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# Advising in a Pandemic: The New Era of ‘Blended Advice’ in Social Welfare Law

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## Key words

access to justice; social welfare law; legal aid; Covid-19; technology; advice

## Abstract

This article provides original empirical insight into how publicly funded social welfare advice has been transformed by the unique circumstances of the COVID-19 pandemic. It draws upon original data generated through focus groups and interviews with frontline legal advisors and clients who sought advice relating to social welfare law during the pandemic. It argues that the pandemic has ushered in a new era of ‘blended advice’, in which the advice sector has forged new frontiers by *blending* face-to-face and remote methods of communication to provide bespoke advice services to different client groups that seek their support in relation to social welfare and appeals to government decisions regarding benefits and housing entitlements. The article situates the new era of blended advice within the context of the gradual shift towards digitised justice processes that was already taking place before the pandemic, which rapidly accelerated following the first lockdown in England and Wales in March 2020. Moving forward into a post-pandemic world, the article advocates the importance of assessing and developing blended advice models that are, firstly, grounded in frontline expertise of this advice sector and, secondly, remain mindful of the hazards of simplistic assumptions about digitisation as a cure-all solution for access to justice, especially given the necessary role of this sector in holding the government accountable for administrative decisions relating to social welfare.

## Introduction

The initial outbreak of the COVID-19 pandemic in March 2020 marked a seismic shift for social welfare law advice in England and Wales. Along with countless other industries and services that were traditionally premised upon face-to-face interactions, organisations offering social welfare advice rapidly adapted in response to necessitated lockdowns and social distancing restrictions.<sup>1</sup> Given that many are primarily funded by legal aid and charitable grants, the switch to remote advice was no small feat. While privately funded law firms are more attuned to providing bespoke assistance to clients, social welfare advice services are traditionally located physically within the hearts of the communities that they serve, and have typically relied heavily on face-to-face interactions as means of assisting

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<sup>1</sup> Law Works, “Legal and Advice Sector Roundtable – Responding to COVID-19. Discussion Summary, Tuesday 24<sup>th</sup> March 2020” (Law Works, 2020), <https://www.lawworks.org.uk/sites/default/files/files/LW-LegalAdviceSector-RoundTable-Responding-COVID19-24.03.20.pdf>.

clients with legal problems and appeals to government decisions regarding benefits and housing entitlements.<sup>2</sup>

The years following the initial outbreak of the pandemic have marked a period of transition for this sector. While the public health implications and broader economic ramifications of the pandemic are likely to endure for many years, widespread vaccination uptake has eased the cycle of lockdowns and restrictions. This has enabled a gradual return to offices and a reintroduction of face-to-face appointments for legal advice.<sup>3</sup> Nevertheless, it would be naive to assume that this is simply a return to normalcy. Rather, this period of sequester has fundamentally transformed the nature of legal advice in social welfare law. On one hand, it has forced the advice sector to employ a range of new methods in order to maintain contact with clients.<sup>4</sup> On the other hand, it has tasked the sector with assisting a much larger client base comprising people facing unemployment and economic insecurity for the first time, as well as existing clients who disengaged from services during the pandemic but have gradually emerged with escalated legal problems, such as homelessness.<sup>5</sup> What remains unclear is: how the advice sector may be utilising their new arsenal of advice-giving methods in the post-pandemic world; whether technology provides a means of supporting larger numbers of people with such a diverse range of legal problems; and the extent to which wider use of digital methods of advice-giving is appropriate for social welfare law advice, which is so frequently relied upon as a means of holding the government accountable for administrative decisions.

This article provides much-needed empirical insight into these knowledge gaps. Drawing upon original data generated through focus groups with frontline legal advisors and interviews with clients who sought advice during the pandemic, it argues that social welfare law has now entered a new era of ‘blended advice’. We introduce the notion of blended advice to describe how advisors are forging new frontiers in terms of *blending* face-to-face and remote methods of communication in order to provide bespoke advice services to different clients in relation to distinct problems. In other words, long gone are the days where social welfare advice can only be accessed via face-to-face appointments at prescribed times. In a post-pandemic world, there is a widespread acceptance that such advice can and should be provided in a way that is flexible to clients’ needs.

While blended advice has initiated several new opportunities for meeting legal need, it has also exacerbated existing tensions associated with the movement towards increased digitisation of justice processes, and the extent to which this widens or impairs access to justice. At the core of this debate is concern that certain population groups may lack the necessary resources to engage with justice systems that require participants to use technology or the internet, especially in the context of austerity measures and diminishing political commitments to legal aid provision.<sup>6</sup> Before the outbreak of the pandemic, it was already envisaged that increased use of technology within courtrooms would promote efficiency within the justice system, by reducing costs and simultaneously increasing capacity.<sup>7</sup> However, there was significant concern about the potential exclusionary effects of digitised

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<sup>2</sup> Law Centres Network, “Justice in the Balance” (Law Centres Network, 2021), <https://www.lawcentres.org.uk/asset/download/1198>.

<sup>3</sup> Law Centres Network, “Keeping Up” (Law Centres Network, 2022), <https://www.lawcentres.org.uk/asset/download/1248>.

<sup>4</sup> C. Denvir et al, *Access to Justice and the Future of Legal Aid* (London: Hart, 2023) pp.169-178.

<sup>5</sup> Daniel Newman et al, “Vulnerability, Legal Need and Technology in England and Wales” (2021) 21(3) *International Journal of Discrimination and the Law* 230; Denvir et al, *Access to Justice and the Future of Legal Aid* pp. 161-168.

<sup>6</sup> J. Robins and D. Newman, *Justice in a Time of Austerity* (Bristol: Bristol University Press, 2021).

<sup>7</sup> J. Tomlinson, *Justice in the Digital State* (Bristol: Policy Press, 2019).

justice processes and a lack of data on how these initiatives would affect already-marginalised population groups.<sup>8</sup>

While digitisation efforts were largely contained to court-based initiatives before 2020, following the necessitated shift to online and remote communications during the pandemic, digitisation is now clearly transposed into the publicly funded advice context. Naturally, greater use of technology offers clear opportunities to promote the accessibility of advice for some client groups, but pre-pandemic concerns about their exclusionary impact for other groups remain unaddressed. Moreover, these exclusionary implications are potentially even more significant when they affect citizens' ability to appeal administrative decisions relating to benefits and housing. By exploring the shift that took place in social welfare advice during the pandemic, this article provides a unique insight into the opportunities and challenges associated with technology and whether *blended* advice can indeed offer a panacea for a sector that plays such a necessary role in holding the government to account.

We begin by setting out the context of digitised justice within which this new era of blended advice has emerged. Here, we identify that pre-pandemic critiques of the digitalisation movement appeared to centre around three core concerns: *access*, *communication* and *demand*. Following this, we outline the findings of the research study on which this article is based, using these three core pre-pandemic concerns to unravel the complex relationship between digitisation and blended advice. We conclude with a reflection on the importance of using these core concerns as an evaluative framework for assessing and developing blended advice models as we move into a post-pandemic era of social welfare law advice. Here, we argue that it is neither desirable nor possible to resist the shift towards blended advice that has already taken place. Rather, it is essential that we develop the capability of assessing and developing blended advice models that are, firstly, grounded in the frontline expertise of the advice sector and, secondly, remain mindful of the hazards of making simplistic assumptions about digitisation as a cure-all solution for access to justice in social welfare law.

