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# Effective Mobilisation of Social Welfare Law Advice in Response to the Covid-19 Pandemic

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## Abstract

The Covid-19 pandemic has the potential to spell the demise of access to justice for all but a select few. Prior to the crisis, the infrastructure for free and low-cost legal advice had been severely weakened by UK government policy and austerity-era budget cuts. Now, as solicitors are on furlough, law centres are on the brink of collapse and lockdowns have led to widespread service closures and restrictions, the legal needs of many members of society are set to multiply and may remain unmet.

In the face of other crises (9/11, Bushfires, Grenfell), members of the legal support sector (legal aid providers, law centres, pro bono practitioners) worked together. This resulted in much needed help in the form of free legal advice to the affected communities.

This paper surveys the lessons learned from such interventions. It explores the extent to which these experiences may serve as guidance to address the legal needs arising from the current crisis posed by the pandemic. It also highlights the unique features of the Covid-19 crisis. This suggests the need to look beyond ad hoc and technologically based measures (which worked in the past) to assert a more prominent role for the state in the legal advice sector.

Keywords: Legal Advice; Social Welfare Law; Solicitors; Covid-19; Access to Justice

## I. Introduction

In England and Wales the term “social welfare law” has been defined as the law concerning ‘asylum, community care, education, employment, debt, housing, immigration and welfare benefits.’<sup>1</sup> It is likely that the Covid-19 pandemic will impact vastly upon individuals in all of these areas of life. Those who advise upon social welfare law (referred to here, collectively, as the ‘legal support sector’ or more simply ‘the sector’), will play a key role in ensuring that individuals experiencing health, economic and others impacts from the pandemic are aware of their legal rights and how they may be enforced.

However, the reality is that following a decade of austerity the sector is in a weakened position to assist. Historically, legal aid played a central role in enabling the provision of social welfare legal advice. However, after the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (LASPO) came into force, the scope of advice that was able to be funded under the legal aid scheme was dramatically limited.<sup>2</sup> As a result, many legal aid

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<sup>1</sup> The Low Commission, ‘Appendix 2 – Social Welfare Law Contextual Issues’ in *Final Report of the Low Commission*, < <https://www.lag.org.uk/about-us/policy/the-low-commission-200551> > accessed 11 June 2020, 1.

<sup>2</sup> Those areas of law that remain within scope are set out in Schedule 1 of LASPO. These include community care (para. 6); welfare benefits appeals to the Upper Tribunal, the Court of Appeal or Supreme

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providers and law centres closed or had to refocus their business upon more commercially viable areas of law.<sup>3</sup>

From this weakened position the legal support sector must now mobilise to respond to the Covid-19 crisis. In forming its response, consideration may be given to how the sector has responded to other crises, whilst taking stock of the unique features of this current health and economic crisis.

In this paper, consideration will be given to three crises from the UK and abroad. The three crises considered are the:

- 9/11 terrorist attacks in New York and Washington, USA in 2001 and their aftermath,
- Bushfires in Victoria, Australia in the Summer of 2009 and the more recent Australian bushfires of 2019/20 and their aftermath, and
- The Grenfell Tower fire in Kensington, London, UK in 2017 and its aftermath.

One of the purposes of this comparative study is to investigate how the legal support sector responded to these crises, and to highlight the lessons that may be drawn and applied to the current Covid-19 pandemic.

## II. Legal Needs Arising from the Covid-19 Pandemic

There has not yet been time for a systematic study of the legal needs arising from the Covid-19 pandemic in England and Wales.<sup>4</sup> One report has indicated an initial increase in demand 'particularly around employment / redundancy issues and claiming Universal Credit'.<sup>5</sup> This was said to be followed by a drop in demand below normal levels presumably as people take time to adjust to a new reality and deal with other more urgent matters.<sup>6</sup> Requests for assistance are expected to re-emerge at a later point, perhaps when lockdowns are relaxed; this has been predicted to include 'a large new cohort of people with Covid-19 legacy issues.'<sup>7</sup>

It should also be noted that people in need of legal support may already be in a vulnerable position prior to this Covid-19 crisis taking hold. This situation has been exacerbated through benefit cuts and other reductions in public funding in recent years.<sup>8</sup> This raises a

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Court (para. 8); family matters for victims of domestic violence (para. 12); housing where there is a risk of the loss of home (para. 33); homelessness (para. 34) risk of safety in a rented home (para. 35).

