



SUSTAINABLE LEGAL EDUCATION JUST IN TIME

With not-for-profit legal advice providers pressed to deliver efficiencies, one charity is driving a collaborative effort in pursuit of securing legal help where it is most needed. **Matthew Smerdon**, Legal Education Foundation CEO, talks exclusively to **Matthew Rogers**

The Legal Education Foundation has been able to bring new resources at a vital time,' says its chief executive, Matthew Smerdon. 'We're very conscious that we can't replace what's not there anymore and therefore, for us, it's about focusing on work that can be sustained, that makes the most intelligent use of our resources.'

When the then College of Law decided to sell its education and training business in 2012, the £200m generated by the sale endowed the organisation as the would-be Legal Education Foundation. Since then the returns on the investment have helped the foundation give almost 200 grants totalling more than £10m to charitable organisations committed to advancing public legal education and increasing access to the legal profession.

In those five years, legal aid has been cut by approximately £600m, resulting in a sharp increase in the number of unrepresented parties. The most recent statistics from the Ministry of Justice reveal that one in three family court cases takes place without legal representation of either party, double the amount pre-LASPO. For Smerdon, making the best possible use of the charity's resources is vital to improving the legal understanding of litigants in person and ensuring those who need help get it.

'Our vision is of a society where everyone understands the role and value of the law and has the capability and opportunity to use it,' says Smerdon. 'There are huge challenges – from the low levels of legal understanding across the population, to the uncertainty and financial pressures on the sector and the fact that the environment is so dynamic and unpredictable, the vote to leave the EU being just the latest. The foundation makes the best decisions it can in this context.'

Changes to legal aid have led to a growing social welfare advice deficit. In March 2015, Lord Low's Commission found that nearly two-thirds of welfare rights advisers at law centres, citizens advice bureaux, and law firms said the changes had had a substantial and negative impact on their capacity to support clients.

A year prior to the commission's findings, the LEF launched its Justice First Fellowship to support the next generation of social welfare lawyers in delivering justice in their local communities. In its biggest project to date, the scheme places selected candidates on a two-year training contract in some of the UK's leading social welfare organisations.

Jolly good fellows

A total of 31 fellows have obtained training contracts since 2014; two others have gained pupillages. In February 2017, the first cohort qualified as solicitors at their host organisations, including Coram Children's Legal Centre, Deighton Pierce Glynn, and Greater Manchester Immigration Aid Unit.

'We were inspired by two schemes we saw when visiting the United States: Equal Justice Works and the Skadden Fellowship Foundation,' explains Smerdon, 'both of which were established in the 1980s to effectively support the next generation of leaders in that sector.'

'If you look across the sector in the US – the NGOs and those that are really committed to access to justice – you see alumni across the group from those fellowship schemes. Applying that experience to the UK required some adaptation, particularly to meet requirements here to complete the training contract. Principally, though, we felt those schemes provided a model for addressing the fact that the legal aid sector here, particularly organisations giving social welfare law advice, had been badly hit by austerity and were simply unable to offer training contracts. This prompted the question of where is the next generation going to come from and we wanted our scheme to address that.'

The fully funded training contract is the first of three parts that make up the fellowship. The LEF runs an annual competitive process where organisations have to demonstrate they meet four key criteria: they must be recognised specialists in their area of social welfare law; do work of national significance; develop new sources of income to ensure long-term sustainability; and meet the requirements for supervising a trainee, which includes having a strong training ethos.

Alongside the training contract, fellows are given responsibility for an access to justice project that delivers immediate benefits to those in legal need. If successful, host organisations can then generate income from financial backers, helping to contribute to the fellow's salary once the LEF's support ends. The third component sees the foundation deliver wider training to fellows which allows them to become effective social welfare lawyers.

