



The Law
Society

Technology, Access to Justice and the Rule of Law

Is technology the key to unlocking
access to justice innovation?

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1. Foreword by the President

It is a privilege to present the Law Society's new report on technology, access to justice and the rule of law.

Making legal services and the justice system accessible to all is a pillar of the rule of law and the cornerstone of our profession. Our profession strives for excellence by providing advice of the highest quality that is affordable. Innovation is a propeller of legal services and solicitors are embracing it in different ways to best serve their clients.

A lot of great work is being done by firms, advice clinics and in-house teams to meet legal need, which is supported by technology. Likewise, the Government has taken positive steps through the Legal Support Advisory Group and its ministerial commitment to support new forms of technology to make justice more accessible.

Our research showed a shared determination in the sector for solicitors to be a trusted source of information and advice for all clients, including the most vulnerable. The sector is relentless in achieving this aim and not shying away from embracing technology. It was encouraging to see firms and organisations of different sizes fearlessly trying new and diverse technologies and learning lessons from their use and purpose.

Despite the progressive adoption of technology, the sector also recognised that on occasions face to face advice is irreplaceable for certain types of clients or cases – technology can aid this process, but it is not a substitute.

Our study demonstrated that in most cases it is not a question of technology. Its use should be coupled with better data management, information sharing and co-ordination in the sector. Knowing who is developing what, and for what purpose, is an essential step to help the voiceless who are not able to access justice.

A blueprint for innovation is needed to put technology into context and give it direction. This blueprint should put the person with legal needs at the centre and framed by a combination of changes in mindset, process, product and service empowerment. We hope the report helps to set the wheels into motion and makes an important contribution to the debate.

Simon Davis
President

2. Executive Summary

The Law Society conducted research to explore whether technology is the key to improve access to law, justice and rights. Based on an assessment of 50 initiatives, qualitative interviews with more than 45 stakeholders, and an academic literature review, we found that, while it certainly has a role, technology is not the silver bullet to making the justice and legal system more accessible.

Our main findings were as follows:

1. The barriers to technology adoption in the justice and legal sector are significant, however, the benefits of technology outweigh the challenges.

Our research showed that the barriers to improve access to justice through innovation and technology are:

- widespread confusion, variation and fragmentation
- access to common data and lack of trust
- inequality of resources in providers and limited offer of products available for non-commercial purposes
- duplication and repetition
- time, capacity and skills
- capabilities, digital literacy and legal literacy
- funding
- regulatory concerns (GDPR and Data Protection, Professional Indemnity Insurance, Solicitors Regulation Authority's Handbook).

The above barriers have, thus far, fettered potential developments of the technology applicable to the access to justice sector. Those interviewed acknowledged that although these barriers are significant, they are not unsurmountable. The benefits in overcoming them outweigh the challenges outlined in this report.

2. There is best practice across the legal and justice sectors on innovative uses of technology which enhance access to justice.

Organisations are overcoming these barriers by developing solutions which are centred on the person who requires legal help and by re-deploying their resources (including technological solutions) to meet these needs.

Approaches to overcoming these barriers are detailed in our report through the use of problem statements and case studies, with solutions falling into two categories: innovation in practice management and innovation to help individuals with legal needs.

We wanted to draw attention to the set of problem statements and solutions, with the aim of helping practitioners and firms to develop their own innovation blueprint, according to their own resources and capacity.

These models focus on the method of delivery and illustrate the diversity of solutions and uses of technology across England and Wales – they are by no means exhaustive or prescriptive.

3. Recommendations

Our report found that with increased support from the Government, and the right processes from practitioners and the third sector, technology can be the key to unlocking access to justice innovation.

Some of our emerging recommendations are as follows:

- Acknowledging that technology is not, in itself, the silver bullet to making the justice and legal system more accessible. To achieve its potential, it is important that a blueprint for innovation is developed. This blueprint should be centred on the person with legal needs and framed by the principles and resources of the organisation.
- The Government should recognise that any technology-based initiative aiming to promote access to justice will only be successful if users are ultimately able to understand and access legal advice directly from a qualified lawyer who can help them resolve their problems.
- The advice sector and private practices should share information on the adoption and application of legal technology within their organisations, as well as any evaluation of these projects. The Law Society of England and Wales will provide an initial forum to facilitate the sharing of information and, in collaboration with the advice sector and private practices, create and develop a preliminary depository for the information.
- Government bodies, private sector and third sector organisations offering funds for legal technology and access to justice initiatives should agree on a set of principles to encourage long-term investment in the sector through co-ordination and collaboration.

3. Introduction and methodology

Based on an assessment of 50 initiatives, qualitative interviews with more than 45 stakeholders, and an academic literature review, this report explores whether technology is the key to unlock the potential of law, justice and rights.

It presents the main findings of our study on how technology is being used to increase access to justice and productivity in legal practice. We approached this by examining:

- The current state of play on the uses of innovation and technology in legal practice, the justice system and in the third sector to make legal services accessible to all.
- The barriers for accessibility and adoption in legal practice, particularly those practitioners that advise on the most common areas of law which relate to the most vulnerable.
- The justice user journey. This included investigating problem statements, and solutions which are currently used by the legal services sector.

This report includes recommendations for practitioners, the justice system and government to further use innovation on processes, products and services for full legal empowerment and promoting equitable access to rights and remedies.

A brief glossary with definitions can be found at the end of this report.

4. State of play: mapping technology and justice

4.1 Brief overview of access to justice

“We will sell to no man, we will not deny or defer to any man either Justice, or Right” (Magna Carta)

Access to justice is a fundamental component of the rule of law, a functioning economy and social inclusion. Being able to access high quality legal advice that is timely and affordable is a key part of this right.

The Law Society has long campaigned to protect access to justice by making representations to government and stakeholders to defend this fundamental right. We have highlighted how, since the financial recession hit in 2008, subsequent austerity measures and the scale of the cuts to legal aid and local authority funding to the advice sector have resulted in a severe reduction to people’s ability to exercise their rights and access legal advice.

The introduction of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) together with local authority funding cuts has created an adverse environment which has resulted in half of the law centres or agencies offering free legal advice being closed¹ and a significant reduction in access to legal aid. Since LASPO, legal aid for early legal help has fallen significantly, as highlighted in our report ‘LASPO four years on’².

The courts have acknowledged that access to justice is an inherently ambiguous term³ and yet it is codified in international conventions including the European Convention of Human Rights, the Universal Declaration on Human Rights and nationally in the Human Rights Act 1998. It is a right inherently linked to economic growth and investment as well as equity and social justice.

