

The
Legal
Education
Foundation

DIGITAL DELIVERY OF LEGAL SERVICES TO PEOPLE ON LOW INCOMES

PORTALS

December 2014



Roger Smith

The Legal Education Foundation

This Report was commissioned by The Legal Education Foundation and we are very pleased to publish it as a contribution to identifying the advances being made in the use of information technology to aid the provision of legal services for people on low incomes.

The Author

Roger Smith OBE is a researcher, journalist and consultant in the field of legal services and human rights. He is a solicitor; a visiting professor at London South Bank University; and a past director of the Legal Action Group, JUSTICE and West Hampstead Community Law Centre. He has also been director of legal education and training for the Law Society of England and Wales and acted for a time as its director of policy. He edits a bimonthly newsletter for the International Legal Aid Group and writes monthly columns for the Law Society Gazette and New Law Journal. He has undertaken various consultancies on legal aid in countries of Eastern Europe and published a number of international comparative studies.

All the information in this Report is verified to the best of the author's and publisher's ability, but they do not accept responsibility for loss arising from decisions based upon them and whilst Internet addresses were believed to be accurate at the time of publication they may have changed since then. Where opinion is expressed it is that of the author, which does not necessary coincide with the editorial views of The Legal Education Foundation.

Table of contents

1. Introduction	2
2. Money Advice in England & Wales: A cautionary tale	4
3. General Portals in England and Wales	8
4. Comparison	13
5. Conclusion	15

1. Introduction

Many jurisdictions see the benefit of a website - either on its own or as part of a suite of provision - which offers itself as a resource on the law, sources of legal assistance and venues of determination of dispute for those on low incomes. The precise form of provision - already available or planned - reflects particular local circumstances. In the USA, 'statewide legal portals' - which were often felt to be missing - were the first component of the comprehensive, integrated system proposed by the Legal Services Corporation's Summit in 2013 on the Use of Technology to Expand Access to Justice.¹

These were to have the following characteristics:

- Information will be available anywhere, any time to every person seeking assistance. Assistance from a person - lawyer or otherwise - will be available anywhere, if resources are available.
- The portal will use methods such as branching logic questions and 'gamification' to generate information on the capabilities of an enquirer, which will be part of the referral logic.
- The portal will generate information on the legal needs of persons within the state, aggregate it, and provide it regularly to all participating entities.

Many jurisdictions have similar portal websites. They vary in the depth of assistance that they give - whether they see themselves as primarily playing the roles of identification and referral, or providing a level of assistance which may help users to resolve issues without referral. They vary also in their organisation. From the USA, *illinoislegalaid.org* and *MassLegal-Help.org* are examples of websites run by not-for-profit organisations. In Australia and New Zealand *lawaccess.nsw.gov.au* and *lawaccess.govnt.nz* are run by Government departments. In British Columbia Canada, *Clicklaw* is run by the Courthouse Libraries and *MyLawBC* will be run by the legal aid provider, the Legal Services Society. Of these, two actively promote themselves as the product of coalitions of organisations giving information (*ClickLaw* and *MassLegalHelp*).

¹ <http://tig.lsc.gov/resources/grantee-resources/report-summit-use-technology-expand-access-justice>.

The websites vary in presentation and function. All these websites, except Illinois, are solely dedicated to giving legal information: Illinois' home page provides a landing place for legal services and pro bono lawyers as well. Websites like *MassLegalHelp* incorporate a way of finding local resources such as lawyers and agencies in a user's area. Websites choose between offering lists of what they cover on the front page (supplemented by a search facility) and requiring a user to identify what s/he wants to find first (Illinois). Colour schemes range from authoritative and restrained (New South Wales, Illinois, *Clicklaw*) to brash (New Zealand).

On content, the main difference is whether crime is included or not (in for New Zealand and Australia; out for most of the others) - this reflects the different history of legal aid provision in terms of whether civil and criminal provision has been split. Most of the websites are 'aggregators', pulling together relevant publications from other organisations: *ClickLaw* does this very attractively with pictures of the publications to which it is making reference and a short description; *LawAccess* New South Wales is particularly thorough at identifying the nature of the publication (eg factsheet or guide) and in listing its main relevant subjects. *LawAccess* New Zealand is studious in giving contact addresses for publications and other assistance. Most websites refer to documents with their website addresses. *MassLegalHelp* adds contributions by named authors on particular topics. Illinois has specially written Q and As.