Smerdon explains the reasoning behind the different elements: 'We know they need to be brilliant lawyers but we also know they need to be brilliant at developing ideas, being able to tell their story, building alliances with others to collaborate and evaluate their work, and to be good at project planning. We're bringing through



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Enabling vulnerable groups

The LEF is always on the lookout for new opportunities to aid innovative projects in areas where public understanding of the law is low. One such area has been maternity discrimination. Research carried out by the Equality and Human Rights Commission in partnership with the Department for Business, Innovation and Skills in 2015 revealed that 54,000 new mothers may be forced out of their jobs each year while 100,000 mothers could be the subject of harassment.

Maternity Action works with pregnant women who are experiencing discrimination at work, many of whom don't know they can have legal recourse. Supported by the LEF, the charity developed several videos and other content about maternity rights. Maternity Action then approached the Baby Buddy app to include the material. The app sends weekly information to women in relation to where they are in their pregnancy. In addition to providing information about diet, health, and social needs, the app now sends expectant mothers information about their legal rights: how to tell an employer they're pregnant, and what to do if the conversation doesn't go well.

For Smerdon, Maternity Action and Baby Buddy provide a good example of how the LEF can help projects deliver positive outcomes for those members of the public that don't understand their rights: 'People don't characterise a problem as being legal. This is why we need to be really smart about placing legal education in locations where people can find it – or ideally before they need it. We need to give people legal education just in time.'

The foundation's CEO stresses the importance of harnessing opportunities where there is engagement with people for other reasons, such as health. 'There's increasing evidence of the link between those issues and poor health. If you widen the resources that health has to address that, then you're embedding access to legal services where it's most needed.'

The doctor will see you now

The Low Commission has carried out detailed research in this area. In the first report, 'Tackling the Advice Deficit', a case study on Sheffield Mental Health CAB highlighted the importance of having an 'in-house' advice service on the wards of the Sheffield Health and Social Care Foundation Trust.

The follow-up report, 'Getting it right in social welfare law', delved much deeper into the issue and cited the benefits of linking GP surgeries and

CAB services. In October 2014, the Low Commission together with Legal Action Group commissioned an opinion poll of 1,001 GPs. A total of 88 per cent believed patients who were unable to access legal or specialist advice experienced a negative impact on their health.

The LEF has taken over this baton, funding the recruitment of a researcher to measure the health-outcomes of advice delivered via the new health justice partnership between the University College London Centre for Access to Justice and the Guttman Health and Wellbeing Centre in Stratford, east London. The service provides on-site free legal advice by supervised law students to patients through GP social prescription referrals or as drop-in clients.

'Health is a key opportunity on how we reach people in places which may be unexpected,' says Smerdon. 'There's some good practice in parts of the country but it's not universal.'

Lawyer commitment

In February, Alex Chalk MP told *Solicitors Journal* that law firms should take the lead on securing access to justice by undertaking more to promote pro bono and public legal education (SJ161/6). The barrister's thoughts echoed those of former justice secretary Michael Gove MP, who in June 2015 similarly called for 'our most successful legal professionals to contribute a little more rather than taking more in tax from someone on the minimum wage'.

As with Gove's first public speech as Lord Chancellor, Chalk's interview hit a nerve among lawyers who already do a great deal of work for free. 'One of the issues around what Gove said was that it focused on the City but there is a huge amount going on there and there's a huge amount going on in the regions and locally which deserves recognition,' says Smerdon, who adds that it is 'vital' his foundation maintains and grows its relationship with UK firms.

'The message from the law firms is the right one: they cannot step in and replace legal services that are no longer there. They just don't have the scale or legal expertise, so it's about being really smart: what's the best way of using their support? Firms like Freshfields, Allen & Overy, Hogan Lovells, and Herbert Smith are really thoughtful about that.

'We can't do our work without a strong and effective legal sector, so the key to bringing it all together is to use the resources to fund projects and ideas and strengthen the organisations that are there to deliver them. We're in this for the long run. We're a niche specialist funder with a sustainable source of income and the potential to really invest in this over a long period of time.' **SJ**



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