<sup>3</sup> The closure of Brent Community Law Centre was announced on 6 March 2020: Legal Action Group, 'Brent Community Law Centre closes its doors' *Legal Action* March 2020; Legal Action Group, 'Lambeth Law Centre Closes Down' *Legal Action* July 2019; Owen Bowcott, 'Legal advice centres in England and Wales halved since 2013 – 14,' *The Guardian*, 15 July 2019.

<sup>4</sup> On 5 June 2020 the Civil Justice Council on the impact of COVID-19 on Civil Court Users recognised a reduction in the ability to access advice and an increase in the general need for legal advice. See, Civil Justice Council, 'The impact of COVID-19 measures on the civil justice system,' May 2020 [4.4 – 4.6], < <https://www.judiciary.uk/wp-content/uploads/2020/06/CJC-Rapid-Review-Final-Report-f.pdf> > accessed 12 June 2020.

<sup>5</sup> Lindsey Poole, 'A Quick Appraisal of the Impact of Covid-19 on the Advice Sector', Administrative Justice Council Webinar, 29 April 2020 < <https://ajc-justice.co.uk/wp-content/uploads/2020/04/ASA-Report-COVID-19-.pdf> accessed 11 June 2020.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid, 2.

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broader question beyond the scope of this paper of whether the re-emergence of a welfare state may increase society's resilience in the face of such crises in the future.

One can expect employment, debt, housing and welfare benefits issues to emerge from the pandemic together with legal issues connected to the bereavement of family members. There are also reports of increased incidents of domestic violence as families spend more time together in lockdown which give rise to the need for legal interventions.<sup>9</sup>

There are also some available sources of data on the types of issues being queried on the Citizens Advice webpages. Out of 2.8 million webpage views about welfare benefits for the period 16 March – 6 May, 1 million were on universal credit.<sup>10</sup> There were also 2.3 million views on employment issues which included a 77% increase when compared to the same period in 2019.<sup>11</sup> Traffic to the website also shows increased concern about reloading of prepayment meters, debt issues and self-employment.<sup>12</sup>

What emerges from this cursory analysis is the need for a rapid assessment of the legal needs arising in the current crisis. This must be done to enable legal advice organisations and governments to allocate resources in an informed matter, to meet the needs of the population.

Lessons can be learnt on how to carry out this assessment. For instance, an analysis of the Australian Government's response to the 2009 bushfires in Victoria, Australia showed that the sector can valuably participate in predicting, to the extent that is possible, legal needs that may arise as effects of a crisis. Such an approach should be factored into emergency management planning both for the current and any future crises.<sup>13</sup>

### **III. Immediate Impacts of Covid-19 on the Sector in England and Wales**

As has been noted above, law centres were already in a vulnerable position as a result of the changes brought about by LASPO. Following those changes several law centres have been forced to close. Recently in 2019 this included Lambeth Law Centre after almost 40 years of providing services to the local community of Lambeth in London. It is to be expected then that as the Covid-19 crisis hit, the Law Centres Network (LCN), which is the peak body for Law Centres in England and Wales, was concerned. The very survival of remaining law centres that had successfully managed to see off LASPO was under threat by this crisis. In response to these circumstances the UK Government has channelled £3 million to law centres with grants being distributed by the LCN.<sup>14</sup> The announcement also

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<sup>9</sup> Carol Storer, 'Editorial – We are Working to Ensure Access to Justice during the Covid-19 Crisis and Beyond' *Legal Action May 2020* (Legal Action Group). See also, the paper by Jo Harwood in this publication.

<sup>10</sup> Carol Storer, *ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> Gemma Byrne, Senior Policy Researcher at Citizens Advice tweeted a graph with this data represented on 1 April 2020, < <https://twitter.com/gbyrne03/status/1245421387076042758/photo/1> > accessed 11 June 2020.

<sup>13</sup> Victoria Legal Aid, 'Legal assistance and Community Recovery after the 2009 Victorian Bushfires,' March 2010. < <https://www.probonocentre.org.au/wp-content/uploads/2015/08/NA2JPBC2010-BushfireLegalHelpReport-36.pdf> > accessed 11 June 2020.