## I. Digitisation and access to justice

Earlier contributions to this journal, which have considered the imposition of costs such as tribunal fees onto litigants themselves as barrier to justice, and the potential role of crowdfunding mechanisms as a solution to gaps in legal aid provision, already demonstrate that government funding can play a significant role in facilitating or inhibiting access to justice for those who seek to assert their rights or challenge government decisions.<sup>9</sup> Legal advice for social welfare problems is directly relevant to these concerns, as this is typically the mechanism by which individuals are able to gain an understanding of their entitlements and rights, as well as appeal unfairly punitive or erroneous administrative decisions regarding benefits, housing, or other social subsidies. Before the pandemic, social welfare law was already under strain due to significant curtailments of legal aid. Most notably, the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 removed large areas of law from scope, including advice and representation relating to many problems concerning debt, housing and welfare benefits. The widespread nature of these cuts raised concern that even those who might be eligible for what remains of the scheme were unlikely to access it due to incorrectly assuming it will not be available, or being unable to find a service still offering advice in this funding context.<sup>10</sup> At the same

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<sup>8</sup> Naomi Creudzfeldt, "Towards a Digital Legal Consciousness?" (2021) 12(3) *European Journal of Law and Technology* 12.

<sup>9</sup> Jonathan Collinson, "Immigration Tribunal Fees as a Barrier to Access to Justice" (2017) P.L. 1; Sam Guy, "Access to Justice on the Market: An Empirical Case Study on the Dynamics of Crowdfunding Judicial Reviews" (2021) P.L. 678.

<sup>10</sup> Debra Morris and Warren Barr, "The impact of cuts in legal aid funding on charities" (2013) 35(1) *J. Soc. Welf. Fam. Law* 79; Low Commission, "Tackling the Advice Deficit: A strategy for access to advice and legal support on

time, austerity-oriented policies have reduced eligibility for social welfare subsidies and limited availability of affordable and social housing, which have in turn facilitated deepening levels of inequality throughout society. Therefore, even before the pandemic, social welfare advice was both challenging to provide and difficult to access.<sup>11</sup>

What was less clear, however, was how digitisation initiatives in the justice system might exacerbate – or potentially mitigate – these barriers. Technological developments were already gradually reforming the ways that lawyers communicate with each other, their clients, and courts, on an international scale.<sup>12</sup> The emergence of email, cloud storage and case management software facilitated mass alterations to the mechanisms by which procedures are followed, documents are provided, and evidence is assessed.<sup>13</sup> In England and Wales, there have been clear efforts to maximise the potential efficiency gains that such mechanisms can offer. In 2016, the Ministry of Justice published findings of the *Transforming Our Justice System* consultation, and put forward a “shared vision” for “swift and certain justice” through greater use of online tools to maximise the efficiency of court processes.<sup>14</sup> Since then, the goal of increased use of technology in the justice system has been firmly entrenched into a long term digital strategy which seeks to “change the user experience of justice by providing simpler, faster and better services for everyone”.<sup>15</sup>

Debates about the appropriateness of this technological shift have been frequently conflicted between two opposing arguments. The first is that making greater use of technology provides opportunities to improve access to justice by making the legal system and profession more efficient and cost-effective.<sup>16</sup> The second is that increased reliance on technology may in practice impair access to justice by creating additional barriers for marginalised groups who may be excluded from its use.<sup>17</sup> This debate was accelerated by the rapid shift to remote advice provision that came with the initial outbreak of the pandemic, and the subsequent move towards blended advice. Given the recent nature of the pandemic, there are only a small number of emerging research studies that can shed light on how this has transformed social welfare law in the longer term.<sup>18</sup> Nevertheless, there is no shortage of pre-pandemic literature that sought to unravel the contested relationship between digitisation and access to justice, providing assessments of the potential risks and benefits of using technology to provide legal support.<sup>19</sup> Within these studies, it is possible to identify three key factors which are

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social welfare law in England and Wales” (Legal Action Group, 2014), <https://www.lag.org.uk/about-us/policy/the-low-commission-200551>.

<sup>11</sup> Law Centres Network, “LASPO Act 2012 Post-Implementation Review: Submission from the Law Centres Network” (Law Centres Network, 2018), <https://www.lawcentres.org.uk/asset/download/713>.

<sup>12</sup> R. Susskind, *The Future of Law* (Oxford: OUP, 1996); R. Susskind, *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford: OUP, 2013); H. Sommerlad et al, “The Futures of Legal Education and the Legal Profession” in *The Futures of Legal Education and the Legal Profession* (London: Bloomsbury Publishing, 2015).

<sup>13</sup> Erin Murphy, “Databases, Doctrine, and Constitutional Criminal Procedure” (2010) 37 *Fordham Urb. L. J.* 803.

<sup>14</sup> Ministry of Justice, “Transforming Our Justice System: Summary of Reforms and Consultation” (Gov.uk, 2016), [https://consult.justice.gov.uk/digital-communications/transforming-our-courts-and-tribunals/supporting\\_documents/consultationpaper.pdf](https://consult.justice.gov.uk/digital-communications/transforming-our-courts-and-tribunals/supporting_documents/consultationpaper.pdf). 3.

<sup>15</sup> Ministry of Justice, “Ministry of Justice Digital Strategy 2025” (Gov.uk, 2022), <https://www.gov.uk/government/publications/ministry-of-justice-digital-strategy-2025/ministry-of-justice-digital-strategy-2025#foreword>.

<sup>16</sup> Tomlinson, *Justice in the Digital State* pp.10-14.

<sup>17</sup> Creudzfeldt, “Towards a Digital Legal Consciousness?” 10; Catrina Denvir and Amanda Darshini Selvarajah, “Safeguarding Access to Justice in the Age of the Online Court” (2021) *Mod. L. R.* 25.

<sup>18</sup> Naomi Creudzfeldt and Diane Sechi, “Social Welfare [Law] Advice Provision During the Pandemic in England and Wales: A Conceptual Framework” (2021) 43 *J. Soc. Welf. Fam. Law* 153; Administrative Justice Council, “Welfare Benefit Advice During the Pandemic” (Administrative Justice Council, 2021), <https://ajc-justice.co.uk/wp-content/uploads/2021/03/Advice-pandemic-report-final.pdf>.

<sup>19</sup> D. Matherly, *Communications with Vulnerable Populations* (Berkeley: University of California Press, 2011).

frequently cited as both facilitators and inhibitors of justice in digital contexts: *access, communication and demand*. We have taken these three factors as a framework for assessing the new era of blended advice that has recently emerged in social welfare law, and making sense of how this era fits within the broader shift towards digitised justice.

Turning first to the issue of *access*, studies show that digital methods of legal services provision can be exclusionary for disadvantaged or isolated populations who may have limited access to or confidence in using technology, particularly those with social welfare problems like debt, housing, and benefits.<sup>20</sup> Problems in these areas are typically faced by individuals who are already precariously positioned within society and frequently find themselves in need of protection from actions being taken against individuals by other bodies or public authorities, such as debt collection, housing evictions, or punitive decisions regarding eligibility for social welfare.<sup>21</sup> These concerns are particularly pertinent in light of the increasing barriers that people in such circumstances may encounter when attempting to access legal services, such as advice deserts and economic barriers that have become increasingly prevalent since LASPO.<sup>22</sup>

Nevertheless, despite these concerns, there is also evidence to suggest that increased digitisation may broaden the accessibility of legal information and advice, especially for those who face barriers to face-to-face engagement. These include, for instance, people with mobility-related disabilities, mental health conditions, or those living in rural areas.<sup>23</sup> Communicating via instant messaging and email can also be useful and easier for clients who do not speak English as a first language, who may find it easier to digest and translate information provided in writing, as well as younger clients who can be more comfortable seeking advice online.<sup>24</sup>

Relatedly, the extent to which technology supports effective *communication* is commonly identified as a determining factor of success when it comes to digitised legal advice. Remote methods can, in almost equal measure, have the effect of either impeding or enhancing communication, depending upon the personal characteristics and circumstances of the client. Studies diverge in relation to specific methods of communication. Telephone advice (as opposed to instant messaging services or videoconferencing), for instance, has been heralded as a method that can save time and cost, motivating pre-pandemic initiatives such as the Civil Legal Advice gateway.<sup>25</sup> Such calls have, however,

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<sup>20</sup> Robins and Newman, *Justice in a Time of Austerity*; Next Century Cities and Samuelson Law, Technology and Public Policy Clinic, “Cut Off from the Courthouse: How the Digital Divide Impacts Access to Justice and Civic Engagement” (Berkeley Law, 2022), <https://nextcenturycities.org/wp-content/uploads/2021/05/cut-off-from-the-courthouse.pdf>.

