



Annual report on developments 2017-18

# Digital delivery of legal services to people on low incomes

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# 1 Executive Summary

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This is the third annual report on developments in access to justice and technology and the ninth periodic report for The Legal Education Foundation in all.

This year, no one project has dominated the field as the Dutch Rechtswijzer did in previous years or as the Australian Nadia project threatened to do last year. Instead, 2017-8 has been characterised by, on the one hand, tremendous excitement about the impact of technology on the commercial practice of law and, on the other, solid consolidation in the field of access to justice without a single outstanding lead project.

There are various ways of characterising the different elements of change though one effect of technology is to break, rather than create, barriers between different initiatives. This report examines projects under the following headings:

- 1 Online information, advice and referral.
- 2 Interactive provision.
- 3 Virtual legal practice.
- 4 Crowdfunding.
- 5 Online Dispute Resolution (ODR).
- 6 Online education and training.
- 7 Innovative reporting.

These give rise to a number of conclusions and considerations and, in particular:

- the need for research, evaluation, international benchmarking and leadership;
- sustainability;
- the digital divide and its implications;
- the value of continuing to monitor developments.

## 2 The Context

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Overall, the excitement about technology and law is palpable. The two main London-based conferences in the year were both sell-outs and bigger than ever before. Legal Geek filled a Shoreditch venue in October and the British Legal Technology Forum packed out the former Billingsgate fish market in March. Over the Atlantic, it was much the same. The American Bar Association Techshow moved to a larger venue in Chicago. The US Legal Services Corporation (LSC) put on what must be the largest global gathering of those interested in technology and access to justice framework – moving to New Orleans and broadening the title to *'Innovations in Technology'*. A link between commercial and not for profit interest was provided by the LSC's choice of its keynote speaker, Bob Ambrogi, whose website and notifications provide a way of tracking developments in the USA.

The conferences accurately reflected continued hectic activity in the market place. Stanford University's CodeX project lists 832 companies *'changing the way legal is done'* divided into eight categories: marketplace, document automation, practice management, legal research, legal education, ODR, e-discovery, analytics and compliance.

The weight (but not the totality) of these is in the commercial field. And it is notable that many of the London global commercial firms have even established their own technology incubators, such as Allen & Overy LLP's Fuse or Mishcon de Reya LLP's MDR LAB.

Hackathons often provide a point of intersection between commercially orientated conferences and access to justice. At the end of April, the final round of the Global Legal Hackathon took place in New York, having begun with heats all round the world. There were two categories – one commercial and one relating to public service. We will see what becomes of Hong Kong's Decoding Law or New York's RightsNow App, the two public service winners. The problem for many hackathons with an access to justice flavour is that they marshal great commitment and idealism but the restrictions under which they are necessarily run mean that little of the work, even of the winners, is taken forward.

The competitive structure of the hackathon can be blended into constructive collaboration. A good example was provided by the Justice Accelerator programme showcased at the Hague Institute for Innovation of

Law (the same HiiL that gave us the Rechtwijzer) in December. This global programme weeded out a final 15 from an initial entry of 600 through a network of regional support including finance and 'boostcamps' before culminating in an international conference in The Hague. Those selected in the 2017 Justice Accelerator programme give a pretty fair indication of the legal problems encountered in the developing countries from which they largely came. Several sought to address the issues of inadequate or corrupt public services. For example, Usalama in Kenya provided a single point from which you could get personal security with a shake of your phone. M-Sheria in the same country provided a mobile app that provides legal assistance in confrontations with corrupt traffic enforcement officers. Road Rules is another mobile app that helps Zimbabweans to deal with traffic issues. South Africa's Lady Liberty (which came second) provides a 'mobile legal office' that gives support to women suffering domestic violence. Ukraine's Patent Bot offered a way of protecting trademarks quickly and easily and potentially in a range of different countries. The project with probably most cross-jurisdictional relevance came from a New York NGO and offered – under the name Justfix. nyc – a guided approach to assembling a disrepair case

against a landlord. HiiL's selection of themes for the 2018 programme indicates a major overlap between the concerns of those in less and more developed countries – '*family justice, land and neighbour disputes, crime and law enforcement, employment justice and micro, small and medium sized enterprises*'.

The HiiL programme provides a good image for the development of technology more widely in the service of access to justice over the last year. It demonstrates a wide range of uses for technology, none of them by themselves perhaps '*killer apps*' or aspiring to the same sort of global leadership role as HiiL itself once argued for its Rechtwijzer. Justfix.nyc, which came third in its 2017 competition is discussed below, but here is a general point which it makes about the way that its work supplements and does not replace existing provision:

*'The core focus of our work is centered around the existing ecosystem, outlining the points at which technology can facilitate crucial work already being done. We are here to augment, not replace these invaluable in-person resources – such as local organizing efforts and pro bono legal services – by streamlining how they track cases, communicate with tenants, and handle referrals. We are also invested in integrating municipal services, such as 311 complaints and*



*housing inspections, as a way to provide more context-rich data and analytics to the city agencies responsible for addressing these issues.'*

For the first year in perhaps a decade, there is no technology obviously in the global lead of demonstrating what can be done. The Rechtwijzer has been reborn as Uitelkaar.nl but this has only been operational since December last year and there has not been time for it to prove itself. The Nadia project, being developed in New South Wales, which, at its most ambitious, would have integrated Cate Blanchett's voice with an artificial intelligence (AI) driven robot has been, at least temporarily ditched. This was partly because the government got cold feet over other and unrelated technology failures but it was also because the much-vaunted IBM Watson proved insufficiently powerful to deliver an effective service that could have replaced a human staffed call centre.

Nadia's fate provides a reminder of one of the disadvantages of the waves of enthusiasm at the present time. In particular, AI promises so much both generally and specifically for lawyers in commercial contexts that it is easy to get carried away uncritically with its possibilities. IBM Watson was just not fast enough to rival humans answering enquiries.

In consequence, there is increasing reference to the 'Gartmore hype' curve. This, for example, figured in a thoughtful evaluation of the future of legal services from New South Wales Law Society in Australia, but re-emerged in a presentation by Liverpool's Professor Atkinson at the British Legal Tech Forum. This predicts that a technological development will progress from

- its opening '*trigger of innovation*';
- through the '*peak of inflated expectations*';
- down to the '*trough of disillusionment*';
- and out onto the '*slope of enlightenment*';
- to '*the plateau of productivity*'.

Most commercial legal tech conferences spend considerable time on AI and blockchain. There are uses for both in an access to justice context. However, enablers of social justice rarely have access to the level of funding required for the initial investment in these cutting edge major developments. At least at the present time, for all the potential of chatbots and the like, successful technology in the cause of access to justice is generally much lower tech; depends on the leverage of existing face to face provision; and looking for more incremental change than an existential leap.

However, both AI and blockchain may well have a role to play in specific access to justice situations. For example, blockchain's applications in helping refugees to establish an identity.

There is an infectious driving optimism underlying much technological development that is well reflected in TED conferences and talks. This is Jessica Ladd, founder of Project Callisto, discussed below:

*'I'm interested in systems and networks and where we can concentrate our resources to do the most good. So, this, to me, is a tragic but a solvable problem.'*

*The notion that social injustice might be a tragic but solvable problem seems worth holding onto – for all that experience suggests that the solutions may be harder to find than tragedies.'*



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# 3 Online Developments

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The fundamental purpose of this part of the paper is threefold:

- first, to find a grid which will help us to understand the wide range of different developments at the present time;
- second, to record within that grid what is happening in order to get an overview; and
- thirdly to inspire readers to get out there and take an initiative themselves.

This is probably a unique time. 832 hopefuls are named in CodeX's list of new startups. Almost all of them will be dreaming of breaking into the corporate market place. There is plenty of space for number 833 aimed at access to justice.

