



Understanding the supply of legal services by ‘special bodies’

A REPORT PREPARED FOR THE LEGAL SERVICES BOARD

September 2011

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Foreword by the LSB

The wider advice sector plays a key role in providing access to justice for those who may not be able to access or afford the services offered by traditional legal practices. Research repeatedly demonstrates the value of this sector in advising millions of consumers each year, and avoiding the adverse societal consequences associated with unresolved legal problems. These services are delivered by organisations with a wide range of management structures, often very different from traditional legal practices. Reflecting this, lawyers are employed in a range of different roles within these organisations. This risks friction with existing regulatory frameworks developed very much with private practice in mind, but at the same time offers examples of how future organisational structures might develop across the legal services market following the introduction of Alternative Business Structures.

The introduction of the Alternative Business Structures (ABS) regime means that legal services providers with non-lawyer owners and managers will need to be licensed in order to conduct reserved legal activities.

The Legal Services Act 2007 makes special provision for certain types of legal services providers (not for profit bodies, community interest companies and independent trade unions) which means that they are entitled to carry out reserved legal activities without a licence for a “transitional period.” These are referred to as ‘Special Bodies’. Without the provisions in the Act, these bodies would need to be authorised and regulated in the same way as any other body with non-lawyer ownership (i.e. an ABS). Only the LSB can make a recommendation to the Lord Chancellor that he should end the transitional protection. Once this ends, these bodies may seek special treatment from the Licensing Authority.

In determining our approach to the regulation of Special Bodies, we must ensure that consumers have appropriate protections, whatever the type of legal service provider they use. However, we believe that regulation should be proportionate and that any additional cost must reflect the risks posed. We have therefore commissioned this research to better understand the services provided by the advice sector and the nature of any regulatory risk.

This exploratory research highlights the challenges faced by the sector in terms being able to deliver quality assured services against a backdrop of greatly

reduced funding, and the variability of quality assurance mechanisms employed. However operating improved services with less costs is a challenge faced across the legal services sector, and organisations of all types across the UK.

The challenge for the LSB and the sector as whole is to ensure that across this valued and diverse range of organisations, regulation affords clients protection from, and redress against, poor quality advice and service.

More specifically the LSB will, over the coming months, utilise this research to guide its consideration as to how the transitional protection for Special Bodies provided by the Legal Services Act should proceed. This work will in reference to the regulatory objectives seek to balance regulatory protection against the challenge of maintaining and encouraging the diversity of organisations within this sector.

I would like to express my thanks to those who participated in this research, whose views have informed and shaped this report. We look forward to their continued participation throughout the forthcoming investigations.

Chris Kenny

Chief Executive

Legal Services Board

Acknowledgements	1
Executive Summary	3
2 Background and objectives of the work	10
<i>Box 1: Regulatory objectives</i>	11
<i>Box 2: Special bodies</i>	12
<i>Box 3: Legal activities currently reserved</i>	13
3 Approach	15
4 Mapping the sector	17
5 Detailed evidence from in-depth interviews	21
<i>Box 4: Requirements of other regulators</i>	24
6 Potential risks to the LSB's regulatory objectives	45
7 Implications for the regulatory framework	65
<i>Box 5: Cost benefit analysis</i>	73
8 Suggested further research	75
Annexe 1: Interviews undertaken	77
Annexe 2: Interview questions	78
Annexe 3: Interview summaries	90
<i>Advice Services Alliance</i>	90
<i>Advice UK</i>	93
<i>Age UK</i>	95
<i>Beneficent Law CIC</i>	100
<i>Benefit Advice Shop</i>	104
<i>Brighton Housing Trust</i>	108
<i>Citizens Advice</i>	114
<i>Combined Hospitals Citizens Advice Bureau</i>	121
<i>Coventry Law Centre</i>	127
<i>The Howard League for Penal Reform</i>	132
<i>IncomeMAX CIC</i>	137

<i>Law Centres Federation</i>	140
<i>Mind</i> 146	
<i>Royal National Institute of Blind People (RNIB)</i>	151
<i>Shelter</i>	156
<i>Speakeasy Advice Centre</i>	163
<i>Vinbrooke Support Kent CIC</i>	167
<i>Youth Access</i>	171
Annexe 4: Literature Review	177

Understanding the supply of legal services by ‘special bodies’

Figure 1. Economic framework	6
Figure 2. The economic framework – exploring the regulatory response	8
Figure 3. Economic framework	46
Figure 4. The economic framework – exploring the regulatory response	65
Figure 5. Cost benefit analysis	74
Table 1. Organisation Profile	29
Table 2. Funding sources	32
Table 3. Activities undertaken	34
Table 4. Reserved activities (brief summary)	39
Table 5. Quality assurance and regulation	42
Table 6. Organisations interviewed for this work	77
Table 7. Means of informing others of your services	78
Table 8. Number of staff	79
Table 9. Proportion of different forms of advice offered	80
Table 10. Proportion of help and advice that is legal advice	81
Table 11. Proportion of different forms of legal advice offered	82
Table 12. Methods of delivering legal advice	84
Table 13. Approximate number of legal service clients	85
Table 14. How clients typically find out about your legal services	86
Table 15. Most likely challenges over the next ten years	88
Table 16. Number of paid employees within NfP organisations	185

Table 17. Geographical distribution of NfP workforce and NfP organisations	186
Table 18. Proportion of Respondents with Formal Academic Qualifications	187
Table 19. Proportion of respondents who have had job-related training over the course of their career	188
Table 20. Proportion of NfP organisations reporting specific skills in short supply	189
Table 21. Proportion of NfP respondents reporting activity as main part of their role	191
Table 22. Proportion of organisations offering advice and information in different legal categories	192
Table 23. Age profile of CAB clients July – September 2010	194
Table 24. Ethnicity profile of CAB clients July – September 2010	194
Table 25. Problems in Citizens Advice Bureaux by category (Annual 2009/10)	196

Acknowledgements

Frontier is very grateful to all the organisations who kindly agreed to be interviewed as part of this work – their time and input was extremely valuable. The organisations are:

Advice Services Alliance

AdviceUK

Age UK

Beneficent Law Community Interest Company

Benefit Advice Shop

Brighton Housing Trust

Citizens Advice

Combined Hospitals Citizens Advice Bureau

Coventry Law Centre

The Howard League for Penal Reform

IncomeMAX Community Interest Company

Law Centres Federation

Mind

Royal National Institute of Blind People

Shelter

Speakeasy Advice Centre

Vinbrooke Support Kent Community Interest Company

Youth Access

Executive Summary

Frontier Economics (Frontier) and the Law Consultancy Network were appointed by the Legal Services Board (LSB) in March 2011 to undertake this project.

This project focuses on one particular set of organisations: not-for-profit (NfP) organisations that conduct reserved legal activities. These are also known as “special bodies”¹. This project seeks to provide evidence and insight for the LSB on:

- i) The market in which special bodies operate and the nature of their activities;
- ii) The potential risks to the LSB’s regulatory objectives posed by the features of that market and the activities these organisations undertake; and,
- iii) Areas in which further research would be useful to fill important knowledge gaps.

This report is preliminary and exploratory. It is intended as a sound basis for further work. It does not claim to be an exhaustive assessment of the NfP legal services sector and special bodies, or to be able to represent all views.

Approach

To build a clear picture of special bodies and the wider NfP legal advice sector, two main sources of information have been relied on:

- published material: this included studies, surveys, academic literature, research and information published by NfP organisations themselves; and,
- in-depth case-study interviews: these were conducted with 18 NfP organisations including national umbrella organisations, national charities with a local presence, independent advice centres and community interest companies (CICs).

The focus of this work is on NfP organisations and CICs providing reserved legal activities. The evidence has been combined with economic principles to identify the potential risks to the regulatory objectives. Alternative forms of regulation have been discussed. It is beyond the scope of this project to make recommendations regarding the most appropriate regulatory frameworks. Suggestions have been made for further work to fill key evidence gaps.

¹ Special bodies are defined in full on page 12.

Mapping the sector

Special Bodies are non-commercial organisations that conduct reserved legal activities but have non-lawyers owners and managers. The Legal Services Act 2007 makes special provision for certain types of legal services providers (not for profit bodies, community interest companies and independent trade unions) meaning they are entitled to provide reserved legal activities without a licence for a transitional period. The provision of reserved legal activities must however be through individuals that are authorised to do so, for example solicitors and barristers. Without the provisions in the Act, these organisations would need to be authorised and regulated in the same way as any other body with non-lawyer ownership (i.e. Alternative Business Structures). A full definition is provided on page 12.

Those organisations within the NfP sector that offer legal services (reserved or non-reserved) vary substantially in terms of size, location, services offered, particular client-base and the way services are delivered. Almost all advice centres, and some CICs, are part of informal networks with other organisations for the purposes of referring clients or receiving clients referred from others.

Typically, clients are from disadvantaged or socially excluded groups with a very wide range of problems. Problems may include debt, housing issues, welfare rights matters, social care problems, immigration issues, or they may be in custody. They are typically unlikely to be able to pay for the legal advice they need.

Organisations suggested they generally try to develop the services provided to meet their clients' needs in a holistic way, working with other organisations as appropriate.

Training of some form is provided to those delivering advice. The actual training provided varies and only some of the organisations interviewed referred to having accredited training programmes in place. Organisations defined as Special Bodies all provide reserved legal services (by definition), though many organisations in the wider NfP sector deliver non-reserved legal activities and a range of other non-legal advice services.

The quality assurance mechanisms in operation across organisations differ. One of the most common metrics, the Legal Services Commission (LSC) Specialist Quality Mark (QM), has been criticised owing to its focus on proper process rather than the quality of the advice delivered. Published studies highlight a significant degree of variability in the quality of advice provided.

Organisations typically do not charge for the advice provided (though CICs often implement charging in some form), but this is currently being debated by some organisations given an expected tightening of funding streams in the future.

Executive Summary

Evidence from in-depth interviews

Frontier interviewed 18 organisations, comprising 15 charities and three Community Interest Companies. The organisations vary significantly in terms of size, ranging from those with thousands of employees, right down to the smallest with just two staff. Legal aid contract funding (from the Legal Services Commission) and local authority funding are significantly relied on (along with other sources) to fund the delivery of services. All noted a key future challenge is access to the required funding given expected changes to legal aid funding and local authority budgets.

Of those interviewed that conducted reserved legal activities (9 of the 18), the reserved legal activities conducted are predominantly litigation and rights of audience in court. Legal professionals in those organisations undertake case-work and supervise all work on those cases (including that undertaken by advisors). However, they do not necessarily supervise all non-reserved legal advice by other advisors in the organisations more widely.

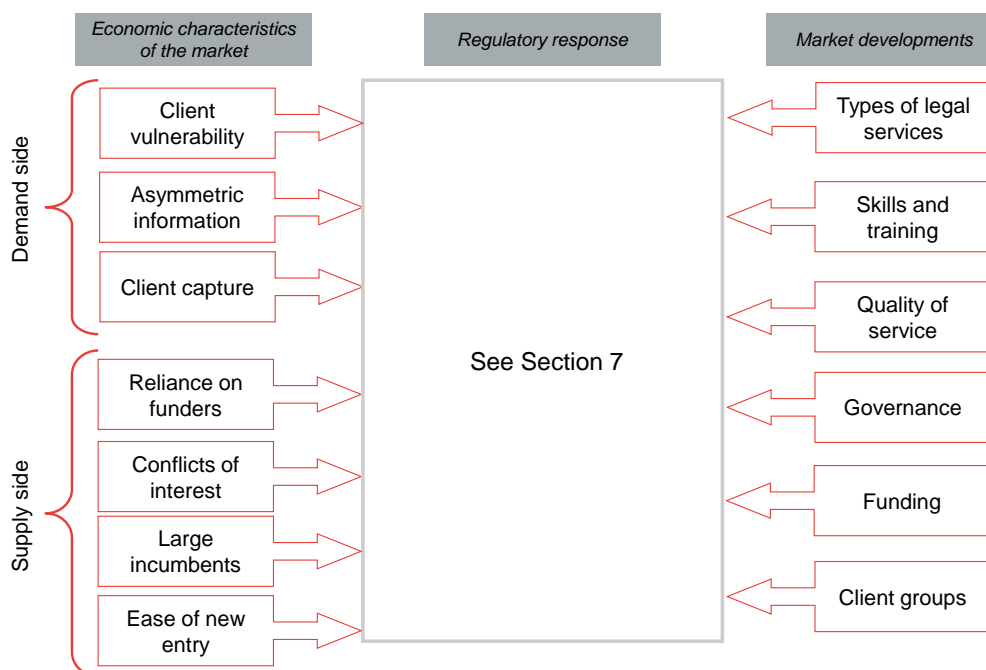
Legal advice supplied by the organisations is typically on welfare benefits, debt and housing, though some offer other specialist advice in areas such as immigration law, the Mental Health Act, or prison law.

Many organisations interviewed said they aim to provide a holistic set of services including legal advice alongside other support services (such as for example, practical support in re-housing or community care). All organisations interact with other organisations through referral networks.

Quality assurance mechanisms varied significantly. Where legal aid contracts are held, the LSC Specialist Quality Mark or LEXCEL (The Law Society's practice management standard) must also be held.

Potential risks to the regulatory objectives

The evidence allows a range of potential risks to the regulatory objectives to be identified. These may be considered within the framework of Figure 1:

Figure 1. Economic framework

As **Figure 1** shows, regulatory risks can potentially arise as a result of the economic characteristics of the market, market developments or the combination of the two. The former may be considered to be the ‘scaffolding’ around which the market is built; market developments are those aspects about which those in the market (or policy makers) are able to make choices.

The **economic characteristics** are both on the demand-side and the supply-side. On the **demand-side**, first, there are people in society who are vulnerable and in need. They rely on others for help, often without the ability to pay for that help. Second, asymmetric information is often prevalent in the market as some people/organisations are likely to have more information than others (about the quality of advice they provide, how well their staff are trained etc.). Perfect information is extremely difficult to achieve in practice. Third, linked with this, some clients are not fully informed about who else they may be able to seek advice from once they are already in the system. They may therefore effectively be ‘captured’ within the system.

On the **supply side**, first, the lack of ability of clients to pay means that alternative revenue streams must be relied upon. External funders are often a vital part of the market. Second, this reliance on funders can create the potential for conflict of interest if the objectives of funders do not match those of staff within the organisation. Third, many organisations have been in the market for many years and have established reputations – some may therefore enjoy a

position as a large incumbent. Fourth, although new entrants can enter relatively straightforwardly, it is the sustainability of those new entrants that may be more of a challenge.

The **market developments** potentially pose a range of risks to the regulatory objectives. In terms of **types of services** provided, many organisations offer a wide range of services, though some pose potentially greater risks than others. Advocacy and tribunal representation – both of which are generally non-reserved legal activities – could pose risks to the clients' interests if staff are not adequately trained, and/or advice is poor quality.

Skills and training are often developed and provided by organisations. While some organisations offer accredited training for their staff, the quality of training provided more generally would be worth testing further. Unless staff are appropriately trained, there is a risk to the quality of advice, and the outcomes for the client. Skills shortages appear to arise because of a difficulty in recruiting and retaining volunteers and other trained staff. Access to the appropriate skills is not necessarily exclusively an issue for the NfP sector, however. The nature of work carried out in the NfP sector however is in many ways driven by the type of funding available (it may be contract dependent, for example). Some of the interviewees reported that, the ability of the sector to offer varied and interesting work in sufficient volumes to attract staff with particular skills may potentially become constrained. They also suggested this could be exacerbated if the scope of legal aid funding were to be reduced.

Quality assurance systems vary across organisations. Legal Service Commission Quality Marks are often held by organisations, though they have been criticised for their focus on systems and procedures rather than the advice provided. Although a peer review process runs alongside, this is not generally applied across all those with LSC contracts. There appears to be a lack of a viable alternative quality assurance process that is able to ensure consistent and transparent assessment of advice quality, or management systems.

Governance and funding are linked because a reliance on external funders across the NfP legal advice sector inherently opens a potential conflict of interest as noted above. A further conflict of interest could however arise if legal professionals do not have adequate influence with senior management. They may not be able to ensure processes and systems within the organisations are consistent with their professional principles (for example ensuring adequately secure IT systems, or client filing).