None of these websites, nor the two England and Wales ones considered below, are using the interactive 'guided journey' approach that is so impressive in the Dutch *Rechtwijzer* - though British Columbia's *MyLawBC* project will do so. It has been hard to obtain user statistics or get full evaluations of the various websites.

2. Money Advice Service in England and Wales: a cautionary tale

England and Wales has a cautionary tale in the field of portal and information websites. It relates to the role of government. In many countries, advice on debt and other financial matters is included within general advice. In England and Wales, however, there has, for some time, been separate funding for some forms of consumer advice - in part, because of the influence and resources of the European Union. Historically, the United Kingdom government department concerned with trade and business was the conduit for funding. The function is now carried out by the Money Advice Service (MAS), which is a statutorily constituted body funded by the finance industry. Its functions are to enhance the understanding and knowledge of members of the public on financial matters (including the United Kingdom financial system); the ability of members of the public to manage their own financial affairs; and to improve the quality, consistency, and availability of debt advice. In furtherance of this objective, it runs a website² with advice under the following headings: debt and borrowing; budgeting and managing money; savings and investing; work, pensions and retirement; benefits; births, deaths and family; insurance; homes and mortgages; care and disability; cars and travel. The MAS Board is appointed by the Financial Conduct Authority, the main financial services watchdog.

Read the MAS annual reports and all is going swimmingly:

We have met – and in many cases exceeded – all the key performance indicators (KPIs) set out in our Business Plan for 2013/14 and agreed with the Financial Conduct Authority. We set ourselves challenging targets across a range of measures – notably our aim is not just to generate traffic to our service, but to drive real, positive action on the part of our customers. We have seen a dramatic increase in the number of visits to our service – and crucially we have also been able to use this high level of contact to prompt more of our customers to take steps to save more, manage their debt, or protect themselves from life’s uncertainties. At the same time we have maintained the high levels of customer satisfaction we achieved in 2012/13. As we work towards our goal of making it a normal part of life to seek advice about money, we

² <https://www.moneyadvice.service.org.uk/en>

*want our customers to come back to use our service again and again as their circumstances change. We also want them to ‘spread the word’ by recommending us to their family and friends.*³

However, sometimes hitting your KPIs is just not enough and Annual Reports do not reveal the whole story. The MAS is actually mired in controversy. The Government has announced an independent review into its work.⁴ The Parliamentary Treasury Select Committee published a highly critical report last December and its chairman said that the service ‘is not currently fit for purpose’.⁵ As a result of stiffening in response to the Select Committee, the Government’s review said it ‘must assess whether the MAS should continue to exist and, if so, how it can overcome the serious problems laid bare ‘in the Parliamentary Report’.⁶

Some of the issues for the service are particular and parochial. In retrospect, a salary level for its chief executive of double that for the Prime Minister represented the expectations of those in banking rather than public service. But some of the considerations resonate in relation to advice provision more generally. For example, the Parliamentary Committee’s Report accepted that there was an ‘advice gap’ in relation to finance, reporting that the MAS estimated that 23m people did not know where to go for independent financial advice.⁷

Also, the Committee looked closely at the MAS website and the use to which it was put. The MAS had put its money heavily on digital delivery: its 2012/13 business plan proclaimed

*‘the extensive new elements of our Service will be primarily digital and increasingly mobile, reflecting the growing prominence and relevance of digital media in people’s lives’.*⁸

It proudly proclaimed that it could reach so many more people through the Internet than face-to-face or by phone.

³ money-advice-service-annual-review-2013-14-final-2.pdf

⁴ 30 May 2014: <https://www.gov.uk/government/news/independent-review-of-money-advice-service-launched>

⁵ George Mudie MP as above

⁶ as above

⁷ <http://www.parliament.uk/documents/commons-committees/treasury/CRC-Report-MAS-HC-457.pdf>, p8

⁸ as above, p11

Alas for the MAS, there was no shortage of wolves ready to pounce when it fell on its face. The Association of Independent Financial Advisers could not help but note that its members would have more contact with users than the website.⁹ Other competitors, such as *moneysavingexpert.com* thought the service insufficiently targeted at those in greatest need - and, by implication, parked public tanks on private lawns. Various figures engaged in the field vainly pointed out that people in major debt often needed face-to-face help.

An online 'money health check' on the MAS website, <https://www.moneyadviceservice.org.uk/en/tools/health-check> was praised by Ministers but slammed by experts: a competitor remarked 'if the product wasn't crap I would think it would be a good idea but the product was abominable'. Even the MAS's own commissioned external evaluation concluded that it really was not much good. This found that there was not really much to justify the MAS plans in 2012-13 to use no less than £20m of its £46m budget on 'consumer communications and marketing'.