## 3.1 Online information, advice and referral

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Many jurisdictions have a lead website or websites which provides some combination of information, assistance and referral. The balance between the three functions differs. A website like Illinois Legal Aid Online (ILAO-described by a LSC staff member in the ABA Journal as *'the best legal aid website in the country'*) provides a model for the two pilot US state portals being developed by the commission with Microsoft. ILAO provides legal information; assistance with document self-assembly; and a referral tool powered by subject, location and type of help sought. It published a Spanish version in March 2017 after a main website

revamp in the previous August. ILAO provides information and assisted self-help but it puts most emphasis on its role as a *'connector'* between people and resources and frames its aspiration as being *'the central nervous system for legal services in Illinois'*. Its statistics suggest that the investment in Spanish has paid off: *'In March, 215,207 people used our website – our highest volume ever! 83% of our traffic comes from search engines (mostly from Google) 54% of our traffic comes from mobile devices (nearly split equally between iOS and Android); for pages in Spanish, 76% comes from mobile. Visits to our Spanish-language*



*pages have increased 48% in the last quarter'. Its provenance is very much the legal provision with 12 partner organisations that include the Chicago Bar Foundation and the Chicago-Kent College of Law coming together in 2001.*

ILAO has a very different background from that of the Citizens Advice in England and Wales(CA). This has its origins in decidedly non-lawyer advice provision developed in the Second World War. It is now a network of 316 independent charitable (not for profit) organisations brought together by the CA branding, training and resources. The organisation is in the process, recorded in a blog, of revamping its public information based on a content strategy with the following characteristics:

*'We use normal web pages as our advice format most of the time—it's the easiest way for people to access advice as most people come to our site after searching on Google. If an issue is more complex, we make tools or decision-trees (like our benefit checker) to help people find the right solution. Research helps us define people's problems, and understand the language they use when they're searching for help online.*

*Designing content based on this research means it's easier for people to find and understand our advice. Content is then tested with our users—both the public and advisers—to make sure it helps to answer their problems. We always write in plain English and our tone of voice is straightforward, reassuring and positive. To make sure our writing is consistent we use a style guide. Testing has shown that people trust our advice and find it easiest to understand when it's written like this.'*

The CA team has been impressively empirical. It recently tested a tool for assessing assistance with priority services. *'To reach as many different people as possible, we decided to try pop-up research at Westfield Stratford City [a very American type of mall]. This is an example of what Whitney Quesenbery, co-founder at the Center for Civic Design, calls 'sampling by location', or going where your users are.*

*'It gave us the opportunity to: test in the community rather than at the office; reach a broad range of people relatively easily; talk to vulnerable people in a familiar environment.'*

What is interesting about the feedback is that it was not wholly positive but it also demonstrated the importance of targeting carers: *'3 things we learned: Using dummy data in the tool prevented a seamless, realistic experience, which meant the testing was less robust; People could complete the form, but some were unsure at the end exactly what service they were signing up for; Professional carers quickly understood the benefits of priority services and the point of the tool.'*

CA, unlike many NGOs, receives a Government grant and that allows it access to a range of tools which would otherwise not be available. CA are able to trace actual use of its website through *'heat maps'* which register where most people spent time reading. Two recent posts on its digital blog indicate the growing sophistication which is now possible: one is entitled *'Why we broke our own publishing rules with the new Consumer Credit advice'* and another *'Why we removed the most visited advice page on our website'*. For example, the digital team found that, although 70,000 people a month were visiting its page of basic rights at work, very few were actually staying on it long enough to read very much. Most were just looking at a table of contents at the top of a general page.

They were not reading through the information on each individualised right. So, the team revised the content.

The CA website also includes a tracker which allows anyone to follow searches for content made both on the website and on Google as well as trending content and the number of people on the website in the last minute. Even mid-afternoon on a random April Sunday, this was an impressive 532. CA reported 43 million annual visits in 2016-7 to its online advice facility with the following breakdown: benefits 17.4m, employment 9.4m, consumer 8.9m, debt 7.4m, relationships 6.2m. CA also provides web-based information for its own advisers – of which it has 20,000 volunteers backed up by a total of 700 employed staff – which supplements the publicly available information. The digital team reports,

*'Writing for advisers presents content design challenges that are very different to the ones we find when we write for the public. Our advisers tell us that they like: detail and context to help understand the bigger picture; to be able to find the content they need to give advice quickly; to know which external resources they can trust; appropriate technical terms—where they're relevant.'*

Community Legal Education Ontario (CLEO), demonstrates another way of providing similar levels of information to the public. It has been extending its Steps for Justice coverage throughout the year and improved its design in April 2018. Steps for Justice is a partnership with various institutions including the Law Society, the courts and government of Ontario. It provides *'step-by-step information to help you work through your legal problems; practical tools, such as checklists, fillable forms, and self-help guide; referral information for legal and social services across Ontario; live chat and email support if you can't find the answers to your questions'*. Appropriate content can be copied from the central website and embedded in the website of individual organisations.

Back in England and Wales, [advicenow.org.uk](https://www.advicenow.org.uk) is a second general advice website run by the charity Law for Life and presenting itself within a public legal education framework. It is an extremely good *'aggregator'* website which signals relevant content from other organisations. For example, if you follow its *'top picks'* on *'benefits claims and payments'*, you get ten references to the websites of organisations ranging from the Government, CA, Shelter and Macmillan Cancer Support. It provides a range of its own authored guides where it perceives a gap in what is

available – extending to a film on representing yourself in family court and a booklet on *'How to Win a PIP [Personal Independence Payment] Appeal'*. It has supplemented this with a tool that facilitates making a successful claim for a PIP which is discussed below.

Two further websites around the world have consolidated their position during the year. [MylawBC.org](https://mylawbc.org) has been extricating itself from its original partnership based around the Rechtwijzer. You can listen to a podcast, made in March 2018, about the website. This takes a guided pathway approach to separation, divorce and family matters; abuse and family violence; missed mortgage payments and wills and personal planning. It allows a user anonymously to obtain customised information and a downloadable action plan or even a Will through the use of interactive questioning. For the year to the end of March 2018, the website had 54,877 sessions, an increase of 89% over last year and 39,679 users, an increase of 104% in users. Improvement in the last year has been *'behind the scenes'* flowing from HiiL's departure and Modria's take over by Tyler Technologies. MyLawBC has now developed an in-house tool that gives us full creative and technical control to develop pathways and manage content. Increased funding is allowing the

development over the next two years of a criminal law stream. This will begin with the questions someone may have from when they realize they are under investigation, through to charges, bail, representing themselves (on a number of common charges), through to appeal processes. In addition, MyLawBC is considering a pilot of family ODR using the Tyler (Modria) platform.

Australia's Victoria Legal Aid (VLA) combines a short Q&A approach to identifying a user's area of interest; an AdviceNow-like approach to referral towards the most appropriate organisations combined with a seamless link to publications and videos through a 'legal aid checker' in the course of development and currently operational in a beta version. It has recently added a back-office facility which allows through a system known as ORBIT (Online Referral Booking Information Tool) 'staff to use the tool from their web browser to match people with the best service based on location, eligibility and problem type. They can easily share information about the referral to the client by SMS and email. For VLA offices it is even possible to share appointment availability and have other VLA users book clients directly into a centralised calendar.

*The bookings function systematise the process around appointment bookings within VLA, assists staff to administer their bookable services and SMS reminders are automatically sent to clients to remind them to attend appointments.'*

SMS or texts have provided a steady but unexciting support for legal services and legal aid organisations and they have been used by a range of organisations to remind clients of appointments and hearings – including the Legal Aid Board of South Africa. Its report to the International Legal Aid Group conference back in 2015 stated:

*'The move towards greater reliance on technology in all sectors of the economy has not been lost to the legal profession and institutions connected with the administration of justice in general. Common perceptions however, are that the lower [social and economic] groups have little or no access to technological platforms and therefore these platforms cannot be used effectively to service this sector. These perceptions are not entirely correct. In South Africa for example, the penetration of cellular telephones is in excess of 100% of the population.*

*Cellphones are invariably the only means of communication for the poor, especially those living in rural areas. These phones are increasingly being used as a means to access web services, as well as for social networking.'*

SMS has proved helpful around the world. At the 2017 LSC technology conference, a session was held on the lessons from the use of texts which reported that 'Atlanta Legal Aid Society, Northwest Justice Project and Legal Assistance of Western New York have all implemented SMS (texting) functionality in their case management systems for collecting outcome information in limited assistance cases or client communication.'





# 4 Interactive provision

## 4.1 Assisted Document Self-assembly

There is a gradual exploration of the interactive possibilities of the internet. At its simplest, this has been demonstrated over some time by document self-assembly programmes like the A2J Author developed by Chicago-Kent College of Law's Centre for Access to Justice and Technology. It describes itself thus:

*'Access to Justice Author (A2J Author®) is a cloud based software tool that delivers greater access to justice for self-represented litigants by enabling non-technical authors from the courts, clerk's offices, legal services organizations, and law schools to rapidly build and implement user friendly web-based document assembly projects.'*

*These document assembly projects are made up of two components: a user-friendly interface, called an A2J Guided Interview, and a back-end template. These A2J Guided Interviews take complex legal information from legal forms and present it in a straightforward way to self-represented litigants. A2J Author was the first document assembly interface designed specifically for self-represented litigants. A2J Guided Interviews remove many of the barriers*

*faced by self-represented litigants, allowing them to easily complete and print court documents that are ready to be filed with the court system. Those robust features have led to proven results – 4 million A2J Guided Interviews run and 2.5 million documents assembled since 2005. There are over 1,100 A2J Guided Interviews in 42 states in the USA and 4 foreign countries. A2J Author is available free to interested court, legal services organizations, and other non-profits for non-commercial use.'*

A2J Author is supplemented by the work of an NGO, Law Help Interactive, a Pro Bono Net project, which provides assistance both to users and to lawyers. Its assessment of the need for, and role of online forms is discussed by Program Manager Claudia Johnson in three recently released podcasts. The LSC was early onto the issue of self-assembly forms and their encouragement has been part of its policy since its Technology Summit in 2013 which resolved that *'Deploying sophisticated document assembly applications to support the creation of legal documents by service providers and by litigants*



*themselves and linking the document creation process to the delivery of legal information and limited scope legal representation’.*

CourtNav is very similar to projects fuelled by A2J author – without the visuals. It is an online tool developed by a specialist CA office in the Royal Courts of Justice (the central civil courts of England and Wales). This has been discussed in previous reports. It provides a Q&A format to completing relevant court forms. A user can also upload documents such as marriage certificates. The system has now been taken up by the whole of CA and can be accessed from local offices. It relies on pro bono lawyers to check the self-assembled documents.