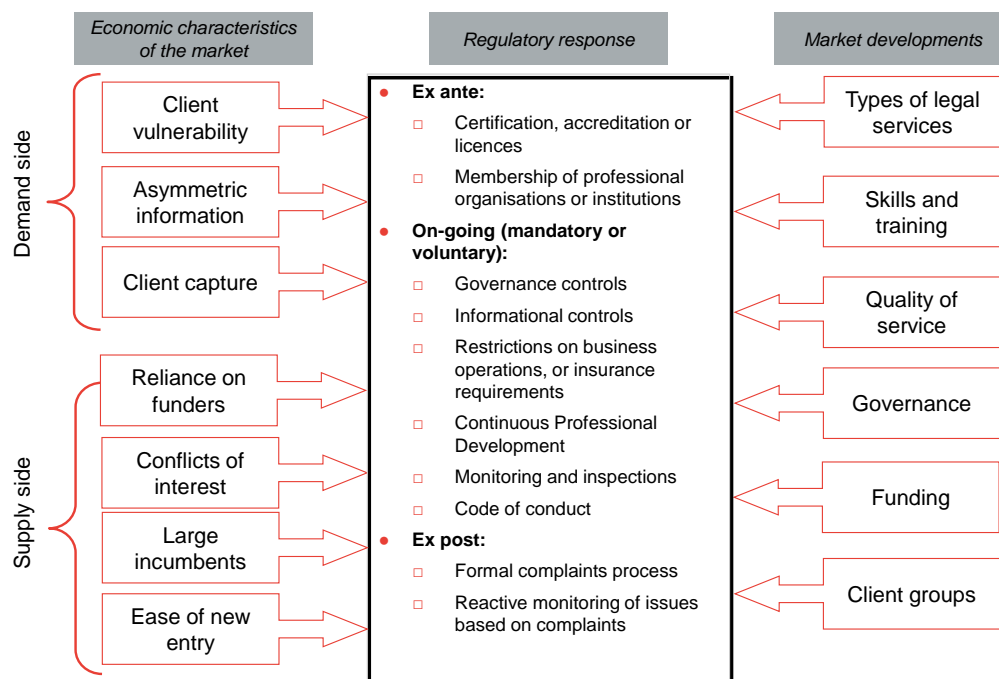
Finally, **client groups** are typically disadvantaged or vulnerable. Therefore they may not always be in a position to adequately question advice they are provided or seek further information if something is not clear. This further raises the importance of high quality and consistent advice. In addition, they may not understand the nature of regulation (i.e. who is regulated and what it means) and therefore their means of recourse if something goes wrong.

These issues mean that **competition** alone may not deliver the best outcomes. Asymmetric information, large incumbents, reliance on external funders and the nature of the client base all might argue for some regulation of the sector. In addition, interviewees reported that **funding** is likely to be increasingly under pressure in the future. That may lead organisations to face some challenging decisions around options for alternative funding streams (for example charging in some form), changes to business structures (such as mergers or consolidation) and the quality of advice they are able to provide. Finally, **technology** may increasingly be relied upon to deliver advice in the face of funding constraints where this is a viable option. These issues would merit further investigation.

Implications for the framework of regulation and future work

A range of regulatory options to address some of these risks are shown in the centre panel of **Figure 2**.

Figure 2. The economic framework – exploring the regulatory response



It is beyond the scope of this project to recommend any particular regulatory framework. A range of different options available have however been discussed.

Ex ante regulatory controls would be intended to place regulatory requirements on those who wish to provide advice in the market, before they are operational. Options may include for example, requiring organisations or individuals to apply for certification, accreditation or a licence before operating in the market (and

potentially renewed at regular intervals) in order to ensure their competence or level of skills. Or, membership of a particular professional organisation could be required if that membership were able to ensure and verify certain standards would be met.

On-going regulatory controls could be implemented to mitigate risks while individuals or organisations are operating in the market. These could be implemented under a mandatory framework with legal action taken if certain requirements are not met, or on a voluntary basis. Examples here include **governance controls** which could place requirements on the structure of organisations, as is the case for Alternative Business Structures for example. **Informational controls** could be imposed that would increase the transparency of activities or processes with the aim of minimising asymmetric or incomplete information. Various **restrictions could be placed on business operations** such that individuals or organisations could, for example, be required to hold certain insurances if they offer particular services. In order to maintain and upgrade skills, **CPD requirements** could be placed on certain professionals as is already the case in the legal profession for example. **Monitoring** of organisations could be implemented to ensure that operations and processes are appropriate and that standards are maintained. Finally, **codes of conduct** could be used to increase consistency in behaviour and provide transparency around behaviours and best practice.

Ex post regulatory controls would aim to provide a framework in which clients have protection or a means of recourse, if required. For example, requiring a formal complaints process or designating responsibility for handling complaints with a particular body, such as an ombudsman.

All regulatory controls would need a full cost-benefit analysis in order to understand the extent to which they address a regulatory risk appropriately and proportionately, and offer benefits that outweigh any potential costs.

Further research

Two general areas have been suggested for further work:

- i) A more detailed investigation of the alternative forms of regulatory options that may be available to address any potential risks. This could help facilitate understanding of the conditions under which each may be effective, and their likely costs and benefits were they to be implemented.
- ii) Potential responses of organisations to the expected funding challenges in the future. Responses could potentially impact on the economic characteristics of the market, and the market developments. These are important for considering any appropriate form of regulation.

2 Background and objectives of the work

Introduction

Frontier Economics (Frontier) and the Law Consultancy Network were appointed by the Legal Services Board (LSB) in March 2011 to undertake this project.

This project focuses on one particular set of organisations: not-for-profit (NfP) organisations that conduct reserved legal activities. These are also known as “special bodies”². This project seeks to provide evidence and insight for the LSB on:

- i) The market in which special bodies operate and the nature of their activities;
- ii) The potential risks to the LSB’s regulatory objectives posed by the features of that market and the activities these organisations undertake; and,
- iii) Areas in which further research would be useful to fill important knowledge gaps.

This report is preliminary and exploratory. It is intended as a sound basis for further work. It does not claim to be an exhaustive assessment of the NfP legal services sector and special bodies, or to be able to represent all views.

Background to this project

The LSB is the independent body responsible for overseeing the regulation of lawyers in England and Wales. Its overriding mandate is to “ensure that regulation in the legal services sector is carried out in the public interest; and that the interests of consumers are placed at the heart of the system”. It does this through focusing on eight regulatory objectives³. These are described in Box 1 below.

² Special bodies are defined in full on page 12.

³ http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf

⁴ http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf

Background and objectives of the work

Box 1: Regulatory objectives

The LSB's eight regulatory objectives as defined in the Legal Services Act 2007 are⁴:

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition in the provision of services in the legal sector;
- encouraging an independent, strong, diverse and effective legal profession
- increasing public understanding of citizens legal rights and duties; and,
- promoting and maintaining adherence to the professional principles

Box 2 defines Special Bodies.

⁴ http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf

Box 2: Special bodies

The introduction of the Alternative Business Structures (ABS) regime means that legal services providers with non-lawyer owners and managers will need to be licensed in order to conduct reserved legal activities.

The Legal Services Act 2007 makes special provision for certain types of legal services providers (not for profit bodies, community interest companies and independent trade unions) which means that they are entitled to carry out reserved legal activities without a licence for a “transitional period.” These are referred to as ‘Special Bodies’. Without the provisions in the Act, these bodies would need to be authorised and regulated in the same way as any other body with non-lawyer ownership (i.e. an ABS). Only the LSB can make a recommendation to the Lord Chancellor that he should end the transitional protection. Once this ends, these bodies may seek special treatment from the Licensing Authority.

Until such a date that the transitional protections are lifted, special bodies are free to provide reserved legal activities through individuals that are authorised to do so, for example solicitors and barristers.

There are currently six reserved legal activities. These are defined in Box 3.

Box 3: Legal activities currently reserved

There are currently only six specific legal activities that are reserved. They are⁵:

- the exercise of rights of audience (i.e. the right to appear as an advocate before a court);
- the conduct of litigation (i.e. issuing proceedings before a court and commencing, prosecuting or defending those proceedings);
- reserved instrument activities (i.e. dealing with the transfer of land or property under specific legal provisions);
- probate activities (i.e. handling probate matters for clients);
- notarial activities (i.e. work governed by the Public Notaries Act 1801); and,
- the administration of oaths (i.e. taking oaths, swearing affidavits etc.).

There are other legal services that are also regulated by other organisations (such as with immigration law), or they may be subject to a non-enforceable code of conduct (such as that developed by the Institute of Professional Will Writers).

The LSB is currently considering the extent to which special bodies should be subject to the same regulatory requirements as other organisations that supply reserved legal services, or whether different arrangements should apply.

Evidence is needed on the activities of special bodies and the potential risks to the regulatory objectives. This report seeks to contribute to that evidence base.

⁵ http://www.legalservicesboard.org.uk/can_we_help/faqs/

3 Approach

Overall framework

This work is intended to build a clearer picture of the legal services provided by NfP organisations that conduct reserved legal activities. The wider NfP legal advice market is also explored. Two main sources of information have fed into this work:

- published material: this included studies, surveys, academic literature, research and information published by NfP organisations themselves; and,
- in-depth case-study interviews: 18 such interviews were conducted with a range of NfP organisations, around two-thirds of which provide reserved legal services.

The combination of this information allows a richer picture to be provided of this important sub-sector of the legal services market, and allows potential risks to the regulatory objectives to be identified.

Reviewing published studies, literature and research

Published information on the legal services provided by special bodies and other NfP organisations is relatively limited. Most sources are included within the LSB's comprehensive database with over 500 references of legal service publications. This was shared with Frontier for this work

The literature covers various issues within the broader legal services sector and the professionals that operate within it. Particular focus has been given to those which consider:

- the size, structure and nature of NfP organisations that offer legal services (whether reserved or non-reserved activities);
- the legal services provided by those organisations;
- the consumers of the legal services supplied;
- the quality of legal services delivered by such organisations; and,
- the market in which those organisations operate, along with interactions with other types of organisations and Government policies.

In-depth case study interviews

To complement the relatively limited published material, in-depth case-study interviews with a range of NfP organisations were undertaken.

Given the breadth of the NfP legal advice sector, the following types of organisations were interviewed:

- umbrella bodies (organisations that represent, and have as members, a wide range of separate organisations), e.g. Advice Services Alliance, Youth Access;
- organisations that represent and have as members organisations operating at the local level under the same name, e.g. Citizens Advice, Law Centres Federation;
- local branches of these networks, e.g. Combined Hospitals Citizens Advice Bureau, Coventry Law Centre;
- national charities, including some with a local presence, e.g. Age UK, Shelter, RNIB;
- independent advice centres, e.g. Speakeasy; and,
- Community interest companies (CICs) such as IncomeMAX and Beneficent Law.

CICs are a relatively new form of organisation, different to charities. They are limited companies which conduct a business or other activity for community benefit, not private advantage. They are “asset locked” to prevent the assets (cash, goods, property, etc.) and profits being used for anything other than community benefit.

While many of the national organisations are based in London, effort was made to ensure that a geographic spread of organisations in England and Wales were interviewed. In total, 18 organisations were interviewed on a range of topics, including issues relating to the quality of advice and regulatory framework. The list of those interviewed is in Annexe 1 and the interview structure is set out in Annexe 2.

4 Mapping the sector

Introduction

This section draws on the evidence found within the published material (described in the literature review at Annexe 4) and the case-study interviews (summarised in Annexe 3) to map out the legal services sector occupied by not-for-profit (NfP) organisations. Section 5 explores the evidence from the in-depth interviews in more detail.

Size, structure and nature of the sector

The NfP advice sector is large and encompasses a range of very diverse organisations. There are a number of large, national bodies with wide networks of local branches, as well as many smaller, independent organisations. Some organisations offer a wide range of services to specific client groups, such as older people or people with a particular disability, while others offer a particular service to a wide range of clients. Others are very general in terms of both the services they offer and their client profile.

While not all organisations are part of a national body, almost all independent advice centres are part of informal local networks with other organisations for the purposes of referring clients or receiving clients referred from others. Organisations are described as using these networks to try and ensure that client needs are met appropriately. Many are also members of national umbrella organisations, such as Advice UK, that represent their members in different forums.

Estimates of the size of the sector vary depending on definitions. One 2007 study⁶ suggests there were 3,226 NfP organisations offering advice in England and Wales. Another study⁷ (from 2006) estimates the financial value of the civil legal advice sector at between £5 billion – £7 billion (although this includes solicitors in private practice). Research suggests that over two thirds of NfP organisations employ fewer than 10 paid employees, although this probably underestimates their actual size as many NfP organisations are heavily reliant on volunteers.

It is important to note that many NfP organisations offering legal services do not conduct reserved legal activities.

⁶ Smith, M. & Tam, T. (Legal Services Research Centre) (2007), “Findings from the Legal Advice Sector Workforce Surveys”

⁷ Matrix Research and Consultancy (2006), “Estimating the size and nature of the civil legal advice sector in England and Wales”

The interviews and published material have both highlighted that the definition of legal services used by organisations varies significantly.

Funding and financial arrangements

NfP organisations receive funding from a wide variety of sources. Some of the most significant of these sources are ultimately funded by government, for example:

- Legal Services Commission contracts for Legal Aid work
- Local Authority funding
- Primary Care Trusts (PCTs)

Charitable trusts and grants (from the Big Lottery, for example) are other major sources of funding. Some organisations receive funding in the form of corporate donations, or donations from individuals (though these are often relatively small).

The interviews found that NfP organisations are currently facing great uncertainty, particularly around the issue of funding. Challenges include major changes to the legal aid system that have been proposed and further public spending cuts imply very tight budgets for local authorities and PCTs in the next few years.

Range of legal services supplied and their quality

NfP organisations offer an array of services to clients, including the provision of general information (for example, in the form of leaflets), general advice services (advice tailored to the individual but at a general level across a range of possible topics), specialist advice services and casework. Many organisations explained how they play a role in signposting and referring clients to other organisations better able to help.

Some organisations employ legal professionals to deliver their legal advice. The NfP organisations which employ solicitors or barristers offer some reserved legal activities, for example, litigation and representation in court by professionals with rights of audience. However, none of the NfP organisations interviewed undertake notarial activities or probate, and only a couple offer the administration of oaths.

The quality of advice has been highlighted in several published studies as being highly variable and inconsistently monitored across this sector. One of the most common metrics organisations referred to, the Legal Services Commission (LSC) Specialist Quality Mark (QM), has been criticised owing to its focus on proper process rather than the quality of the advice delivered. Some of the larger national network organisations have in place rigorous quality assurance, client

Mapping the sector

feedback and formal complaint systems – but this is not the case across all organisations.

Delivery of legal services: skills profile of staff and delivery models used

As described in the literature review in Annexe 4, Smith and Tam (2007) find that the age profile of staff is skewed towards people over 35, with significant numbers over 65, reflecting the large contribution of post-retirement age people volunteering in the sector. The workforce is largely female (70 per cent).

They also find the NfP advice workforce is relatively educated, with over two thirds of workers educated to A-Level or above and over half having a first degree. Just under a third of paid staff have some sort of vocational or professional qualifications or an accreditation related to giving legal advice.

In general, the organisations interviewed rely less on recruiting people with specific qualifications (with the exception of legal professionals such as solicitors), and more on recruiting experienced staff and providing on-the-job training to applicants who show aptitude.

Published statistics indicate the sector is heavily dependent on volunteers (around a third of the workforce), though they are not necessarily less qualified than paid staff. One study found that volunteers had on average four years more experience in the sector than paid staff (again probably reflecting the contribution of retirees).

Face-to-face meetings with clients is also found to be by far the most common mode of delivering advice, although most organisations have a website and some of the large national organisations offer a telephone advice line. Some organisations operate on a “drop-in” basis, while others have an appointment system, or a combination of the two. The means of delivering advice is often adapted to the particular client-base of the organisation (for example, RNIB have a telephone advice line).

Type and profile of clients

Different organisations have different client profiles, with some organisations targeting their services at a particular demographic, for example, older or younger people, or people from a particular nationality or ethnic minority. In general, although not exclusively, clients of NfP organisations tend to be from disadvantaged or socially excluded groups.