The Citizens Advice Bureau was constrained to observe that no one might know about the Money Advice Service but '*97% of people in the United Kingdom have heard of the Citizens Advice Service and 76% trust us*'.¹⁰ Martin Lewis of *moneysavngexpert.com* put the boot in:

*'Instead of reinventing the wheel and spending millions of pounds in brand building to unnecessarily compete with these sites, it would be more efficient for MAS to evaluate the information provided on such sites to ensure it is of benefit to the consumer.'*¹¹

In the face of this barrage of criticism, the MAS sponsoring agency began to run for the hills: its chairman admitted that his agency had approved the service's strategy but '*we are not the Board of the MAS itself so we did not subject it to the same degree of precision as you would expect from the MAS Board itself*'.¹² Finally, the dam broke; a new chief executive was appointed (at a rather more modest salary); and the MAS clearly launched itself with a bit more humility into the world that surrounded its advice provision - to the partial satisfaction of the Parliamentary Committee.

⁹ p12

¹⁰ p14-15

¹¹ p15

¹² p15

The way in which the Money Advice Service initially engaged with the wider advice sector was a matter of grave concern to the Committee during the first phase of our inquiry. As a newly-created statutory body, entering a sphere in which there were already a number of well-respected, well-established and successful bodies in the private and voluntary sectors, it should not have begun its work without properly consulting those bodies and without taking the work of those bodies into account.¹³

There are lessons from this fiasco which are strikingly similar to those which can be drawn from the Department of Work and Pensions' engagement with the Sorting out Separation 'app', as outlined in *Face to Face*.¹⁴

First, there is a considerable advantage in building on whatever currently exists, rather than trying to reinvent the wheel.

Second, Government faces particular challenges as itself being a provider of a legal information portal. Expectations of its contractors, staff and experts mean that costs tend to be high: their attention distracted to the medium and away from the message.

Third, Ministries may, understandably enough, find it very difficult to grapple with the perception of the world as it is seen by the users of their services both in terms of their prejudices and the detail that they need to engage with their individual problems.

¹³ p20

¹⁴ p47

3. General Portals in England and Wales

There are two general legal information websites in England and Wales.

They are *adviceguide.org.uk* and *advicenow.org.uk*. These have distinct histories which make them different from provision elsewhere and also explain why a jurisdiction might have two general providers. Both began as offshoots of face-to-face advice provision - *adviceguide.org.uk* as part of the Citizens Advice Bureau movement and *advicenow.org.uk* as a now independent offshoot of the severely truncated (as the result of funding cuts) overall body, the Advice Services Alliance. It is now run by another non-profit body, Law for Life.

These websites were compared in September 2014. It should be pointed out that the CAB service has since indicated that it is reconsidering its advice provision on the Internet - both for its own advisers and for members of the public. Details of its progress can be tracked on *alphablog.citizensadvice.org.uk*. There are indications from the language being used (such as the 'advice journey') that some of the themes identified in this report are being heeded. Later updates of this research will be able to track developments. The comparison below must therefore, in all fairness, be read in terms of a context where the *adviceguide.org.uk* website may be substantially improved.

Four dummy problems provide an opportunity to test these two websites in terms of the quality and nature of their information. These represent typical questions of a kind that must be asked of the websites very often.

- (a) I cannot agree custody arrangements with my wife, from whom I am separating. I would like my two children to stay alternate weekends. What can I do?
- (b) I have broken my arm and lost my bike in a road accident with a car which was not my fault. What can I do?
- (c) Can my employer sack me just because he says that I have been coming in late over the last couple of weeks?
- (d) I am claiming means-tested benefits. A female friend who is also on benefits has offered me a cheap room. Will we be in danger of losing benefits if I move in?

First, some general impressions. Neither website does well on mobile phones. There seems little use of responsive design that shapes the page to the correct size. Both are similar in that they both use colour nicely; both have a series of leads on their homepage to more information; both are well designed. The websites are, however, different in structure: *adviceguide.org.uk* refers back to the CABs that it is supplementing. *advicenow.org.uk* is an aggregator website, using the websites of other organisations, supplemented by some material of its own.

Child Custody: A Comparison

On the child custody question, the *adviceguide.org.uk* website gave a fairly general description of what can happen but little guidance other than further referral:

Once the marriage ends, you'll have to decide who will look after the children. You may be able to make arrangements between yourselves about where the children live and contact with the other parent. However, if this is not possible, the court can make the decisions for you.