In 2015, world leaders included access to justice in the Sustainable Development Goals as it was recognised that justice is essential in all countries for economic

1. In 2013-14 there were 94 local areas with law centres or agencies offering free legal services, the Ministry of Justice has confirmed. By this year, 2019-20, the number had fallen to just 47.

2. Law Society. LASPO 4 years on: Law Society review. 2017 <https://www.lawsociety.org.uk/support-services/research-trends/laspo-4-years-on/>

3. KA v. London Borough of Croydon [2017] EWHC 1723.

growth, human wellbeing, and development. The World Bank writes that “a *lack of access to justice is itself a central dimension of poverty*” and defines it as an enabling condition for development by establishing the basic social order and security required for other development activities to proceed.⁴

4.2 Current common uses of technology to access justice

Across the public, private and third sectors, resource allocation and the need for greater efficiencies have been driving the demand for both better processes and the adoption of technologies. The business-to-consumer market is less mature than the business-to-business market on legal technology adoption.⁵

Our research showed that there are a number of initiatives that use technology to improve access to justice in different ways. The most common ones are:

- **Putting in place better processes, products and models for practice management (back office).** These aim to make services more affordable to clients or for the non-profit organisations to make their operations more efficient (indirectly by reducing costs or saving time).
- **Developing technologically enabled frontline services for clients or service users (front of office) for legal empowerment through public legal education, information and advice.** This is usually being led and used by the third sector, including law centres and pro bono clinics which in turn frequently work together with firms and universities to provide their services. In this context, the most common areas of legal disputes, and therefore access to justice activity, are; housing, family, employment, debt and social welfare. This includes chatbots, which simulate human conversation through voice commands, text chats or both.
- **Improving user interaction methods for advice provision.** Our study showed that practitioners and organisations that work in this sector use a combination of websites, mobile apps, live chat services, face-to-face, paper, telephone and videoconferencing. Most initiatives that we reviewed used websites as the primary means of providing information to the public. However, face-to-face was the most popular way of delivering advice, followed by mobile apps which were often used at the start of the process.

4. World Bank. New Directions of Justice Reform. 2012. <http://documents.worldbank.org/curated/en/928641468338516754/pdf/706400REPLACEMOJusticeOReformOFinal.pdf>

5. The Law Society. LawTech adoption report: <https://www.lawsociety.org.uk/support-services/research-trends/lawtech-adoption-report/>

However, with 11 million adults in the UK still lacking basic digital skills⁶ and citizens’ levels of trust in government data use being at an all-time low of 27%, the access to justice problem is far more nuanced than just a question of technology alone.⁷

4.3 Barriers

Those interviewed acknowledge that although there continue to be barriers to improving access to justice through innovation and technology, the benefits in overcoming these barriers would outweigh the challenges outlined in this report.

The majority of those engaged identified the following barriers.

a. Widespread confusion, variation and fragmentation

A practitioner working in a legal advice centre said: “*We do not know what is out there and what technology can offer to provide a better service for our users.*”

The majority of stakeholders we spoke to expressed confusion and the need for clarity on the following areas:

- **How to innovate in their organisations.** There is a lack of understanding of what it means to innovate, the problems are being faced across the sector, and the solutions available.
- **The difference between technology and innovation.** For many stakeholders, these terms are the same which creates a misconception that technology is the solution to all problems.
- **The type of products that exist to make legal services more accessible, cheaper and more efficient.**
- **The providers of such services or products.** The majority of those who participated in our research expressed concerns that the fragmentation of products, process and user engagement models resulted in an underlying barrier to improving the access to justice.

6. Cited in Byrom, N. Developing the Detail: Evaluating the Impact of Court Reform in England and Wales on Access to Justice. 2019.

7. IPSOS Mori. World Economic Forum. Global Survey Reveals Widespread Distrust on Personal Data Usage by Companies and Governments. 2019. <https://www.ipsos.com/ipsos-mori/en-uk/global-survey-reveals-widespread-distrust-personal-data-usage-companies-and-governments>

- **The role of the different government departments, regulators and other types of innovation funds in supporting access to justice solutions.**

LAW SOCIETY ACTIVITY TO PROVIDE CLARITY ON LAWTECH

1. **Listen:** to the Law Society's Tech Talks podcast, an Introduction to LawTech
2. **Read:** the Law Society's LawTech Adoption Research, which identifies the key products or services in the B2B and B2C LawTech market
3. **Read:** Horizon Scanning reports which evaluate future trends in the LawTech market and identifies key considerations. Topics include: AI and the Legal Profession, Future Skills, Blockchain and Smart Contracts⁸
4. **Watch:** this short clip from You Tube about why LawTech is about more than Blockchain and AI <https://www.youtube.com/watch?v=QEvKABOCF8>

b. Access to common data and lack of trust

Our research revealed a problem with organisations being able to access common data for the development of products or services that improve access to the law and justice. A practitioner stated that this problem stems from “a lack of trust and an issue of knowing who we should be talking to”.

Additionally, a developer stated that the “biggest blocker was that the market of people supporting [individuals with legal needs] didn't want to share resources and did not want to defragment” and a non-profit organisation noted that unique issues with each form of innovation were hardly ever shared between the legal services community.

LAW SOCIETY ACTIVITY TO ENCOURAGE COLLABORATION AND ACCESS TO DATA

1. **Engagement:**
 - The Law Society plays a role in the Ministry of Justice's Legal Advisory Support Group and has recommended the creation of a data trust for the access to justice sector.
 - The Law Society sits in the Advice Sector Technology Hub run by the Litigants in Person Network, which facilitates resource and knowledge sharing across the sector.
2. **Read:** Public Policy Commission into the use of algorithms in the criminal justice system. As part of this work we developed a procurement model

8. Resources 1, 2 and 3 are available on our website.

which includes Data Protection Impact Assessments, Equality Impact Assessments, Human Rights Impact Assessments and a clear way of identifying where liability falls in public/private development projects.

c. Inequality of resources in providers and limited offer of products available for non-commercial purposes

Our research showed there are very few technological innovations specifically aimed at making legal services more accessible or, in general, opening up the justice system. The primary purpose is usually commercial, which is then adapted or modified to fit a new purpose.

The impact of access to justice innovation, and therefore technological enablement, has been nowhere near as disruptive or powerful in comparison to the commercial legal market. A participant of our study stated that this is because of a lack of resources, as well as the make-up of the access to justice sector which “does not get the same pressure as the private sector. Big players in the market would grow and increasingly take market share, whilst small players would either have to innovate or cease to exist”.