One of the most comprehensive data sources on the demographics of advice clients comes from the information recorded by Citizens Advice Bureaux and collated by Citizens Advice. This is however only an imperfect proxy for the sector as a whole, but it is a useful indicator. This shows that for the most recent full year, 55 per cent of CAB clients were women and 15 per cent were from

black and minority ethnic backgrounds. Where this data was reported, 30 per cent of clients were recorded as having a disability or long term limiting illness (however, given this only reflects the available data, this may be an overestimate).

5 Detailed evidence from in-depth interviews

Introduction

Section 4 outlined the NfP legal advice sector in a high level way and highlighted some key characteristics. This section dives more deeply into the evidence collated from the in-depth interviews.

Organisation profiles

As shown in **Table 1** (page 29), Frontier interviewed 18 organisations made up of 15 charities and three Community Interest Companies. Of these organisations, 10 were national organisations (five umbrella bodies and five head offices of organisations with branches nationwide), and eight were smaller organisations, operating at a local or regional level across England and Wales.

As expected given this variety of organisation type, the number of paid staff varies widely across the organisations interviewed: 7,000 people are employed within the Citizens Advice Bureaux network, the Brighton Housing Trust has 250 employees, while there are only two paid staff at Beneficent Law. The proportion of paid staff compared to volunteer staff is also highly variable, with some organisations relying heavily on volunteers (e.g. Citizens Advice network, Youth Access members, RNIB, Age UK), and others with few or no volunteers at all (e.g. Combined Hospitals CAB and IncomeMAX).

It is important to note that, while all the organisations interviewed provided legal services in the broadest sense (defined to include advice on rights and entitlements under the law), only 9 of the 18 organisations⁸ currently provide reserved legal activities. These are: Brighton Housing Trust, The Howard League for Penal Reform, Combined Hospitals Citizens Advice Bureau, Coventry Law Centre, Mind, RNIB, Shelter, Speakeasy and Vinbrooke Support Kent CIC.

Funding

Table 2 (page 32) highlights the range of funding sources relied upon by the organisations interviewed. Half of the organisations rely on Local Authority funding; and just under half (7 of the 18 organisations) currently receive funding from LSC legal aid contracts. The other most common sources of funding are Big Lottery (two thirds of those interviewed) and charitable trusts (13 of the 18 organisations interviewed).

None of the charities interviewed currently charges clients for services (other than the statutory legal aid charge where applicable). Several of those interviewed consider the principle of not charging clients as fundamental to their ethos as an

⁸ Excluding the umbrella bodies Citizens Advice and Law Centres Federation.

organisation. CICs do tend to charge as they are operating as social enterprises, though they do not necessarily charge the client.

While it remains a controversial issue, several charities said that they would like to consider the issue of charging in greater detail. They see it as a potentially important way to increase future revenue given current funding challenges. They reported that this may not necessarily mean charging all clients, as clients of NfP organisations often do not have the ability to pay.

Activities

Almost all the organisations interviewed focus on the provision of advice and casework on social welfare law. **Table 3** (page 34) illustrates that the most common issues on which advice is offered are welfare benefits, debt and housing. Other common areas of advice include employment, community care, and in some cases, immigration and mental health.

Some of the organisations offer only legal services with no other form of services (e.g. Coventry Law Centre, Speakeasy, all three CICs). However, the majority of organisations, and in particular the large national charities, offer legal advice as just one of a wide range of services. For example, Age UK offers neighbourhood wardens and other practical services; some Youth Access members offer sexual health services; and Shelter offers a range of support services such as helping clients to move house and decorate⁹. Many of the organisations interviewed see the holistic provision of services which address clients' multiple and interlinked needs as fundamental to their approach.

While most organisations use a combination of the main methods to deliver legal services to their clients (pre-arranged appointment, drop-in sessions, telephone, website and e-mail), the importance of particular methods varies by organisation. For example, the telephone was an important means of giving advice for Age UK, Mind, The Howard League for Penal Reform and IncomeMAX, whereas Speakeasy rarely delivers legal advice by telephone. Some organisations do outreach work, notably Law Centres, and the Combined Hospitals CAB which does ward visits and has an antenatal outreach programme.

Partnership working and referral among local Citizens Advice Bureaux, Law Centres, independent local advice agencies and local branches of specialist charities, such as Shelter, Age UK or mental health charities, is very common.

Reserved activities

As summarised in **Table 4** (page 39), many of the organisations interviewed do not conduct reserved legal activities and would therefore not be defined as

⁹ Age UK and almost all Youth Access members do not undertake reserved legal activities.

Special Bodies. Those organisations which do employ persons authorised to conduct reserved legal activities generally provide only a limited range of reserved activities. These are typically litigation and court representation, although Speakeasy and Vinbrooke Support Kent CIC also undertake the administration of oaths (though not necessarily regularly).

Very few of the organisations hold client money and where they do, it is in line with the Solicitors Regulation Authority rules on client money. Several organisations, including some which do not employ solicitors, represent clients at tribunals (for example, at welfare benefit tribunals). This type of representation is not a reserved activity.

Quality Assurance and Regulation

Table 5 (page 42) summarises information about the regulatory frameworks in which the interviewed organisations are operating and the quality assurance systems they have in place. These relate mainly to accounts and management structure.

All the charities interviewed are regulated by the Charity Commission and those which are also limited companies are regulated by Companies House. All the charities are governed by a Board of Trustees. A summary of these requirements is provided at box 4.

The Community Interest Companies interviewed tend to have one senior manager (e.g. a Director) and are relatively small; all had between 2 and 10 paid employees. They are regulated by Companies House and by the CIC Regulator. Box 4 describes the detail on the regulators' requirements.

Box 4: Requirements of other regulators

Charity Commission: All registered charities must prepare a Trustees' Annual Report (TAR) and accounts and make copies available to the public. However, charities with an annual income under £10,000 do not have to send them to the Charity Commission.

All registered charities must send the Charity Commission an annual update which includes contact and trustee details, where the charity operates and a short summary of the charity activities, including income and expenditure.

Charities with an annual income over £25,000 must also confirm that there have been no "serious incidents" that have not already been reported to the Charity Commission. Charities with larger annual income are progressively required to submit more detailed information.

Companies House: A registered company must submit an "annual return", which is a snapshot of general information about the company's directors, secretary (where one has been appointed), registered office address, shareholders and share capital.

Companies must also prepare annual accounts for their members and for filing at Companies House. Companies House requires that all companies maintain accounting records which are sufficient to show and explain a company's transactions and disclose its financial position at any time.

Companies must also update Companies House when particular changes occur within the company, for example, the appointment of a director or a change to share capital.

CIC Regulator: CICs are required to produce an annual CIC Report, which is delivered with their accounts to Companies House and placed on the public record. The Report must record what the CIC has done to pursue the community interest objective and involve its stakeholders during the year. It must also contain additional financial information, such as payments to directors and declaration of dividends.

The CIC Regulator has a range of investigation and enforcement powers to support its role and deal with CICs which are failing to comply with their CIC obligations. The CIC Regulator is a light touch regulator and only uses these powers to the extent necessary to maintain confidence in CICs.

All of those interviewed that have legal aid contracts said they hold the LSC Specialist Quality Mark as this is a pre-requisite for being awarded such

Detailed evidence from in-depth interviews

contracts¹⁰. Where the SQM is held, the organisations are required to monitor the quality of advice they provide in various ways¹¹.

While the LSC QMs are considered by many organisations as an indicator of quality, some of those interviewed criticised the QM's focus on proxies for the quality of advice, including systems and procedures, rather than on the quality of advice itself. In view of this, many organisations referred to a project of the Advice Services Alliance (ASA) (in collaboration with a number of other organisations in the sector) called "Working Together for Advice". This developed a new quality standard involving peer review of advice to replace the GHQM. The approach was piloted and gained support within the sector, but it proved prohibitively expensive.

Many organisations explained that since 2010, organisations seeking the QM are required to meet the up-front cost of the audit themselves. This was not previously the case and many of those interviewed raised it as a significant challenge, especially in view of the current financial pressures described above¹⁵. Indeed, many of those interviewed believe that QM accreditation is now unaffordable for some NfP organisations.

Other quality assurance arrangements vary. For example, Beneficent Law CIC employs an independent company to seek feedback from clients. IncomeMAX CIC reported that they have a number of quality assurance mechanisms in place: a quality review board meets to discuss the quality of advice provided; IncomeMAX is currently applying for the Quality Mark for telephone services; and the Managing Director supervises all advice provided.

The role of solicitors in supervision also varies, with non-solicitor advisors in some organisations (for example, Shelter) being supervised by more experienced advisors and not by Shelter's solicitors, while in other organisations (for example,

¹⁰ The Quality Mark was introduced in 2002 and "...is part of a family of standards that underpin the LSC's Community Legal Service (CLS) and Criminal Defence Service (CDS), and aims to enable Legal Services Providers/organisations to demonstrate that they are well managed, provide good levels of client care and have systems in place to ensure delivery of good quality advice". The Specialist Quality Mark, or Lexcel (The Law Society's practice management standard), is required by the Legal Services Commission to be eligible for the award of legal aid contracts.

<http://www.sqm.uk.com/specialist-quality-mark.html>

¹¹ The award of the Quality Mark is based on three main elements: standards of quality assurance; independent audit to ensure that standards are being achieved and maintained (this includes supervision and file review); and continuous improvement in the service offered to clients

http://www.sqm.uk.com/images/stories/sqm_standard_2010.pdf

¹⁵ The cost of the audit varies by size of organisation and also depends on whether the organisation is an existing holder of the QM or a new applicant. The cost for existing holders is £1050 – 1725, and for new applicants is £2362 – 3737. Once achieved, the accreditation is valid for three years, after which a full reaccreditation audit is required.

http://www.sqm.uk.com/images/stories/SQM_Audit_Pricing_Feb_11.pdf

Combined Hospitals CAB, Speakeasy, The Howard League for Penal Reform) all legal advice was overseen by solicitors or barristers within the organisation.

Almost all of the charities asked clients for feedback and had a formal complaints procedure in place (this is a requirement for those organisations holding the LSC Specialist QM).

Staff skills

The qualifications of staff employed in the organisations vary depending on the roles they carry out. Where solicitors, barristers or other legal professionals are employed, they are described by the organisations as having the relevant legal qualifications and experience in the relevant areas of law.

Some of those interviewed, for example the Coventry Law Centre, raised concerns that if the scope of legal aid contracts is reduced or funding cut, the range of work may alter. Over time, there may be less exciting work available in the sector to attract qualified lawyers with adequate experience in particular areas of law in which some NfP organisations specialise. This implies a potential risk of skills shortages. Mind also raised the risk of there not being sufficient lawyers in the market with adequate specialist skills if funding were cut.

Views on regulation

There was a wide variety of responses in relation to questions about regulation and in particular whether the current level of regulation was adequate or insufficient. Many of those interviewed expressed the view that they are fully committed to assuring quality and that they see regulation could play a valuable role in ensuring and signalling quality of advice. Some also saw it as a useful mechanism to provide clarity for clients about procedures for redress if something were to go wrong. Others felt that they were sufficiently regulated already and further regulation was not needed.

Citizens Advice suggested that they could be appointed as a regulator of Citizens Advice Bureaux, in view of the quality assurance framework they already have in place, which includes robust action if individual bureaux do not meet required standards.

Definition of 'legal services'

What is understood by the term 'legal services' varied significantly across organisations. Some organisations consider 'legal services' to include any advice about rights and entitlements under the law, though very few were able to offer a specific definition.

Detailed evidence from in-depth interviews

Impact of the Legal Services Act

The interviews also revealed wide variation in the extent to which organisations understood the Legal Services Act 2007 and the implications of the Act for their own organisation – very few described what it means for them in detail. For example, phrases used by various organisations to describe their level of understanding included “little detailed knowledge”, “a basic understanding” and “very good”.

Table 1. Organisation Profile

	Type of organisation	National or local?	Provides reserved legal activities?	Total number of staff	Number of paid staff	Number of volunteers	Number of clients (annual)
Citizens Advice	Charity	National	Yes (some bureaux)	28,500	7000 (25 per cent)	21500 (75 per cent)	2.1 million clients (7 million problems); 10.5 million website users
Law Centres Federation	Charity	National	Yes (members)	LCF has 27 staff; 56 Law Centres each with 5-45 staff	LCF - 15 (56 per cent)	LCF - 12 (44 per cent)	120,000 clients
Youth Access	Charity	National	No (except Law Centre members)	Youth advice workforce (2009): 2,100	600 (29 per cent)	1500 (71 per cent)	1 million enquiries (25 per cent rights-based)
Age UK	Charity	National	No	2500+	2500	Many	6 million people given information or advice, incl. 225,000 enquiries through telephone line; 25,000 receive tailored advice
The Howard League	Charity	National	Yes	c. 50	15-50	3-4	100 clients (200 matter starts)

Detailed evidence from in-depth interviews

	Type of organisation	National or local?	Provides reserved legal activities?	Total number of staff	Number of paid staff	Number of volunteers	Number of clients (annual)
Mind	Charity	National	Yes	170+. Local Mind organisations vary in size from 5-25 staff	170	Some	5000 enquiries to legal advice line
RNIB	Charity	National	Yes	5500	2500 (45 per cent)	3000 (55 per cent)	15,000-21,000 clients
Shelter	Charity	National	Yes	1050	900 (86 per cent)	150 (14 per cent)	80,000 (40,000 telephone helpline; 40,000 face-to-face)
Benefit Advice Shop	Charity	Local	No	10	7 (70 per cent)	3 (30 per cent)	8,000 clients (including online); 15,000 enquiries
Brighton Housing Trust	Charity	Local	Yes	260+	250 (96 per cent)	10-15 (4 per cent)	5,100 clients (6,000 matter starts)
Combined Hospitals CAB	Charity	Local	Yes	23	22 (96 per cent)	1 (admin role) (4 per cent)	1000-2500 clients
Coventry Law Centre	Charity	Local	Yes	36	31 (86 per cent)	5 (14 per cent)	3,000-4,000 clients given advice; of which 2000 involve casework

Detailed evidence from in-depth interviews

	Type of organisation	National or local?	Provides reserved legal activities?	Total number of staff	Number of paid staff	Number of volunteers	Number of clients (annual)
Speakeasy	Charity	Local	Yes	9	8 (89 per cent)	1/2 (11 per cent)	1,300 clients
Beneficent Law CIC	CIC	Local	No	3	2 (66.7 per cent)	1 (33.3 per cent)	2000 clients (1500 wills)
IncomeMAX CIC	CIC	National	No	6	6 (100 per cent)	0 (0 per cent)	1000+
Vinbrooke Support Kent CIC	CIC	Local	Yes	9	8 (89 per cent)	1 (11 per cent)	30 clients

Detailed evidence from in-depth interviews

Table 2. Funding sources

	LSC legal aid contracts	Local authority	Primary Care Trusts	Big Lottery	Other grants	Charitable Trusts	Corporate donors	Donations from the public	Charging clients
Advice UK (members' range of sources)	✓	✓		✓	✓	✓			
ASA					✓				
Citizens Advice				✓	✓	✓			
Citizens Advice Bureaux (range of funding sources)	✓	✓	✓	✓		✓	✓	✓	
Law Centres Federation		✓			✓	✓	✓		
LCF (members' range of funding sources)	✓	✓		✓		✓	✓		
Youth Access					✓	✓	✓		
Age UK		✓	✓	✓		✓	✓	✓	
Howard League	✓			✓		✓		✓	
Mind							✓	✓	

Detailed evidence from in-depth interviews

	LSC legal aid contracts	Local authority	Primary Care Trusts	Big Lottery	Other grants	Charitable Trusts	Corporate donors	Donations from the public	Charging clients
RNIB				✓	✓	✓	✓	✓	
Shelter	✓	✓		✓	✓	✓	✓	✓	
Benefit Advice Shop	✓	✓		✓					
Brighton Housing Trust	✓	✓		✓	✓			✓	
Combined Hospitals CAB	✓	✓	✓	✓					
Coventry Law Centre	✓	✓		✓	✓	✓			
Speakeasy	✓	✓		✓	✓	✓		✓	
Beneficent Law CIC								✓	✓
IncomeMAX CIC						✓			
Vinbrooke Support Kent CIC								✓	✓