<sup>14</sup> Ministry of Justice, '£5.4 million to support legal advice sector during the COVID-19 pandemic,' 4 May 2020, < <https://www.gov.uk/government/news/5-4-million-to-support-legal-advice-sector-during-the-covid-19-pandemic> > accessed 11 June 2020.

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includes new funding in the amount of £2.4 million for other organisations providing specialist social welfare legal advice to be distributed from the Community Justice Fund by the Access to Justice Foundation who is also conducting an ‘Emergency Advice Appeal’ for donations to the fund.<sup>15</sup>

A significant proportion of legal aid solicitors have been placed on furlough.<sup>16</sup> The Legal Aid Agency (LAA) has also announced a series of changes to their policies. This includes for example changes to policies on remote working, processing and payments, working with clients and contract management and assurance. The LAA states that its aim ‘is to make it as easy as possible for legal aid firms to continue to provide advice to their clients.’<sup>17</sup>

As a result of LASPO a significant amount of expertise in social welfare law has been drained out of the system. Practitioners who had dedicated their working lives to supporting the most marginalised and disadvantaged members of our society to navigate a complex legal system have been made redundant or otherwise redeployed. With this loss of expertise there is a decreased capacity to respond effectively in the current crisis.

In concluding this section, it should be noted that many of the organisations mentioned above play a key role in responding to such crises due to the proximity with the people most badly affected by them. Law centres, for example, are based within and known by their local communities. This suggests the need for a stronger sector backed by increased support from the state.<sup>18</sup>

#### IV. The Sector’s Response to the Australian Bushfires

In the Australian summer of 2019-20 the country experienced a massive uncontrolled bushfire season. On this occasion people affected by these fires were well served by dedicated legal services Disaster Legal Help Victoria and the Disaster Response Legal Service NSW.<sup>19</sup> These services stem from an earlier initiative responding to bushfires which occurred in the Australian summer of 2009 in the state of Victoria. There the local

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<sup>15</sup> Ibid; Access to Justice Foundation, ‘Emergency Advice Appeal’ < <https://atjf.org.uk/emergencyappeal> > accessed 12 June 2020.

<sup>16</sup> 13.5% of young legal aid lawyers have reported being furloughed. See, Young Legal Aid Lawyers, ‘Second YLAL Covid-19 Report,’ 25 May 2020, < <http://www.younglegalaidlawyers.org/secondcovid19report> > accessed 12 June 2020.

<sup>17</sup> Legal Aid Agency, ‘Coronavirus (COVID-19): Legal Aid Agency contingency response,’ 18 March 2020, last updated 21 April 2020 < <https://www.gov.uk/guidance/coronavirus-covid-19-legal-aid-agency-contingency-response> > accessed 11 June 2020.

<sup>18</sup> See e.g., the Report of the Bach Commission which recommends the introduction of a legally enforceable right to legal aid modelled on the enforceability mechanisms of the *Human Rights Act* (1998): Fabian Society, ‘The Right to Justice – The Final Report of the Bach Commission,’ September 2017; For a bolder vision of socialised access to justice see Tom Cornford, ‘The Meaning of Access to Justice,’ In Ellie Palmer, Tom Cornford, Audrey Guinchard and Yseult Marique (eds), *Access to Justice: Beyond the Policies and Politics of Austerity* (Oxford: Hart Publishing, 2016) 27–40.

<sup>19</sup> Disaster Legal Help Victoria, ‘Submission to the Inquiry into the 2019–20 Victorian Fire Season,’ 20 April 2020, < <https://www.disasterlegalhelp.org.au/sites/www.disasterlegalhelp.org.au/files/dlhv-submission-inquiry-into-2019-20-victorian-fire-season.pdf> > accessed 11 June 2020; Disaster Legal Help Victoria, ‘Submission to the Royal Commission into National Natural Disaster Arrangements,’ 8 May 2020, < <https://www.disasterlegalhelp.org.au/sites/www.disasterlegalhelp.org.au/files/dlhv-submission-royal-commission-into-national-natural-disaster-arrangements.pdf> > accessed 11 June 2020.

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legal aid authority, Victoria Legal Aid, co-ordinated with pro bono organisations and community legal services to provide a dedicated service to the public.