Two years ago, Professor Roger Smith suggested that legal technology follows a twin track, observing that “large firms have the money for investment and a clientele that will increasingly expect AI-assisted provision to reduce costs. Above all, they have access to capital to fund serious investment both to revolutionise their business management and areas of their legal work such as research and document review. [...]. Life in a law centre or low-income practice is already very different – almost unrecognisable – from that in one of the large City firms. Technology will just add to that difference. Family, housing, employment, immigration, asylum work will – to the extent that services have not been killed off by legal aid cuts – continue to be done by hard pressed, underpaid lawyers and paralegals still toting unruly piles of books, papers and notepads while everyone else has gone digital and is brandishing iPads. To some extent, this is probably what will actually happen.”⁹

He added that technology for access to justice is likely to “trickle down” from these commercial LawTech products or applications.

Our study showed that this analysis is accurate; however our research identified that in the past year there has been an increase in projects from start-ups or established organisations wanting to develop bespoke products for non-profits, or to increase public legal education. Regardless, the businesses working on access to justice technology solutions are a very small part of the wider LawTech sector.

9. Roger Smith, Technology and access to justice: the end of the beginning? November 2017. <https://www.infolaw.co.uk/newsletter/2017/11/technology-access-justice-end-beginning/>

LAW SOCIETY ACTIVITY TO SUPPORT LAWTECH SOLUTIONS

Partnering: The Law Society and Barclays entered into a partnership to develop an incubator for commercial and non-commercial LawTech solutions. The key objectives of the Eagle Labs and Law Society relationship are:

- For the partnership to be at the centre of the LawTech ecosystem currently made up of members, start-ups, government, academia and other strategic partners. The Lab will help the UK to become a leader in the field of LawTech, influencing the development of the future legal services market.
- To directly offer insight, guidance and support to the Lab residents. This would involve helping companies start-up and scale up by assisting the design and development of new innovative products and through harnessing collaboration with like-minded entrepreneurs, innovators and industry experts.
- To develop training and legal education to support the legal profession in adopting new technology whether they work independently, in-house or as part of a firm.

d. Duplication and replication

Our research showed that law firms, advice centres and individual practitioners are using a variety of processes, products and services to deliver better justice outcomes that are very similar in nature and application, including chatbots for triage. This has led to a significant duplication of innovations across the legal services and justice sector. As an example, a number of organisations have developed legal aid eligibility calculators which have the same purpose and similar functionality.

Several respondents noted that the various pathways providing information, advice and advocacy across multiple organisations confused individuals with legal needs and decreased the chance of them seeking legal redress.

The duplication of innovations and fragmentation of their application, owing to a lack of shared processes and best practice, illustrated the need to frame innovation around shared solutions to shared problem statements.

LAW SOCIETY ACTIVITY TO TACKLE DUPLICATION

Access to Justice Mapping: As part of this research project, the Law Society has developed an initial Justice User Development Journey to detail where innovation is occurring in the access to justice sector. By developing this map further with the sector, the Law Society aims to reduce the amount of duplication.

e. Time, capacity and skills

“The access to justice sector is overworked and overwhelmed.”

“I have been looking for a digital project manager for five months. I’m at my wit’s end.”

Participants took the view that the commercial private sector has the best talent and resources, which makes it difficult for those engaged in non-profit work or in the advice sector to compete. Also, as there is no direct way of monetising access to justice technologies, the commercial private sector has been slow to develop solutions as there is little to no interest from investors. This is due to the lower, or non-existent, rate of returns on such investment.

Although attempts have been made by law firms to provide pro bono technology and project management time to the access to justice sector, it was felt that this contribution was limited as these teams are under significant pressure. One stakeholder reported that the availability of pro bono innovation and technology specialists is far too limited and often have different ways of doing things.

There was also a feeling of a lack of co-ordination and collaboration in the sector, meaning that very few have the ability to identify innovation areas. An interviewee pointed out that there were limitations to *“embrace change and take the time to change.”*

Lack of time was also seen as a barrier. It has filtered down into completing funding applications, making it a “real challenge” to secure future resources. Other participants expressed concerns about recruitment or training of staff.

LAW SOCIETY ACTIVITY TO SUPPORT NEW SKILLS AND RESOURCES

1. **Read:** The Law Society’s Future Skills for Law report
2. **Campaigning:** The Law Society is continually campaigning for the legal profession. Our criminal justice, legal aid deserts, access to justice and early advice campaigns have made several asks of government to provide a greater level of support for the access to justice sector.
3. **Expert Support:** The Law Society is supporting several government backed and privately funded research projects which evaluate the changing skills requirements of the legal profession.

f. Capabilities, digital literacy and legal literacy

Innovation and technology have the ability to increase legal empowerment and access to justice. Some of the barriers that we have identified are as follows.

- **Inadequate hardware and software:** A third of interviewees (organisations and frontline advisers) expressed a pressing need for up-to-date computers, operating systems, and audio or video conferencing hardware to make their work better. A participant said that there is *“no co-ordinated way of buying, updating or donating hardware or software solutions in the access to justice community. This prevents the sector from accessing productivity gains and innovation.”* This barrier was also present for those with legal needs, who often do not have access to computers and the necessary software to get legal information or access advice.
- **Inadequate connectivity:** Access to the internet is important for public legal education and access to justice. However, not everyone has the skills or means to get online. A recent study showed that in 2018 there were still 5.3 million adults in the UK, or 10% of the adult UK population, who were non-internet users.¹⁰ OfCom has suggested that around 677,000 UK premises are still unable to access a fixed broadband service capable of delivering a suitable broadband connection.¹¹ Although full-fibre broadband coverage in the UK has risen since the December 2018 Connected Nations report, 93% of premises are still unable to access full-fibre¹². In areas such as the southwest, the north, parts of Wales and East Anglia there continues to be very poor connectivity due to fundamental lack of investment in infrastructure. Inequality on internet use is much more than just connection. Even those homes that have good access may still be faced with power interruptions. OfGem reports that the average customer interruptions, per 100 customers on the network, was 45 and an average time of 35 minutes without power.¹³ In rural communities, frequency of power cuts is higher and levels of internet connectivity lower.

10. Office of National Statistics. Exploring the UK’s Digital Divide. 2019. <https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/exploringtheuksdigitaldivide/2019-03-04>

11. OfCom, Connected Nations. 2018. https://www.ofcom.org.uk/__data/assets/pdf_file/0020/130736/Connected-Nations-2018-main-report.pdf

12. OfCom, Connected Nations Update, 2019. https://www.ofcom.org.uk/__data/assets/pdf_file/0021/146613/connected-nations-update-spring-2019.pdf

13. OfGem, RIIO – ED1 Annual Report, 2019.

- **Literacy:** The Justice Initiative observed that the problem of literacy goes far beyond the digital exclusion faced by some of the population. Recent statistics show that 9% of the UK population have no digital skills at all and that 21% lack basic technological skills (11.5 million people in total)¹⁴. A recent government white paper acknowledged that 70% of the UK population may be either “digital with assistance” or “digitally excluded.”¹⁵
- **Problems with navigating online solutions:** Even those with legal needs who are digitally literate often face barriers in finding solutions to legal problems online. Research by Shelter showed that even in cases where digital access and capability was fairly high *“capability for managing housing issues without personal support was quite low overall.”*¹⁶

Access to justice is central for the rule of law to operate effectively and technology is a means for its delivery. If people cannot access the internet, either due to inadequate hardware, software or internet connection, or if those with legal needs do not have the necessary legal, digital, language or physical capabilities, there is a risk that access to justice will be exclusive and qualified.