Detailed evidence from in-depth interviews

Table 3. Activities undertaken

	Legal services offered (excl. reserved activities)	Delivery method	Non-legal services offered	Referral networks
Citizens Advice	Advice & casework on employment, welfare benefits, debt, immigration, housing, consumer issues & family law	Pre-arranged appointment; drop-in services; telephone; e-mail; online via adviceguide.org.uk	Campaigning	Shelter; Advice Services Alliance; Age UK; Connexions; GPs; solicitors; Youth Access; Royal British Legion; Macmillan nurses; MPs
Law Centres Federation	Advice on immigration, asylum, employment, debt, housing, welfare benefits, community care, mental health, education, public law & consumer law	Pre-arranged appointment (most common); some telephone advice, out-of-hours appointments & home visits; some outreach in schools, children's centres etc.		In consortia with other advice providers for legal aid contracts
Youth Access	Advice & casework on housing, homelessness, debt, employment, education & welfare benefits	Drop-in centres; telephone advice lines; online services; pre-arranged appointments	Counselling and support services to young people, including sexual health advice, bullying support and careers advice.	CABx; Law Centres; children's charities, e.g. Children's Society; Howard League

Detailed evidence from in-depth interviews

	Legal services offered (excl. reserved activities)	Delivery method	Non-legal services offered	Referral networks
Age UK	Advice on income & benefits, social care, housing, consumer issues, health, end of life, financial services, debt	Primarily telephone advice line & local drop-in services; printed & online information resources	"Handy Van" services; gifted housing; neighbourhood wardens; advocacy & campaigning	CABx; private practice solicitors; health specialists; tax advisors; social services
Howard League	Primarily casework on re-settlement; accommodation & support on leaving custody; parole & early release applications; sentencing appeals; treatment in prison; mental health	Telephone; prison visits; drop-in centre; telephone advice line staffed by duty solicitor	Campaigning & lobbying; research; inquiries	Clients sometimes referred to other solicitors
Mind	Telephone legal advice line on mental health issues (no case specific advice); legal unit takes on some high-profile cases; provide some specialist support to clients' solicitors	Primarily telephone	(National) Mind runs mental health telephone information line & does campaigning activities. Local Mind organisations offer practical help & support, e.g. counselling, drop-in centres, help finding employment	National Autistic Society; Beat (eating disorders); if solicitor required, point clients towards Mental Health Lawyers Association, Community Legal Advice, Law Centres, CABx, ACAS and EHRC helpline
RNIB	Advice & some casework on (primarily) welfare benefits, social care & discrimination	(Primarily) telephone; online & e-mail; pre-arranged appointments; some home visits	Support & counselling for people affected by sight loss; support for employees & employers; information & advice on losing sight; residential care homes; legacy services	CABx; local advice agencies; trade unions; Action for the Blind

Detailed evidence from in-depth interviews

	Legal services offered (excl. reserved activities)	Delivery method	Non-legal services offered	Referral networks
Shelter	60 percent of activity is legal advice & casework, primarily on housing, debt, welfare benefits & community care	Telephone advice line; two websites (general public & professionals); e-mail; pre-arranged appointment; drop-in services	40 percent of activity is practical "support services", e.g. helping people find accommodation, move house or manage their finances	In consortia with other advice providers for legal aid contracts (e.g. CABx); local authorities; local advice providers; job centres; private practice solicitors.
Benefit Advice Shop	Advice on welfare rights (including immigration, housing & disability benefits); representation of clients at tribunals	Telephone advice line; drop-in services; home visits		DWP; local authorities; doctors; mental health organisations; CABx; Shelter
Brighton Housing Trust	Legal advice represents 20 per cent of activity. Advice on housing, debt, welfare benefits, community care, immigration. Housing court duty	Pre-arranged appointment; drop-in services	Housing; supported housing; floating support; day centres; private rented sector initiatives; learning schemes	Local authorities; Age Concern; local Advice Partnerships; private practice solicitors; in consortia with CAB

Detailed evidence from in-depth interviews

	Legal services offered (excl. reserved activities)	Delivery method	Non-legal services offered	Referral networks
Combined Hospitals CAB	Advice on welfare benefits, debt & community care	Pre-arranged appointment; telephone advice; ward visits (incl. antenatal outreach); drop-in service; no online	End of life service offering help with financial affairs; disability services	Other CABx; local organisations e.g. Youth Support Foundation
Coventry Law Centre	Advice on social welfare law, including community care, immigration, debt, housing, employment, public law & discrimination.			Mind; Alzheimers charities; Refugee Centre; women's refuges; local authority homelessness department & social services
Speakeasy	Advice & casework on welfare benefits, debt & housing; negotiate with creditors	Drop-in service; pre-arranged appointments; telephone (rare)		CABx; Law Centres; independent advice centres; social services; community groups
Beneficent Law CIC	Wills; lasting powers of attorney; inheritance tax advice; probate (not reserved areas); letters of administration; legal advice to new businesses & charities	Primarily online and via e-mail; some telephone and face-to-face		Some clients referred from IFAs; BL refers clients on to local solicitors (e.g. for conveyancing)
IncomeMAX CIC	Advice on welfare benefits & tax	Primarily telephone		Community Legal Service; Advice UK; Child Poverty Action Group; Rights Net; London Advice Services Alliance

Detailed evidence from in-depth interviews

	Legal services offered (excl. reserved activities)	Delivery method	Non-legal services offered	Referral networks
Vinbrooke Support Kent CIC	Primarily debt advice; also advice on employment, immigration and education; conveyancing	Pre-arranged appointment; drop-in service		Specialist debt advisors; local community organisations; barristers

Detailed evidence from in-depth interviews

Table 4. Reserved activities (brief summary)

	Number of solicitors employed	Number of barristers employed	Other approved persons employed?	Reserved activities offered	Other legal activities, excl. advice	Hold client money?
Citizens Advice	Some; varies between bureaux	0	A few Legal Executives	Some CABx offer representation in court and litigation	Some CABx offer representation at tribunals	
Law Centres Federation	2-20 (depending on size of Law Centre)	Yes		Representation in court; litigation	Representation at tribunals	Yes
Youth Access	0 (except Law Centres)	0		None (except Law Centres)	Representation at tribunals	No
Age UK	0	0		None	Representation at tribunals; separate subsidiary offers will writing	No
Howard League	7			Litigation	Advocacy at hearings; adjudication in prisons	Yes
Mind	2	2 (part time)		Representation in court and litigation for selected cases		
RNIB	1	1		Representation in court; litigation	Representation at tribunals	No

Detailed evidence from in-depth interviews

	Number of solicitors employed	Number of barristers employed	Other approved persons employed?	Reserved activities offered	Other legal activities, excl. advice	Hold client money?
Shelter	40	0		Representation in court (incl. court duty); litigation		Yes
Benefit Advice Shop	0	0		None	Representation at tribunals	No
Brighton Housing Trust	7	0		Representation in court (incl. housing court duty); litigation	Representation at tribunals	Yes
Combined Hospitals CAB	1	1		Representation in court; litigation	Representation at tribunals; Judicial review of LA and PCT decisions	No
Coventry Law Centre	6	0		Representation in court; litigation	Representation at tribunals	Yes
Speakeasy	3 (+1 trainee)	0 (1 barrister volunteer)		Representation in court; administration of oaths (rare)	Negotiation with creditors; representation at tribunals	No

Detailed evidence from in-depth interviews

	Number of solicitors employed	Number of barristers employed	Other approved persons employed?	Reserved activities offered	Other legal activities, excl. advice	Hold client money?
Beneficent Law CIC	0	0	1 ILEX associate	None	Wills; lasting powers of attorney; inheritance tax advice; probate (not reserved areas); letters of administration	No
IncomeMAX CIC	0			None		
Vinbrooke Support Kent CIC	1	0	1 ILEX Fellow	Representation in court; litigation; administration of oaths	Representation at tribunals	No

Detailed evidence from in-depth interviews

Table 5. Quality assurance and regulation

	Regulating organisation(s)	Supervision arrangements	Client feedback	Formal complaints procedure	Quality assurance mechanisms	LSC Specialist QM?
Citizens Advice	Charity Commission; FSA; some CABx also regulated by Office of Immigration Services Commissioner	Not all work is supervised by solicitors	✓	✓	Three yearly assessment of CABx by Citizens Advice, mainly by file review & review of systems	Some bureaux
Law Centres Federation	LCF - Charity Commission; Companies House	All advice is supervised by solicitors	✓	✓	File review; no audit of Law Centres by LCF	✓
Youth Access	Charity Commission; workers subject to Criminal Record Bureau checks	Would vary between member organisations			Youth Access developed toolkit to monitor advice outcomes at aggregate level	
Age UK	Charity Commission; Companies House; FSA			✓	Quality is monitored through supervision	Yes (national)
Howard League	Charity Commission; Companies House	All case work carried out by solicitors. 3 prison law supervisors & 4 public law supervisors, with at least 5 years' experience.		✓	File review in line with LSC SQM	✓

Detailed evidence from in-depth interviews

	Regulating organisation(s)	Supervision arrangements	Client feedback	Formal complaints procedure	Quality assurance mechanisms	LSC Specialist QM?
Mind	Charity Commission	Advisors are trained and supervised by solicitors	✓		Advice line quality regularly monitored by legal unit (all calls are recorded)	
RNIB	Charity Commission; Royal Charter and Byelaws	Barrister supervises Legal Rights team	✓	✓	Employ approved accreditor to ensure quality of service	✓
Shelter	Charity Commission	Advisors are supervised by senior advisors with LSC SQM supervisor standard; solicitors are supervised by senior solicitors	✓	✓	File review; supervision; performance management; compliance audits (internal and LSC)	✓
Benefit Advice Shop	Charity Commission; Companies House	Advisors are trained & supervised until able to advise on their own	✓	✓	Monthly file reviews; funders able to audit if they wish	✓
Brighton Housing Trust	Charity Commission; Tenants Service Authority; Care Quality Commission	Not all work is supervised by solicitors	✓		Supporting People Quality Assessment Framework; file review undertaken by solicitors; analysis of case statistics; internal monitoring	✓

Detailed evidence from in-depth interviews

	Regulating organisation(s)	Supervision arrangements	Client feedback	Formal complaints procedure	Quality assurance mechanisms	LSC Specialist QM?
Combined Hospitals CAB	Charity Commission; Companies House; member of Citizens Advice	Head of legal team (barrister) is responsible for all advice; supervisor for each area of advice	✓	✓	Regular file review; all files of new staff are checked; quarterly process checks	✓
Coventry Law Centre	Charity Commission; Companies House	Senior solicitor supervises legal work; each area of law has supervisor who meets LSC Supervisor Standard		✓	Regular file review	✓
Speakeasy	Charity Commission; member of Law Society	Each solicitor supervises one area of law	✓	✓	File review by supervisors	✓
Beneficent Law CIC	CIC Regulator	Only director gives legal advice	✓		Follows Society of Will Writers code of conduct	
IncomeMAX CIC	CIC regulator; member of Advice UK & CIC coalition	Managing Director supervises all advice provided	✓		Quality review board meets to discuss quality of advice (IncomeMAX & partner organisations)	
Vinbrooke Support Kent CIC	CIC regulator			✓		

Detailed evidence from in-depth interviews

6 Potential risks to the LSB's regulatory objectives

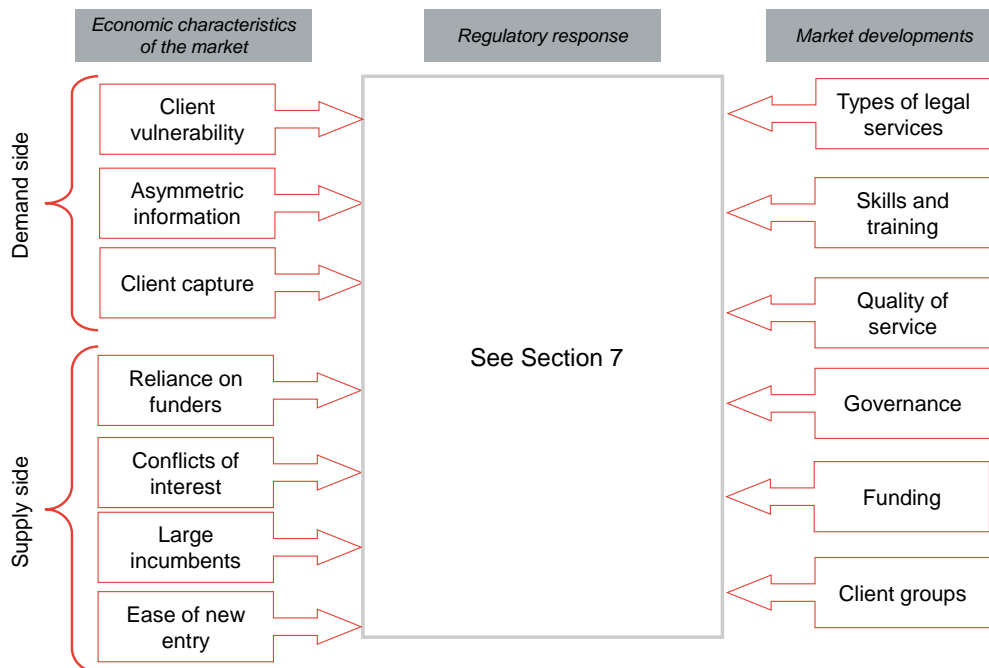
The LSB is the oversight regulator of legal services in England and Wales. It ensures the framework of regulation of legal services is appropriate and proportionate to the risks posed to its regulatory objectives.

This section draws on the evidence reviewed for this project and considers it from a regulatory perspective. Specifically, it explores the potential risks to the LSB's regulatory objectives posed by activities of NfP organisations and CICs conducting reserved legal activities (and other NfP legal services providers) and the market in which they operate. These are considered both in the present and future.

Potential risks are highlighted, based on the evidence, though this section does not make recommendations as to how those risks should be addressed.

The framework

Figure 3 presents an economic framework within which special bodies and the wider NfP legal services sector can be considered.

Figure 3. Economic framework

On the left hand of **Figure 3** are the economic characteristics of the market. To some extent, they are the ‘scaffolding’ of the market, around which decisions are made about how it operates. In effect, they can be managed through taking certain action, but they are not so easy to change (at least in the immediate term).

On the right hand side of **Figure 3** are the features of the market over which the organisations or policy makers are able to make choices. For example, it is the organisations themselves that are able to choose the quality of service they provide or the extent to which they train their staff. Likewise it is policy makers and donors that are able to determine how much money flows to these organisations.

Section 7 completes the centre pane of **Figure 3** by drawing on the potential risks identified in this section, and exploring the menu of potential options available for addressing them.

This section uses this framework as a foundation from which to identify some potential risks to the regulatory objectives. The economic characteristics of the market will first be outlined. Next, these and the operations of organisations within the market will be explored in detail, highlighting potential risks to the regulatory objectives.

Potential risks to the LSB’s regulatory objectives

Economic characteristics of the market

The purpose of the left hand side of **Figure 3** is to present the elements that influence the structural framework or ‘scaffolding’ of special bodies – many of which are in the NfP legal services sector or are CICs.

On the demand side, the first area, **client vulnerability** reflects the fact that there are groups within society who are in need. They require legal services but are not necessarily able to pay for it – others must therefore provide it for them for free.

Second, **asymmetric information** refers to the fact that one party knows more than another. There are likely to be many instances where this is true in this sector (and indeed the private market). For example, clients are typically not charged by these organisations. Therefore unlike private practice, pricing cannot therefore be used to convey information to the client such as about the quality of advice or its staff. Perfect information on these is not likely to be available. Other means of conveying that information would therefore be needed.

Third, **client capture** refers to the fact that because clients are often vulnerable, they are often not in a position to question the advice provided, or to challenge who they are advised to seek advice from. There may not even be any alternative options available even if they were able to choose. It is possible that they are therefore ‘captured’ within the system and are passed around either within a single organisation or its network, without available (or known about) alternatives.

On the supply-side, a specific ethos to provide services free to all consumers, or the lack of ability to charge clients market rates, if at all, means that organisations are **reliant on external funders**. In turn, as will be discussed in more detail, it is this feature that inevitably creates the potential for **conflicts of interest** between those funders and management (or other staff) within the organisation. Essentially, this is a ‘principal-agent’ problem in which the funder is the ‘principal’ and the management and staff are the ‘agent’. They each are likely to have their own objectives which may align, but there is a risk they may not in all cases.