<sup>21</sup> Morag Gillespie et al, “Money Advice for Vulnerable Groups: Final Evaluation Report” (Scottish Executive Social Research, 2007), <https://lx.iriss.org.uk/sites/default/files/resources/Money%20advice.pdf>; Jennifer Harris, “The Digitization of Advice and Welfare Benefits Services: Re-Imagining the Homeless User” (2020) 35(1) *Housing Studies* 143; Marie Burton, “Justice on the Line? A Comparison of Telephone and Face-to-Face Advice in Social Welfare Legal Aid” (2018) 40(2) *J. Soc. Welf. Fam. Law* 195; Diane Sechi, “Digitisation and Accessing Justice in the Community” (Administrative Justice Council, 2020), <https://ajc-justice.co.uk/wp-content/uploads/2020/04/Digitisation.pdf>.

<sup>22</sup> Newman et al, “Vulnerability, Legal Need and Technology in England and Wales”.

<sup>23</sup> Sam Fennell, “Disability Benefits During the Pandemic” (Citizens Advice, 2021), <https://wearecitizensadvice.org.uk/disability-benefits-during-the-pandemic-1c0f1097215a>.

<sup>24</sup> Elizabeth Cain and John E. Goldring, “WhatsApp as a Debt Advice Channel: Reaching People Other Advice Channels Do Not Reach” (Manchester: Manchester Metropolitan University, 2018), <https://e-space.mmu.ac.uk/621095/1/Whatsapp%20as%20a%20debt%20advice%20channel%20-%20Final%20Report%20May%202018.pdf>.

<sup>25</sup> Ministry of Justice, “Review of the Civil Legal Advice Mandatory Gateway” (Gov.uk, 2014), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384226/cia-mandatory-gateway-review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/384226/cia-mandatory-gateway-review.pdf).

been re-evaluated in light of contradictory evidence<sup>26</sup> suggesting telephone advice takes longer than face-to-face advice when controlling for key variables like demographics, case type, and stage reached.<sup>27</sup> Further, qualitative comparisons of telephone and face-to-face advice sessions indicate that the latter are associated with increased emotional connection due to the ability to draw upon non-verbal communication, more expansive discussion due to the ease with which clients could ask follow-up questions, and logistical convenience owing to the ability to examine documents together.<sup>28</sup>

The final issue identified within existing studies is the extent to which digitised services can meet the level and type of *demand* that exists for legal advice and support. One of the driving factors behind increased digitisation in the justice system, for instance, was the idea that improved efficiency and centralised processes would free up capacity. As such, digital tools including case management systems, the capability to record or transcribe hearings, and the use of wireless technology such as laptops or tablets in courtrooms were already being rolled out to make the legal system more expedient.<sup>29</sup> While efficient court hearings is one way to improve experiences of those who are engaged in the justice system, it was unclear whether this logic could apply to the provision of publicly funded legal advice – or if digitised advice would simply reveal a greater number of populations with legal need that has been unmet to date due to accessibility issues.<sup>30</sup> As predicted, following the outbreak of Covid-19, advice organisations saw a dramatic increase in demand for their remote services as a wave of new clients began to emerge during the pandemic.<sup>31</sup> These new clients were mainly people who found themselves facing unanticipated financial strain and needing free legal advice for the first time in their lives, most commonly relating to social welfare eligibility, employment arrangements, or housing security.<sup>32</sup> Importantly, these emerging populations were clearly distinguishable from traditional client groups that typically relied upon social welfare advice before the pandemic. During lockdowns, advisors saw little contact from these clients, feeding broader concerns relating to the potential impact of remote advice on both the accessibility of legal advice as well as the ability to maintain communication with these clients.<sup>33</sup> In short, evidence suggests that technology can increase efficiency and create capacity, but it is also likely to increase the overall level of demand for advice. While reaching a broader range of clients is certainly something to be celebrated, existing evidence suggests that this is caveated by the need to ensure that more traditionally marginalised populations are not omitted from these services, and that such an increased client base is properly accounted for when quantifying gained efficiencies.

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<sup>26</sup> Nigel J. Balmer et al, “Just a Phone Call Away: Is Telephone Advice Enough?” (2012) 34(1) J. Soc. Welf. Fam. Law 63.

<sup>27</sup> Legal Aid Agency, “Civil News: Mandatory Telephone Gateway Phased Out” (Gov.uk Civil and Crime Contracts, 2020), <https://www.gov.uk/government/news/civil-news-mandatory-telephone-gateway-phased-out>; Ash Patel et al, “Civil Legal Advice Mandatory Gateway: Findings from Interviews with Service Providers” (Ministry of Justice Analytical Series, 2014), [https://data.parliament.uk/DepositedPapers/Files/DEP2014-1587/CLA\\_ProviderResearch\\_08122014\\_clean.pdf](https://data.parliament.uk/DepositedPapers/Files/DEP2014-1587/CLA_ProviderResearch_08122014_clean.pdf).

<sup>28</sup> Marie Burton, “Lost in Space? The Role of Place in the Delivery of Social Welfare Law Advice over the Telephone and Face-to-Face” (2020) 42(3) J. Soc. Welf. Fam. Law 341.

<sup>29</sup> Jane Donoghue, “The Rise of Digital Justice: Courtroom Technology, Public Participation and Access to Justice” (2017) 80(6) Mod. L. Rev. 995, 997.

<sup>30</sup> Elizabeth O’Hara, “Policy Briefing: Shifting Channels” (Shelter England, 2012), [https://assets.ctfassets.net/6sxvmndn0s/yC6019jfvRvmsfTPQIPUk/3569eb7bce6a17a0bac8b64a93dbac12/Housing\\_advice\\_digitisation\\_FINAL\\_updated\\_links\\_AUGUST\\_2012.pdf](https://assets.ctfassets.net/6sxvmndn0s/yC6019jfvRvmsfTPQIPUk/3569eb7bce6a17a0bac8b64a93dbac12/Housing_advice_digitisation_FINAL_updated_links_AUGUST_2012.pdf).

<sup>31</sup> Law Centres Network, “Law for All: The 50th Anniversary Campaign for Law Centres” (Law Centres Network, 2020), <https://www.lawcentres.org.uk/policy-and-media/papers-and-publications/law-for-all>.

<sup>32</sup> Law Centres Network, *Law for All: The 50th Anniversary Campaign for Law Centres*; Administrative Justice Council, “Welfare Benefit Advice During the Pandemic”.

<sup>33</sup> Administrative Justice Council, “Welfare Benefit Advice During the Pandemic” 8-9.

Drawing this together, the gradual digitisation of justice was already subject to controversial debates that hinged upon these three issues of *access*, *communication*, and *demand*. Nevertheless, the UK government was “anticipating that digital technologies [would] provide the transformative panacea for improving efficiency and access to justice that will liberate tens of thousands of individuals from injustice.”<sup>34</sup> Technology and digital tools were imagined to provide a way for public services to provide improved access to justice with fewer resources. However, the existing evidence base suggests that digitised justice is likely to require different legal and digital capabilities from both advisors and their clients, and this reality has, to date, been underexplored.<sup>35</sup> While social welfare law was largely unaffected before the pandemic, these concerns have now rapidly come to the fore in this context.

## II. The emergence of ‘blended advice’

We now present firsthand empirical insights into how the advice sector adapted to delivering social welfare advice during the pandemic, and how advice-giving for administrative problems has been transformed in the longer-term. This data was generated through focus groups with 24 frontline advisors who were providing welfare, housing, and debt advice during the midst of the pandemic, and interviews with 10 clients who had accessed advice during this period. Through the focus groups, it was possible to gain a broad insight into the benefits and challenges associated with the shift towards digitised advice-giving, as advisors were able to offer accounts of working with a range of clients across their services. These findings are complimented by the supplementary client interviews; while the small number of client accounts presented here cannot speak for the wider experiences of clients who rely on advice services, they nevertheless provide an important illustration of some of the ways that individuals may have perceived and responded to the shift towards digitised advice services during the pandemic. In combining these methods, we were able to gather novel insights into how advisors were blending face-to-face and virtual interactions with their clients, as well as some insight into the potential willingness, capabilities, and perceptions of clients to seek out and use advice services in light of these adaptations.