LAW SOCIETY ACTIVITY TO IMPROVE ACCESS TO JUSTICE

Expert Support: The Law Society is supporting the LawTech Delivery Panel’s Ethics Taskforce. As part of this work, we will be providing insight and expertise to the taskforce’s work on digital literacy, digital exclusion, data rights and Public Legal Education.

g. Funding

Our research showed that there is a widespread concern about the level of government cuts to legal aid funding, which has left vulnerable people lacking access to justice. A lack of awareness also exists, at certain levels, of the funding sources available for innovation and technological solutions for access to justice purposes. In particular, there is confusion about which bodies are offering grants and for what purpose.

14. Lloyds Bank, Dot Everyone. Consumer Digital Index. 2017. <https://www.lloydsbank.com/assets/media/pdfs/lloyds-bank-consumer-digital-index-2017.pdf>

15. JUSTICE. Preventing Digital Exclusion from Online Justice. 2018. <https://2bqk8cdew6192tsu41lay8t-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/Preventing-Digital-Exclusion-from-Online-Justice.pdf>

16. Shelter. Down the line: the future role of digital housing advice and support https://england.shelter.org.uk/__data/assets/pdf_file/0005/1053662/2015_16_01_TNS_BMRB_The_future_role_of_digital_housing_advice_and_support_Research_Report.pdf

Some funds available for legal technology are as follows.¹⁷

- In the legal support ‘action plan’ the Ministry of Justice announced £8m for ‘innovative’ forms of legal support and ideas to help litigants in person.
- The government’s wider industrial strategy is investing £1bn to boost the UK’s position in artificial intelligence. Some of this money has found its way into the legal sector through the £10m ‘regulators pioneer fund’.
- The Solicitors Regulation Authority secured £700,000 of these funds “to support business innovations that will use artificial intelligence to transform the legal services market for small businesses and consumers”. The vehicle to deliver this is ‘the £250,000 Legal Access Challenge’. It will award up to four development grants of £50,000 for promising ideas that will enable access to justice through technology, with a further £50,000 to the overall winner. The first winners are due to be announced in autumn 2019.

We found that most of the available funding or investor support is short-term. This significantly impacts the design, development, dissemination, deployment, use and evaluation phases of innovation and technology. A majority stated that the lack of long-term investment prevented them from recruiting permanent staff, building the capabilities of their teams for sustained periods of time, facilitating in-house innovation, or paying for external consultants over a long period or evaluating what they even needed to change in the first place.

About a fifth of those interviewed stated that, as a result of short-term funding, not enough was done on pre-design and participation phases. This often meant there was a divide between the user and innovator. There is evidence to suggest that understanding users to inform the creation of innovations, interfaces and curated experiences increases the success of a solution.¹⁸

LAW SOCIETY ACTIVITY:

1. **Campaigning:** The Law Society is continually campaigning for the legal profession. Our criminal justice, legal aid deserts, access to justice and early advice campaigns have made several requests for the government to provide a greater level of support to the access to justice sector.

17. <https://www.lawgazette.co.uk/commentary-and-opinion/sra-should-keep-its-nose-out-of-the-lawtech-trough/5101119.article>

18. Design Advisor, User Experience Statistics, 2019. <https://designadvisor.net/blog/ux-statistics/>.

h. Regulatory concerns

Participants in our study expressed concern about the uses of new technology and the implications for the regulation of their services. Concern was expressed regarding the lack of clarity on the following areas.

- **General Data Protection Regulation and data protection:** Interviewees identified the lack of sector specific guidance available to access to justice organisations as a key regulatory concern. Many engaged expressed that a lack of regulatory clarity on ‘legal data’ and how they should collect, process, share and retain data, as a fundamental barrier to innovation and cross sector collaboration. One respondent stated innovations which allowed users to either create accounts or compare their legal needs with others, who had their needs resolved, were often not developed due to confusion and fear of non-compliance.
- **Professional indemnity insurance rules and how they apply to pro bono services, which are curated or facilitated through technological solutions:** We found many participants in this research project, who referred legal work to pro bono solicitors and/or barristers, were not aware of whether the obligations for registering for professional indemnity insurance fell to the referrer or referee.

A participant said: “For instance, if you want to provide reserved legal services on a pro bono basis, and you are not working through a regulated entity, then you can only provide services that are not part of the business of your Solicitors Regulation Authority- regulated employer, and you would be well advised to provide those services through a law centre or a charity instead. This complex regulatory environment was stated as having two fundamental effects; the number of lawyers willing to participate in pro bono legal services decreased, and the growth of the pro bono referral market stagnated. Both greatly impacting a person with legal needs, and of limited resources, being able to access expert legal advice.”

- **Ethics and the new SRA handbook:** Although the Solicitors Regulatory Authority is following a deregulatory approach to encourage legal service innovation, the new SRA handbook contains no guidance on the ethical design, development, deployment and continued use of technology to provide legal services. This lack of ethical clarity has restricted innovation and technological adoption in the access to justice sector due to confusion and fear of reputational damage.

A participant said: *“it may be that pro bono platforms could be accommodated within the exceptions of the Legal Services Act for one of the categories of ‘exempt business’ or gain recognition as bodies ‘of such other description as may be prescribed by order made by the Lord Chancellor’.”*

LAW SOCIETY ACTIVITY ON DATA PROTECTION

1. **Publications:** Data Protection Toolkit (Law Society publishing), Professional Indemnity Insurance and GDPR guidance and webinars.
2. **Engagement:** The Law Society is engaging with the Information Commissioner’s Office to develop sector specific guidance on ethics and data protection.
3. **Workshops:** The Law Society holds GDPR workshops with data protection specialists to explore the issues they are facing and to identify areas of possible help and support from the Law Society.

4.4 Impact of these barriers

The impact of these barriers on access to justice are as follows.

- Duplication, fragmentation and lack of collaboration restricts the scalability of effective technological solutions, which could enhance access to justice.
- Lack of collaboration and information sharing across the legal sector on technology and its uses can lead to the repetition of mistakes when organisations try to innovate.
- People with legal needs feel stressed, confused and disenfranchised from the justice system due to duplication and often conflicting solutions.
- Inadequate hardware, software and low levels of internet connectivity result in organisations having to fill these gaps with more traditional user engagement models.