In 2009 the programme was set up as Bushfire Legal Help (BLH). Partners moved quickly to set up 'The Bushfire Legal Help Hotline'. This operated as a single port of call.<sup>20</sup> There was an existing infrastructure that partners were able to tap into - Victoria Legal Aid's telephone advice line.<sup>21</sup> Having a similar single port of call in the Covid-19 crisis could make it easier for people to find the help they need.

BLH also set up face to face advice clinics at relief centres across bush fire affected areas. By situating themselves at relief centres, lawyers had a 'visible presence at the frontline services alongside other agencies such as Centrelink, health services, and local governments.'<sup>22</sup>

An analysis has been conducted of the initial queries received at the centres. These included 'insurance issues, fencing, business, rental property, statutory declarations, family law issues and Wills.'<sup>23</sup> Many of these queries are pertinent to the Covid-19 crisis.

Subsequently, BLH also co-ordinated the development of information and resources including factsheets 'on topics such as insurance, fencing, coronial processes and the 2009 Bushfires Royal Commission'.<sup>24</sup> Again, a co-ordinated approach to the development of the public legal information materials related to Covid-19 is warranted and this should be informed by the sector's assessment of the important areas of legal need arising from the crisis.

Following the immediate aftermath of the bushfires, Victoria Legal Aid established a 'Bushfire Insurance Unit' comprised of four lawyers. They assisted clients with insurance and banking issues and were able to undertake ongoing casework and advocacy on behalf of clients.<sup>25</sup> There are likely to be ongoing legal issues arising in the aftermath of the Covid-19 pandemic and now is the time to begin to plan for a dedicated casework service such as what was set up by Victoria Legal Aid, who can build up specialist knowledge in the area.

In 2010 Victoria Legal Aid together with project partners undertook a detailed evaluation and report on the initiative which included key recommendations and learnings from the intervention. These included:

1. The need to integrate legal services into emergency disaster strategies and planning;<sup>26</sup>
2. The need to develop collaborative and multidisciplinary service models in order to best meet the complex and diverse issues that arose.<sup>27</sup> Such an approach will make

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<sup>20</sup> Victoria Legal Aid, 'Legal assistance and Community Recovery after the 2009 Victorian Bushfires,' March 2010, < <https://www.probonocentre.org.au/wp-content/uploads/2015/08/NA2JPBC2010-BushfireLegalHelpReport-36.pdf> > accessed 11 June 2020.

<sup>21</sup> Ibid, 7.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid, 9.

<sup>26</sup> Ibid, 32.

<sup>27</sup> Ibid, 33.

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it 'easier for clients to navigate their way through the complexities of the problem they are facing';<sup>28</sup>

3. The need for proactivity in the legal assistance sector in order to recognise legal and social problems stemming from the emergency (including longer term problems) and the need to bring these to the attention of government and planning bodies.<sup>29</sup>

This analysis also showed that the following factors contributed to the success of the partnership. First the creation of a strong single entity. Second, the quick mobilisation of existing resources. And third, the need for effective and existing resources.<sup>30</sup> The similarities in the nature of the bushfire and Covid-19 crises suggest that these elements should be taken in consideration even in England and Wales.

However, there is nothing in England and Wales to compare with the existing infrastructure and considerable size of Victoria Legal Aid, a singular organisation able to achieve economies of scale, with approximately 1500 lawyers employed at various locations around the State. This clearly enabled the organisation to play a key leadership role in establishing a service collaboratively with other stakeholders. This casts doubts on the ability of a fragmented sector in England and Wales to provide the same support as is evidenced in Australia.

It remains to be seen whether the English and Welsh legal support sector can organise itself in response to the Covid-19 crisis in the way that the Australian profession was commendably able to achieve in response to the bushfires of 2009 and 2019/20.

## V. The Sector's Response to the 9/11 Terrorist Attacks

The terrorist attacks on the World Trade Centre in New York and the Pentagon in Washington DC on 11 September 2001 gave rise to legal needs in the areas of benefits, landlord and tenant, insurance, consumer law and wills and estates.<sup>31</sup> Over 4,000 persons affected by this event received pro bono support through a scheme co-ordinated by the New York Bar.<sup>32</sup>

As we saw in response to the Australian bushfires, a successful element of the sector's response to the 9/11 fallout is that of collaboration with a number of legal support organisations contributing, including 'bar associations, leading law firms, pro bono, public interest, and legal services organisations, community groups, and other social service providers'.<sup>33</sup>

A key measure taken was the 'facilitator project' in which pro bono practitioners (800 took part) were matched with a victim or family to provide legal support across the broad range

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Association of the Bar of the City of New York Fund Inc, The NALP Foundation for Law Career Research and Education and Louis Stein Center for Law and Ethics, Fordham University School of Law, 'Public Service in a Time of Crisis,' 2004, < <https://www.citybarjusticecenter.org/wp-content/uploads/2016/10/public-service-time-crisis.pdf> > accessed 11 June 2020, 12.