All focus groups were conducted in early 2022 via a videoconferencing platform to enable advisors from around England and Wales to come together to contribute experiences corresponding to their area of practice.<sup>36</sup> Advisors were recruited through a jurisdiction-wide network of advice organisations who were, at the time, supported financially by the UK Ministry of Justice’s ‘Legal Support for Litigants in Person’ (LSLIP) grant. The LSLIP network comprised 11 partnerships which were responsible for administering funding to organisations on a national, regional, and local basis. In total, this included approximately 49 organisations, including Citizens Advice Bureau, Law Centres, Community Law Services, as well as problem-specific organisations such as Shelter, which provides specialist housing advice. As such, a broad range of advice services were represented within these focus groups, making it possible to incorporate the experiences of those who serve clients across remote areas, large cities, and in relation to specific issues and circumstances.

Focus groups were conducted in a dual moderator format<sup>37</sup> and were structured into three 30-minute sections. First, discussions focused upon identifying the different advice models being used, and the

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<sup>34</sup> Donoghue, “The Rise of Digital Justice: Courtroom Technology, Public Participation and Access to Justice”, 997.

<sup>35</sup> Creutzfeldt, “Towards a Digital Legal Consciousness?”; Tomlinson, *Justice in the Digital State*.

<sup>36</sup> All advisors were familiar with videoconferencing technology and this method was considered largely unproblematic given the objective of understanding their experiences of communicating remotely with clients.

<sup>37</sup> This method comprises a pair of researchers taking on specific roles to forward conversation in line with the schedule whilst also allowing for deviation where indicated as important by participants. See: Tobias Nyumba et al, “The Use of Focus Group Discussion Methodology: Insights from Two Decades of Application in Conversation” (2018) 9(9) *Methods in Ecology and Evolution* 20.



extent to which advisors were blending face-to-face and virtual methods of communication. Second, advisors were invited to share their views about the suitability of blended advice for their clients and any problems that they encountered in respect of their specific area of social welfare law. Third, advisors were invited to reflect on how blended advice might be used in the future. The semi-structured nature allowed scope for advisors to offer unanticipated insights and develop their contributions in conversation with others.<sup>38</sup> As such, the focus groups operated as an opportunity for advisors to compare and contrast their views on different innovations and challenges associated with blended advice.

Clients were recruited for interviews via an opportunistic gatekeeper-led approach, with advisors facilitating contact with known clients who were interested in participating. Unavoidably, this sample was likely to comprise of a generally more engaged and proactive proportion of clients than the true breadth of clients who rely on advice services. However, this approach was chosen for both practical and ethical reasons. Such clients are both hard-to-reach and potentially vulnerable. Due to their existing relationship and rapport with their clients, advisors were able to discuss the project with clients in advance in order to empower them to make their own decisions about whether they were interested in participating in an interview. Once clients contacted the research team, the context and objectives of the research project, data retention, and anonymisation arrangements were explained again, and clients were assured of their right to withdraw from the project and invited to ask questions about the project. At all stages, clients were assured that their participation in an interview had no bearing on their ability to seek advice in the future.

In total, 10 interviews were conducted with clients between March and May 2022. These comprised two who had sought advice in relation to debt law, three in housing law, three in welfare benefits, and two who had simultaneously experienced both housing and welfare benefits problems. Interviews were semi-structured according to themes identified during advisor focus groups, with ample opportunities for clients to shape the trajectory of the conversation and contribute new or contradicting ideas that aligned more closely with their experiences of receiving advice during the pandemic.<sup>39</sup> Due to institutional constraints on face-to-face research during this period<sup>40</sup>, client interviews were conducted via telephone. In contrast with focus groups, this method held potentially significant limitations for our ability to reach digitally-excluded clients. Various solutions were considered, including asking advisors to conduct the interviews themselves if clients were not comfortable using technology at all. However, the ethical risks associated with this were too significant to be justifiable, due to the scope for advisors to potentially exert undue influence on the content of interviews and an inability to ensure that clients were participating in conversations with fully informed consent. Nevertheless, the research team were experienced in conducting remote interviews and were confidently able to develop relationships with clients – in particular, telephone interviews meant that we were able to speak to clients who could not use a computer but did have a landline or were able to borrow a phone, and the research team were able to call clients so that it did not cost clients money or data. Fundamentally, these interviews captured a vital and otherwise-hidden client insight into at least some of the potential advantages and disadvantages of blended advice formats.

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<sup>38</sup> S. Kvale, *InterViews: An Introduction to Qualitative Methodology* (London: Sage, 1996).

<sup>39</sup> Kvale, *InterViews: An Introduction to Qualitative Methodology*.

<sup>40</sup> At the data generation stage of this project, the researchers' capacity to conduct face-to-face research remained limited by University COVID-19 policies which were not lifted until later in 2022. See further: Institute for Government Analysis, "Timeline of UK Government Coronavirus Lockdowns and Measures, March 2020 to December 2021" (Institute for Government Analysis, 2022), <https://www.instituteforgovernment.org.uk/sites/default/files/2022-12/timeline-coronavirus-lockdown-december-2021.pdf>.

Focus groups and interviews alike were audio recorded, transcribed, and anonymised with the permission of participants. Each transcript was then analysed using reflexive thematic analysis.<sup>41</sup> This involved each transcript undergoing an initial thematic coding by three separate individuals, who each took an inductive approach to generating codes and themes. These were comprehensively reviewed and refined through discussion and reflection among the research team. Predominantly, the data generated through these methods indicated that although there are many uncertainties regarding how it might be executed and resourced in the longer term, blended advice is here to stay. What had initially been regarded as a temporary substitute for face-to-face advice has now been embraced and integrated into a broader range of options that can, firstly, be used to reach a broader range of people in need of advice, and secondly, be adapted to the needs and circumstances of each individual who seeks legal support.

This transformation of social welfare advice was most evident in conversations about the vocabulary that should be used to describe these new practices. In many workplaces, the term 'hybrid' is now increasingly used to describe integrated online and in-person interactions, such as office meetings. However, over the course of this study, we took cues from advisors in favouring the term 'blended' as a more accurate reflection of the way that advisors are consciously and expertly catering methods of advice-giving on the basis of an initial triage of individual clients. In practice, this involves ascertaining not only the legal needs of a client, but also their capabilities and preferences, so that advisors can create a bespoke 'blend' of face-to-face meetings, telephone calls, email contact, instant messaging communication, and virtual platforms. Blended advice involves far more than simply offering hybrid options; it requires a bespoke and flexible approach to ensuring accessibility, communicating information, and meeting a higher level of demand.

During national lockdowns and various levels of social distancing restrictions that applied unevenly across the UK, organisations were under heterogeneous pressures to trial different communication methods with their clients. In doing so, their experiences offer rich firsthand insights that deepen and advance current understandings of the three concerns of *access*, *communication* and *demand*. As discussed earlier, these pre-pandemic concerns related primarily to the potentially exclusionary effects of digitised justice. Such concerns have never been more significant than in the post-pandemic context, where there is a risk that wholly-virtual or hybrid methods may be simplistically regarded as universal solutions to the capacity and resourcing challenges that have long characterised social welfare law. While it is important to maximise this opportunity to support greater numbers of people more quickly and efficiently, this must not be done in a way that diminishes the true value potential of bespoke blended - as opposed to hybrid - advice for clients, nor underestimates the greater practical and economic resources that are likely to be required for the advice sector to deliver blended advice in the manner now expected by those who seek advice. This article helps to inform these debates by placing firsthand experiences of providing and receiving blended advice in direct conversation with these three pre-pandemic concerns about technology and access to justice. In doing so, it draws out the challenges and opportunities that are inherently important for ensuring that citizens are able to assert their rights and entitlements in social welfare law as we look toward a post-pandemic future.