5. Overcoming these barriers through innovation and re-design

Technology alone is not the silver bullet. Barriers can be overcome with an innovation strategy, coupled with better data management, information sharing and coordination in the sector.

A practitioner said: *“There is a fundamental misunderstanding of what legal technology is and what it can and cannot do to enhance justice. A number of lawyers, firms and organisations believe that by developing apps or purchasing expensive software their services will be more efficient or they will be able to reach more people. Technology in isolation is not the answer.”*

Inadvertently, some poorly resourced organisations have already wasted time, money or capabilities purchasing and adopting a technological solution they did not need or were unable to maintain in the long term.

“Don’t buy a Ferrari if all you need is a Fiat.” Head of Legal Design and Innovation, Wavelength Law.

We believe that for technology to enable access to justice, it has to be accompanied by an innovation strategy (or blueprint) that is:

- person centred – based on the individual with legal needs
- rooted in the business – which takes into account the organisation’s vision, planning process, resources and capabilities
- supported by an infrastructure – with an indication of the teams or individuals who will use it and maintain it, including built in-house capacity for scrutiny, overseeing and steering
- operated by practitioners or support staff – to assist legal users to navigate these technological aids or solutions
- able to evaluate success and identify areas for future improvements.

This innovation strategy can be unique, depending on the business’s resources and aims. Our study highlighted that impactful innovations in access to justice can happen, not by simply using technology, but by applying it in a different way. This could be through service redesign, by redeploying resources or by changing its method of engaging users and clients.

These are some examples of innovation powered by technology but led by strategy:

5.1 Innovation in practice management

Problem statement No. 1: My organisation is time poor.

Innovation No. 1: Increase productivity through user engagement, case and/or legal process management in tandem.

All those interviewed in our research, identified a lack of time as a key problem for delivering legal empowerment to people with legal needs. Interviewees either:

- questioned and innovated their internal processes but lacked the resources to develop a tailored solution, and/or
- used free versions of software, like Trello portal, for case or legal process management. In some instances, to run such software simultaneously with other management systems.

These methods were helpful in reaching a high number of individuals with legal needs. Other participants added another level by integrating user interactions with case management and legal project management tools. This led to better collaboration in their organisations.

CITIZENS ADVICE: DEVELOPING CASEBOOK

A bespoke case management system which allows advisors to input information, strongly increasing productivity and user engagement.

- 70% of staff were involved in testing the first iteration of the case management system.
- It was identified by the 2019-2022 CAB strategic vision as key enabler for their services.
- It helped over 10 million people on the phone, via webchat and in person.
- It improved the organisation's online advice, seeing three times as many people coming to their website, with over 25 million visitors in 2018-19.

This innovation highlights that, by engaging people in the development of innovation and technological uses, there is increased buy-in and support regardless of their digital capability.

Problem statement No. 2: “My organisation does not have capacity to tailor legal empowerment solutions to match the growing number of people with legal needs.”

Innovation No. 2: Portray, collect, and analyse Information with a focus on means testing to enfranchise vulnerable persons and potentially generate revenue.

The Legal Education Foundation stated they “*need data to find out who is ultimately benefiting from their funding*”, illustrating the pressure the sector is under to innovate and ensure data collection and analysis. This forms a foundational part of their work.

LEGAL EDUCATION FOUNDATION & LAW CENTRES

The Legal Education Foundation made grants to the Law Centres Network for the IT upgrade programme. So far 12 Law Centres have been updated, with another six about to bring IT, computers and internet to increase access and adoption of the cloud and Microsoft 365. The feedback was that productivity increased and cybersecurity was more effective (as out-of-date systems increase hacking potential).

COURT NAV

CourtNav is an online tool developed by the RCJ Advice in partnership with Freshfields Bruckhaus Deringer LLP. It is designed to help people to complete a FL401 non-molestation order. It does this through:

- conducting an initial triage
- providing definitions of legal terminology to help people in completing relevant court forms
- online support of a lawyer throughout the process
- document uploads
- eligibility checks for clients referred online to accredited domestic abuse legal aid solicitors
- autosave, timeline and case summary features
- connecting to a network of legal aid solicitors covering 100 sites across England, who are involved in the FL401 referrals.

To overcome funding challenges, several organisations providing services to the public have innovated their products and pricing structures through client means testing. This has allowed for legal information to be developed alongside those individuals with legal needs, who are more able to pay, and this cross-subsidises legal guides for people that are not able to pay.

LAW FOR LIFE: MEANS TESTED RESOURCES

Overall, over half of resources are given away for free, with the other half being available at two different price points. The majority of information relating to family and children is sold at a discount, whilst that relating to investment and finance is sold at full price. By innovating the pricing structure, through identifying those with legal needs able to pay for products and services, Law for Life has been able to produce affordable legal information. This is empowering for users.

Problem statement No. 3: “The organisation has no funds to innovate, adopt technology or upskill its workforce.”

Innovation No. 3: Empower advisers and internal stakeholders through education.

Engaging employees, trustees and individuals with legal needs through education and training is crucial to delivering high quality advice that takes context into account.

FRONTLINE IMMIGRATION ADVICE PROJECT

The project aims to increase the accessibility and quality of free immigration legal advice for those in need. The objective is to work with organisations to look at their models of legal advice and see whether they are in a position to develop their advice models. This would enable them to be registered with the Office of Immigration Services Commissioner to permit them to begin giving immigration advice.

In achieving this, Refugee Action have been delivering training to staff and volunteers, allowing them to become registered at levels 1 and 2. Refugee Action began with a Wordpress site which they grew out of last year and have now moved all of their content to a new off the shelf system with Growth Engineering to give them the functionality they need to deliver the service to their immigration students.

Alongside the Frontline Immigration Advice Project, Refugee Action have also created an Asylum Guides Programme. This is a legal literacy programme that is also beginning to use Learning Management System for its training and engagement needs. In terms of numbers, there are 142 organisations working with Refugee Action but slightly fewer trainees – approximately 650 staff and volunteers from these organisations.

5.2 To help people with legal needs

These are some examples of innovation that are powered by technology and are centred on the person with legal needs:

Legal Need No. 1: is it a legal problem? And what kind of legal problem is it?

Innovation No. 1: Public legal education tool to help and empower people to identify the nature of the problem and signposting when there is a need to consult a solicitor.

In England and Wales seven out of 10 people seeking justice must figure out legal options for themselves.¹⁹ Many products, services and user interaction innovations aim to help people to determine whether a legal issue exists and diagnose the area of law it relates to.