<sup>32</sup> Ibid.

<sup>33</sup> Deborah Rhode, 'Pro Bono in Times of Crisis: Looking Forward by Looking Back' (2003-4) 31(4) *Fordham Urban Law Journal* 1019.



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of legal issues that might have arisen.<sup>34</sup> Lawyers as ‘facilitators’ would ‘conduct a legal inventory, prioritize the client/family’s needs, act as a problem solver to represent or refer the client in an exemplary and expeditious manner, and find other experts to assist with special legal needs.’<sup>35</sup>

As issues would inevitably arise outside of practitioners’ expertise, training was provided by experts co-ordinated by the New York Bar.<sup>36</sup>

An interesting insight that followed from the pro bono response was the way the crisis acted as a driver for members of the profession to engage in pro bono services.<sup>37</sup> These services may represent at least a partial solution to meet the legal needs arising from the Covid-19 epidemic in England and Wales. Whereas public funding may provide long term solutions to deal with future crises, pro bono interventions may at least help to prop up the system in the immediate term.

Consideration may be given to whether there are new volunteers who may be utilised amidst the current Covid-19 crisis. LawWorks, a pro bono charity for solicitors in England & Wales provides training and has advised that solicitors on furlough are still able to engage in pro bono activities.<sup>38</sup>

One negative point that has been observed was that pro bono practitioners involved in the 9/11 legal assistance projects had a less than fully satisfying experience.<sup>39</sup> It would be valuable to explore why this was so, so that pro bono practitioners may be better supported in future. Accordingly, a lesson for the current crisis is to obtain detailed feedback from pro bono volunteers on their experience in providing assistance to people impacted by the Covid-19 crisis and to consider in depth the support and supervision that is provided.

It has been recognised in the context of this post 9/11 work that there was an absence of ‘systematic quality control and evaluation of lawyer assistance.’<sup>40</sup> Pro bono services often have an ‘inadequacy of evaluation’ as pro bono providers are said to have constrained resources.<sup>41</sup> Again, it is important to integrate evaluation into any Covid-19 response as it will allow for timely improvements to service provision, and for lessons to be learned for ongoing or future interventions.

It is also noted that whilst the 9/11 terrorist attacks provided an opportunity to mobilize the New York Bar it also laid the foundations for broader change, inviting: ‘focus on the strategies necessary to engage greater numbers of lawyers in public service on a sustained basis’.<sup>42</sup> In addition to this there is emphasis on the need for there to be an

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<sup>34</sup> ‘Public Service in a Time of Crisis’ (n. 31), 11.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, 15.

<sup>37</sup> Rhode (n. 33), 1014.

<sup>38</sup> LawWorks, ‘COVID-19: Legal pro bono and volunteering while on furlough,’ April 2020, <<https://www.lawworks.org.uk/solicitors-and-volunteers/resources/covid-19-legal-pro-bono-and-volunteering-while-furlough>> accessed 11 June 2020.

<sup>39</sup> Rhode (n. 33), 1016.

<sup>40</sup> *Ibid.*, 1018.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

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existing 'corps of committed volunteers and adequate support structures should already be in place.'<sup>43</sup>

It is interesting that there may be a greater emphasis in the USA on the need for pro bono services, where commentators may have all but given up hope that such provision will ever be catered for by the government. In contrast, in England and Wales there is clear recognition of a role for pro bono services but the role of pro bono may be more limited in its scope as it is only in recent times that the government has largely withdrawn from legal aid provision and there is considerable pressure for this to be reinstated.<sup>44</sup>

## VI. The Sector's Response to the Grenfell Tower Inferno

This paper so far looked at international answers to crises that present significant similarities with the Covid-19 epidemic. This comparative analysis evidenced the value of sectoral collaboration in response to a crisis and to the support that pro bono practitioners may also provide. However, it is also possible to look at the English response to the Grenfell Tower fire to draw important lessons.