Third, the market contains many **large incumbents**. The NfP sector is not new and many organisations have been operating for decades. Many have therefore been able to establish themselves in the market and have a well-recognised brand.

Finally, **ease of entry** reflects the fact that there are relatively few barriers to setting up an organisation in the sector. Entry is therefore possible; however, it is the sustainability of those organisations that is likely to prove the challenge.

Having set the scene by introducing the key economic characteristics of the market, the rest of this Section seeks to draw upon these to highlight the potential risks to the regulatory objectives.

Potential risks to the LSB’s regulatory objectives

Market developments

The right hand side of **Figure 3** presents the developments in the market that have flowed from the characteristics described above. These developments provide a framework in which to highlight the potential risks to the regulatory objectives.

Each is discussed in turn below.

Types of legal service provided

NfP organisations and CICs offer a range of legal services, some of which are reserved legal activities, others are not.

Where reserved legal activities are conducted, they must be provided through an Authorised Person but the body as a whole (including its systems and processes) is not necessarily regulated. In this way, the regulatory framework is intended to manage the associated risks associated with provision of those services.

A wide range of non-reserved legal services are also provided. These include general advice and information, case-work, through to representation at tribunals and advocacy. **Representation (i.e. advocacy) arguably poses greater potential risks** to the regulatory objectives than others because of the direct impact on outcomes for the client and the potentially greater costs to them if something goes wrong.

For example, client representation in an employment tribunal could affect the level of compensation for the client. Risks to the client could be linked to the extent to which the advisor representing the client is adequately and appropriately trained, and whether the client is in a position to understand the process and their means of recourse. These issues are discussed further in the following sub-sections.

The areas of law covered by NfP organisations and CICs are likely to be driven by a range of factors. The interviews found that **some organisations have adapted the services they provide in order to secure additional funding streams**. Shelter, for example, added debt, welfare benefits and community care to the range of legal services it provides in order to secure legal aid (Legal Services Commission) contracts.

As the review of literature (see Annexe 4) found, the most common areas of advice activity are welfare benefits (almost 70 per cent of NfP organisations offer advice on this), housing (58 per cent of organisations) and debt (48 per cent of organisations). This is a very different profile to private practice, where family law (on which 62 per cent of organisations offer advice) and crime (57 per cent of organisations) are the most common subject areas.

Although the delivery of advice and the types of law are likely to vary significantly by organisation, at the aggregate level, this data implies that there

Potential risks to the LSB's regulatory objectives

could be limited competition between NfP and private practice in some areas of law.

Skills and training of people providing the legal services

NfP organisations and CICs tend to rely on both paid employees and volunteers – the level of reliance on each type of worker varies across organisations.

Smith and Tam (2007) found that workers tended to demonstrate they have many years of experience in the relevant sector with paid employees having been in their current role for 4 years, in their current organisation for 5.5 years and working in the legal advice sector for 10.7. Volunteers have been in their current role slightly longer (4.9 years) on average than paid staff and in the legal advice sector significantly longer (around 15 years). This may again reflect post-retirement age volunteers with long experience: 12.1 per cent of volunteers have worked in other parts of the legal advice sector, of which almost 50 per cent had previously worked in private practice.

Experience can obviously be an asset to organisations. However it is also important to consider the extent to which those workers are trained in order to keep skills and knowledge up to date over time. Smith and Tam report that over 90 per cent of paid NfP staff and around 85 per cent of voluntary staff had had some sort of training in the past two years. Solicitors or other authorised persons are subject to annual continuing profession development requirements, although it is notable that this does not need to be linked to specific areas of practice. This implies that high levels of training are provided, though **it is not clear what the nature and quality of that training is**. Further work would be needed to explore this in more detail.

Smith and Tam also found that just 30 per cent of paid staff and 23 per cent of volunteers have some sort of vocational or professional qualifications or an accreditation related to giving legal advice. This implies **70-75 per cent of staff do not have such qualifications**, therefore further raising the importance of appropriate training for performing the job.

Of the latter: 23 per cent are volunteers with a professional qualification; and 44.6 per cent have achieved a CAB Certificate in Generalist Advice Work, offered by Citizens Advice.

This is described in the box below as an example of accredited training offered by an organisation voluntarily (i.e. there are no obligations for them to do so); Shelter is also an example. Other organisations have alternative internal processes in place such as internal training of advisors by regulated and qualified staff. For example, at Mind, the solicitors train and supervise the telephone advice line advisors.

Training

Shelter Training¹² is a wholly owned subsidiary of Shelter and specialises in the provision of training to paying organisations. Shelter staff are also able to attend relevant courses. The courses cover housing and homelessness; arrears, benefits and welfare; and personal development courses.

Shelter trainers come from a wide range of backgrounds, including barristers, solicitors, outreach workers, housing benefit experts and management consultants. The majority of courses are accredited for the Solicitors' Regulation Authority, the Institute of Legal Executives, and the Faculty of Advocates' continuing professional development (CPD) and Bar Standards Board. Attendance on housing law and related knowledge courses can help meet the Community Legal Service contract and Quality Mark requirements for training/competencies.

Citizens Advice Specialist Support¹³ provides a consultancy service in welfare benefits, money advice, housing and employment law. These courses usually last one day and are open to all advisers. All courses are accredited by the Solicitors Regulation Authority (formerly the Law Society) and carry Continuing Professional Development (CPD) hours.

In addition, all volunteers at Citizens Advice receive training and support. It takes about 250 hours of learning to become a fully competent CAB generalist adviser and the CAB certificate in generalist advice work is equivalent to NVQ level 3. Law students who train as CAB advisers can get up to six months off their solicitor training contracts.

In some organisations, the LSC Specialist Quality Mark supervisor standard was referred to as being held. For example, the head of the advisor team at Shelter holds this mark. LSC expresses the aim of this standard as to “assure the competence of individuals to act as technical legal supervisors to caseworkers, that is, to be sufficiently experienced (in technical legal and supervisory skills) to provide a coaching role to the individuals they supervise and to have control over the quality of all work for which they are responsible (i.e. their own casework and that of anyone they supervise).¹⁴”

¹²http://england.shelter.org.uk/_data/assets/pdf_file/0006/245292/Training_and_Publications_brochure_Jan-Dec2011.pdf

¹³ http://www.citizensadvice.org.uk/index/adviser_resources/advisertraining.htm#course_brochures

¹⁴ http://www.legalservices.gov.uk/docs/cls_main/SQMGuidance_Sep09_with_cover.pdf

Potential risks to the LSB's regulatory objectives

Generally, it is **not however clear what level of training is provided, the extent to which it is accredited in the case of all organisations, and whether training processes are continual and reviewed over time.** This could be a risk that is worth testing through more detailed investigation.

Unless appropriate training is provided, there is a risk to the quality of staff skills and the quality of advice they deliver – indeed they may decay over time without necessarily being noticed by the organisations.

The evidence in the literature suggests a disparity between the NfP sector and private practice in the area of training because for example, Smith and Tam found that 60 per cent of workers received training on further areas of law or knowledge updates building on the basics over the course of their careers, but this was just 37 per cent for NfP paid workers, and just 17 per cent for voluntary workers.

As noted above, the NfP advice sector relies significantly on volunteers to provide advice (some 37 per cent of workers). Smith and Tam found that one in four organisations reported some difficulty with retention (though this was often because the volunteers had secured paid employment rather than leaving the organisation). Where adequate training is provided to new paid staff and volunteers this may not be a risk, though the **lack of evidence on training programmes across organisations implies this would be worth testing further.**

A further potential risk arising from **retention problems** relates to the availability of advice if there were to be a shortage in appropriately skilled advisors. Indeed, some 47 per cent of organisations had experienced some or significant difficulties in recruiting. **The reasons for these problems would be worth exploring further, along with the extent to which there are actually problems of skill shortages in any particular areas.**

As discussed in Section 5, some of those interviewed raised concerns that if the scope of legal aid contracts is reduced or funding cut, access to specialised skills could be affected. For example, one organisation highlighted a risk of there being less ‘exciting’ work to attract qualified lawyers with adequate experience in particular areas of law. Or, funding cuts may reduce the number of lawyers with specialist skills that can be sustained within the sector. This potential **shortage of suitably qualified legal professionals** with experience of particular areas of law could pose a potential risk to access to justice.

Several of the organisations interviewed, and across the sector more widely, offer clients a range of services including representation at tribunals. While this is beneficial for clients, it is important that the advisors undertaking such representation are adequately skilled and trained. Inadequate training and skills could lead to low quality advice which could pose a risk to the client’s best

interests. Mackenzie Friends, explained in the box below, are an example of a situation in which the risk could occur unless advisors are adequately skilled.

McKenzie Friends

In the case of the Court of Appeal (Civil Division), the High Court of Justice, the County Courts and the Family Proceedings Court in the Magistrates' Courts only those authorised by the appropriate Approved Regulator have a right of audience to represent their clients. Advisors or other lay persons do not have this right. Clients therefore have assurance that the advice provided by the legal professional is regulated; so, if that advice were for some reason wrong, there are clearly established insurances and means of recourse.

However, clients who are required to attend court have the right to reasonable assistance from a lay person (for example, a trained advisor from an advice centre), referred to as a Mackenzie Friend. Specific guidance on what Mackenzie Friends are permitted to do, and what they are not, is provided by the Judiciary of England and Wales¹⁵. This states clearly that the Mckenzie Friend has no right to act as an advocate or to carry out the conduct of litigation.

It is a criminal offence to exercise rights of audience or conduct litigation unless authorised to do so by an appropriate regulatory body, or by the court on a case-by-case basis. The latter provision provides the opportunity for the litigant (i.e. the client) to apply to the court for the right for a non-authorised person to represent them. The court must be persuaded that "the circumstances of the case are such that it is in the interests of justice for the court to grant a lay person a right of audience or a right to conduct litigation".

It could therefore be the case that an advisor from an advice centre could attend court with a client as a Mackenzie Friend, and be granted a right of audience by the court. If this situation were to arise, unless the advisors are adequately trained and skilled, there could be a risk to the quality of advice and hence the client's best interests.

Similar risks may emerge if, for example, advice centre advisors help clients with completing court papers. Although the advisers would not be legally permitted to sign and file them with the court on behalf of the client, they could provide significant advice on completing the form. The client may not however be in a position to question the advice, perhaps due to lack of confidence or legal knowledge. Unless the advisors are adequately trained, there could be a risk to the quality of advice provided.

¹⁵ <http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/mckenzie-friends-practice-guidance-july-2010.pdf>

Systems and processes for ensuring quality of the service

Ensuring the quality of service provided is a key component of meeting regulatory objectives. Low quality advice would pose a serious risk to the consumer interest and the ability of clients to understand their rights and entitlements under the law.

The literature review and the interviews have found that **the quality of advice is not consistently assessed across all organisations**. All of those interviewed with legal aid contracts hold the Legal Services Commission's "Community Legal Service Specialist Quality Mark" as this is a pre-requisite of holding such contracts. However, this quality mark has been widely criticised. For example, "Independent Review of the Community Legal Service"¹⁶ concluded that its impact on the quality of advice has been limited owing to "...its focus on improving the quality of key management processes within organisations rather than focusing directly on the quality of advice delivered." Although there is a peer review process that runs alongside it¹⁷, the peer review component only assesses a selection of firms annually and is not applied to all organisations under contract to the LSC.

Therefore, **even though organisations hold the LSC quality mark, the quality of the actual advice provided may not necessarily be known**.

The internal quality assurance mechanisms differ across organisations. Citizens Advice has voluntarily developed an internal procedure for assuring the quality of advice provided by its bureaux. This involves Citizens Advice (the umbrella organisation) assessing the advice of individual bureaux every three years, mainly through peer review of case records, and of the systems in place. This peer review involves independent file review, follow-ups where necessary and identification of training needs. If a CAB fails to meet the standards in any area then they have to agree a corrective action plan with Citizens Advice and are then revisited after 12 months to ensure they have made the required changes to meet the standards. Further examples are described in the box below.

The variation in the extent to which the quality of advice is monitored across organisations implies that there is a potential risk of inconsistent quality. In addition, notwithstanding the deficiencies of the LSC Quality Mark noted, there are generally **very few, if indeed any, viable alternative quality marks for organisations to gain**.

¹⁶ This was undertaken by Matrix Research and Consultancy in 2004 for the Department for Constitutional Affairs.

¹⁷ http://www.legalservices.gov.uk/civil/how/mq_peerreview.asp

Recognising the perceived deficiencies of the LSC Quality Mark process, as mentioned in Section 5, the ASA's project 'Working Together for Advice' explored peer review options. This proved to be very expensive however so was not taken further.

The apparent lack of appropriate quality mark represents a gap in the market and implies a number of potential implications, including:

- The consistency of advice provided is not necessarily monitored regularly across organisations, hence any change in the quality of advice over time may not be acknowledged;
- Organisations may not have a recognisable way to signal the quality of advice they provide. Such a signal could play a useful role in helping to facilitate competition in the market (where this is viable) and to secure funding; and;
- Those organisations offering advice which is a low standard may not be identifiable, hence they may not take the required remedial action.

Quality of advice – anecdotal evidence

RNIB hold the LSC Specialist Quality Mark (SQM) (welfare benefits category), though the LSC has not audited this in 6 years. In view of this, RNIB employ an accredited auditor to make sure of the quality of the services provided. RNIB will be applying for the SQM to be renewed.

Mind provides advice via a legal advice helpline. This is used as a way to disseminate the information that has been prepared by the legal unit i.e. by the solicitors who are specialists in the various fields of mental health law mental capacity, human rights and discrimination. The advisors are trained and supervised by the solicitors. Advisors supply the clients with the prepared rights guides and suggest that clients seek further specialist advice, if necessary.

Where solicitors are employed, all organisations interviewed noted that those legal professionals would be responsible for their own advice and where relevant would also supervise the advice provided by case-workers working on their case-work files.

Not all organisations have specific legal teams, though several do. For example, the Combined Hospitals Citizens Advice Bureau has a specific legal team headed by a barrister who is responsible for all legal advice provided by that team; the Law Centre has a Senior Solicitor who is responsible for all the legal advice of the Law Centre. The Howard League for Penal Reform said all case work is carried out by the solicitors; all solicitors employed are supervisors - three supervise the prison law case-work, and four supervise the public law case-work.

As noted earlier, the LSC SQM accreditation must now be paid for by the organisations seeking accreditation. This could place a financial squeeze on organisations where resources may already be tight.

Indeed, for smaller organisations, this may represent a relatively significant cost. In the face of funding constraints, the decision to continue to gain accreditation could be entirely linked to the extent to which they bid for legal aid contracts rather than through a desire to address advice quality in any way.

Some organisations in the sector may choose not to become, or remain, accredited. Unless rigorous alternative quality assurance procedures are implemented, their focus could potentially shift away from quality (perhaps owing to funding or other competing pressures) which could potentially risk the quality of advice falling over time, without the organisation necessarily being aware.

Governance structures/funding sources

Governance structures are intended to allow organisations to run effectively and meet their objectives. However, there are particular characteristics around the

Potential risks to the LSB's regulatory objectives

typical governance structures of NfP organisations and CICs that imply potential risks to the regulatory objectives.

In particular, in most organisations, the legal team is only one part of a wide organisation. This implies the potential risk that a legal professional may have a limited ability to ensure the necessary processes and procedures are in place to be fully in line with the professional code of conduct.

For example, the Board may not necessarily include a person that has been designated explicit responsibility for ensuring systems and procedures are in line with the lawyers' professional requirements. This could lead to IT or filing systems that do not adequately protect client confidentiality of those seeking legal advice, for example. Inadequate influence over senior management could lead to potential risks for adhering to professional principles.

Plus, as noted in the 'characteristics of the market' section above, a typical characteristic of NfP organisations is their reliance on other organisations or individuals for their funding. By implication, some funders could therefore be in a position of being able to influence the activities of those within the organisation. Their influence derives from the perceived threat of them removing funding unless their wishes are met. The potential risk to professional integrity is that lawyers may be under perceived pressure to take, or refrain from, particular actions.

The extent to which these potential conflicts of interest materialise would depend on the particular motives and incentives of funders and the senior management teams (including the Board of Trustees). These would be worth exploring in more detail.