Research undertaken by the Law Society in partnership with IPSOS MORI found:²⁰

- On average, one in four people who receive early professional legal advice had resolved their problem within three to four months. Whereas, for a quarter of those who did not receive early legal advice, it took nine months after the issue had first occurred to resolve the issue.
- At any given time between an issue first occurring and the problem being resolved, people who did not receive early advice were 20% less likely than average to have had their issue resolved.

A WORK IN PROGRESS – THE MENCAP CHAT BOT

A chatbot is being developed as a partnership between IBM and the national learning disability charity, Mencap, an organisation that provides frontline advice. The original design thinking workshop engaged frontline advisors and care managers, information providers without legal qualifications, solicitors and family members. The chatbot development process is as follows.

- Phase 1: Design and stage 1 development. Developed 500 questions and answers with natural language processing built in
- Phase 2: Workshop testing and retraining of the chatbot to seek feedback and improve accuracy of the chatbot
- Phase 3: Soft launch with partner organisations

19. The Law Society, IPSOS Mori. Analysis of the Potential Effects of Early Legal Advice / Intervention. 2017. <https://www.lawsociety.org.uk/support-services/research-trends/research-on-the-benefits-of-early-professional-legal-advice/>

20. Ibid. IPSOS

- Phase 4: User Experience and User Interface Development which includes speech enabled, embedding videos, easy read and conducting workshops with learning disabilities
- Phase 5: Integrate across the wider access to justice sector
- Phase 6: Process Sensitive data, Generate Live Referrals, Link with Customer Relationship Management
- Phase 7: IBM links data capture with powerful data analysis tools to enable organisations to spot trends of unlawful public body decision making.

Legal Need No. 2: Am I entitled to welfare benefits or legal assistance?

Innovation No. 2: Develop accessible information to enable people to assess their entitlement to benefits or their eligibility for legal aid.

As previously mentioned, LASPO included measures that reduced the scope of legal aid, thereby impacting access to justice. The government has reviewed LASPO and has set up the Legal Support Advisory Group to monitor the implementation of its recommendations.

Based on our research, individuals with legal needs still feel stress and disillusionment when completing government legal aid forms (LAA forms) and for their funding to subsequently be denied, despite not being able to afford professional legal advice.

LEGAL AID ELIGIBILITY CALCULATORS

Three advice sector organisations have developed pre-checkers for eligibility and calculators to estimate eligibility. This tool was developed to set eligibility filters in order to reduce the number of users coming to them. This is achieved by enabling people to check their eligibility for themselves.

Legal Need No. 3: How can I understand the law and legal process?

Innovation No. 3: Provide people with customised legal information and education which is easy to access and understand – this includes providing support with navigating online solutions.

A significant number of people lack awareness of their legal rights or misunderstand their reach.

- When tested with fact-based scenarios, on average 59% of people are able to demonstrate some understanding of their rights. However, there is significant variation across legal areas.

- Only 25% of people claim to fully understand their legal position when they experienced a legal problem, rising to 45% of people who claim mostly to know their rights.²¹
- Overall, younger and older people, lower skilled workers, and migrants appear to have less knowledge than other groups.²²

REACHING LEGAL UTOPIA

Legal Utopia identified a key problem for individuals with legal needs: the inability to understand the nature of legal problems and the legal process. Legal Utopia's triage and referral app identifies directly relevant authoritative legal sources and advisors for individuals with contentious or non-contentious legal issues. Their success rate for providing right information to the Legal Utopia user is 94%. CEO Fraser Williams stated that their user base is digitally literate and more towards the middle ground in terms of income, standing at around 8 million in the UK.

Legal Need No. 4 How can I afford to take my case to court?

Innovation No. 4: Empower the individual through alternative dispute resolution processes.

Many people handle their legal problems alone. Only 6% of people use a lawyer for their legal problems, a further 4% use advice agencies.²³ Our research suggested that it was difficult to advise people to take alternate forms of dispute resolution as a significant number wanted “their day in court”.

21. IPSOS *ibid*.

22. Wintersteiger, L. Legal Needs, Legal Capability and the Role of Public Legal Education. 2015. <https://www.lawforlife.org.uk/wp-content/uploads/Legal-needs-Legal-capability-and-the-role-of-Public-Legal-Education.pdf>

23. Cited in Pleasence, P., Balmer, N., Sandefur R. Paths to Justice: a past, present and future roadmap. 2013. <https://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf>, The Law Society, Online Survey of Individuals Handling of Legal Issues in England and Wales. 2015. <https://www.lawsociety.org.uk/support-services/research-trends/largest-ever-legal-needs-survey-in-england-and-wales/>.

YESS LAW: ALTERNATIVE DISPUTE RESOLUTION

“A 90% success rate, 100% ADR” Camilla Palmer, QC

Your Employment Settlement Service (YESS Law) provides employment information and legal advice to employers and employees with a view to resolving disputes and so avoiding litigation. Yess Law provides early stage intervention by coaching employees to talk to their employers, or doing so on their behalf, in order to negotiate an agreed way forward. It recommends the use of ADR for dealing with legal workplace issues as it has a high success rate at a fraction of the cost, and with less time, stress and reputational damage. It is also user centric, focussing on what the client wants and how to achieve it.

Legal Need No. 5: How can I understand, complete or draft legal documents?

Innovation No. 5: Empower the person with legal needs with support for legal document assembly.

About a third of participants in our research use some form of document assembly software.

PERSONAL INDEPENDENCE PAYMENT TOOLS

Two advice sector stakeholders have separately piloted, developed and refined a Personal Independence Payment statement builder and appeals process tool.

One of the tools, launched in 2016, provides a letter which the user then sends off. It receives over 14,000 page views and produces 14,500 personalised letters per annum, and has the following features embedded:

- guiding individuals with legal needs to information to enable form completion
- pause and come back feature which significantly reduced drop off rates.

The other Personal Independence tool generated time saving of 15-25% for the organisation, meaning advisors went from seeing five people a day to six.

Legal Need No. 6: How do I know where to go and who to use?

Innovation No. 6: Empower justice users by introducing them to organisations that can provide information, advice and advocacy.

Participants in our study used a combination of user engagement models to create guided pathways for legal empowerment, through the signposting or referral of legal information, advice or advocacy.

This approach helps users identify if their question is a legal one, what rights they may have, and the resources and information available to them. Through having guided pathways, users are given a small amount of information relevant to their situation, limiting the number of questions asked using conditional logic and helping reduce some of the users' confusion and stress.