Overall, interactive online document self-assembly has had a slower growth in England and Wales, no doubt because of the prevalence, until recently, of face to face assistance both in the advice and legal sectors.

However, two organisations have demonstrated its capacities in the last year in relation to the same disability benefit – Personal Independence Payments. These are of some complexity but the material issue is that these are payable at a graduated amount on proof of a level of disability which is, in practice, calculated by way of a score. These payments replaced previous benefits with

the express intention of making estimated savings of, according to the House of Commons library, 15% on what would otherwise have been spent between 2010 and 2021. Assessment of this benefit has not been handled as sensitively as it might and there have been many complaints. Redress has been hindered by the withdrawal of appeal rights in favour of ‘*mandatory reconsideration*’ by the administering Government department. Advisers and claimants report that a major problem has been the articulation of variable conditions and the framing of an application to cover the full extent of a disability which is being measured by way of an inflexible grid. In consequence, CA advises great care in how a claim is articulated:

*‘You need to write the reasons specific to your child’s claim and why you disagree with the decision. Look at your decision letter. It will say how the Department of Works and Pensions has decided on your application.*

*Make a note of the statements you disagree with and why. In your reconsideration letter, give facts, examples and medical evidence (if available) to support what you’re saying. One way to be clear about what you disagree with is to use the same words that they use in the decision. Below is an example of what a*

*reconsideration request letter might say. Every reconsideration request letter will be different – yours needs to contain examples that are specific to your child's needs as a unique individual.'*

### Example

*Your letter says 'I'm not entitled to Disability Living Allowance because my child doesn't need continual supervision to avoid substantial damage to himself or others. This is incorrect. When my child is at home I have to be in the same room with him at all times because he can hurt himself when I'm not there to watch him. He often throws fits – in the past he has knocked heavy things off shelves and hit his head on furniture. This could cause him substantial damage. He needs continual supervision to avoid damage to himself.'*

Both AdviceNow and seAp, an NGO based in the south coast town of Hastings, have developed a checklist approach to building up a claim and then compiling the different elements together. The seAp c-App website supports the user (with a promotional video explaining the app) to build up the kind of detail that is required for a medical assessment by detailing issues under twelve headings ranging from 'washing and bathing' or 'dressing and undressing'. You are given options about whether you can or cannot do an activity but also whether

that applies most or some of the time. You can pause at any time and build up a printable checklist. You are encouraged to keep answering the full list and advised whether you have built up enough points to qualify. You can review and amend your answers. You are also given printable advice about attending your assessment and preparing your answers along such lines as 'write down points you want to make about your conditions and their impact on you in case they are not covered/asked about by the assessor' and 'consider keeping a diary which you can show the assessor'. You are reassured that the website keeps no data on you as an individual user, though it saves some on your computer so that you can come back to it. seAp built its tool into an app, c-App with funding from The Legal Education Foundation and Comic Relief.

AdviceNow took a similar line for its Mandatory Reconsideration Request Letter Tool available from its website. This informs you:

*'Please select all of the descriptors below that you meet for each task. If you select more than one this tool will automatically choose the one that gives you the most points. We've changed the language of them slightly to make it easier to understand.'*

*If the only way you can do something is to do it badly, unsafely, slowly or only*

*occasionally, then select the descriptor that says you can't do it. Similarly, if you can't do a task as many times as you might need, or if doing it causes you pain, tiredness, breathlessness, nausea, or makes your condition worse, you should select the descriptor that says you can't do it. On the next page, you can explain the problems it causes you.*

*If you feel better on some days than on others, choose the phrase that describes how things are on bad days. When you are asked to explain why you meet this descriptor on the next page, explain what help you need on bad days and better days and how frequently you have both.'*

The programme then takes you through 12 relevant activities, offering you alternative answers. At the end, it advises you on whether you are likely to succeed with a reconsideration and, if the answer is positive, offers a form that repeats your needs in relation to each activity and invites you to give reasons. The system generates a downloadable letter and emails a plain text to your inbox. The tool is very clear that 'We do not keep a copy of the letter or any of your details and so are not subject to data protection'. Interestingly, MyLawBC has also found that users place a value on remaining anonymous.



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## 4.2 Guided Pathways

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The Dutch Rechtwijzer was a trailblazer in a number of ways – partly in its integration of mediation within an online process but also in its use of guided pathways that changed the whole presentation of advice and information. Instead of screeds of information on the screen, interactive questioning allowed it to be presented to the user in bite sized chunks addressed to their particular need and personalised. Its demise is discussed below but one of its achievements has been continued exploration of the possibilities of the guided pathway approach. In England and Wales, it is possible that Relate may resurrect a guided pathway approach to dealing with family separation.

One of the most interesting interactive developments is the Solution Explorer developed by British Columbia's Civil Resolution Tribunal (the Online Court element of which is discussed

later). This – from June last year – added a small claims jurisdiction to its initial coverage of '*strata disputes*', a type of housing dispute. This now has two Explorers, one for strata disputes and one for small claims which is, in turn, divided into seven parts from, in alphabetical order, '*buying and selling goods and services*' to '*property*'. You are taken down a logic tree or guided pathway; a sidebar tells you how far you have got; you can save your work and return; you come across summaries of the relevant law; opportunities for referral; and draft letters. As useful as any verbal description in understanding the process is the CRT's three-minute youtube video. Without the programme taking sides, the user is being guided into handling their own case and exploring options which will include, but not be limited to, court processes.

## 4.3 Legal Health Check Ups

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One potential use of interactivity is in digitalising 'legal health check ups'. This idea has been around for some time and, before the internet, it consisted of offering people a questionnaire to check on their legal needs. This is an obvious candidate for digitalisation and the newly created ABA Centre for Innovation has announced that *'Currently in development is a free, online legal checkup tool that is being created by a working group led by the ABA Standing Committee on the Delivery of Legal Services. The checkup will consist of an expert system of*

*branching questions and answers that helps members of the public to identify legal issues in specific subject areas and refers them to appropriate resources.'* An example can be found on the internet from Halton Community Legal Services in Ontario. Since it was published in 2014, this claims 2898 surveys completed, 1089 requests for legal advice and 1017 requests for legal information. The ABA digital initiative follows a longstanding interest in the possibilities of legal checkups with discussion of whether their use could integrate public and private provision.

## 4.4 Chatbots


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There is considerable interest in the potential of chatbots. This is a computer programme which interacts with users as if it was a human being and, to do so, is capable of understanding questions and presenting answers either through auditory or textual means. The Australian Nadia programme was going to be the most sophisticated use of this as, effectively, a visual interface with the public on a new disability scheme. A nice selling point was that it was to have the voice of Cate Blanchett – who actually recorded a large number of answers. It was canned – partly

because the government got cold feet generally about large digital projects after a couple of spectacular and public failures and partly – and more crucially – because, for all its marketing, IBM Watson, which proclaims itself at the cutting edge of AI actually proved to be too slow and too lacking in power.

One of the leading proponents of the possibilities of chatbots has been the young entrepreneur, still a student at Stanford, Joshua Browder. He has achieved major publicity for his 'Do Not Pay' chatbot that challenges parking tickets;





and has very publicly expanded his operation to asylum cases and those affected by the Equifax security scandal. He stated his hope that *'my product will replace lawyers, and, with enough success, bankrupt Equifax.'*

There can be no doubt that chatbots have fantastic potential as they get more sophisticated. A distant holy grail of at least some in the legal services' movement would be integration of legal advice into commercial services provided through Echo, Siri or Alexa, this gives rise to a lively debate about the merits of *'sleeping with Google'* which is beginning to take off in the US. This will only get more important

as the potential of the technology expands. For the moment, for all the claims that the British-based Billy Bot can replace barristers' clerks by managing their diaries and even making the coffee, chatbots remain pretty basic. And the ruins of Nadia should stand as somewhat of a warning against too much hype at the present time. Most rely not actually on any sophisticated AI but on more mundane guided pathways with a verbal front end. That promises advances in administration – and they are widely used in customer service throughout a number of industries – but does not really threaten lawyers, only their receptionists.