On 14 June 2017 the Grenfell Tower Fire occurred resulting in 72 deaths and the destruction of the tower block. In addition to legal concerns connected to bereavement of the deceased and injuries of survivors, all remaining residents numbering over 200 had to be relocated creating housing and homelessness issues.

A collaborative response to the crisis was led by North Kensington Law Centre (NKLC). NKLC is a law centre with a 50-year history of providing social welfare law services to the local community. NKLC collaborated with Shelter, the Housing Law Practitioners Association, Citizens Advice and pro bono members of the Collaborative Plan for Pro Bono. The pro bono response was significant with many commercial and city firms getting involved. In the aftermath of the event they ran daily drop-in sessions at premises neighbouring the Grenfell site.<sup>45</sup>

The NKLC's own response was constrained by the backdrop of austerity – it had to rely on public donations, charitable grants and pro bono volunteering in order to be able to provide a service to those who were affected. Legal aid had largely been taken out of scope in many of the areas of law where legal advice was needed.<sup>46</sup>

The law centre undertook policy advocacy as well, highlighting for example the ongoing problems with rehousing of residents.<sup>47</sup> This emphasises an important aspect of law centre activity. Drawing on their direct service provision, they are able to provide advice to government on the areas of law that are in need of reform or policies that are being poorly

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid, 1021.

<sup>45</sup> Mondipa Fouzder and John Hyde, 'Grenfell Tower fire: lawyers step up pro bono efforts' *Law Gazette*, 12 June 2020, < <https://www.lawgazette.co.uk/news/grenfell-tower-fire-lawyers-step-up-pro-bono-efforts/5061613.article> > accessed 12 June 2020.

<sup>46</sup> John Robins, 'Underfunded and overstretched: the lawyers seeking justice for Grenfell' *The Guardian*, 24 July 2017.

<sup>47</sup> North Kensington Law Centre, 'Rehousing Grenfell Survivors', 2018, < <https://www.nkcl.co.uk/wp-content/uploads/sites/130/2018/06/Rehousing-Grenfell-Survivors-One-Year-On.pdf> > accessed 12 June 2020.



implemented. In the Australian context this has been recognised as a unique feature of law centre work and can be contrasted with the weaker or less coordinated contributions made to public policy debates by others such as legal aid providers.<sup>48</sup> In the UK, Shelter is both a large legal aid provider and campaigning organisation and was able to undertake campaigning work after Grenfell. Such a strength in the public policy sphere should be factored into the sector's response to the current crisis.

The pro bono response by the profession to Grenfell led the Australian Pro Bono Centre to suggest development of a 'pro bono emergency response plan' as a way 'for the legal profession to contribute to our country's resilience and assist in these times of need.'<sup>49</sup> Again such an approach is also suggested following on from the Australian bushfires experience and is a key lesson that should inform future planning.

A focus of discussion has been on the shortcomings in the law leading up to Grenfell,<sup>50</sup> and how the residents were poorly served in terms of their access to legal services prior to the fire.<sup>51</sup> There has been more limited discussion of victim's access to legal services after the fire. The first phase of a public inquiry into the Grenfell fire has concluded, with the second phase set to continue in 2020. The second phase of the inquiry is not due to cover issues of access to justice arising before and after the inferno.<sup>52</sup> When the terms of reference were being proposed NKLC made detailed submissions as to why access to legal aid should be included.<sup>53</sup> It would have helped the sector if the post disaster legal response had been considered, this might have provided valuable learning of relevance to the current Covid-19 crisis and for future emergency response planning for the profession.

The co-ordinated response by the NKLC demonstrates the value of having community-based organisations respond to local crises. Even in a world-wide pandemic, community-based legal service organisations are able to understand the needs of their communities and employ effective strategies to reach them. Investment in such organisations will also improve the sector's resilience in the face of future crises.

## VII. Conclusion

Social welfare law touches upon the most basic needs of individuals including their rights to safety and decent treatment at work, to a minimum level of income through work or benefits, to education and shelter. The importance of access to advice about such matters is magnified in times of a public health crisis. Until a recent cash injection, the legal support

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<sup>48</sup> Nicole Rich, 'Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realise theirs,' Victoria Law Foundation Community Legal Centre Fellowship 2007-8 Final Report, December 2008, <https://victorialawfoundation.org.au/sites/default/files/attachments/VLF%20-%20CLC-report-08.pdf> accessed 12 June 2020.