### *The accessibility of blended advice*

As noted earlier in this article, accessibility of digitised justice processes was already a core concern of access to justice scholars before the pandemic. The reasons for this are obvious; barriers to technology such as smartphones, camera and microphone enabled computers, as well as the internet itself are all

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<sup>41</sup> Virginia Braun and Victoria Clarke, "Reflecting on Reflexive Thematic Analysis" (2019) 11(4) *Qualitative Research in Sport, Exercise and Health* 589; David Byrne, "A Worked Example of Braun and Clarke's Approach to Reflexive Thematic Analysis" (2022) 56(3) *Quality and Quantity* 1391.

disproportionately prevalent among groups who face legal problems in these areas, who often have low levels of socio-economic resources and precarious living situations.<sup>42</sup> As such, pre-pandemic concerns about increasing digitisation hinged significantly upon the ways that digital justice processes may potentially exclude certain demographics and communities from meaningfully engaging with institutions that are designed to support them.

Data generated through focus groups with frontline advisors clearly substantiated these concerns, with several advisors expressing frustration about how the initial outbreak of the pandemic had impacted on the accessibility of their services. While almost all advice services continued to operate their services remotely, many advisors reported that their regular social welfare clients simply could not reach them whilst meeting face-to-face was not possible:

*“We were terrified because people just disappeared. [We] just did not know where they’d gone...we feel that in the next couple of months, they’ll come out of the woodwork, having been evicted, and they will have just been sleeping on people’s sofas.”*

Housing Advisor

Such accessibility challenges can have significant ramifications for the nature of legal problems and the ease with which they can be resolved. Conventionally, evidence indicates that most people do not take pre-emptive action to prevent legal problems, or recognise that their problem may have legal consequences or solutions. Rather, individuals tend to only seek legal assistance after they experience some form of ‘trigger’ event which necessitates a response, such as receiving a summons to a court hearing or a notice to vacate.<sup>43</sup> The accessibility of advice and support at that point in time is crucial, because without this, problems are very likely to escalate; becoming more serious, more urgent, or more complex.<sup>44</sup> Advisors’ concerns about their regular clients during the pandemic were therefore rooted in the potential consequences of inaction for their regular clients, who often find themselves contending with multiple and clustered legal problems, and frequently require support and intervention in relation to different issues.

Such concerns were amplified in advisors’ descriptions of their face-to-face interactions with regular clients that they were able to undertake in-between lockdowns and once restrictions began to ease:

*“Clients who have dropped off while we’ve been doing the remote methods tend to then re-engage at crisis point, and so we’ve lost quite a bit of time [where] we could have been working with the client.”*

Debt Advisor

The issue of accessibility is therefore a core concern that underpins the new era of blended advice. Empirically, advisors’ experiences during the pandemic were able to provide firsthand insight into the tangible exclusion that can stem from digitisation initiatives, and the importance of preserving the option of face-to-face advice alongside virtual and telephone options. Advisors across all areas of social welfare law were united on the point that some clients simply will not engage with alternatives to face-to-face appointments and that expecting them to do so is counterproductive to the task of reducing unmet legal need. Under the neoliberal assumptions that underpin digitisation policies, the existence of advice services would itself be sufficient, and little additional support would be required

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<sup>42</sup> JUSTICE, “Preventing Digital Exclusion from Online Justice: A Report of JUSTICE” (JUSTICE, 2016), <https://files.justice.org.uk/wp-content/uploads/2018/06/06170424/Preventing-Digital-Exclusion-from-Online-Justice.pdf>.

<sup>43</sup> Pascoe Pleasence and Nigel J. Balmer, “How People Resolve ‘Legal’ Problems” (Legal Services Board, 2014), <https://www.legalservicesboard.org.uk/wp-content/media/How-People-Resolve-Legal-Problems.pdf>.

<sup>44</sup> Pleasence and Balmer, “How People Resolve ‘Legal’ Problems”.

in terms of undertaking proactive outreach activities or ensuring a broad range of access points for those who may be facing legal problems.

In interviews, some clients suggested that age may also be a factor when it came to using technology. Older clients, for instance, reported that remote methods might be suitable for younger generations but that it was awkward, mystifying or scary for them. Despite efforts to adapt, some simply found this too difficult:

*“For the younger generation, they’re used to it. I mean, you’ve got to remember, we didn’t have any computers and sort of all that, you know? I mean...we used to write a letter.”*

Housing Client

This speculation was underscored by the fact that advisors working in debt and housing reported a significant increase in emerging enquiries from new, younger clients who were experiencing legal problems for the first time and had greater levels of digital capability:

*“...the telephone offering has been a surprise, [and] emails have been a surprise... I’m not so sure if those clients will remain housing clients in the new world, because they were quite new people, new to homelessness, new to benefits, new to evictions.”*

Housing Advisor

*“We found, in general, younger people could engage with all methods of any advice method. We found, in general, [that] older people could not use, did not like online methods.”*

Housing Advisor

Although younger age groups are not those traditionally understood to be marginalised by accessibility barriers, the prevalence of this group during the pandemic indicates the opportunities for blended advice to reach previously unseen areas of legal need:

*“We’re seeing younger people. What we don’t know is whether we’ve got younger people with debt for the first time or whether they’re engaging with us because of the channels that we’ve opened up.”*

Debt Advisor

The ability to access legal advice via asynchronous communication methods such as email, instant messaging, or webchats may therefore be a key tool moving forward in ensuring that younger age groups may be empowered to seek early legal assistance when they encounter social welfare problems. Existing research about the relationship between young people, the internet and legal capability suggests that while younger age groups may be more confident using online resources, the effectiveness of this is nevertheless constrained by the way in which information is presented and the capacity of users to understand and apply that information.<sup>45</sup> The ability to access real-time advice through virtual methods, therefore, may be an important step forwards in addressing these accessibility issues. This is particularly important moving forward as the economic ramifications of the

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<sup>45</sup> Catrina Denvir, “Online and In the Know? Public Legal Education, Young People and the Internet” (2016) *Computers & Education* 92, 204.

pandemic continue to unfold, and younger age groups grapple with rising unemployment rates and an increasing cost of living.<sup>46</sup>

The ability to reach previously unmet legal need during the pandemic was, however, not exclusive to this cohort. Rather, advisors emphasised the ease with which telephone advice enabled them to reach people who would otherwise have been unable to attend face-to-face appointments. In particular, advisors reported an increase in enquiries from individuals living in rural areas, as well as those with mental or physical health conditions that inhibited travel or made face-to-face interactions more difficult:

*“We’ve found a lot of people, I think particularly around disability, [including] physical disability which obviously affects mobility... people in those circumstances often have come to rely on remote support because that’s the best way they can get their needs, so they’re actually very accomplished at using remote support in all sorts of different ways. And services like ours that didn’t offer that before were actually closed [due to the pandemic].”*

Debt Advisor

*“Especially people with, especially in the welfare benefits sphere, [for] people with mental health issues or a disability [it] wasn’t as easy to come into an office to sit down with someone. So, for those people, it is likely preferred to continue [with] remote sessions.”*

Welfare Benefits Advisor

Indeed, from clients’ perspectives, the most obvious benefit of blended advice was that it could make it easier to seek help in some circumstances. While their experiences cannot be more broadly generalised, the interviews we conducted with clients suggested that remote methods enabled them to make initial contact with an advice service and keep in touch with advisors in a way that was not possible before the pandemic. For the clients who participated in our interviews, remote methods reduced or even removed the need to travel, which was beneficial for several reasons. Some could not afford the travel costs, whether through private motor vehicles or public transport. Others were unable to travel any significant distance due to ill-health or disability. The cumulative relationship between health and justice problems is already well-established, as demonstrated by emerging efforts in England and Wales to embed effective signposting measures into medical settings.<sup>47</sup> However, this finding is indicative of the extent to which chronic, rather than acute, health issues may prevent some individuals from proactively seeking advice when services rely wholly on face-to-face models.