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# 5 Virtual Legal Practice

Virtual law firms have been widely discussed, particularly in the United States. However, take up appears to be low. In 2016, only 5% of practices labelled their practices as 'virtual' – though they may have had different definitions in mind. In 2017, Chad Burton, chair of an ABA Futures Initiative wrote: *'In 2017, running a virtual (or mobile) law firm is just another way of practicing law. It means that you, as a legal professional, are leveraging technology to communicate more effectively with your clients, have figured out a business model that allows you to be more flexible with your fee structures, and are able to work from anywhere—you are not tethered to a desk in your law firm office in order to get work done.'* Numbers reporting themselves as running virtual practices remain low, though Mr Burton does the best he can with the fact that most of those reporting to a voluntary ABA survey are elderly; and the young might be different.

In England and Wales, there are a number of solicitors' firms that promote themselves as 'virtual'. A typical example, identified via Google, is Summerfield Browne. It specifically promotes itself as a virtual firm:

*'What sets us apart from many other virtual solicitors is that we*

*deliver legal services using a business model that utilises the best aspects of the traditional law firm with the best aspects of a virtual law firm. Many of our virtual lawyers are consultants who work remotely, and by using the latest IT technology, they service clients anywhere in England and Wales. Our virtual solicitors are self-employed.'* The firm is not wholly virtual, however: *'We have offices in London, Birmingham, Cambridge, Oxford, Northampton (all by appointment only) and our administrative office is in Market Harborough, Leicester, Leicestershire. We provide legal services all over England and Wales.'*

The truth is that full virtual practice in England and Wales has also been relatively slow to expand with Scott-Moncrieff and Associates being the best known early adopter. Its founder, Lucy Scott-Moncrieff, a former President of the Law Society, is a great advocate of the model:

*'a source of pride for me is that we have created something new in how we work. We are a virtual, or dispersed firm, and I believe we were the first in the world to work like this: I have spoken about how we work to lawyers all over the world, and no-one has ever said that they knew of anyone who had done anything like it before.'*

*A huge advantage of our structure is that our lawyers are in charge of their own careers. I am very interested in equality and diversity in law firms, and our way of working is one in which everyone can flourish, including people with caring responsibilities and those who want to pursue other interests alongside legal practice.'*

Even her firm needs to hire offices from time to time in order to meet clients.

In the NGO sector, virtual legal practice has been even slower to develop. That is probably a reflection of the largely local funding that supports the voluntary sector. An exception is provided by the Legal Advice Centre at University House in Bethnal Green, London. Its website announces that it is providing advice by Skype;

*'With the introduction of our remote access case-management system and Skype we are now able to assist lawyers to take part in our work from the comfort of their own desks, whilst we sit with the client in our office in Bethnal Green. We are also using this package to develop our outreach projects.'*

The Legal Advice Centre reports on a delivery point in Falmouth, Cornwall (227 miles or 365 kilometres away):

*'We secured funding from The Legal Education Foundation in order to establish a Skype advice*

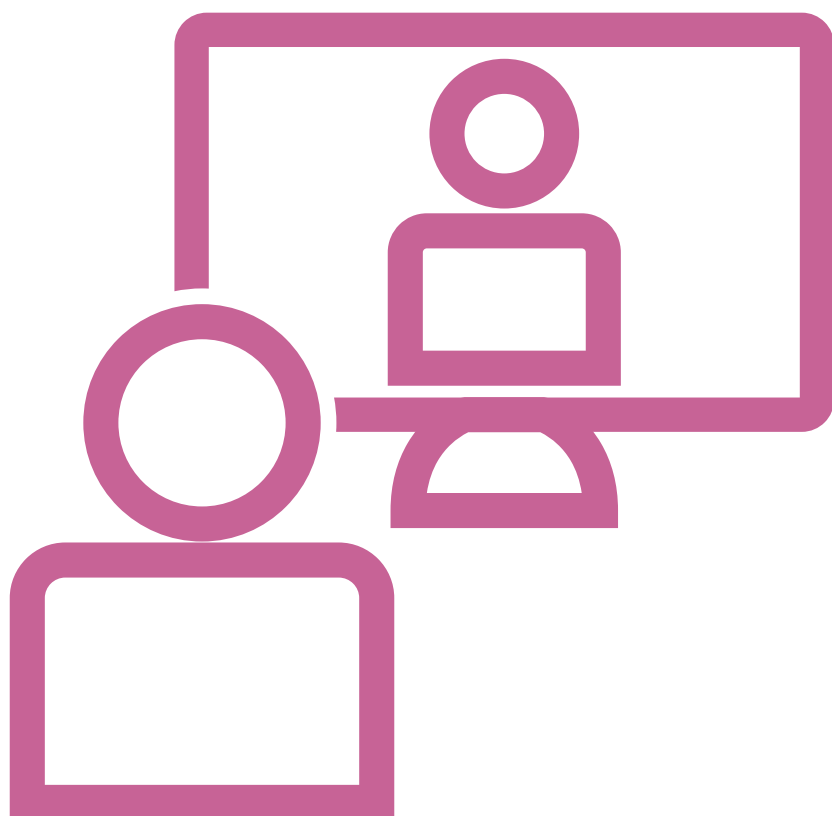
*clinic in Falmouth. This is part of a wider initiative to provide access to advice to the many 'advice deserts' in the UK. The bulk of the advice is provided directly by our own lawyers. In addition to our work in Cornwall, we are developing projects around webcam based services. We are seeking to develop webcam platforms, which, in part, will help pro bono minded lawyers and law students to remotely take part in access to justice projects.'*

Following cuts to legal aid, there are increasing areas of the country without physical advice provision and the 'Falmouth' model of using an out of area institution to deliver services through local organisations has obvious attractions. In the US, Skype is used for taking depositions in remote locations. In Australia, Women's Legal Service Victoria has been using Skype to contact women in remote locations for some time: *'Through our Link Program, we partner with 23 agencies across the state to enable women who have experienced family violence to access legal advice via internet video conferencing.'* Skype is an obvious tool in remote areas in the US: *'Utah Legal Services used Skype in 2013 to establish clinics in order to help attorneys meet regularly with clients who resided in distant areas of the state. Clinics were held at community locations such as shelters and*

*public libraries, which were equipped with the technology necessary to facilitate these meetings. Before the clinics scheduled hours, staff at the clinic location would send the necessary documents to the coordinating Utah Legal Services attorney via fax. During the scheduled clinic times, staff attorneys connected to the remote location via Skype. Any documents that a client wanted an attorney to review could be sent via fax during the clinic. Skype clinics allowed attorneys to meet with clients on an as-needed basis. The technology eliminated the need to travel to distant areas, and attorneys could continue working in their offices until a client was available.'*

Avon and Bristol Law Centre is trying to provide Skype-delivered advice out of its immediate catchment area by pro bono lawyers in North Somerset, using a combination attracting more and more attention but has found it difficult to get suitably trained and committed volunteers.

The future of Skype-based virtual legal practice in domestic NGOs is probably fatally limited by the absence of any central body, like the US LSC, with a wide legal services' brief. The Ministry of Justice's Legal Aid Agency does not have the knowledge, remit or staff to be other than a financially orientated administrator of legal aid regulations.



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Skype clinics allowed attorneys to meet with clients on an as-needed basis.

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# 6 Crowd Funding

The crowd funding movement is a good example of an initiative which is, in practice but not theory, dependent on the internet: the British-based website crowdjustice.com has now raised a total of £5m (\$7m). This year, it attracted its most celebrated case as Stormy Daniels sued President Trump on the basis of pulling in enough funds on the website to get a shot at revoking the confidentiality agreement she alleged was signed (but President Trump did not). Ms Daniels is a rather exceptional user. More typical have been cases no less political but more engaged in social justice. There have been five on elements of Brexit – the largest of which has raised over £150,000 (\$210,000). Others have involved junior doctors challenging their new contracts and women fighting against pension changes. There have also been a range of other, much smaller, more local – and less British – cases. For example, around \$7000 (£5000) has been raised by an interfaith network in the US to support a Guatemalan refugee. Campaigns have strayed beyond straightforward legal action. Young Legal Aid Lawyers and the Criminal Bar Association raised enough money to send a copy of a book entitled *'Stories of the Law and How it is broken'* by the

intriguingly named Secret Barrister to every MP in a campaign to save criminal legal aid. Fundraising campaigns are understandably attractive to the political causes of the day. Christopher Wylie, who spilled the beans on Cambridge Analytica, is crowdfunding for support for similar whistleblowers.