Client groups

The typical client base of NfP organisations (described in Sections 4 and 5) and CICs tends to be largely individuals who are vulnerable or disadvantaged in some way. In addition they are not likely to be able to afford access to legal advice on the commercial market. Many of the clients are therefore reliant on legal aid. Where charges are imposed for the legal services provided, the organisations interviewed said they aim to keep costs to clients as low as possible (for example, Beneficent Law charges £35 for a will). In terms of access to justice therefore, the services offered by the NfP organisations and CICs directly contribute to meeting this objective, provided that the advice is of an appropriate quality.

The fact that clients are able to access legal advice only from those offering legal-aid work could limit their choice of provider. Whether this poses a risk to the consumer interest would however depend on whether it leads to a reduction in the organisation's incentives to provide high quality advice (as there may be less need to compete for business), or to act against the consumer interest in some way. This could be tested further.

Potential risks to the LSB's regulatory objectives

Indeed, even where alternative organisations are in the market delivering the required legal-aid funded legal services, the client may not be in a position to explore those alternatives. The vulnerability of some clients, or their desperate need for help could lead them to ‘panic’ into seeking advice from wherever they see it available. Again, this may not necessarily be against the consumer interest if all organisations had appropriately skilled staff providing quality advice. This may however not be the case in all circumstances.

In addition, the client base may not understand the basis on which legal advice is provided to them, and the extent to which they are protected from poor advice. For example, where advice is provided by authorised lawyers, the regulatory regime provides clear channels of recourse should anything go wrong.

However, it may not be easy for them to understand who is regulated, who is not and what it all means. Where non-regulated advisors are providing legal services, there may be risks to the quality of their advice unless they are appropriately trained. Reliance on McKenzie Friends as described above is one example of how this could affect clients in practice.

Clients (or their families) may not also be able to differentiate between organisations unless there is a consistent and well-understood means of comparison, or unless a common standard is enforced. Quality marks for example would potentially allow such comparisons to be made as they could be used as a signal to potential clients. The robustness of the quality mark must of course be assured, but without them, there is apparently a lack of information over the quality of legal services provided. This is particularly likely to be an issue in markets or areas where organisations face limited competition from the presence of other providers.

Key issues arising

It flows from the discussion above that there are generally three particular issues that are important from the regulatory perspective. Each of these is particularly important, both for the present and future context:

- Potential lack of competition in the market
- Reduction in funding
- Changes in delivery mechanisms

These are explored in the following.

Competition

The types of markets served by NfP organisations and CICs may be explored from various perspectives. On the basis of the evidence here, the legal services provided are driven by one of three perspectives:

Potential risks to the LSB’s regulatory objectives

- i) **Type of client:** some organisations target their activities on clients with particular characteristics. For example, they may fall within a particular **demographic group**. Age UK focuses on the elderly and Youth Access on the young, for example. Or, clients may have a **particular disability or illness**. RNIB offers its services to partially sighted and blind people; Mind helps those with mental illness.
- ii) **Type of client problem:** some organisations target those with a particular need, which in turn requires advice on **particular areas of law**. For example, Shelter provides services to those with housing problems, as does Brighton Housing Trust; The Howard League for Penal Reform supplies legal advice to clients in the penal system.
- iii) **Geographic location:** many organisations (NfP or commercial) provide legal advice to those in their local areas. For example, the Benefits Advice Shop and Speakeasy advise those in their local areas of Wales on welfare benefit rights and entitlements.

In practice, some of these may overlap. For example, The Howard League for Penal Reform focuses both on penal law as well as clients under 21 years of age.

The extent of competition therefore depends on whether there are other organisations providing legal services to those particular markets. The interviews found that this varies across organisations, with some noting very little presence of similar organisations to themselves.

As discussed above, there are several characteristics of NfP organisations and CICs that arguably make them distinct from the private sector:

- The client-base is typically vulnerable or disadvantaged in some way, and they are often not able to pay for services. In addition, they may not be in a position to physically explore a wider range of service providers (if they are desperate and have no time, or are very ill, for example). Further, they may not sufficiently understand the quality of advice or how to differentiate between organisations to make informed decisions about who to speak to;
- A specific ethos to provide services free to all consumers or lack of customers who are able to pay means that organisations must rely to a significant extent on external funders, rather than being able to charge clients; and,
- The lack of profit motive implies different business models are in place. Co-operation across organisations is often evident, with the intended aim of pointing clients to where they are able to access the services they need.

Vulnerable people in society are often unlikely to be able to pay for the legal advice they need, so they are forced to rely on others to fund it. Organisations

Potential risks to the LSB's regulatory objectives

that rely on that funding to provide the required services must however compete with others for that funding. In itself, although this encourages competition for the market but it may inhibit competition in the market.

This issue may be likely to intensify in the future as organisations interviewed are expecting reductions in funding from several key sources in the future, including legal aid contracts and local authorities.

Those that have secured funding have often been operating in the market for several decades (as found by the interviews) and have therefore been able to establish their brand name. Many often therefore rely significantly on word-of-mouth to ensure potential clients are aware of their services. A strong brand could be argued to aid clients as they are able to identify where services might be available. However, the established position of organisations in the market, and the often strong brand recognition, could potentially act as a barrier to entry.

Indeed, a survey for Citizens Advice described in Annexe 4 found that “39 per cent of Citizens Advice Bureaux thought that their bureau was in an “advice desert” implying little competition exists. The reasons for advice deserts would be worth exploring further.

The typical client-base also means that they may not be in a position to shop around and seek alternative service providers. This could further bolster the position of those already established in the market.

Almost all organisations interviewed also stated that they often work within referral networks – either formal or informal. Plus, findings from the Legal Services Research Centre (LSRC) survey of justiciable problems, quoted in the 2008 Age Concern and Youth Access presentation, “General Help Providers - the end of the line?” noted “The position of these first points of contact or ‘problem noticers’ in the fluid structure of advice-seeking and advice-giving is absolutely pivotal...”.

The organisations interviewed explained that the aim of such networks would be to ensure clients are pointed towards the services they need. However, it would be worth exploring further if this is necessarily always the case: it could be that in some circumstances, the full range of options open to the client may not be explained. In some sense, clients could be said to be “captured” within the system as they are not aware of alternatives. The implication could be a potential reduction in competition in the market.

Similarly, as illustrated in the box below, many of the organisations interviewed described their aim to provide a holistic set of services to their chosen market. Several of those interviewed explained this is because a client’s problem is likely to have many components, each of which may require a different form of legal (or other) advice. From an economic perspective, this could be an efficient way for those services to be provided as it mitigates the upfront investments in setting up a larger number of separate organisations to deliver a more limited set of

Potential risks to the LSB’s regulatory objectives

services. However, it also means that clients could be less inclined to look elsewhere.

It would be worth testing if any potential lack of competition or possibility of client capture actually poses a potential risk. Indeed, given the typical vulnerability of the client-base, it would be worth also testing the extent to which competition could be increased, or the asymmetric information problem described earlier could be improved. Plus, whether there could be effective ways to achieve better outcomes for the consumer.

Market structure – anecdotal evidence

Many of the organisations interviewed explained they offer a holistic set of services, and are part of referral networks that ensure clients are pointed towards the organisations best placed to provide the required advice.

Several organisations noted that where they are not able to offer the services required – for example, if reserved activity legal advice were required – they would refer clients on to other appropriate organisations. For example, Mind would refer its clients who have called the advice helpline to the Mental Health Lawyers Association, Community Legal Advice, Law Centres, Citizens Advice Bureaux, ACAS and the EHRC helpline.

The Combined Hospitals CAB explained their involvement in a Legal Advice Partnership which seeks to ensure there is no duplication of the legal advice provided by organisations within the Partnership. For example, each may target a particular client group. The Partnership's aim is to make best use of available resources and minimise the risk of 'advice deserts' for particular forms of advice.

Reduction in funding

Funding was raised as a key concern by all organisations interviewed. Almost all of those interviewed are reliant on external sources, and they are expecting funding constraints to bite in the future.

From a regulatory point of view, this issue can be considered from several perspectives.

- i) What this may imply for the quality of advice and the incentives (or ability) to maintain standards;
- ii) Potential impacts on business models, including whether they structure themselves differently; and,

Potential risks to the LSB's regulatory objectives

- iii) Potential incentives to explore some form of charging for services (though not necessarily charging the client) in order to provide an additional revenue stream and enhance the financial sustainability of advice provision.

A common theme across many of those organisations interviewed was the likely reduction to legal aid contract funding as a result of changes in the areas of law that are eligible, plus the reductions in local authority funding.

In the face of these funding constraints, as noted above, organisations are likely to have to compete more fiercely for the available resources. Several noted that if funding were to fall, they may have to reduce the services they provide.

An additional risk more widely is that organisations that are badly affected by reduced funding, but also face increasing demand for their services, may not necessarily be able to make the necessary investments in quality assurance. It was discussed above how the need to pay for the Specialist Quality Mark accreditation could lead organisations to make a judgement about whether they actually seek re-accreditation. Although some have noted this particular quality mark has limitations as an indicator of the quality of advice provided, this indicates how quality assurance processes are likely to require some form of financial investment.

Conversely, if organisations must compete for funding, they may have the additional incentive to find some way to signal to funders the quality of services they offer. This may be likely if they perceive that funders are more likely to fund institutions that offer high quality services.

The second issue noted above relates to the potential for restructuring as a way to improve financial viability. Mergers or consolidation of some form could therefore be explored. The extent to which this may have implications for market competition and the quality of advice, would be worth testing further.

The third issue highlighted above is arguably more radical – some organisations may explore some form of charging in order to shore up revenue streams. The interviews revealed that some are already considering this in some form (as shown in the box below). In many cases, discussions are only in their early stages.

If organisations were to begin charging then this could present both potential risks and opportunities for the regulatory objectives. For example, there would be a need to carefully consider:

- Whether those charging for their services should be accredited in some way;
- If there should be certain restrictions placed on the use of revenues;

- Whether there should be a balance of charged-for and externally funded (or pro bono) work;
- How the level of the charge would be determined; and,
- Whether charging may affect the nature of the work undertaken.

Although such potential risks would need to be managed, the overarching justification for charging is that it would be intended to lead to a range of benefits for clients. Charging in some form may therefore present opportunities in terms of the regulatory objectives. For example,

- By providing an additional stream of revenue to the advice provider, charging would be intended to bolster the sustainability of advice services. In addition, there could in some circumstances be the potential to expand the range of services provided. This would both be expected to be in the consumer interest and enhance access to justice.
- Linked with the potential expansion of services in some circumstances, there may also be the potential for an advice provider to reach out to a wider client-base than would otherwise have been the case, hence also enhancing access to justice.
- A greater reliance on charging revenues could potentially allow an advice provider to notably reduce their reliance on external funders (depending on the magnitude of those revenues). Such a move could therefore mitigate the risk of the potential conflicts of interest discussed above.
- There could also be beneficial impacts on the quality of advice provided if, for example, charging revenues were able to make accreditation audits or other forms of quality assurance more viable. Indeed, by undertaking commercial activity to some degree, this could act to increase an advice centre's incentives to invest in signalling the quality of their advice to the market. This would be in the consumer interest.

Response to future challenges – anecdotal evidence

Combined Hospital Citizens Advice Bureau mentioned that in response to funding constraints, they may consider merging with another organisation; the Law Centres Federation suggested they may explore aligning activity with Citizens Advice to improve their joint effectiveness.

On charging, although some explicitly ruled this out, others did note that they may explore charging options (though not necessarily charging the client).

Brighton Housing Trust made an application to the Solicitors Regulation Authority (SRA) to be able to charge for the legal services provided, but the SRA rejected the application. The application was to waive the rule of the solicitors' Code of Conduct that precludes in-house solicitors employed by Law Centres or similar organisations charging clients for legal work (other than payments made by the LSC).

Several organisations noted that funding is often tied to particular activities. Therefore, staff may need to be focused on those activities that deliver the work linked with those contracts, which places at risk other activities they undertake, such as engaging in public affairs (as noted by The Howard League for Penal Reform), or even maintaining the organisational infrastructure.

Changes in delivery mechanisms

The means of delivering advice vary across organisations with Smith and Tam finding that face-to-face accounts for over 70 per cent, with some advice given over the telephone just under 20 per cent. Other forms include outreach, home visits etc. Some of those interviewed also relied on on-line means as a way to reach their clients (e.g. Beneficent Law and RNIB).

The means of delivering advice are however constrained by the need to ensure it is appropriate for the particular client base served. For example, the Combined Hospital Citizens Advice Bureau carries out ward visits and outreach services in order to reach their clients; The Howard League for Penal Reform visit clients in prisons. Several organisations noted the importance of the telephone in providing advice and have telephone advice lines, such as Mind and The Howard League for Penal Reform.

In the face of funding challenges organisations may need to consider how they can deliver their services more efficiently. Where technology offers this opportunity, various options could be explored. Several organisations explained how they believe technology can be used to access a wider client market (by for example, providing advice via email, as in the case of Beneficent Law).

Potential risks to the LSB's regulatory objectives

Constraints on whether this would be appropriate for the client base more widely should of course be noted.

Where technology is relied upon for delivering legal services, it is likely that any potential risks implied would not be unique to the NfP sector – they would also be likely to apply to private practice who use those technologies.

Potential risks could include for example:

- how the confidentiality of clients could be secured – for example, whether the client’s information could be shared securely over the internet;
- whether greater reliance on technology precludes the ability to provide legal services through other means;
- whether processes and systems are in place to mitigate the risks of unknown persons hacking into confidential files;
- how the quality of advice provided could be assured given that there may be no physical contact between the client and the advisor; and,
- whether online facilities allow adequate information to be shared for effective advice to be delivered . Relationships may be an important part of ensuring that the true nature of the problem is detected as the client may not be aware of it themselves.

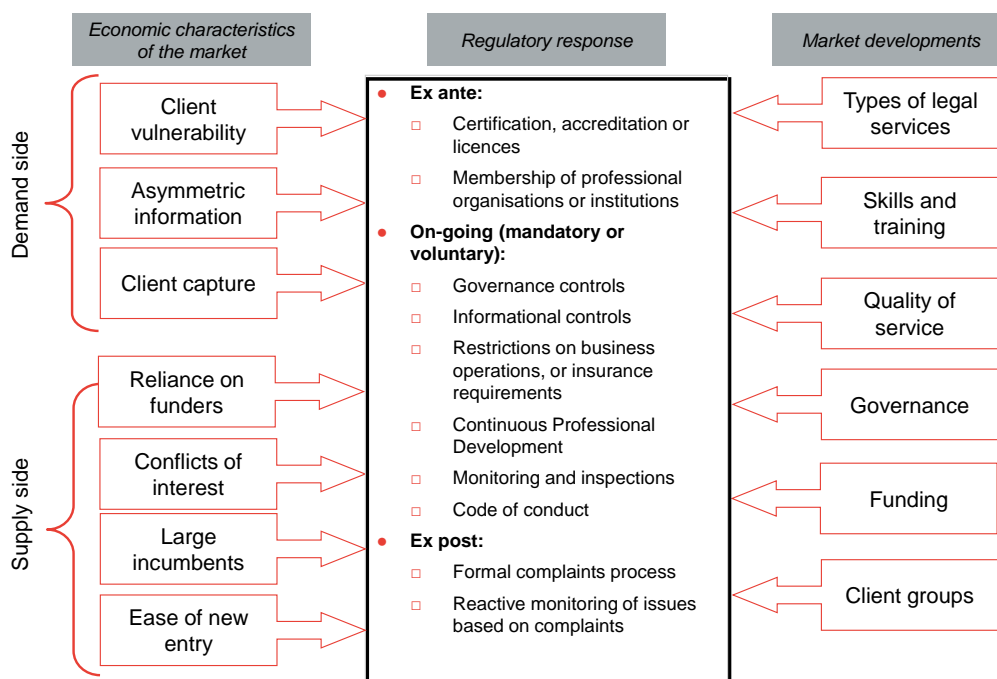
Each of these issues would merit further consideration along with whether the regulatory framework could be used to address them where appropriate. Any regulatory action would need to be proportionate and alive to the danger of being unjustifiably discriminatory.