A GUIDED PATHWAY:

Generally, the pathways work by:

- asking a series of questions or portraying information to help individuals refine, define or select the legal issue they are facing and then providing or referring them to information that is tailored to their needs.
- typically asking users to start by selecting their problem, either through:
 - choosing an issue, they would like help with from a populated list, and then answering a set of screening questions, or
 - assessing their eligibility for support and/or collecting information that users can include in a request for support, complaint or application.

6. Recommendations

The findings set out in this report are the result of our initial scoping. While organisations can use existing innovations to improve their ability to provide services which can make the justice system more accessible, the sector needs more support to ensure it makes the most of these opportunities.

1. Government, practitioners and the third sector should acknowledge that technology is not, in itself, the silver bullet to making the justice and legal system more accessible. To achieve its potential, it is important that a blueprint for innovation is developed. This blueprint should be centred on the person with legal needs and framed by the principles and resources of the organisation. This could include technological solutions to improve practice management and frontline advice. Any such blueprint should be:
 - person centred – based on the individual with legal needs
 - rooted in the business – which takes into account the organisation’s vision, planning process, resources and capabilities
 - supported by an infrastructure – with an indication of the teams or individuals who will use it and maintain it, including built in-house capacity for scrutiny, overseeing and steering
 - operated by practitioners or support staff – to assist legal users to navigate these technological aids or solutions
 - able to evaluate success and identify areas for future improvements.
2. The Government should recognise that any technology-based initiative aiming to promote access to justice will only be successful if users are ultimately able to understand and access legal advice directly from a qualified lawyer who can help them resolve their problems. Therefore, the Government must commit to providing the funding necessary to:
 - ensure legal advice is available and that justice system users are able to access it through legal aid
 - increase the level of awareness of the public to understand their basic rights through a public legal education scheme
 - invest in infrastructure and fibre connectivity for all communities so that access to new technology in the delivery of legal advice becomes more realistic for a greater proportion of the population.

3. The advice sector and private practices should share information on the adoption and application of legal technology within their organisations, as well as any evaluation of these projects. The Law Society of England and Wales will provide an initial forum to facilitate the sharing of information and, in collaboration with the advice sector and private practices, create develop a preliminary depository for the information. This would happen while recommendation 4.e. is being designed and developed.
4. The Ministry of Justice’s Legal Support Advisory Group (set up to implement the recommendations of the LASPO review and the Legal Support Action Plan) to:
 - 4.1 encourage meaningful engagement by creating a way for external stakeholders to participate and feed into the Advisory Groups’ work and projects
 - 4.2 increase its transparency and visibility by publicising the Advisory Group’s calendar of meetings and project timelines
 - 4.3 take into account the lessons learnt and best practice available on legal technology projects for the development, design and evaluation of the pilots concerning social welfare and early advice. This should include learnings from technology projects led by the advice sector and private practice, such as Rechtwijzer
 - 4.4 build on previous work to develop a comprehensive list of problem statements and agreed solutions (as highlighted in section 5 of this report) which are then used to develop the terms of reference of the £5 million innovation fund investment
 - 4.5 create an Open Source Information database on access to justice and technology which will enable:
 - I. the outlining of agreed best process for tackling internal problem statements and legal needs– with an emphasis on vulnerable people
 - II. co-ordinated research activities and content outcomes
 - III. participation, advice and business model innovations
 - IV. best practice for regulatory compliance, with emphasis on data sharing, insurance for legal service provision, and reserved activities
 - V. process architecture, with considerations for legal design and user journey pathways to legal empowerment
 - VI. innovations in organisational design, an emphasis on cloud, analytics and productivity tool suppliers

VII. skills profiles and services network for designing, developing and using access to justice innovation

VIII. a hardware update network, so organisations can increase collective bargaining when obtaining hardware

IX. best practice for engaging and educating trustees, beneficiaries, employees and frontline advisers to support, deliver and champion access to justice innovations

4.6 develop an interactive Justice User Development Journey highlighting free and paid for, remote and face-to-face legal empowerment.

5. Government bodies, private sector and third sector organisations offering funds for legal technology and access to justice initiatives should agree on a set of principles to encourage long-term investment in the sector through co-ordination and collaboration. This could work to reduce the levels of innovation duplication.

5.1 Public funders (Ministry of Justice, Department of Business Enterprise and Industrial Strategy, the Solicitors Regulation Authority and Nesta) should co-ordinate the communications, marketing and processes of their funding campaigns. This should include sharing grant criteria to ensure that the successful bids are those that are trying to address the problem statements identified in section 5 of this report.

5.2 Innovate UK and the British Research Council should develop funding lines on access to justice and technology.

5.3 Public, private and civil society funders should develop a central ‘funding interest webpage’ with details of desired investment opportunities on access to justice and technology.

6. The LawTech Delivery Panel should create a new taskforce on access to justice and technology, which should work together with the Legal Support Advisory Group on making recommendations to the Ministry of Justice on the allocation of funds and evaluation of projects.

7. Definitions

Access to Justice

- Access to a legal system underpinned by the rule of law and due process,
- access to legal advice and representation,
- access to a court, and
- access to funding.

Access to Justice Sector

Comprised of all organisations supplying access to justice services. It includes law firms, Not for Profits, individual practitioner barristers and solicitors, in-house legal teams, government bodies, academics, LawTech businesses and associations.

Access to Justice Innovation

- Product: the creation and subsequent introduction of a product that is either new, or an improved version of previous product or services.
- Service: the creation and subsequent introduction of a service that is either new, or an improved version of previous goods or services.
- Process: the implementation of a new or significantly improved production or delivery method.
- Mindset: the implementation of a new way of thinking about a problem. This can lead to innovation in the areas described above.

Access to Justice Technology

Applications, tools, infrastructure support, online services and software which either:

- supports the access to justice sector in delivering more effective and efficient services to their clients by enabling internal processes with technology, or
- solves the justice problems that clients experience or empowers them to resolve their own issues through technological enablement.

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Innovation Blueprint

1. Human-Centric based on the individual with legal needs.

1. Who are our users?
2. What problems do our user's experience?
3. Can we solve these problems? If so, how?
4. Are there any incremental changes we can make before carrying out an organisational-wide innovation project?
5. How will engage our users during the design, development and deployment stages in the innovation process?
6. What is the ideal user journey to facilitate ease of access to our users? How does this user journey fit in with our existing user journeys?
7. How do we ensure all our users, including vulnerable person(s), are able to understand and use this innovation?

3. Supported by an infrastructure with an indication of the teams or individuals who will use it and maintain it, including built in-house capacity for scrutiny, overseeing and steering.