<sup>49</sup> 'Legal Assistance in the UK Supports Grenfell Victims' (August 2017) 120 *Australian Pro Bono News* < <https://www.probonocentre.org.au/apbn/legal-assistance-supports-grenfell-victims/> > accessed 12 June 2020.

<sup>50</sup> See e.g., Equality and Human Rights Commission, 'Following Grenfell : Access to Justice,' January 2019, < <https://www.equalityhumanrights.com/sites/default/files/following-grenfell-briefing-access-to-justice.pdf> > accessed 12 June 2020.

<sup>51</sup> E.g., Sir Henry Brooke, *The LASPO Review: My Recent Talk about the Bach Commission's Report on the Right to Justice* (2018) 6 *Birkbeck L. Rev.* 1, 13.

<sup>52</sup> Chapter 34 of the Phase 1 report of the public inquiry into the Grenfell tower fire, available at: <https://assets.grenfelltowerinquiry.org.uk/GT1%20-%20Phase%201%20full%20report%20-%20volume%204.pdf>.

<sup>53</sup> The Housing Law Practitioners Association also made such a submission.

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sector had been starved of public funding leading to it being in a weakened position to handle this Covid-19 pandemic.

As this paper has shown, the sector regularly responds to situations of crises.

There are key lessons drawn from each response that are of relevance to the current crisis:

The Australian sector worked in partnership in response to bushfires and demonstrated the value of having a single port call for people affected by crisis. This also highlighted the value of a co-ordinated approach to the development of public legal information materials. The initiative also showed the benefit for the sector and its clients in predicting legal needs in the context of emergency response planning. Finally, the Australian response showed the leadership that a strong legal aid authority with an army of public-facing lawyers was able to provide.

The USA sector's partnership in response to 9/11 showed the role that pro bono can play where the government is unwilling or unable to fulfil its obligation to provide access to legal advice. The USA example also provides a model of assistance ('lawyer as facilitator' role) that is worthy of consideration in the current crisis. Finally, this USA programme poses broader questions of more fundamental change to the profession and its pro bono ethos suggesting the value of readily available corps of volunteers who may be deployed in the face of a crisis.

In the UK following Grenfell we have seen the importance of a community-based service operating in coordination with stakeholders. We have also observed the significant role for the sector in relying on their frontline experience to provide input into policy and law reform debate arising in and out of the crisis.

Looking forward, a further study should examine how other countries have mobilised legal aid in response to the pandemic. It would also be useful to explore how the collaborations highlighted in this piece have led to new and similar initiatives under the current public health crisis. In England and Wales there are early signs of some such collaborations at least on a sectoral basis (that is to say within distinct areas of law).<sup>54</sup>

What has ultimately figured in the background to this current study is the role of the state in providing public funding for social welfare law advice. Across the three jurisdictions considered, the extent of public funding in the legal support sector has varied from low (Australia, England and Wales) to virtually non-existent (USA).

The unique crisis that we face in public health and in our economy warrants a greater emphasis upon the role of the state in the funding and support of public services. The economic assumptions that underpinned the recent neo-liberal agenda of reduced

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<sup>54</sup> For example the Housing Law Practitioners Association (HLPAs) and Shelter have campaigned throughout the current pandemic on housing issues and coordinated with law centres. HLPAs were interveners in the case of *Arkin v Marshall & Anr* [2020] EWCA Civ 620 where the Court of Appeal upheld a practice direction postponing all possession actions during the crisis (PD51Z). The HLPAs used evidence that had been gathered from legal aid practitioners and law centre housing lawyers: < <http://www.hlpas.org.uk/cms/wp-content/uploads/2020/05/Arkin-v-Marshall-HLPAs-evidence.pdf> > accessed 12 June 2020.

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investment in public services is likely to be proven wrong by the current crisis and its economic aftershocks. A broader debate will shortly follow on the resilience that a reinvigorated welfare state provides in a time of crisis. In that discussion practitioners of social welfare law should be towards the front of the queue in arguing for sustainable public investment in the sector.