This finding also expands existing understanding of how and why some clients may be deterred from seeking face-to-face advice. Responsibilities, such as caring for children or disabled or elderly relatives also clearly tied people to their homes and made visiting an organisation difficult. As one client who was dealing with simultaneous welfare benefits and housing problems explained: *“[It was] more convenient because I couldn’t actually travel because of my condition and what I was going through. So, it was a lifesaver for me to be honest.”*

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<sup>46</sup> Office for National Statistics, “Unemployment” (ONS, 2023), <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/unemployment#:~:text=The%20unemployment%20rate%20for%20January,unemployed%20for%20over%2012%20months>.

<sup>47</sup> Hazel Genn, “When Law is Good for Your Health: Mitigating the Social Determinants of Health through Access to Justice” (2019) 72(1) *Current Legal Problems* 159; Sarah Beardon and Hazel Genn, “The Health Justice Landscape in England and Wales: Social Welfare Legal Services in Health Settings” (UCL Centre for Access to Justice, 2018), <https://www.ucl.ac.uk/access-to-justice/research/health-justice-landscape-england-and-wales>.

While there was a clear concern about missing clients who disengaged in the absence of face-to-face appointments, the accounts of advisors and clients presented here simultaneously affirm pre-pandemic hopes that increased digitisation may broaden the accessibility of legal information and advice. Here, there was a clear emergence of new clients who had historically been excluded from social welfare advice due to its reliance on face-to-face engagement.

The ability to connect with new client cohorts and learn more about the differential needs of those cohorts during the pandemic revealed that debates about accessibility cannot be resolved by reference to specific client groups, demographics or pre-determined categories, especially given the broad spectrum of disabilities and mental health issues that may be relevant to a social welfare problem. This deepens existing understandings of the impact of digitisation on social welfare law by demonstrating the existence of several potential client cohorts who have to date not engaged with advice due to the default expectation that they will attend face-to-face appointments. On one hand, it substantiates existing concerns about the exclusionary effects of digitised justice processes, and on the other hand, it indicates that continuing with a primarily face-to-face model of advice-giving is itself possibly excluding large numbers of potential clients.

#### *Effectiveness of communication in blended advice*

There are important reasons why face-to-face models have traditionally been regarded as the primary or default model for providing advice services. It is already well-established that effective communication is of central importance to constructive legal advice. The ability to ascertain relevant information, build trust with clients, and confirm that advice has been pragmatically understood, are all essential components of empowering clients to take action in response to their legal problems, and are far easier to undertake through face-to-face interactions.<sup>48</sup> This view was shared by the clients who participated in interviews, who consistently emphasised the importance of human contact. Given the nature of the problems for which they are seeking advice, clients are often dealing with highly stressful situations and working through issues that are of great importance to them. Often, individuals facing precarity relating to their income and living situations are marginalised in other areas of their lives, and it is not uncommon for such clients to feel despondent about the prospect of intervention, or to feel that the world is against them.<sup>49</sup> The role of human interaction in diffusing this anxiety and making them feel supported can therefore be crucial:

*“It’s like when I go shopping — if I put it in layman’s terms, this is how I’d put it. Everybody goes to them scanning machines. I don’t use them because I need a human voice to talk to me.... I like to talk and have some [conversation]... We’re human beings. You know, even if it’s just for five minutes, it’s just a break from the [monotony] of this world for five minutes of getting the shopping done.”*

Housing Client

Despite the finding that some clients found value in using the telephone or other virtual methods to seek advice, for other clients, these communication methods were largely inferior to face-to-face conversations. As one housing client lamented: *“Well, I’m not talking to anybody, I’m just talking on a filament, a piece of plastic.”* Similarly, a debt client explained: *“...I find sometimes even having a verbal*

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<sup>48</sup> J. Wilding, *The Legal Aid Market: Challenges for Publicly Funded Immigration and Asylum Legal Representation* (Bristol University Press, 2021).

<sup>49</sup> H. Genn, *Paths to Justice: What People Do and Think about Going to Law* (Bloomsbury, 1999); Nigel Balmer, “English and Welsh Civil and Social Justice Panel Survey: Wave 2” (Legal Services Commission, 2013), [http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643\\_csjps\\_wave\\_two\\_summary\\_findings.pdf](http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643_csjps_wave_two_summary_findings.pdf).

*conversation on the phone, you can't, you can't see the person, you can't convey body language."* Finally, another client expanded to say:

*"Yeah it is nice to...be face-to-face and see who you're dealing with but again, you know, you can't tell what a person's like over the phone. You know, if they're helpful or they're just sort of going through the motions."*

Housing Client

While experiences and perceptions differed among these clients, the social element of advice-giving appeared to be a key factor in whether some clients would seek advice at all, with clients generally expressing a preference for face-to-face interaction because it allowed them to develop rapport and build trust in a way that was difficult to replicate through other methods. As the above quotes demonstrate, willingness to initially seek advice with advisors appeared to frequently hinge on opportunities for advisors to earn the client's trust. As the following client indicates, acceptance of subsequent virtual communications was largely premised on the ability to build trust at an initial face-to-face appointment:

*"I know and I trust him more because I've met him face-to-face...It's that first meeting, that point of first contact. There's so much importance to me then I know what I'm dealing with."*

Housing Client

The importance clients placed on establishing a relationship at the outset with their advisor was clear across client interviews. For example, when asked how confident they would feel receiving virtual advice in the future, clients consistently caveated that this would hinge upon such advice coming from an advisor or an organisation that they are already familiar with. As one welfare benefits client explained: *"[I would be] very confident. Well, from the same organisation. Because, obviously, you know, I trust that organisation. I don't want a different organisation."* Similarly, another stated:

*"Yeah [I would use remote methods again] ... as long as I had the same person... because [the advisor] informed me all the steps in the way of what was going to happen. So, I felt in the loop. So as long as [it was] someone like that then I'd be happy to do it again remotely."*

Welfare Benefits Client

While the client accounts presented here provide only a limited insight into the possible ways that remote advice may be perceived by advice-seekers, they nevertheless reiterate that consistency, rapport, and human contact are potentially crucial elements of successful advice-giving, which must be borne in mind as we move towards a post-pandemic future.

Given the significance of trust and familiarity that can be seen across this data, it is perhaps surprising that these clients expressed strong preferences for telephone advice, and very rarely took up the option of communicating with advisors via videoconferencing, which would have more closely replicated face-to-face interactions. As stated earlier, the small number of clients interviewed for this study means that this cannot be generalised as a preference held by all clients. However, this finding does align with larger scale findings from a recent study by the Administrative Justice Council. In that study, advisors in focus groups also reported that their clients generally preferred telephone advice to videoconferencing, and this was largely attributed to accessibility barriers, with most of their clients

far more likely to have access to a landline or mobile phone than to computers, tablets, or a decent broadband connection.<sup>50</sup>

In our study, housing law advisors additionally reported that their clients' preference for telephone communication over videoconferencing may not only be an accessibility issue, but also related to their clients' comfort with using technology. These housing advisors described a widely-held negativity towards videoconferencing even among their clients who would typically have preferred face-to-face advice:

*"It's an odd thing because... if you offered somebody the chance to come and see you face-to-face or the telephone they'd go for face-to-face. But they don't tend to like attending anywhere doing video calls."*

Housing Advisor

*"I don't know [whether]...they find that they don't like us seeing them in their homes or in their own personal space rather than sort of being on neutral territory...there's not been a lot of pickup on it."*

Housing Advisor

This finding extends existing evidence regarding the efficacy of telephone advice. As Burton has already argued, telephone advice - when compared with face-to-face advice - can potentially impede advisors' ability to build rapport, emotional connection, and trust with clients.<sup>51</sup> On one hand, this was certainly true. As discussed here, advisors who participated in focus groups were concerned that clients would not engage over the phone and simply disappeared from services during the early stages of the pandemic. On the other hand, however, the preference for telephone advice that is indicated in this study and reinforced by the findings of the Administrative Justice Council suggests that videoconferencing may not necessarily be perceived by clients as a comparable alternative to face-to-face appointments. This insight is particularly important, given recent judicial findings that have determined legal advice delivered via videoconferencing technology to be equivalent to face-to-face advice provision.<sup>52</sup>

