps the case progress efficiently.
- PSU clients are often in crisis situations, which generate emotional responses, and reduce rational thought; without help, LiPs struggle to fit in with even routine court processes:
 - where/how to find free or affordable legal advice

- understanding time scales for court process – LiPs often face long periods between hearings, and sometimes unexpected waiting times at court
- problems meeting deadlines – leading either to delays in court process, or escalating situations for clients
- how to complete forms – what to say for the best outcomes
- understanding relevant evidence
- compiling bundles – costs of paper & copying
- knowing what to say in hearings
- examining witnesses in court - or facing an alleged abuser in domestic situations
- Although this is improving gradually, communications from the court service still include complex legal language, which confuses court-users and often means they avoid addressing problems until close to deadlines.
- Access to courts by public transport is often inconvenient and can involve disproportionate time and cost.
- Attending court is an intimidating experience for most LiPs, unless they find reassurance from someone who knows the system, such as a lawyer, Witness Service or PSU volunteer, CLOCK student etc.
- Digitisation will be difficult for some people, who won't necessarily understand how/where to find assisted digital support.

Does the system provide access to all who require its services, including advice?

We are not aware of any particular groups of court-users who specifically lack access – but we don't know what we don't know.

As mentioned above, we know that common limitations to access to justice include:

- Lack of free/affordable legal advice
- Complex court processes, and court costs
- Transport issues
- Language problems
- Limitations of court access for people with disabilities
 - old buildings poorly adapted for wheelchair users
 - adaptations for visually impaired/deaf users

How would you improve access to justice in Wales?

We would strongly support the Commission's aim to develop preventative solutions:

- 'Front-load' support, by developing public legal education
 - brief introduction in schools to explain the legal system
 - practical classes in community centres
 - free, guided visits to courts
- Access to free initial legal advice to assess merits of cases
 - re-instate local authority funding for law centres (or equivalent)
 - pro bono provision – create incentives for lawyers to give pro bono advice

- student/trainee lawyers are a good source, as long as they have professional supervision
- support legal clinics in court premises for easy access
- Provide funding for professionals to represent clients in court hearings
- Provide funding for community projects
- Develop remote services to help people in rural communities:
 - online help services (eg chats/skype etc) for IT users
 - telephone services for non-digital users
 - remote video-links, with organised help at the remote end (part of assisted digital support).
- Co-ordinate court hearing times with public transport times
- Provide informed reception services in court buildings: a human face to help everyone entering court buildings
- Fund PSU services across Wales.

Case Study from PSU Newport, May 2018, by a PSU Volunteer

I arrived at PSU Newport and asked the court usher if there were any unrepresented clients. We found there was a defendant waiting to go into court against a local housing association. He had numerous court cases for housing and debt, and struggled to understand what was happening.

He had a bag of dis-ordered paperwork, so I helped him sort through what was relevant. As the hearing was in 20 minutes, and the client hadn't slept well for the past few weeks, he was frantic. I took the time to help him calm down, and the solicitor for the housing association came to discuss what they would be asking for in the hearing - which was an injunction for nuisance.

The client was frustrated as he claimed he was being hassled by other tenants in the block of flats he lived in. He said they took drugs in the corridors and constantly knocked on his door. He regularly called the housing association to complain, but also admitted that he had been verbally abusive when the problem continued. I helped him write down a few bullet points describing what the issues were, and noting the times and dates he had made complaints.

In the hearing, the client was much calmer and was able to articulate himself quite well. The Judge was persuaded that the problem wasn't caused by the client, told him to promise to stop the verbal abuse, and refused the housing association's request for the injunction. The Judge said that if the client broke his promise, it would be as significant as breaking a court order, and asked me to help the client understand the seriousness of the condition. After the hearing, I helped the client call the housing association to ask to be moved from that block of flats.

The client, the Judge and the opposing solicitor all thanked the PSU for our help!

**Lizzie iron, PSU Head of Service
June 2018**