7 Implications for the regulatory framework

Section 6 presented analysis within an economic framework that sought to express the key characteristics of special bodies – many of which are NfP organisations or CICs.

This section focuses on a different part of that framework: the potential regulatory response. This is shown in **Figure 4** for context.

Figure 4. The economic framework – exploring the regulatory response



This section does not seek to present a detailed analysis of the appropriate response for addressing any potential risks identified in Section 6. Rather it presents a menu of options. These could be assessed in more detail to test whether they would be appropriate and cost-effective.

First the aims of effective regulation are discussed before focusing on the options within the centre panel of **Figure 4**.

Aims of effective regulation

The underlying purpose of this work is to provide evidence for the LSB to gain a greater understanding of the issues relevant for the appropriate and proportionate regulation of NfPs and CICs that conduct reserved activities.

The regulatory objectives are at the heart of the LSB's role in setting the regulatory framework. Regulation of legal services has shifted towards being **“outcomes-based”** i.e. focused on outcomes to support the regulatory objectives. Plus, it is also **“risk-based”**, both in terms of assessing licence applications, and in overseeing legal service providers that pose the highest risk to achieving regulatory objectives.

Better Regulation principles guide the development of the regulatory framework to ensure that it remains cost effective and that it is transparent, accountable, proportionate, consistent and targeted only where intervention is justified. Given the complexities involved in regulating any market, the extent to which a framework is able to achieve these requires full and detailed assessment of a range of alternative options.

Various forms of regulatory control have already been applied within different professional services sectors or have been discussed in the literature¹⁸. The following offers a range of potential options for further consideration. The form of regulation imposed should be assessed recognising the magnitude of risk implied, and the costs imposed on society if those risks materialise. It should also be appropriate for the particular context in which it is applied.

Ex-ante regulatory requirements

The first form of regulatory action is referred to here as ‘ex ante’ regulatory controls. Essentially, these would aim to place regulatory requirements on those who wish to provide advice in the market, before they are operational. Their objective is therefore to mitigate the potential risks to regulatory objectives before any advice is provided.

Examples highlighted in **Figure 4** include certification, accreditation or licences; or membership of particular professional organisations.

Certification, accreditation or licences

Certification, accreditation or licences would require individuals or organisations that wish to offer particular services to clients to apply for, and be awarded, a certificate, some other form of accreditation or a licence to carry out those activities. These can be used as a signal of a level of competence or quality of service when delivering services to clients.

In practice, licences could be held by individuals, organisations, ring-fenced parts of organisations, or by collective groups. Authorisation to undertake particular activities would be dependent on the conditions of the licence. Such licences

¹⁸ For example: “Regulation of Professional Services: Lawyers & Notaries, Accountants, Architects & Engineers, Pharmacists” Iain Patterson, Institute for Advanced Studies, March 2006 (http://www.oenb.at/en/img/paterson_tcm16-46131.pdf)

Implications for the regulatory framework

would need to be under the control of a Licensing Authority to ensure their integrity. This is currently the case with reserved legal activities for example.

Linked with these regulatory controls are professional qualifications requirements that could be placed upon certain individuals within an organisation for example. The qualification would of course need to be credible and verifiable.

Depending on the form of regulatory control, it may be the case that these are not just one-off requirements. For example, accreditation or licence renewal could be required in order to ensure that standards are maintained over time.

There are likely to be a range of other potential options, each with the objective of mitigating risks to the regulatory objectives, before advice is actually provided. Each would merit further investigation.

Membership of particular organisations

Membership of a particular professional organisation could be required if that membership were in some way able to credibly mitigate a particular risk to a regulatory objective. For example, it could be the case that a professional body only awards membership to those organisations who are able to meet certain standards or to meet certain criteria relating to qualifications, skills, etc.

This form of regulatory control would need to be considered further, based on the evidence of its likely effectiveness.

On-going regulatory requirements

While operating in the market, there may be a case for regulating the way in which particular services are provided or the way in which organisations are structured, in order to address certain risks to the regulatory objectives.

Regulation could be either **mandatory or voluntary**.

Mandatory controls would place legal requirements on individuals or entities to undertake certain activities or to operate in a particular way. If they do not comply, legal action could be taken. Means of recourse and penalties for non-compliance are therefore transparent. Such requirements should of course be considered against the costs of monitoring, reporting and verification, however.

Voluntary regulation involves organisations (or individuals) voluntarily implementing procedures or practices and committing to do so publicly – hence sending a signal to others that this is being done. This commitment may be made independently or as part of a group or ‘club’.

This issue has been explored by Prakash and Gugerty (2010)¹⁹ for example. They argue that voluntary regulation could be an effective way for organisations in the NfP sector to differentiate themselves from those who are not participating in the voluntary regulation, and therefore signal that they are using their resources as per the organisation's mandate. Provided the programme of voluntary regulation is seen to be credible, then this may increase the incentive of funders to provide them with resources.

For such regulation to be effective, they argue that the 'club' (i.e. those voluntarily regulated) which the organisations join should demonstrate various characteristics, including:

- There needs to be a way to exclude those who are not participating so that they are not able to benefit from others having invested resources in being part of the voluntary programme;
- Members must be required to adopt policies and undertake activities that go beyond what is legally or operationally required of them;
- Members must face a cost in undertaking these activities - these costs help to create the reputational signal for the club;
- The associated reputation or "brand" of those who choose to be voluntarily regulated must not be able to be appropriated by non-members.

They also argue that having a collection of organisations that form this 'club' gives the voluntary regulation more credibility because they can each hold each other to it. Unilateral commitments can arguably be more easily changed.

In the context of quality assurance for example, alternative forms of voluntary regulation may be worth exploring. Indeed, Citizens Advice has already implemented a form of voluntary regulation on its members through its internal quality assurance processes.

Each of the following examples of regulatory control could be implemented in the market either as a mandatory requirement, or on a voluntary basis. Which is most appropriate would depend on the nature of the potential risk to the regulatory objectives being addressed, and the relative costs, benefits and implications.

¹⁹ "Trust but verify? Voluntary regulation programs in the nonprofit sector" Prakash, A and Gugerty, M, *Regulation & Governance* (2010) 4, 22–47 <http://onlinelibrary.wiley.com/doi/10.1111/j.1748-5991.2009.01067.x/pdf>

Governance controls

Governance controls could be implemented to mitigate certain potential risks to the regulatory objectives. For example, in the context of ABSs, to mitigate the risk of potential conflicts of interest between legal professionals and Board members, a Head of Legal Practice and Head of Finance and Administration must be appointed.

The nature of any requirements would need to be explored in more detail in order to ensure requirements are appropriate and proportionate.

Informational controls

Informational controls could be used to increase transparency of various aspects of an organisation's activities. A characteristic of the market noted in Section 6 is asymmetric information. This at least in part stems from the fact that there are typically no charges for the client when legal services are delivered – quality cannot be signalled via the price, for example. In addition, there is also apparently a lack of viable quality mark (or equivalent) able to convey information about the quality of advice supplied and for providers to signal to others. Plus, there may be little information available on the training or skill levels of staff. This is important to recognise when considering whether intervention in a market is justified because if some parties have more information than others, markets are not likely to work effectively.

Possible informational controls would aim to directly address the lack of information available through for example:

- Requiring organisations to make public certain information. For example, about the training and qualifications of staff, or quality assurance mechanisms; or,
- Requiring organisations to inform clients about their options at various stages at the advice process – for example, which external organisations they could seek the relevant advice from.

The information provided would need to be verified by an external and independent auditor to ensure that it is robust and accurate.

Penalties for information that is incorrect or incomplete may also be needed in order to ensure the integrity of the approach.

This type of regulation is used in many other contexts. For example, requirements to publish financial data are already in place for many of the organisations interviewed for this work.

The information required should be the minimum to provide the consumer with the relevant information to make informed choices and to be protected from any

Implications for the regulatory framework

potential risks to their interests. These benefits should be balanced against the costs of developing the information and verifying it.

Restrictions on business operations

Restrictions on business operations would be intended to ensure that the organisation undertakes its activities by relying on particular processes or by ensuring particular insurance is in place, for example.

The case for restrictions would need to carefully consider the costs of implementing those restrictions along with any distributional issues that may arise from requiring particular behaviour, and set these against the benefits.

Continuous Professional Development (CPD)

CPD requirements are already in use in many professions with the intention of ensuring that skills of staff carrying out particular activities are maintained and upgraded appropriately. The intention is to maintain consistency in the level of skill or competency required for delivering particular services to clients.

CPD requirements already exist in the legal profession. For example, the Solicitors Regulation Authority requires all solicitors and registered European lawyers (REs) who are in legal practice or employment in England and Wales, and work 32 hours or more per week to complete a minimum of 16 hours of CPD per year; at least 25 per cent must consist of participation in accredited training courses²⁰.

Such requirements could be used in other contexts in order to mitigate potential risks to the LSB's regulatory objectives, though this would require a further assessment of the associated costs and benefits.

Monitoring

In some circumstances, direct monitoring of organisations' activities may be required through, for example, inspections by external inspectors. The aim would be to understand the processes and procedures within an organisation, and potentially explore the type and quality of an organisation's engagement with clients. This would be to explore whether particular standards are being met, and where remedial action may be required.

Monitoring is a costly process, not least because of the resources to physically inspect organisations, but also the investment required of those being inspected to prepare for and accommodate inspectors, and to understand the regulatory requirements placed upon them. Such inspections could in some circumstances

²⁰ <http://www.sra.org.uk/solicitors/cpd.page>

play an important role in building confidence in organisations' effectiveness. The costs and benefits would therefore need exploring in detail.

Code of conduct

Codes of conduct could be used to provide a framework of best practice with which individuals or organisations could comply. To be effective, it would for example be important for a code of conduct to be transparent to others and for adherence to the code to be visible and verifiable.

The feasibility and integrity of codes would vary by circumstance, which would merit further consideration.

Ex post regulatory controls

Ex post regulatory controls, as the name suggests, come into play after the event i.e. in this context, they could be used after advice has been delivered. Such requirements are intended to be used to provide a framework in which clients have protection or a means of recourse, if required.

For example, requirements could include offering a transparent and verifiable formal complaints process (i.e. the process is clear to all and all complaints are logged and appropriately handled). Or, a particular body or person could be designated to which complaints can be sent, such as an ombudsman. This would be intended to provide consumers with a clear point of contact should they be dissatisfied with a particular organisation or individual.

Such complaints bodies already exist in a range of sectors in the form of an Ombudsman, or Complaints Commissions for example. In this context, it may be worth exploring if there is a case for allowing clients of special bodies to complain to the Legal Ombudsman or some other designated Ombudsman for example.

Such procedures also provide valuable information and data on the operation and performance of particular organisations. Therefore, it may be possible to monitor organisations by looking at the number of complaints that have been made. Of interest would be the overall number of complaints made, and the issues about which complaints had been made.

The purpose of this information would be to ensure that complaints are appropriately acted upon by identifying required remedial action to prevent recurrence of particular problems.

There are costs in implementing such systems, but these should be considered against the benefits to the consumer and wider confidence in the sector.

Implications for the regulatory framework

Selecting the appropriate regulatory control

Further work should be taken forward on each of the regulatory controls discussed in this section. In particular, this should consider the conditions under which they would be likely to be effective in addressing risks to the regulatory objectives and assess their relative costs and benefits. Box 5 presents a framework of cost benefit analysis.

Implications for the regulatory framework

Box 5: Cost benefit analysis

Cost benefit analysis is an established framework that ensures decisions makers are presented with information on the likely costs and benefits of particular actions in a transparent and consistent way. The overarching framework is illustrated in **Figure 5**.

A cost-benefit analysis allows the costs and benefits of any proposed action, such as extending the scope of regulation or changing the nature of regulation, to be considered relative to what would otherwise have been expected to happen (often called “the counterfactual”). This framework is an economic tool used to guide investment and regulatory decisions because it specifically identifies the costs and benefits only of the proposed action.

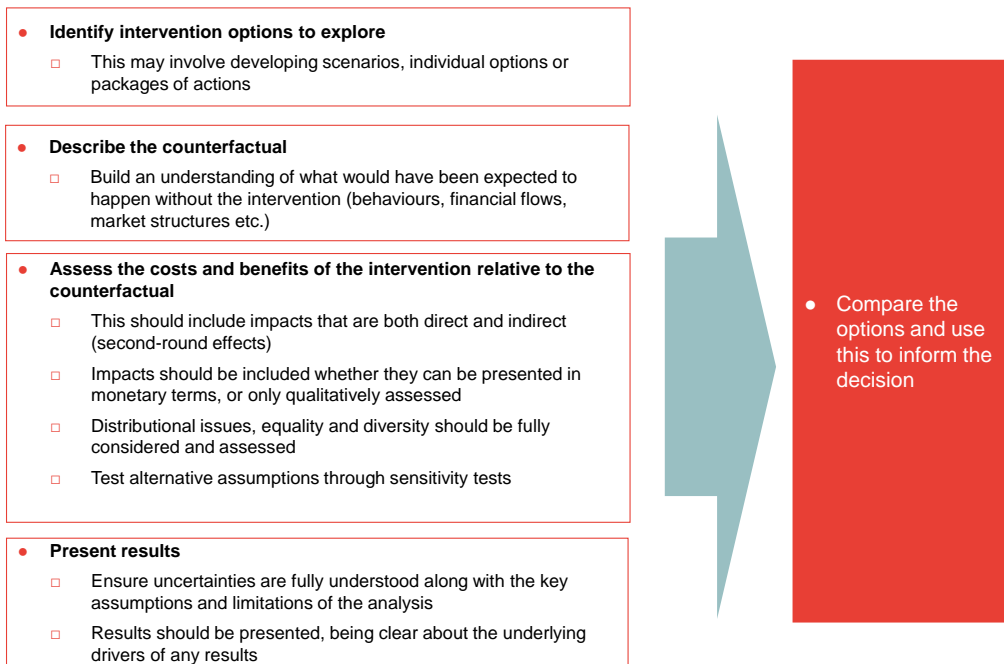
As shown in **Figure 5**, the first stage of the process is to develop regulatory framework options or scenarios that can be explored.

Any option or scenario is compared relative to what might have happened otherwise – the “counterfactual”.

Assessing the costs and benefits of any option requires comprehensive assessment, both in quantitative terms (using available evidence) and qualitative where this is not possible. The purpose is to form a view of the likely impacts of any regulatory option on those being regulated and others and to estimate the magnitude of those effects, relative to what would otherwise have happened. It provides an evidence-based view of the costs of an option and allows this to be compared against the benefits. Attractive options are those in which the benefits outweigh the costs.

Attention must also be given to equality and diversity effects to consider whether there is a risk of some groups being disproportionately affected more than others, either adversely or beneficially.

Obviously, the analysis would entail some key assumptions being made, and there will be some uncertainties that should be explained, but it provides a valuable tool to consider the relative impacts of alternative options, and to compare them in a consistent way. Testing alternative assumptions and seeing how this affects the results is a useful way to test robustness.

Figure 5. Cost benefit analysis

8 Suggested further research

This work has explored a significant amount of evidence on the legal services provided by special bodies, many of which are NfP organisations or CICs. However, it is necessarily limited because it has not been possible to interview all types of organisation within the relevant sector, and published evidence is not adequately comprehensive.

In addition, this work has not sought to make recommendations for how the risks identified should be addressed – further work would be needed to build the required evidence base on alternative options. This section identifies some suggested areas on which further work would be valuable to fill knowledge gaps.

Exploring alternative regulatory frameworks

As described in Section 7, various forms of regulation should be explored in more detail in order to address the regulatory risks identified in this project.

There are likely to be a range of costs and benefits associated with each, and only those that demonstrate benefits greater than costs would be justified in economic terms.

In this context it would be worthwhile undertaking a review of the literature to better understand the issues arising around regulation of the NfP sector and the alternative forms of regulation that could be implemented. Importantly also, this should pull out the conditions under which each is likely to be most effective.

As part of this work, it would be useful to gain a greater understanding of the regulatory frameworks that have been implemented in other countries, jurisdictions or sectors. This may allow some insights to be gained that could be adapted for this sector.