There are a number of crowd funding websites. These include FundedJustice in the US and Crowdfunder in the UK. In April 2018, the latter was funding to save a Brighton pub and to take a private prosecution against those who broke election rules in relation to the Brexit campaign. Unsurprisingly, there has also been interest in crowdfunding as a commercial investment and it is very close to the growing practice of selling all or part of the fruits of litigation to third parties.

Looking to the future, crowdfunding is not going to provide any kind of substitute for legal aid but it may well offer possibilities in high profile political cases that appeal to funders. There is the possibility that it could be used by those seeking to reduce justice and there are copious possibilities for fraud which will, no doubt, be explored as time goes on.

# 7 Online Dispute Resolution (ODR)

ODR may take two forms in relation to court processes relevant to those on low incomes. The distinction is important. On the one hand, it can be integrated within the adjudicatory processes of a court or tribunal. That is the model of our own proposed Online Small Claims Court and British Columbia's Civil Resolution Tribunal. Alternatively, ODR can be closely allied – but not integrally integrated – to the formal court process. That was the model followed by the Dutch Rechtswijzer. That format allowed options for mediation, arbitration or conciliation whose results could link to the formal process but were, effectively, operating in parallel. Thus, the end result of the Rechtswijzer process was an agreement between the parties taken to the stage of approval by a lawyer but still awaiting the final formal stage of court approval.

The Rechtswijzer failed over the year, prompting a discussion of why. Professor Maurits Barendrecht of the Hague Institute for Innovation of Law (HiiL), who had thrown himself into its development for a decade from 2007, argues that the project was under-marketed and under-resourced, suffering in

comparison with state funding for lawyers at the hands of legal aid administrations and government ministries. The immediate cause of the failure was its inability to obtain more than 1% of the users going through family separation within a challenging time period set by the Dutch Legal Aid Board. Rechtswijzer's successor – developed by a startup in which HiiL and the Dutch Legal Aid Board have an interest, Justice42 – has bought itself a less demanding time frame and a lower bar to success. Justice42's CEO, Kaspar Scheltema, commented:

*'We are proud that our platform is centralising the needs of our customers: providing personalised suggestions on custom-made divorce plans; and empowering people to develop their agreements in their own words with a quality check from divorce lawyers who are, in turn, able to handle their cases more efficiently'.*

Justice42's Laura Kirstemaker explains their current direction:

*'We are working on several developments. One is the platform itself. We recently released a new module to satisfy the need of parents that want to make a parenting plan (separate of a divorce plan; we previously*



*only offered the parenting plan as integral part of the divorce plan). The other is broadening the type of help and support we can offer our users. In addition to the legal help, we are working on partnerships in the mental health and financial services (alimony calculation, mortgage financial check). The numbers are increasing but we can definitely handle more. Organising your divorce in a good manner through the help of technology is far from common practice here in the Netherlands. It needs a lot of effort to familiarise people with the concept. We found a PR partner and we'll be starting a PR campaign soon.'*

So, the Rechtwijzer may turn out not to be dead but only sleeping. Even so, the loss of HiiL's international drive and the greater domestic focus heralded by retaining the name in Dutch represents a major loss to the momentum behind court-related ODR. There are similar projects in creation – among them a very ambitiously presented Australian one. National Legal Aid in Australia was awarded a grant of around \$Aus340,000 (\$US255,000 or £186,000) to investigate creating an online process for divorce. This is part of an ambitious project in which *'the technology behind eBay's dispute resolution service could soon help revolutionise Australian divorce battles and other common legal*

*disputes. Australia's peak legal assistance body ... joins with RMIT University to show how Artificial Intelligence & digital technology can eliminate lengthy, expensive, lawyered-up family court conflicts. (ABS figures show there are more than 45,000 divorces annually in Australia.)'* We will have to see how this somewhat ambitious project fares. Its potential use of AI goes well beyond the promise of the Dutch Rechtwijzer or its successor. These deploy – and deployed – guided pathways and physical mediators to help users settle matters in dispute. They never claimed that AI could solve problems on its own.

With court-oriented ODR projects on the back burner at least temporarily, it is court-integrated projects that are currently leading the way. At the head of global development in online small claims is British Columbia's Civil Resolution Tribunal (CRT). This is certainly going from strength to strength as it expands its jurisdiction – which began with strata property (condominium) disputes, moved through small claims under \$Can5000 (\$US3893 or £2850) and has from April 2018 been given further jurisdiction, most notably in certain elements of a vehicle accident claim. The most innovative element of the CRT, which is really worth exploring, is its Solution Explorer on which the



CRT's website provides a short video. The Solution Explorer invites you through guided pathways to summarise your dispute and then provides tools for its resolution.

Court-integrated ODR has certain advantages over court-oriented models, notably that it can be imposed mandatorily. This was the distinction taken by England and Wales Master of the Rolls, Sir Terence Etherton:

*'There is a fundamental difference between the Online Solutions Court and the Rechtwijzer. Our approach is to develop a court, which incorporates ODR into its processes, rather than to develop an ODR platform which sits outside of the court system. The Rechtwijzer's failure should properly be seen as more a consequence of individuals preferring the courts to resolve their disputes than their rejection of online processes. The low user uptake of its consensual settlement mechanism will not apply to our court, as all cases within the Online Solutions Court will be subject to its three-stage process. Settlement and adjudication will not operate within rival systems, but as complementary mechanisms within an holistic system. We are seeking to enhance our civil court, not create an online alternative to it. As such the question of preference that undermined take-up in The Netherlands is unlikely to be replicated here.'*

This argument is somewhat unattractive: it comes down to asserting that ODR will work in England and Wales whatever users want, whereas the Dutch project is set up to fail or succeed specifically on its ability to capture sufficient of its market.

There are further differences to be noted. One is between the domestic proposals as they are actually being implemented and the original model of both the CRT and the Rechtwijzer. Both of these places a high value on an interactive first phase where a solution is explored. That was what was specifically argued for in both the very preliminary report published by futures guru Professor Susskind and the formal report by Lord Briggs. In his conclusions, he stated that *'success will be critically dependent upon the painstakingly careful design, development and testing of the stage 1 triage process. Without it, it will offer no real benefits to court users without lawyers on a full retainer, beyond those inadequately provided by current practice and procedure.'*

Pioneering work in British Columbia suggests that it will be a real challenge to achieve that objective by April 2020, but one which is well worth the effort, and the significant funding budgeted for the purpose. Lord Briggs specifically identified his initial

Stage 1 as *'an automated online triage stage designed to help litigants without lawyer articulate their claim in a form which the court can resolve and to upload their key documents and evidence'*. Stage 2 involved a conciliation stage with a Case Officer assisting resolution of the case.

In June 2017, Sir Terence Etherton was still extolling the virtues of Lord Briggs' Stage 1, though describing a process rather narrower than the CRT's Solution Explorer:

*'The first of [the court's] three stages will cover the pre-issue stage of litigation. In some ways this will cover the same ground as the Pre-Action Protocols. It will, however, go wider than that. It will assist individuals to find the right sources of legal advice and help in order to enable them to consider whether they have a viable legal dispute, or whether a more appropriate means of complaint or redress is available, such as a relevant Ombudsman scheme. Assuming there is a viable dispute it will, and this will be carried out via a broadly automated online process, enable claimants to identify the nature of their claim and submit relevant documents, such as the claim form, online. It will equally help them to particularise their claims. This will be done through the use of standardised online processes.'*

As the Online Court proposals have developed, the idea of

creating something like the CRT's Solution Explorer or Lord Briggs Stage 1 have become increasingly more remote – despite Lord Briggs assertion as to its importance. It seems likely that Stage 1 will be reduced to a rather mechanistic and uninspiring signposting process – with Stage 2 deploying non-judicial conciliation officers to encourage agreement. This could end up looking – and being – rather cheap compared with the imaginative approach originally heralded.

Implementation of the online small claims court has yet really to get under way. However, there have been four main areas of controversy between Her Majesty's Courts and Tribunal Service (HMCTS) and critics of the practicalities (not the principles) of implementation. The National Audit Office has now joined the institutions expressing a degree of concern over the programme.

First, the programme is to be funded by the closure and sale of existing courts. This is becoming a matter of political debate and threatens to run into a lament at austerity and the narrowing of the public realm. The Parliamentary Opposition claims that, by March 2018, 126 court premises had been sold since 2010, raising only £34m. The issue has been taken up by the NGO, Transform Justice, which has made a telling

case against some closures, for example Cambridge Magistrates Court. In addition, a row is brewing about how alternative travelling times to replacement courts are calculated.

Second, there has been a major row about the amount of research that HMCTS has been prepared to encourage and support.