1. Who will use or maintain the innovation?
2. How will each individual responsible for using or maintaining the innovation be detailed their roles, obligations and accountability responsibilities?
3. How will the innovation be tested approved and signed off by staff?
4. How will the innovation interact with our existing innovation, technological or human infrastructure?
5. How can we ensure future changes or updates to the project will not detrimentally impact the organisation?
6. How hard will it be to maintain training and workflow?
7. Can those participating in the innovation process provide feedback?
8. How will continues improvements be made?
9. How will we continuously monitor improvements?
10. Will any additional standards be created to ensure the innovation is compliant?

2. Rooted in the business which takes into account the organisation's vision, planning process, resources and capabilities.

1. What is our organisations core value, and if relevant product, proposition?
2. Which internal or external teams should be included in the innovation process?
3. How will these teams be engaged to provide insights whilst building their capabilities?
4. Do we have the required resources (time/ money / skills) to carry out this process internally?
5. What is the budget for each deliverable and the project as a whole?
6. What is the timeframe for each deliverable and the project as a whole?
7. Are there any challenges or obstacles which are likely to impact timely delivery?
8. How does the innovation process fit into our organisations traditional planning process?
9. How is the innovation likely to change the organisation both internally and for our users?
10. What does success look like for the organisation?

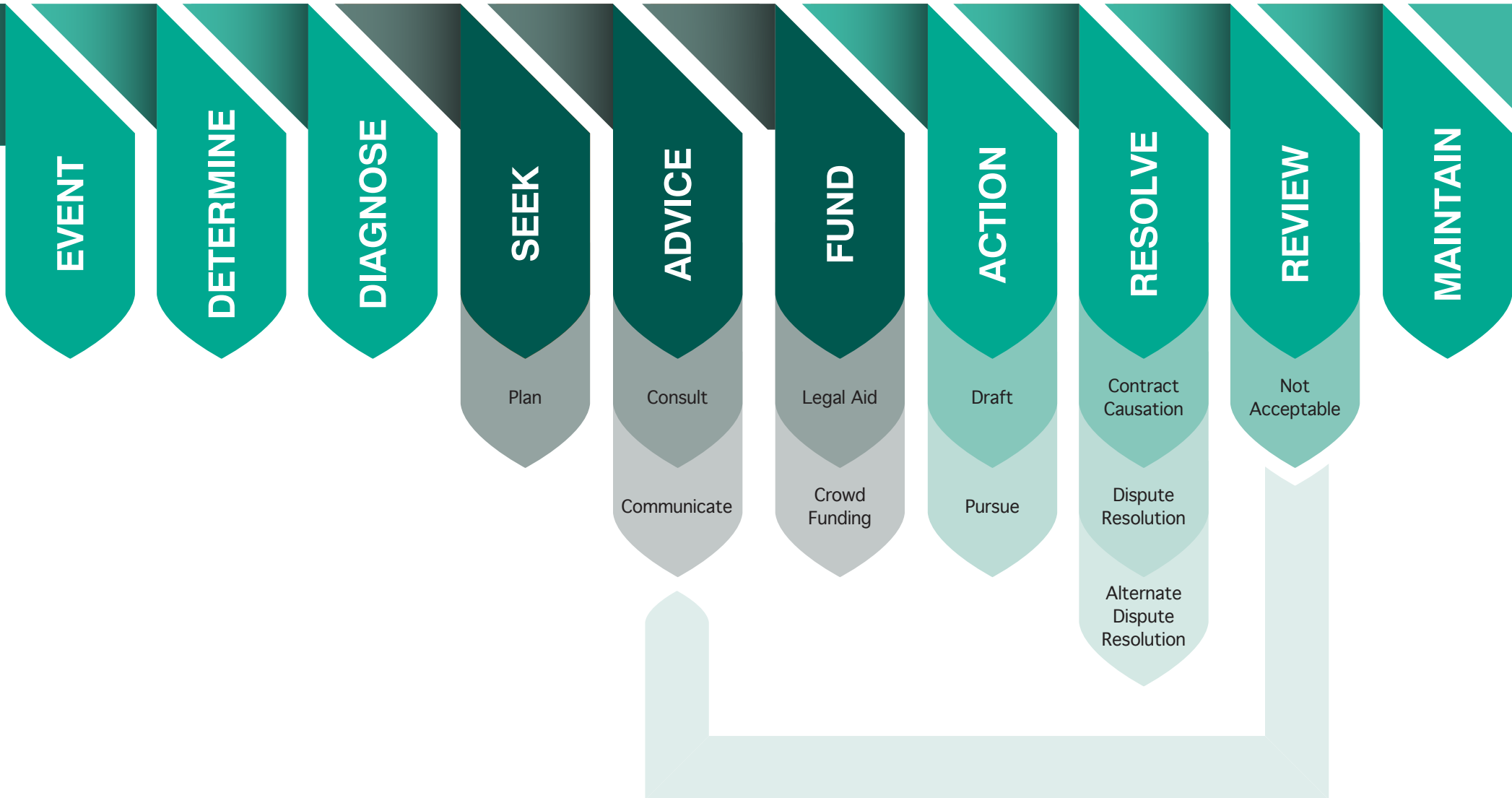
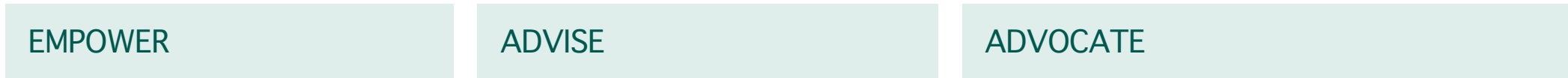
4. Operated by practitioners or support staff to assist legal users to navigate these technological aids or solutions.

1. How will we utilise practitioners or support staff during the design, development and deployment stages of the innovation process?
2. How will we consider usability and accessibility needs of practitioners and support staff to ensure the innovation is adopted?
3. How will we provide training?
4. How does this innovation compare with the traditional delivery method of the organisation?
5. What are the benefits of this approach in comparison to traditional methods?
6. How will the regular work of practitioners and support staff be impacted as a result of their participation in the innovation process?
7. How will accommodations be made to ensure those involved in innovating are not over stretched?
8. How will our organisation formulate a change management plan?
9. How will we expose practitioners and support staff to support services and contacts for the purposes of using the innovation?
10. How will we communicate processes in need of updating as a result of the innovation?

5. Matrix for Evaluation

1. Does the innovation generate desired economic, social and environmental gains for our organisation in the short, medium or long term?
2. Does the innovation resolve the problems of our users?
3. Does the innovation satisfy our users, internal teams, practitioners and support staff?
4. Is the overall cost/benefit ration of the innovation satisfactory to our organisation?
5. Does the innovation satisfy our organisation's regulatory obligations?
6. Is the time spent implementing the innovation, including training, satisfactory to our organisation?
7. How easy is it to make improvements or evolve the innovation?

Proposed Justice User Development Journey





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