You could get help from a mediator to make arrangements about the children. If you can't agree about the children and you need to apply for a court order, in most cases the court will expect you to arrange a meeting with a family mediator before it will consider your application.

If you are thinking of going to court about arrangements for your children, you should consult an experienced adviser, for example, a family law solicitor or go to a Citizens Advice Bureau. To search for details of your nearest CAB, including those that can give advice by e-mail, click on nearest CAB.¹⁵

By contrast, *advicenow.org.uk* provided an 'action guide' of 27 pages addressed to the user. This contains prominent emotional advice on its second page on such matters as giving reassurance and telling your children that you still love them. The guide suggests practical criteria by which you might decide on how care might be shared.

¹⁵ http://www.adviceguide.org.uk/england/relationships_e/relationships_relationship_problems_e/ending_a_marriage.htm

You may need to think about:

- how much stability your children need at their age and with their personalities
- whether there is enough space
- who will have the most time for parenting (and on what days)
- how they would get to and from school, their friends' houses, etc
- If you have more than one child, will it be important to them that they both do the same thing (for example, both go to stay with Dad on a Sunday night), or would they enjoy the opportunity to get one of you to themselves sometimes.¹⁶

The guide proceeds in what seems to be a pretty exemplary way, setting out options, explaining ways of dealing with problems and illustrating issues by individual cases - with plenty of practical tips both of law and emotions. The only criticism that might be made is that it does not operate by way of guided pathways on an interactive basis. Nor is it - or could it be - structured like the CAB website as interfacing with a national network of advice agencies.

The Bike Accident

So, how did the two websites do with the bike accident question?

adviceguide.org.uk will not endear itself to cyclists who look under the specific heading of bicycles in their guide to road traffic accidents: it assumes that the cyclist is the transgressor:

Bicycles

If someone has been in an accident involving a bicycle, they should be aware that cyclists do not have to be insured for damage to the bicycle, any other vehicle or for personal injury. However, the cyclist may be covered under another insurance policy, for example, their home contents policy. If the accident happened on the way to or from work, or whilst at work, the person who had the accident may be covered by their employer's insurance or may be able to obtain advice and assistance from a trade union.

¹⁶ <http://www.advicenow.org.uk/data/files/children-arrangements-10-1-14-53.pdf>

If the cyclist has inadequate insurance it will probably be easier to claim on the insurance of the person who had the accident and let the insurance company take action against anyone who is liable.

If none of these is possible, the cyclist could be sued in court for compensation - see under heading Taking Court Action.¹⁷

A more general criticism would be that the information on accidents is written according to the logic of an adviser rather than as a firsthand source for a user who may just have been knocked off their bike. As a consequence, advice on making a statement as soon as possible is somewhat buried and not immediately obvious. That betrays the origin of the website as an assistance to advisers in a CAB.

Bicycle accidents highlighted one of the gaps in the *advicenow.org.uk* website. The area lacked any Advicenow original material and referred the user to the CAB website first and a Motors Accident Solicitors Society website second. The latter is very keen that you take a record of your injury and get yourself a lawyer but does not tell you to make a statement or get witnesses about your accident.

The Dismissal

The *adviceguide.org.uk* website takes a user through to a comprehensive website on unfair dismissal. It says, perfectly correctly though not with much detail:

Others types of behaviour which have been found to be misconduct include the following list. Whether the dismissal which results from such behaviour is fair or not will depend on the circumstances of the case and the employment tribunal would decide this taking into account all the circumstances of the case:

- *time-keeping and absenteeism¹⁸*

The *advicenow.org.uk* website gives links to eight other websites with information on employment matters. The first is the CAB website above. The list includes a Government website and one run by the Trades Union Congress (*worksmart.org.uk*) though none of them add anything to the limited information above.

¹⁷ http://www.adviceguide.org.uk/england/consumer_e/consumer_cars_and_other_vehicles_e/consumer_driving_and_parking_e/consumer_driving_e/traffic_accidents.htm

¹⁸ http://www.adviceguide.org.uk/england/work_e/work_work_comes_to_an_end_e/dismissal.htm

The Cohabitation

advicenow.org.uk produced good coverage of the issues with examples of how cohabitation can affect benefits, through the aggregation of resources, and the complexities of what it might mean, again with examples. It took a very practical approach:

What counts as living together?

You do not count as living together unless you are living together in the same home as a couple. We are frequently contacted by people who have been told that if their partner stays over 2 or 3 nights a week that it counts as living together, or that even though they have split up you still count as living together if neither of you has moved out, but this is simply untrue. If you have been told something different by the DWP, HMRC, or housing benefit office, don't panic. We will show you how to sort it out.