When discussing the issue of clients' preferred communication methods, the circumstances that led to the client experiencing housing issues in the first place cannot be ignored. In reality, many of those requiring advice in this area are those contending with precarious living conditions, homelessness, and domestic abuse. As such, it is important to acknowledge that videoconferencing may be inappropriate for certain housing clients. As one housing advisor explained: *"...we cover a lot of domestic abuse cases related to housing. So, communication by telephone can only be done at certain times."*

In such circumstances, advisors were keen to work with clients in order to identify the most effective methods of communication. However, being restricted to telephone calls also appeared to cause pragmatic difficulties for advisors' efforts to communicate effectively with their clients. Advisors lamented the challenges they faced in ascertaining important contextual information during their telephone interactions with clients, where they were unable to have sight of relevant documents and correspondence. These frustrations were echoed by clients, such as one housing client who reported

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<sup>50</sup> Administrative Justice Council, "Welfare Benefit Advice During the Pandemic" 11.

<sup>51</sup> Burton, "Justice on the Line? A Comparison of Telephone and Face-to-Face Advice in Social Welfare Legal Aid"; Burton, "Lost in Space? The Role of Place in the Delivery of Social Welfare Law Advice over the Telephone and Face-to-Face".

<sup>52</sup> *R (SPM) v Secretary of State for the Home Department; R (Women for Refugee Women) v Secretary of State for the Home Department* [2022] EWHC 2007 (Admin) at [133].



that: “...it would take longer to do it over the phone than if you were just there and you could take everything with you.”

One common workaround for presenting paperwork remotely – reported both in our study and in the Administrative Justice Council study - was for clients to take photographs of documents and share them with advisors via instant messaging platforms.<sup>53</sup> For those without access to a smartphone, however, this undermined the potential value of telephone advice, as documents either had to be posted to advisors or brought to an in-person appointment at a later date once pandemic restrictions had eased:

*“We’re finding that increasingly difficult with housing cases because of the paperwork. Because it becomes more technical, I think, when I’m looking at the paperwork and assessing the capabilities of clients. When I think about letters from creditors compared to letters from courts and defence forms... people seem far less capable of being able to manage that paperwork under the auspices of housing than they are in perhaps other subject areas.”*

Housing Advisor

*“We have a lot being done by telephone. I don’t think it’s the best way. It’s certainly an easier way of giving people initial advice. But it’s exceptionally difficult to [do] casework by telephone.”*

Housing Advisor

Again, such practical difficulties were also emphasised by those clients who participated in our interviews, indicating a shared source of exasperation in situations where at least one face-to-face appointment would have facilitated a more productive advisor-client relationship:

*“I’d rather meet with somebody and take the papers and so on. I mean, I’ve been told to send the papers in beforehand. But then again, you need to be able to explain to a certain extent what the papers mean.”*

Housing Client

*“Otherwise, you’re just like...posting the forms and... sort of worrying, ‘has it got there?’. You know, had it got lost in the post...I’ve got everything on me that I need to take and then I can just take it and say right, that’s my problem. Sometimes I can’t explain properly what’s happening.”*

Housing Client

Without the opportunity to meet with clients face-to-face, particularly at the outset of the relationship, advisors reported that it can be extremely difficult to adequately assess client needs or manage any kind of initial triage when a client first presents to an advice service. At the same time, given that clients place a great deal of significance on initial face-to-face contact, it is also difficult for clients to feel that they have been able to explain their problem and articulate their needs effectively:

*“You can talk to some people on the phone, and you can tell that they don’t believe a word you’re saying really. But if you can see them face to face, you can probably be a lot more convincing and put your case far more well, I don’t know, emphasise it more I suppose.”*

Housing Client

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<sup>53</sup> In addition, there is also evidence of clients dictating documents over the phone. See: Administrative Justice Council, “Welfare Benefit Advice During the Pandemic” 10.

To address the need of some clients for face-to-face contact, several organisations were strongly committed to retaining face-to-face appointments as one of the advice options that they can offer to clients. Some advisors even reported that they had put their own health at risk by meeting with some clients in person during the pandemic in order to ensure that they did not disengage from services due to the lack of face-to-face appointments, with one housing advisor reporting that: *“with rough sleepers [and] people [who] don’t have phones...we’ve had to continue where it’s been essential to go out and do face-to-face in parks or wherever we could.”*

Although blended models of advice provision are likely to improve the convenience and efficiency of advice for the majority of clients, it is important not to lose sight of the barriers that exist for several traditional client groups. Notwithstanding the success of telephone advice in this area, there are clear challenges associated with remote methods for certain client groups across social welfare law, including the ability to share relevant documents with advisors without a smartphone or access to email, and the high risk of disengagement among clients dealing with extremely difficult personal circumstances.

#### *Blended advice as a means of meeting demand*

As discussed earlier in this article, the necessitated shift in advice-giving methods during the pandemic had two key implications for advisors’ client bases: the disappearance of traditional clients who would typically engage regularly via face-to-face drop-ins, and the emergence of new, digitally-capable client cohorts who had previously been omitted from advice services. Looking ahead to the post-pandemic future, advisors were keenly aware of the likelihood that the new era of blended advice is likely to involve much higher levels of demand for legal advice than ever before. Advisors were also concerned about how effectively their services were going to be able to meet these needs by delivering advice across a range of different formats in the longer term.

*‘We will still get elderly clients with the same sorts of issues that will turn up in a suit and tie in our offices and want that face-to-face advice. And we will still get young people approaching us online or by email.*

Housing Advisor

In alignment with the ambitions and expectations associated with the pre-pandemic shift towards digitisation, advisors reported that, to an extent, they had been able to innovate using blended advice in order to make their services operate more efficiently and serve a broader range of clients. For example, across all three areas of law, advisors reported examples of innovation, such as adapting their working schedules to be able to offer evening appointments to their clients, or offering clients use of their IT equipment during face-to-face appointments to streamline the process of completing paperwork or speaking to lawyers remotely. Integrating online and telephone communication methods into service provision was clearly recognised as a way to make the advice-giving process more efficient, as it allows advisors to maximise the time they have available to support other clients.

Importantly, this also exemplifies the ways that greater use of blended models has encouraged organisations to think more creatively about how to provide services in a way that best suits each individual client’s circumstances, availability and capabilities - regardless of the type of legal problem that they present with:

*So, it’s really about what we can deliver in the best ways and delivering advice to people as and when they want it. So, I think that’s going to be a mixture of face-to-face, telephone*

*advice, maybe out of hours. We appreciate that people want advice in the evenings. They want advice on the weekends, they don't always want our traditional, "We can offer you an appointment next Tuesday at two o'clock in [the office]".*

Housing Advisor

*A lawyer can be on call at their desk to give half an hour's support remotely, and we can help the client access that, whereas we used to find it quite difficult to get lawyers to give up a morning to come and sit in court and be available.*

Debt Advisor

The new era of blended advice therefore offers clear opportunities for services to not only be more efficient but more flexible and attuned to the needs of their clients. For instance, working with clients and adapting organisational practices has enabled advisors to maximise the availability of legal advice and provide a more seamless service, as clients do not necessarily need to wait for separate appointments in order to speak to lawyers. Advisors emphasised that such innovations may go some way towards mitigating the risk of client drop-out and is likely to expedite the problem-solving process as a whole.