Professor Hazel Genn, the doyenne of social justice research, has made the case for its importance: *'We have been hampered for as long as I have been researching by a relative data vacuum relating to the details and dynamics of proceedings in civil courts and tribunals. [The situation in crime has always been better.] But developing a common system for civil, family and tribunals with modern hardware and new software presents an unparalleled data collection opportunity. This is the chance to ensure that data are collected in such a way that in the future we will be able to address important questions about the operation of the system and learn about the dynamics of disputes, processing, outcomes, dispositions and trends over time. The potential is considerable.'* She wants research to ensure that it does *'not merely mean can people access the online system, but can they participate effectively and feel they have done so, and achieve substantively just outcomes.'* In the same speech, she sets out a

nine point research agenda. These cover much the same ground as the 30 research questions posed by the NGO Public Law Project in a recent report. The Legal Education Foundation has also been active in this debate. The key questions relate to how online may affect users, judges and – most importantly – outcomes because this form of ODR is not subject to the market control of court-oriented provision where users can vote with their feet.

Third, HMCTS is operating under a conventionally 'agile' methodology. This has been proven to release considerable creativity in commercial settings. However, it remains to be seen if it needs some greater structure when operating in relation to a public Government function. Actually, there are some constitutional restraints on how defendants and litigants may be treated that form boundaries to what may be done. A major problem arises in the difference between how, say, Amazon or IKEA and the Government would treat the creation of an online determination system. A commercial provider would decide on a price point, an estimate of numbers at every point of the process and then build accordingly. The HMCTS is unable to say anything about price – a crucial point in the acceptability of the new scheme – until ministers decide and it took litigation to persuade them


that employment fees should be at affordable levels, not a good precedent.

Work on Online Courts is particularly vulnerable to lack of Parliamentary scrutiny because it is taking place without statutory cover. The appropriate Bill was dropped because of the last election and the paralysis of Brexit means that there has, as yet, been no replacement. This is particularly important because it is clear that the judiciary are beginning to get restive with the constitutional deal that was dreamt up in the aftermath of the rushed abolition of the office of Lord Chancellor. This is highly visible in the increasingly restless speeches of Sir Ernest Ryder. In a February speech this year, he explicitly said that Lord Justice Briggs must be the last lone judicial colossus arriving back from the wilderness with a masterplan. It must all get a bit more corporate and – for all the reference to figures long dead – a lot more political:

*‘there [is] nothing new in this leadership role, Lord Mansfield CJ was a vigorous leader of reform in the 18th Century and Lord Bramwell was equally vigorous in the 19th century. Even if it requires the judiciary to engage to a certain degree in policy issues where the proper administration of justice is concerned, the judiciary cannot but be involved.*

*There need to be changes of governance and a commitment to transparency and research: ‘If we are to ensure that our courts and tribunals fulfil their constitutional role, we – as judges – must ensure that they and their processes are not unexamined; that we lead reform in the light of evidence and through the proper use of expertise.’*

Decoded and at a constitutional level, this is fighting talk. More particularly, every element of the court reform programme needs to have publicly stated key performance indicators by which it is content to be judged and these must include participation and satisfaction rates for users. For example, the online small claims court should set a target of increased users entering the system even if it wishes to set lower targets for those requiring hearings. Further, there must be an independent evaluation team for each element of the programme which measures performance against the preset KPIs. The HMCTS seems to have set its mind against research – perhaps considering that this would entail lengthy academic analysis. Not so. We want quick and independent evaluation.



The court programme is important in itself but it is also likely to provide a major stimulus to online advice because providers, both commercial and not for profit, will need to focus on introducing users to the online environment. As the online small claims court takes shape, we can expect to see an explosion of online legal services develop that are inspired by it. In addition, back in the field of court-oriented ODR, the demise of the Rechtswijzer may prove to be but a temporary setback, the failure of

an early adopter with too cumbersome a structure that involved a US software house, a Dutch legal aid funder and an internationally oriented research institution. Indeed, Relate may yet dust down plans, abandoned last year, to establish some Rechtswijzer-influenced scheme covering aspects of family separation. So, both forms of ODR development may prove highly influential in the near future.

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The HMCTS seems to have set its mind against research – perhaps considering that this would entails lengthy academic analysis. Not so. We want quick and independent evaluation.

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## 8 Online education, training and support

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A small NGO on the West Coast of Canada, the Justice Education Society in British Columbia, continues to lead the world in showing what can be done through online public legal education. Its Families Change programme has upgraded its website and now covers the whole of Canada with separate sub-websites for each Province. It provides age-appropriate information on family break up. As part of provision aimed at children from 6 to 10, there remains the interactive game which allows a child to take a tour of 'Changeville' and explore issues in an imaginative way but now with improved graphics. These make it quicker to explore, for example, 'Break Up Street' whose six houses shelter six parents who inappropriately involve you as their child in their break up. The point is to raise the feelings involved and, through puzzles, text and speech to help children to develop coping mechanisms. The technology is a bit slow and, though much improved from the original version, still takes too long to load. The result is something which shows how online provision can deliver education at the point when it is needed. This could be

replicated in any field. Not only has the BC version been expanded through Canada, it has also been adopted by the US States of California, Connecticut, Vermont and Maine with only the slightest difference in visuals. Everyone else uses the same initial picture but Maine, an eastern seaboard state, replaces mountains with a lighthouse. Effectively what we have here is 'just in time' public legal education using visuals, puzzles and games to make its point.

In the USA, there has been a determined attempt to use gaming to help self-represented litigants. Four states – Connecticut, Maine, Massachusetts and New Hampshire, have used Re-Present, a game available as an app. This begins with rewarding you for addressing the judge appropriately and proceeds (in cartoon format) to take the user through a series of interactions which are designed to educate the self-represented litigant into what to expect and how to present themselves. Furthermore, for Connecticut, this is just one of a suite of videos available from [CTLawHelp.org](http://CTLawHelp.org) (including Families Change and a variety of



non-cartoons). There are any number of self-help videos, particularly from the United States, on how to represent yourself including the entertaining *'Don't do That'* with TV clips or *'How to talk like lawyer in 11 minutes.'* Given that the issues are much the same in all jurisdictions (particularly those which are common law), this is likely to be a fertile area for more experiment.

Online public legal education can be embedded in provision which does not present as primarily legally orientated. A good example is the contribution of Maternity Action to Baby Buddy, a free app developed by the UK charity Best Beginnings. This has received a number of awards, including the Guardian's Public Service Digital and Technology Award. It provides personalised support for mothers through pregnancy and the first six months after the birth of the baby. Most of the content is aimed at health care and developmental information but funding from The Legal Education Foundation has allowed Maternity Action to embed within a number of videos information about legal rights and maternity.

The internet allows new ways of supporting workers in the field. There are a number of variants about how this can be done. The Open Society Foundation for Moldova has a long running website on which paralegals may

post questions and be provided with answers: it is in Romanian but an English speaker can get the idea. This form has been replicated elsewhere – often with the (sometimes uneven) benefit of pro bono assistance with the answers.

[RightsNet.org.uk](https://RightsNet.org.uk) in England and Wales provides another model of supporting rights workers or paralegals. It provides news, case law and discussion for the particular use of Welfare Rights workers but open to all, supplemented by further subscription only material; and it does all this on something close to a self-funding basis. Contribution to discussion on the website is free and only requires registration. Subscription gets you extra, promising notice of news stories; statutes, statutory instruments, guidance, consultation and policy documents *'brought together and summarised within 24 hours of their issue'*; and user-friendly summaries of significant case law – all on the basis of a daily update. It covers welfare benefits, debt, housing, employment and community care. The trick has been to produce an attractive enough package to encourage sufficient subscriptions to keep the website going. Rightsnet has attracted a creditable number – currently more than 1,000 organisations across the UK. These range from small voluntary organisations with 10 or less staff

(for which the annual rate is the reasonable £125 or \$175) to large organisations such as Citizens Advice which pay a bespoke rate for a bulk deal. Welfare rights workers use the resource in some numbers.

Rightsnet's successful use of internet-based provision contrasts with the experience of the Legal Aid Practitioners Group (LAPG) in seeking to deliver some of its Certificate in Practice Management online. This is an expensive and prestigious course costing (for LAPG members) £999 or \$1352. Its participants like the face to face element in the sessions and the online part of the course has settled around introductions to topics and assessment. Chris Minnoch, LAPG's Operations Director, commented: *'The feedback that*

*we had from participants was that the online element was not as useful as expected and they preferred face to face.'* The LAPG, however, is developing an online course as an introduction to legal aid for paralegals. It thinks that this will be more viable. This debate over the role of digital in legal training very much mirrors a wider discussion that has been brought to a head by the Open University and led to the resignation of its Vice-Chancellor, Peter Horrocks. In its turn, this is part of an even wider debate about the future and value of Massive Open Online Courses or Moocs. For the access to justice sector, the current position is that Rightsnet demonstrates how successful online collaboration and support can be and LAPG indicates that online can provide some parts and some sorts of training – but that there remains a unique value in face to face discussion and training. If that is so, it would provide a microcosm of the overall lesson for the role of digital in the provision of legal services. There is likely to be a major role in meeting the specific training needs of the social justice sector. A US for-profit organisation in Massachusetts has, for example, developed multiple choice questions designed to help a user learn about Unemployment Insurance. [MassLegalHelp.org](https://www.masslegalhelp.org), a not for profit, also has a quiz on unemployment insurance benefit.

