



CAROLINE O'DWYER

As LAG reaches its 40th year, its chairperson, Poonam Bhari, and director, Steve Hynes, talk to freelance legal affairs journalist Fiona Bawdon about why the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 changes mean that the group's role as an 'honest broker' is more vital than ever.

LAG at 40: 'It's not about the lawyers; it's about the public'

Anyone old enough to remember the launch of Legal Action Group 40 years ago may be experiencing a 'Life on Mars' moment. Like the detective in BBC1's drama, who has a car accident in 2006 and wakes up in 1973, lawyers could be forgiven for feeling as though they have been catapulted back to the early 1970s, and all the gains in access to justice in the last four decades were just a dream.

LAG was founded in 1972 by a group of solicitors who were concerned that the poor were not well served by traditional law firms. The aim of the fledgling organisation was to spread information about social welfare law to lawyers and non-lawyers alike, and to find innovative ways of filling the gap in the existing legal provision. At the time, legal aid was very narrowly focused (mainly restricted to divorce and personal injury), with areas like housing and benefits law largely overlooked. It is a scenario which sounds eerily familiar to anyone who has followed the detail of the LASPO Act.

Legal aid from April 2013

After next year's sweeping cuts in legal aid – which will see most areas of social and welfare law removed from scope – the sector (and the people it serves) will have gone almost full circle. From April 2013, clients will be expected to muddle through on their own or cast around for help from the charitable or voluntary

sector. All very 1970s. Gone will be the notion which previously shaped much legal aid provision: that early intervention, in the shape of expert legal advice, is the best way of resolving problems. Instead, in many areas of law, legal aid will be removed altogether or available only when a situation has reached crisis point.

LAG director Steve Hynes says: 'It's absolutely bizarre that someone can't get help to get their housing benefit sorted and it's only when they end up in court with a repossession order that they can get legal aid.' He adds: 'Although there have been ups and downs in legal aid, there has basically been 40 years of progress. It is very disillusioning to see a government coming in and, because of short-term financial problems, turn the clock back 40 years.'

LAG's board is chaired by barrister Poonam Bhari, and both she and Steve Hynes agree that the LASPO Act reforms will be a disaster for clients. Poonam Bhari specialises in family work and says that there will be particular problems in her area with cases that do reach court taking far longer to resolve. 'It's going to slow right down. Part of dealing with children cases is trying to avoid delay. A problem with litigants in person is that everything is going to be much slower. The judge will be acting not just in a judicial capacity but will have to explain everything to individuals: the judge's role, what can and can't be done in court, the procedure, the

law.' Whereas now judges in a family court can hope to deal with six cases a day, after April 2013, they will be lucky if they get through two, she says.

If there is unanimity about what the changes will mean for clients (even government concedes that there will be reduced access to legal advice), it is less clear what they may mean for LAG itself. Any reduction in legal aid providers means a shrinking of LAG's core base, which is never good news for any organisation. However, the LASPO Act also presents an opportunity for the charity to carve out a more clearly defined role than, at times, it may have had during the last decade or so. Certainly, the need for its services is only likely to increase.

LAG in the post-LASPO world

LAG is in a curious position, whereby the way it is viewed by lawyers reflects how long they have been in practice. Newer entrants will tend to see it primarily as the publisher of extremely useful books and its monthly magazine, *Legal Action*. For others, including some very senior lawyers, it is much more than that, an organisation that evokes feelings of huge respect and even affection. Ed Cape, professor of criminal law and practice at the University of the West of England, Bristol, credits it with inspiring his decision to give up being a social worker and train as a lawyer. Helena Kennedy QC,



Steve Hynes and Poonam Bhari

who began practising at the Bar just when LAG came into being, remembers it as ‘such an exciting initiative’.

No organisation can survive on nostalgia alone, as Poonam Bhari acknowledges. She says: ‘I have so many lawyers and judges, saying, “Oh yes, I think very fondly of LAG, when I started as a junior lawyer, I look back very warmly ...” We need those very same people to appreciate that we need their support now, in order for LAG to continue to thrive.’ She makes no bones about the fact that, despite all the goodwill and popularity of its publications and training courses, along with everyone else in the sector, LAG is feeling the pinch financially. Fundraising remains a very real concern.