However, when talking openly with advisors about the advantages and disadvantages of blended advice, conversations continually returned to issues of resources. While advice services have certainly innovated to work around pandemic-related restrictions and to improve the assistance they can offer to clients, these efforts are ultimately constrained by the financial security of their organisations and the resources available to them. While advisors were clearly motivated to provide a bespoke service to their clients in the future, they cautioned about the financial and workload implications of this. As one debt advisor summarised: *'Offering choice is a more expensive way of delivering services.'* More specifically, another advisor noted that much of this increased expense is likely to come from the logistics of offering several simultaneous advice models:

*The problem that we found was that when we have gone back into on-site services and we're trying to manage face-to-face and remote appointments, that has given us a much bigger admin burden.*

Debt Advisor

Throughout focus groups, advisors were clearly concerned about how effectively they would be able to sustain their blended offerings within their current funding climate, which frequently relies on short-term competitive grant funding and high levels of reporting requirements to ensure accountability. While advisors were keen to maximise their own efficiency through blended models, they emphasised that providing advice through different methods should not come at the expense of providing comprehensive, expert advice to each client that presents to their service. As discussed earlier in this article, one of the key aspirations of increased digitisation was the way that it may enable justice systems to offer services to greater numbers of people and be simultaneously less resource-intensive. However, these findings clearly indicate that more flexible, higher quality advice services are not achievable at lower cost, due to the additional work required to provide these services:

*A little bit of advice to a lot of people does not save the government money. Proper case work by a properly trained advisor, face-to-face with the time that we can put into it to really help people and resolve all of their surrounding issues is what saves money. Not just a little bit for a lot of people - that isn't the way, that isn't the way to do it. Neither for the client, for the advice service, nor for saving money.*

Housing Advisor

In the above quote, this advisor taps into a longstanding debate about whether upfront investment in legal aid services is more cost effective than the expenses that are presently being recouped through limitations on eligibility. Several international studies have attempted cost-benefit analyses of legal aid regimes, with most drawing attention to the significant economic cost that unresolved legal problems can cause for governments in the longer term.<sup>54</sup> This has also been explored in an earlier contribution to this journal, which considers how access to justice goals may align with and be measured according to widely-accepted United Nations sustainable development goals, which enshrine shared global objectives social and economic improvements across the next decade.<sup>55</sup> While it is beyond the scope of this article to make generalisations about the cost-effectiveness of upfront advice, this does indicate that in the short term, at least, the issue of advisors being spread too thinly across different methods is an immediate challenge for the effectiveness of blended advice. Across all areas of social welfare law, advisors cautioned against the perception that remote advice can be treated as a like-for-like, more efficient replacement for face-to-face advice. They also emphasised the dangers of oversimplified suppositions about how advice can or should be offered, as well as the importance of recognising the various complexities associated with the new era of offering blended advice. Advisors' concerns about how to provide blended advice within current funding models were palpable within focus groups. One housing advisor made the following plea: *'Let's ensure its client-centred and not rush to a vanilla-type delivery that is low cost, high volume'*. Similarly, a debt advisor argued that *'whatever you do should be tested with the clients and they should be the centre of attention, not [us] thinking what is the quickest and most efficient way of delivering advice.'*

Ultimately, as these quotes indicate, the effectiveness of blended advice depends upon advice services being able to offer a flexible, mixed approach that is bespoke to each client, within a context where advice services are supporting a broader and more diverse range of clients with social welfare and administrative problems. While blended models do offer organisations some opportunities to improve the efficiency and quality of their services, their ability to maximise this will inevitably hinge on their financial security and the level of resources that they are able to draw upon in order to adapt to these different clients. Without greater investment to facilitate the broader and more varied formats of service provision that are now expected, levels of demand are likely to result in clients having to face longer waits for support. Accordingly, during interviews, the small sample of clients we interviewed were already struggling with the issue of delays:

*I get the situation for them, [they've] probably got, you know, five hundred clients and I'm just one of five hundred clients but my situation at that time is urgent.*

Debt Client

*It's working as well as it possibly can. I suppose you'd have to say given the present situation with so many people wanting legal advice, and this is only a very small law centre.... But life is very difficult and frustrating really at the moment because I really do want to get on with this very serious case and I've sort of come to a grinding halt.*

Housing Client

These funding concerns and their impact are far from new. Nevertheless, during the pandemic, the popularity of digitisation as a cost-saving mechanism within the court system has been rapidly transposed into the advice context, and there is significant concern among advisors that advice services will now be forced to either defend the importance of preserving face-to-face advice, or to

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<sup>54</sup> The World Bank, "A Tool for Justice: The Cost Benefit Analysis of Legal Aid" (World Bank, 2019), <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/592901569218028553/a-tool-for-justice-the-cost-benefit-analysis-of-legal-aid>.

<sup>55</sup> Julinda Beqiraj, "Future Perfect: Measuring Access to Justice in the Post-2015 Development Framework" (2016) P.L. 546.

stretch themselves to unsustainable workloads in attempts to support the post-pandemic level of demand for services across a range of different advice-giving methods, with the same precarious levels of funding support as before the pandemic.

### **III. The future of blended advice**

The research findings presented in this article provide a novel and important contribution to an under-researched and still-emerging context of advice provision in social welfare law after Covid-19. In many parts of the justice system, there was already increasing emphasis on digitisation as a means of saving costs and improving efficiencies. As this article demonstrates, this have been rapidly transposed into the advice context during the pandemic, as advice services rapidly adapted to new methods of advice provision while face-to-face appointments were not possible. This has marked a period of transformation for the advice sector, in which many of the ambitions of digitisation policies as well as concerns of existing literature have been both substantiated and challenged. On one hand, the new capability to blend face-to-face and remote forms of advice offers several opportunities for the advice sector to broaden the accessibility of legal advice, innovate in terms of organisational practices, and run services more efficiently and cost-effectively. On the other hand, the new era of blended advice is in many ways more complex: more is required of advisors in terms of effectively triaging clients and ascertaining their needs, as well as contending with much higher levels of demand for their services. As such, this article demonstrates the complexity of the task of designing blended advice models for the future.

Nevertheless, based on the findings presented here, it is possible to draw out two key considerations that should inform the future landscape of blended advice. Firstly, it is important to acknowledge that there are a vast range of practical, social and structural barriers that may prevent individuals from seeking support in relation to their legal problems, especially in light of COVID-19 and particularly in respect of the kinds of problems that fall under the umbrella of social welfare law. Given that social welfare advice frequently involves assisting clients to appeal unfair, erroneous or punitive administrative decisions relating to benefits or housing entitlements, it is ultimately crucial to ensure that such advice is accessible in order to ensure that these decisions can be held accountable. In fact, as this article has demonstrated, insurmountable barriers during the pandemic prevented many individuals from contacting advice services at all. Barriers to accessing advice for problems associated with debt, housing and welfare benefits carry the risk of escalating problems that will become more serious, difficult to resolve, and overall more expensive for the state.

Secondly, it is vital to recognise that digitisation is not merely a means by which to make justice systems more efficient. While pre-pandemic aspirations for digital justice were largely concerned with finding ways to achieve effective outcomes more efficiently and cost-effectively, this is an overly simplistic means of understanding the demands associated with the post-pandemic era of legal advice. As demonstrated in this article, the diversification of communication methods that has taken place during the pandemic has facilitated a significant expansion in the client base that can now be reached by advice services. Additionally, those who were unable to engage with legal advice services during the midst of the pandemic are now emerging with needs for much more extensive assistance, as their problems have become more complex and serious. In short, the efficiency gains associated with the new era of blended advice do not outweigh the significant increase in demand facing advice organisations. Rather, an undue focus on efficiency as the only potential value of blended advice is likely to further impair both the sustainability of the advice sector and the accessibility of justice.

By drawing on firsthand experiences of those working at the frontline of the advice sector during the pandemic, the article has indicated the importance of ongoing evaluations of blended advice as we

move forward into a post-Covid world in order to understand the real impact on clients and on access to justice in practice. By drawing through the three pre-pandemic concerns of *access*, *communication* and *demand* as a framework for exploring how the advice sector has faced and responded to new challenges during the pandemic, this article has provided a starting point for understanding precisely what the future of blended advice means for access to justice in social welfare law, and sets an agenda for its ongoing evaluation.