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Online public legal education can be embedded in provision which does not present as primarily legally orientated. A good example is the contribution of Maternity Action to Baby Buddy, a free app developed by the UK charity Best Beginnings.

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# 9 Innovative Reporting

One interesting field of innovation in access to justice and technology is provision assisting users to report issues. These can cover any subject. Just by way of example of the possibilities, no less than three of the list of seven African semi-finalists in the HiiL Justice Accelerator 2017 Challenge related to reporting, all from Zimbabwe. They were an Environmental Justice Reporting App from the Zimbabwe Environmental Law Association; a Mobile Corruption Reporting App from Transparency International: Zimbabwe and a Road Rules app to help motorists fight traffic police corruption. This suggests that this represents a distinct type of provision that is worth exploring.

The origin of this type of app that guides a user through a process; maximises the potential of a mobile phone or easy internet access; retains data and can send it to somewhere appropriate may come from those developed early on to help users marshal their evidence in road traffic accidents. These have existed for some time and, presumably, appeal to more pessimistic drivers who think that their chances of an accident are such that it is worth downloading an app to deal with it. There are now apps for specific functions such as assisting you to sketch what happened or ones that

guide you through what to do more widely after a road accident. As US Consumer Reports put it back in 2012: *'In the harried moments following a fender bender, it can be difficult to think clearly. But properly documenting what happened and who was involved is critical. Capturing that information can save both money and hassles later on. Fortunately, there are apps for that.'* Apps have spread to cycling – with Cycling UK, for example, providing an online facility for reporting potholes in the road.

Two projects show the innovative potential for apps or websites that facilitate self-reporting supplement by institutional backup. These are Justfix.nyc, discussed above, and Project Callisto, a tool to combat sexual harassment on university campuses. The founders of both have achieved a degree of recognition outside the legal services world. Callisto's Jessica Ladd is a TED speaker. Just Fix's co-founders, Daniel Kass and Georges Clement, were recognised in Forbes' list of 30 law and policy stars under 30 (Alas, the third co-founder, Ashley Trent, hit 30 just too early to join the boys). Jessica Ladd come from right outside the legal services context – her background is in sexual health.

The originality of both projects is their addressing of very specific problems through the encouragement of self-help integrally linked to human services. New York has a problem of long term private tenants who face housing disrepair. That probably reflects a distinct housing market different from that, for example, in the UK. Callisto focuses on the issue of repeat sexual harassers on college campuses and is one of a number of apps or websites to use the advantages of the internet. For domestic or sexual violence, the ease of access of the internet and the attendant anonymity may be a positive advantage over face to face assistance. Callisto is based on the notion that the repeat offender is responsible for disproportionate numbers of sexual assaults: the so called '*Harvey Weinstein*' phenomenon.


Both Just Fix and Callisto encourage users to structure information on their situation. Callisto provides questionnaires to help those reporting an incident. Just Fix facilitates tenants to complete a log of problems and to upload photos. At a point of their own choosing, the two projects then allow the user to report their problem. In Just Fix's case, this could be to the landlord or a housing organisation.

For Callisto, there is a twist. A user can opt just to store information on the system in an encrypted form unreadable even to those

behind the programme. They are notified if someone else names the same perpetrator. If they respond to that, then a co-ordinator from one of the 12 campuses where the project is currently operating can be contacted for help.

Both apps can assist at a systemic level. Just Fix can plot cases against a map of New York and co-operating housing organisations can make links between properties with the same landlord or sharing the same problem. Callisto claims to raise reporting levels by a factor of five and encourages users to report three times more quickly. It also allows statistics on reports that have been filed but not disclosed, giving participating institutions, another measure of how prevalent problems might be. Both have videos describing their operation – Just Fix is here and Callisto has been featured by the BBC's Click programme.

Just Fix New York and Project Callisto are sophisticated products from the US. But they reflect a global interest in how new services might be developed. The HiiL Africa list shows the width of appeal of provision that maximises the potential of easily accessible internet connection. This is an area where more innovation is likely precisely because it has the potential to combine self-help with assistance in an economic way.



The level of commercial interest in blockchain raises the issue of whether its technology might be relevant in non-commercial field of more access to justice interest. Martin Gramatikov and Georgi Chisuse of HiiL are bullish about its prospects. Again, their examples are in the field of recording transactions.

Countries like Estonia, Ghana, Honduras, Ukraine, Sweden, the Indian State Andra Pradesh and Georgia already experiment with registering land titles and ownership rights using blockchain. There is a great hope that this will make land transactions more affordable, transparent and secure. In the field of family justice, there are already examples of e-marriage and marriage certificates encoded in public and private blockchains. The fields most likely to be innovated using blockchain are inheritance, dowry, and prenuptial agreements. Benefits of such innovation include smart contracts which can help women to secure and enforce their rights. Employment is about livelihood. Millions of people need protection against exploitative practices, unfair dismissal, unpaid wages and dangerous working conditions. Employment contracts and their clauses can be registered in a blockchain.

Complex schemes of intermediaries can be held accountable through transparency. Data can be exchanged with labour inspectorates and watchdogs. In Brazil, a startup called CreditDream works on decentralized blockchain applications for universal access to credit.

The European Union is exploring the use of blockchain to help identify refugees and Finland has actually gone so far as you to give asylum seekers a blockchain identity provided by pre-paid Mastercards:

*'The blockchain is widely being seen as a beneficial instrument that can open up doors for people who are financially excluded. According to Jouko Salonen, director of the Finnish Immigration Service, the MONI card is solving a number of issues that refugees face. Namely, that it acts like a bank account. Users can also pay bills with it and receive direct deposits. Through the technology, asylum seekers are able to establish an identity, which is helping them to advance.'*



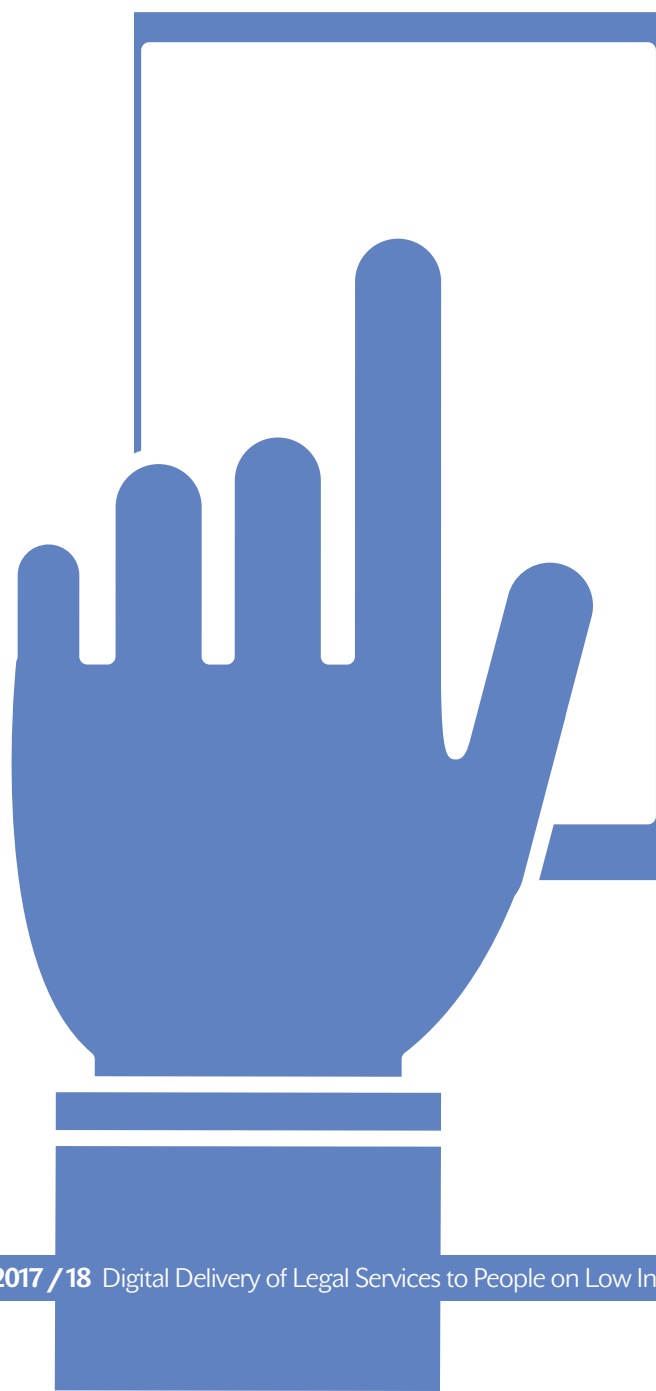
There are other experiments with the technology – one of them the puzzlingly named LaaWorld: *'LaLa World is on a mission to link the ever-growing millions of displaced and dispossessed to a network of international assistance by granting them permanent access to IDs and thus safety, security and financial inclusion into the world economy. Digital authentication gives*

*worker's identities a strong legal backing with the use of biometric data like iris scanners and fingerprinting. LaLa World uses blockchain to store unforgeable, unalterable items like birth records and university degrees. The technology's use of smart contracts can be used to create work permits and set up instant deposits directly to users' pockets via a smartphone app.'*

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The technology's [blockchains] use of smart contracts can be used to create work permits and set up instant deposits directly to users' pockets via a smartphone app.'