During his time as director, Steve Hynes has proved adept at securing grant funding, and one of LAG’s major initiatives in its 40th year is a commission, chaired by Lord Colin Low (see page 8 of this issue), into the impact of the cuts, which will report its findings ahead of the 2015 election. Other types of funding have proved harder to secure. Steve Hynes says: ‘One of the frustrations I’ve had in five years as director is we’ve never been able to raise sufficient money from commercial services to put into permanent posts on research and policy. We’ve had some brilliant campaigns, but I don’t have the flexibility of having permanent research staff, and there’s a big demand for independent research around legal services.’ All the more so, he adds, now that the well-respected Legal Services Research Centre is about to be subsumed into the Ministry of Justice. ‘There is a real role for non-academic organisations to be conducting research. If you want an

independent voice, you need that voice backed up by research.’

An immediate priority for Steve Hynes is an empirical study of the impact of the LASPO Act, and he is actively looking for the grant funding for such a research project. In one hard-won concession as the LASPO Bill passed through parliament, a clause was inserted allowing areas of law to be brought back into scope in future. Government has undertaken to review the legislation after a year, and it will be vital that campaigners have their evidence and their arguments marshalled at that stage, he says.

Steve Hynes – who clearly relishes the cut and thrust of political lobbying – says that LAG will have a crucial role as an ‘honest broker’, whose voice cannot be easily dismissed as special pleading. ‘For us, it’s not about the lawyers, it’s about the public. We’re not here to defend lawyers’ businesses, we’re here to defend access to justice.’

Unlike representative bodies, LAG is not inherently squeamish about the sector being opened up to non-lawyers. Steve Hynes says: ‘A line in the sand is quality. We’re not wedded to any professional outlook. LAG’s always embraced both the not for profit sector and the lawyers’ sector, from its earliest days. We are unique in that respect.’

Indeed, where some groups see new entrants as a threat to be fended off, LAG sees an opportunity to be embraced.

Poonam Bhari says: ‘With the widening of the legal market, you are going to have different permutations of what is a lawyer and I think all those individuals can be assisted by the information and knowledge that LAG provides.’

LAG also expects that, post-April 2013, there will be substantial demand from litigants in person for its books, accelerating a trend it had already identified. Steve Hynes says: ‘We noticed a couple of years ago, that books like *Employment law: an adviser’s handbook* were selling well on Amazon. We even had a mum ring up to buy our prison law handbook as a Christmas present for her son, who was in prison.’

All LAG books are already available electronically and, in a significant move, its redesigned website (due to come on line in January 2013) will include ‘public facing’ information for the first time.

Steve Hynes believes that LAG will be well placed to compete in what is likely to be a crowded market for litigants in person. Its books are cheaper than most of the competition (although typically at around £30–£40, still a considerable investment), and they are accessible enough to be used by those with no legal background (a view endorsed by ‘Harry’s mum’, who gives its *Disabled children: a legal handbook* four stars on Amazon, describing it as ‘a must-have’).

40 years old and counting

Whatever opportunities there may be for LAG to reinvent and reinvigorate itself as it enters its fifth decade, Steve Hynes and Poonam Bhari are under no illusions about the scale of the difficulties facing people who are left to fend for themselves. Steve Hynes accepts that it will be an uphill struggle convincing politicians that there may be no substitute for early, expert legal advice. His experience of lobbying over the LASPO Bill left him convinced that while some politicians ‘just don’t care, and don’t get it’ (when pressed, he identifies former Justice Secretary Kenneth Clarke and former legal aid minister Jonathan Djanogly as having fallen into this camp), others are sincere but hopelessly naive.

Steve Hynes says: ‘What’s really shocking is the idea that some politicians have, that the state is very benevolent and you can just get what you need by asking. We’ve got a real “put up or shut up” culture. If you want anything from the state, you really have to argue for it. If you’re the parent of a disabled child, your life is going to be a big struggle. No doubt about it. You need support from charities, you need support from lawyers, just to ensure that you get what the state – which is very good at passing laws – says you are entitled to.’