By contrast, *adviceguide.org.uk* somewhat buried its information on cohabitation difficulties in one section that was hard to find:

People who may have problems getting Income Support

Depending on your circumstances, you may have difficulty getting Income Support. This could be because you fall into a group which is usually excluded from benefit, because you cannot meet the benefit conditions or you have problems proving your identity. You should seek advice if you are:-

- *suspected of living with a partner. This applies to lesbian and gay partners as well as heterosexual partners*

If you fall into one of these categories, you should consult an experienced adviser, for example, at a Citizens Advice Bureau. To search for details of your nearest CAB, including those that can give advice by email, click on nearest CAB.¹⁹

¹⁹ http://www.adviceguide.org.uk/england/benefits_e/benefits_help_if_on_a_low_income_ew/help_for_people_on_a_low_income_-_income_support.htm#how_much_income_support_can_you_get

4. Comparison

On the basis of this comparison, those working on *advicenow.org.uk* should feel pretty proud. At the time of the test, they were at pains to point out that there are only three of them and they work part-time. The quality of their own material seems high enough to justify their own puff:

We set out to break the mould of boring legal information that informed but didn't much help the reader. We try to make sure that each guide we produce is the most helpful, accessible and effective resource available. "That'll do", isn't a phrase we recognise. Our guides all start from the position of the user. We don't just tell people about the law, we offer as much support and help for them to resolve their law-related problem as possible. Our guides acknowledge the stress readers are experiencing, and offer advice on the skills and techniques they need to solve their problem. We use a range of learning techniques to get the message across: clear, straightforward language, jargon-busters, case studies, diagrams, films, sound files, example letters, quizzes, and pictures. We test our guides with a mixture of individuals, experts and intermediaries before publication to ensure that they are as effective and helpful as possible. And we don't stop there - we design and test new methods all the time so that our understanding of what works grows, and our guides get better and better.²⁰

The test questions do reveal a certain patchiness to the information but that, no doubt, reflects lack of resources and the relatively new nature of the project. In the areas covered, much of the hard work has been done in terms of identifying user perspectives and it would be relatively easy to move to a guided pathway approach which took a user down a cone of options to the answer to their particular problem. The combination of homegrown and other materials is powerful and the notion of making the best use of all providers is clearly sensible. By contrast, *adviceguide.org.uk* looks solid but a bit dull. It is more comprehensive but it betrays its origins as an adviser's tool rather than a user's resource. It probably also reflects the primary focus on delivery

²⁰ <http://www.advicenow.org.uk/about-us/about-advicenow/>

through individual bureaux that has been the immense strength of the CAB service since its foundation at the beginning of the Second World War.

This may contribute to the weakness of the service's website but it is also a major factor in the success of the service as a whole, since it can integrate web-based provision with face-to-face assistance and indicate when a user might want - or need - to use it.

5. Conclusion

The value of a portal or website with the objectives and characteristics identified by the Legal Services Corporation is clear. The essence is that assistance on dispute solving will be available, anytime, anywhere on the Internet for all to access. The great advantage of the CAB website is its integration within the CAB network of physical provision. That of *advicenow.org.uk* is the diversity of the creators of its content and its prime orientation to Internet delivery. Both could be improved by the deployment of the 'branching logic questions' or guided journeys of the kind pioneered in the Dutch *Rechtwijzer* and discussed further in Working Paper 7.

The issue domestically in England and Wales is what should be the future direction of travel. The experience of the Money Advice Service website suggests that we should build on existing provision and not develop a third rival website provided by government or some other statutory body. Those with tidy minds may ask whether we need two websites. Could we not concentrate resources on one? This is a good question - few other jurisdictions have such choice. But, all other jurisdictions do have a multiplicity of specialist organisations, access to whose provision it is helpful to bring together. In addition, few other jurisdictions contain so large and diverse a population. What is more, the two websites are, as has been explained, different in their orientation.

But, the major justification for keeping them would be that they already exist and it would be vandalism to abolish one of them - particularly if that were the more vulnerable *advicenow.org.uk*. A degree of competition is also a helpful spur to both. And, in these circumstances, the Ministry of Justice should fund both of them.

The
Legal
Education
Foundation



The Legal Education Foundation
Charity No. 271297

All the information in these papers is verified to the best of the author's and publisher's ability, but they do not accept responsibility for loss arising from decisions based upon them. Where opinion is expressed it is that of the author's, which does not necessary coincide with the editorial views of The Legal Education Foundation. 2014