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# 10 Conclusions and Considerations

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So, the year 2017-8 reveals a technological revolution proceeding at pace in the commercial sphere of the law and spluttering in the field of access to justice. Nevertheless, there are hopeful signs. The resistance to change that might have been

evident a few years ago is dissipating. More and more entities in both the for profit and not for profit sphere are exploring the possibilities – despite the hampering effect of restricted funding.


## 10.1 The need for evaluation, research, international benchmarking and leadership;

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It becomes very apparent from a global survey such as this one that all round the world people are grappling with much the same general problems – albeit with very local particularities. Given that technology is transnational even if most law is not, then it would be surprising if there were not lessons to be learnt from international comparison, comparative research and global benchmarking. Increasingly, the need for this becomes overwhelming; and of course, governments have the resources to take a lead on this sort of role. In the field of Online Courts, the National Audit Office noted that the Ministry of Justice for England and Wales accepted that *'the changes it is proposing are far*

*broader than those in comparable programmes in other countries'*. That is too much of a throwaway line. To know how well an ambitious project like the Online Court is doing we need to benchmark it against its comparators. In that particular case, the lack of any assessment of user satisfaction (as, in effect, happened with the Dutch Rechtwijzer and its successor) or access to justice criteria (as lies behind BC's CRT) would stand out from comparison.

In England and Wales, much of the debate about the Online Court has centred on the need for research – for example, with the NGO Public Law Project suggesting (as reported above) its 30 questions to which we need



answers. The issue is not so much ex post facto research, it is the setting of transparent objectives for which project designers are accountable and the analysis of their performance. HMCTS has been notably shy of doing this in relation to access to justice – though keen to trumpet its targets for financial and personnel savings. The National Audit Office could play a valuable role in getting the HMCTS to step up to the plate in terms of including access to justice within its audit criteria. However, the point is wider than simply the evasive practices of Government. A commercial technology project will stand or fall, ultimately, by its commercial performance. Funders such as the various foundations involved around the world might do more to specify outcomes that they want to see and then get grantees to report on their performance. There is a real value in evaluations of projects being posted publicly so that we can all learn from successes and, perhaps even more, failures. The US LSC has historically been keen to require grantees in its Technology Initiatives Grant programme to evaluate and report. That is a useful beginning on a national level – important because the LSC is the major national funder in the field. The LSC is a good example of a funder channeling

government support within a wide brief. The UK Government wound up our equivalent – the Legal Services Commission. It is notable that Scotland has not only continued with its Scottish Legal Aid Board but has recently published a report which suggests that it should widen its brief to become a Scottish Legal Assistance Authority.

The time may be coming, however, when much could be gained by some international initiative. This might come in a number of forms – from an international webinar discussion among those involved in the field to discussion between major funders around the world. England and Wales provides a very parochial – but telling – example of the benefit that would come from collaboration. As we have seen, two UK agencies in complete isolation have built online provision to help in the same form of disability claim. In addition, it emerged at a Civil Justice Council conference that LexisNexis and a third NGO identified this provision as something which would justify their engagement – again without apparently knowing of the other two already existing products. If that can happen domestically in one country, how likely is it to repeated around the world.

At a global level, there are a number of initiatives which might benefit from international exchange. They include:

- the increasing number of portal websites providing – in different ways – assistance, referral and information. That would include the websites considered above – those of [citizensadvice.org.uk](https://citizensadvice.org.uk), <https://www.cleo.on.ca/en>, [advicenow.org.uk](https://advicenow.org.uk), <https://www.illinoislegalaid.org> or, as just an example from Australia, <http://www.legalaid.vic.gov.au>;
- the exploration of guided pathways to present information and assistance interactively where [MyLaw.BC.com](https://www.mylawbc.com) stands first in the English-speaking world with prospectively the Dutch successor of the [Rechtwijzer](https://www.rechtwijzer.nl), [uitekbaar.nl](https://www.uitekbaar.nl);
- the various uses of internet-based assistance provided under as public legal education headed by <https://www.familieschange.ca.gov> developed by the innovative Justice Education Society of British Columbia;

- the exciting – and growing range – of innovative services which are being developed to utilise the unique capacities of the internet from <https://www.crowdjustice.com> to <https://www.projectcallisto.org>.

To end with a judicial quote and a classical allusion, taken from the President of Tribunals for England and Wales ,

*‘Reform must be based on proper research; robust and tested.’  
Furthermore, ‘It must be open to scrutiny, and communicated clearly ... Just as the unexamined life is one not worth living; the unexamined and unresearched reform may not be worth taking.’*

That is as true for Online Courts – which is the context in which the remarks are being made – and the more untidy and unruly world of innovative service provision.

## 10.2 Sustainability

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The Holy Grail of technology projects in the access to justice field is sustainability: the idea that they can reach a steady financial state through uncovering a stream of funding that will keep them going after the initial seed corn investment. There are projects where this might be possible. Crowdfunding of legal action is one obvious one where money might come in on what is effectively a commercial basis. Project Callisto is an example where technology for access to justice might provide a route to other funds as educational institutions are encouraged to invest in protection of their students. Generally, the notion that website-based provision can raise significant funds is pretty fanciful. After all, poor people do not actually have much money: that is their fundamental problem. There is, however, another aspect to sustainability. Digital projects can be ways in which the existing work of an agency is extended. For example seAp developed its interactive disability claim as a way of providing some level of help which used the expertise that it had built up from its work for clients for those outside its

catchment area. There is another aspect to this. Justfix.nyc made a pitch to the HiiL conference at which it was recognised in a global competition that it could expand its model around the world. That has proved rather more difficult than anticipated precisely because the original New York project was so enmeshed in domestic New York provision.

As we begin to see successful projects around the world, the point becomes clearer. Technology on its own is often not worth much. That is the problem with the hackathons that posit the solution to an access to justice problem for solution over a weekend. The successful use of technology often demands a supporting infrastructure of physical profession and warm bodies. The notion that technology can be deployed on a *'fire and forget'* model may have its possibilities but, generally, may prove rather deficient.



## 10.3 The digital divide

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The question of the digital divide still hangs over the use of technology in the provision of access to justice. Where technology is used on a voluntary basis to supplement face to face provision – such as by the CA Service in England and Wales – that is not really a problem. A non-digital route remains. To the extent that systems go ‘*digital by default*’, as is the Government’s mantra, this does raise difficulties. These can be seen in the field of Universal Credit where the intention is to move the whole

system to a digital basis. The Observer newspaper reported that ‘*According to data released under the Freedom of Information Act, which analysed applications for universal credit over one month, a fifth were turned down because of “non-compliance with the process”*’. We will see in due course how this compares with figures for digital courts and digital exclusion has to be born in mind even by the great enthusiasts for digital expansion. We need more evidence about this crucial factor.

## 10.4 Monitoring

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It is pretty routine for research reports to conclude on one final recommendation: the need and value of more research. Nevertheless, in this field, the value of monitoring and evaluating developments is surely apparent. Different projects in different countries have so much to offer in terms of inspiration. In addition, there is no harm in importing a degree of competition. In this regard, there is much to be gained from the ambitious of the recent report on Scottish Legal Aid by Martyn Evans. He set out a vision for Scotland as ‘*a global leader in supporting citizens to defend their*

*rights, resolve problems and settle disputes*’. Oh, that the Government of England and Wales could bring itself to express such an ambition. Luckily perhaps, Government plays only a limited role in the provision of legal services. Much actually depends more on the imagination of the providers themselves, the needs of their users and the courage of other funders. This report on developments over the last year suggests innovation and change is bubbling up around the world in some cases as the result of government support and – in others like our own – despite it.



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