Each potential form of regulation offers the scope for further detailed investigation. Particular areas of interest would therefore include:

- Of the various categories of regulation discussed in Section 7, more detailed analysis is needed on the specific variants of each form of regulation;
- Who might the appropriate Approved Regulator of special bodies – should it be an existing Approved Regulator or is there a case for a newly formed Approved Regulator with knowledge of the relevant markets in which special bodies operate, and their activities.
- An assessment of the conditions under which each is most likely to be effective;

- An assessment of the extent to which the costs are likely to be outweighed by the benefits, if implemented to mitigate particular potential risks.

Potential responses to funding challenges

This exploratory work highlights a key challenge facing most NfP organisations is the availability of funding, on which they rely for their viability.

Responses to this challenge are important to understand in the context of regulation. Particular areas that merit further detailed consideration are:

- The potential business models that organisations may adopt in the face of funding challenges. Might they consolidate or merge for example;
- Whether organisations are likely to consider charging in some form and what form it might take;
- To what extent organisations may change their legal service delivery mechanisms and whether online activity or telephone may be relied upon to a greater extent.

Understanding each of these in more depth through for example further field-work, interviews or reviewing international literature would be useful. Appropriate regulatory frameworks would depend on the types and potential magnitude of risk as they need to be proportionate.

Suggested further research

Annexe 1: Interviews undertaken

Table 6. Organisations interviewed for this work

Name of organisation	Type of organisation
Advice UK	Charity – a national umbrella body
Age UK	Charity – advice and other services provider
Advice Services Alliance	Charity – a national umbrella body
Beneficent Law CIC	Community Interest Company
Benefit Advice Shop	Charity - advice provider
Brighton Housing Trust	Charity – advice and other services provider
Citizens Advice	Charity – a national umbrella body
Combined Hospitals Citizens Advice Bureau	Charity – advice provider
Coventry Law Centre	Charity – legal advice provider
The Howard League for Penal Reform	Charity – advice provider
IncomeMAX CIC	Community Interest Company
Law Centres Federation	Charity - a national umbrella body
Mind	Charity – advice provider
RNIB	Charity – advice provider
Shelter	Charity – advice and other services provider
Speakeasy Advice Centre	Charity – advice provider
Vinbrooke Support Kent CIC	Community Interest Company
Youth Access	Charity – a national umbrella body

Annexe 2: Interview questions

General information about your organisation

This section of the interview seeks to build a general understanding of your organisation, or if you are a network body – your organisation and your member organisations.

Aims and goals of the organisation

- What are the objectives and priorities of your organisation?
- Have your objectives changed in the last 5 years? If so, how and why?
- Roughly how long have you been operating?
- How do you let people know what help, advice and other services you offer – see **Table 7**

Table 7. Means of informing others of your services

Means of informing others of your services	Please tick any that apply to you
The internet	
Newspaper advertising	
Word of mouth	
Advertisements placed in public areas	
Other (please specify)	

Size, location and structure

- In which towns or regions in England and Wales do you offer services? Are the services the same in each location?
- How many staff do you have in total? How many volunteers do you have in total? Please see **Table 8**.

Table 8. Number of staff

Number of staff	Paid employees	Volunteers
Less than 10		
More than 10 but less than 50		
More than 50 but less than 100		
More than 100 but less than 250		
More than 250 but less than 500		
More than 500 but less than 1000		
More than 1000 but less than 5000		
Over 5000		

- What is the structure of your organisation? Do you have:
 - a management committee?
 - Board of Trustees?
 - Chief Executive?
 - other – please specify?

- Are you regulated by a particular body for any of the services that you offer (for example, the Charity Commission?)

Overview of services offered

- How many different services do you offer and what are they?
- Have you changed the services you supply over the last 3 years? If so why?
- Are you likely to change the services you supply in the future? Why?
- Roughly what proportion of the help and advice you supply is more general information provision and what proportion is more specialist (i.e. requires tailoring it to a specific group or individual) – please see **Table 9**?

Table 9. Proportion of different forms of advice offered

Proportion of advice provided	More general information provision	Advice specific to an individual or group
Very little (less than say 5 per cent)		
A fair amount but not significant (perhaps around 10 per cent)		
Significant but less than a quarter		
Very significant – around half		
Most of what we do – around three-quarters		
Nearly all of what we do – almost 100 per cent		

Funding

- Approximately what proportion of your funding comes from:
 - Grants
 - Grants with specific targets
 - Contracts with targets
 - Activity based funding
 - Donations from the public
 - Donations from local businesses
 - Charges to service users
- What are your main sources of funding and revenue?
- Do you receive financial support from other organisations? If so, which?
- Do you anticipate significant changes to your funding arrangements in the future?

Annexe 2: Interview questions

- If so, what effect might such changes have on your ability to deliver services to others?

Legal advice offered by your organisation

This section focuses on the legal services i.e. the legal help, guidance and advice you offer to clients.

Legal services offered

- What do you consider to be ‘legal services’?
- What are the particular forms of services you offer to clients?
- Have you changed the types of legal advice you offer in the last 3 years? If so, how and why?
- Do you collaborate with other organisations to deliver legal services? If so, which organisations?
- What proportion of the services your organisation supplies is legal advice, compared to other services? See **Table 10**

Table 10. Proportion of help and advice that is legal advice

Proportion of advice provided	Legal advice compared to other advice
Very little (less than say 5 per cent)	
A fair amount but not significant (perhaps around 10 per cent)	
Significant but less than a quarter	
Very significant – around half	
Most of what we do – around three-quarters	
Nearly all of what we do – almost 100 per cent	

- Roughly what proportion of the legal advice you provide to clients is specific to them, and how much is more general information – see **Table 11**?

Table 11. Proportion of different forms of legal advice offered

Proportion of advice provided	More general information	Specific to an individual or group
Very little (less than say 5 per cent)		
A fair amount but not significant (perhaps around 10 per cent)		
Significant but less than a quarter		
Very significant – around half		
Most of what we do – around three-quarters		
Nearly all of what we do – almost 100 per cent		

- Do you operate a triage service to ensure clients are sent to the right advisers?
- Do you do any of the following:
 - representing clients at a court or tribunal (if so which courts/tribunals, and how frequently)?
 - litigation (preparing and filing papers for court)?
- Do you do any of these types of activity:
 - administration of oaths
 - notarial activities
 - preparing wills
 - administration of probate
- Do you ever hold client money? If so do you have a specific client account? If not what methods do you use to ensure the security of this money?

Annexe 2: Interview questions

People delivering the legal services you offer

- Do you have a specific legal team in your organisation?
- Does your organisation employ any solicitors or barristers? If yes:
 - how many solicitors?
 - how long have you employed solicitors?
 - how many barristers?
 - how long have you employed barristers?
- Do you employ any other types of legal professional? For example a Legal Executive?
- How many other staff do you have that provide legal services?
- If you have solicitors, barristers etc., are they responsible for all legal advice that your organisation offers (i.e. they have a supervisory role), or just what they personally deliver?
- Do you require any specific qualifications, experience, education or training of your staff providing legal advice? If so, do you expect them to have them when they join your organisation or do you provide training? If so, how?
- Have you identified any gaps in the skills of those who deliver your organisation's legal advice?
- Do you rely on third parties for funding or other support in supplying your legal services? If so, which organisations and what do they provide?

Delivering the legal advice

- Through what means do you offer the legal help and advice – see **Table 15**

Table 12. Methods of delivering legal advice

Advice delivery	Please tick if appropriate
On-line	
Telephone	
Pre-arranged appointment only	
Drop-in centres	
Other (please specify)	

- Have you changed the legal service you offer over the last 3 years? If so, what has changed and why?
- Do you charge for legal advice provided?
- Would you consider charging (or changing the charge) in the future? Why?

Quality and impact of the legal services you offer

- Do you monitor the quality of legal advice provided? How?
- Do you have a formal complaints procedure in place?

Your clients

The clients who you help

- Roughly how many clients do you provide legal advice to in a week (excluding or including on-line advice) – see **Table 13**

Table 13. Approximate number of legal service clients

Approximate number	Not including on-line services	Including on-line services
Less than 10		
Between 10 and 50		
Between 50 and 100		
Between 100 and 200		
Between 200 and 500		
Between 500 and 1000		
Between 1000 and 5000		
Over 5000		

- Do you monitor the profile of clients you provide services to?
- If so please provide information about the age and income profile, and the equality and diversity of those you help. Also, if known:
 - roughly what proportion of your client base is accounted for by private individuals?
 - what proportion is accounted for by business clients?
And if relevant, how does this split across:
 - small businesses?
 - larger businesses?
 - government organisations?
 - other advice agencies/legal professionals?

The demand for your legal services

- Do you think the demand for your legal help and advice has changed over the last 3 years?
- Do clients tend to ask for help or advice just as a one-off, or do they tend to come back for further advice? Do you provide casework?

- What sorts of problems do clients come to you with? Are some problems more common than others? If so, which?
- Are you able to provide legal services to all groups you would like to? If not, what are the factors that stop you from delivering these?

Client knowledge of the legal services you offer

- How do clients typically find out about the legal services you supply – see **Table 14**

Table 14. How clients typically find out about your legal services

Source	Please tick those that apply	Please tick the most popular
The internet		
Newspaper advertising		
Word of mouth		
Advertisements placed in public areas		
Other (please specify)		

- Are clients informed about the type of adviser they are seeing, for example, that they are a qualified solicitor etc.?
- Do your clients generally come to you directly or are they often referred to you from other parties? If so, please provide detail.
- Do you refer clients to other third parties? If so, under what circumstances and where do you refer them to?
- Do you ask for feedback from the clients on the service they receive?

Annexe 2: Interview questions

Your interaction with other organisations

Your knowledge of other organisations

- Do you know if there are there other organisations that provide similar legal services to you, to the same clients as yours? What do you know about them?
- Does what those other organisations do affect you in any way? If so, how?
- Have you noticed a change in the number of other organisations that supply the same services as you over the last 3 years? Do you expect these changes to continue?
- If new types of organisation – such as for example, supermarkets, banks, estate agents etc. – were to supply the legal services you offer, do you think that would affect what you do in any way? If so, how?

Strategic issues

Government policy

- What do you understand by the Big Society agenda and how might this affect what you do?
- What are the main Government policies that affect what you do and how you do it?
- Do you pro-actively look out for Government policy and consider its implications for your organisation?

Understanding of the Legal Services Act (2007)

- What do you understand about the Legal Services Act (2007) and how it relates to the legal services your organisation supplies?
- Do you think your organisation or network should be further regulated given the legal services it supplies? Please explain your answer.
- How would it affect your organisation if it were to be regulated and have to comply with the provisions placed upon other organisations that provide legal services (such as having certain reporting requirements)?

Future challenges

Nature of challenges facing the legal services you supply

- What do you consider to be the most significant challenges facing you over the next ten years – see **Table 15**

Table 15. Most likely challenges over the next ten years

Nature of the challenge	Does it apply to you? Please describe the extent of challenge and why it is a challenge.
Funding and revenue of the organisation as a whole	
Government policy	
Regulation of your legal services	
Other providers of the legal services you offer	
Lack of demand for what you offer	
Lack of people in your organisation	
Lack of skills of those willing to work in your organisation	
Keeping pace with the demand for your services	
Constraints on the services you supply	
Other (please provide detail)	

Your proposed response to those challenges

- Are you taking any action now that will help alleviate the challenges you expect in the future? If so, what is it and why?
- What support would help you to meet the challenges you see ahead?

Annexe 2: Interview questions

- How do you manage funding and other financial risks? What support would help you to meet the challenges you see ahead?
- How would you prefer to see that support provided?

Additional information

- Do you have any additional points you would like to make?

Annexe 3: Interview summaries

Advice Services Alliance

Frontier met Ann Lewis – Policy Director on Tuesday 29th March. The interview questions were sent to Ms Lewis in advance, though the purpose of the conversation was not to go through them in detail given ASA is an umbrella body.

General information about the ASA

ASA is the umbrella organisation for independent advice networks in the UK. It plays an important role in representing and co-ordinating the views of its members to the Legal Services Commission (LSC) and others.

Members of ASA are: Age UK, Shelter, Shelter Cymru, Citizens Advice, DIAL, Law Centres Federation, Youth Access and Advice UK. It also has associate members who are: Child Poverty Action Group, Contracted Advice Agencies Network, Environmental Law Foundation, Liberty, London Advice Services Alliance, National Debtline, Refugee Council and Royal National Institute for the Blind.

Members pay a small membership fee to the ASA, but their main source of funding is now the LSC.

In addition to its corporate website, ASA maintains two public websites: one providing legal information and the other providing information about alternative dispute resolution (ADR).

Quality of advice provided by NfP organisations

There are externally audited quality standards in place across some of ASA's members, for example the LSC's Specialist Quality Mark (SQM) and General Help Quality Mark. Although these standards are audited, the assessments cover the quality of the systems in place, rather than assessing the quality of the advice actually delivered.

Professor Avrom Sherr developed a peer review system for the LSC in which practitioners assess the work of other practitioners. This process of peer review was supported by the ASA as it looks at the quality of advice provided. However, it is very resource intensive and the LSC only carry out a limited number every year..

The ASA's 'Working Together for Advice' project explored peer review options as part of the work to develop a new quality standard to replace the GHQM. Agencies involved in the pilot process were very supportive of peer review, however it is very expensive and ASA doesn't have any funding to take the project further at the moment.

Annexe 3: Interview summaries

ASA views on the risks posed by the current framework of regulation as it applies to ‘special bodies’

The ASA believes that Not for Profit (NfP) organisations which employ solicitors represent a relatively low risk to regulators. They point out that most NfP solicitor organisations are already regulated by the Charity Commission and Companies House. Further, most NfP solicitor agencies have the SQM.

However, ASA has identified some areas of potential risk to the consumer interest. Essentially, these stem from the fact that NfP organisations themselves are not currently regulated in relation to the legal services they deliver, but the solicitors they employ are. Therefore, ASA supports the introduction of entity regulation for NfP solicitor organisations.

These potential risks include:

1. Potential conflicts of interest

NfP organisations rely on other organisations or individuals for their funding. There is a risk that those funders could potentially exert a degree of pressure or influence on the organisation to undertake particular actions, or share particular information, which may lead to a conflict with the requirements placed by regulations on solicitors.

There is also potential for a conflict of interest where, for example, the organisation receives funding from a local authority but the solicitors in that organisation were required to provide legal advice and representation in a matter which involves acting against that local authority. ASA believes that entity regulation would reinforce the duty to act in the client’s best interest.

2. Lack of clarity for the client over who has responsibility for the advice they receive and its quality

Solicitors are regulated by the SRA but other staff are not. This can lead to an unacceptable lack of clarity about whether a client benefits from the protection offered by the legal regulatory framework..

3. Insufficient influence of solicitors employed

Solicitors are individually regulated and therefore required to comply with the SRA regulations. However, employed solicitors may not have sufficient authority within an organisation to ensure that regulatory requirements are met. Without entity regulation, there is a risk that management Boards may not place adequate weight on those requirements to ensure they are implemented as appropriate.

Proposed solutions

In light of the risks highlighted above, the ASA supports the introduction of entity regulation for NfP solicitor organisations. However, ASA recognises that this isn’t straightforward.

For some organisations, such as most Law Centres, it may be appropriate for the whole organisation to be regulated.

However, there are a number of NfP solicitor organisations where the delivery of legal services is a very small, but important, part of their largely non-legal work. ASA suggests that in those circumstances it would be more practical to have a designated unit within the organisation that is regulated.

Within this unit would sit all those who deliver legal advice, both solicitors and non-solicitor advisors, and the unit would have a suitably qualified leader. Subjecting the unit to regulation would mean that they are all practising in a way which is compliant with the appropriate regulatory body's regulations (client confidentiality etc.) and there is greater clarity for those in the organisation about who is regulated and what is expected of them.

Clients would also have greater clarity about the extent to which regulation offers them some protection in terms of the quality of service provided.

For this to be practical, the ASA recommend that the organisation also has clear lines of responsibility. In practice, a designated individual or Board should be responsible for regulatory compliance.

The ASA recognise that any change to regulation would be likely to have costs – for example, there may be restructuring costs or associated IT or procedural costs

Advice UK

Frontier spoke to Phil Jew, Head of Policy and Campaigns, Advice UK on Friday 8th April. This note reflects the key issues discussed. It is not a transcript of the conversation but seeks to capture the information as accurately as possible.

About the organisation

Advice UK has around 900 members throughout the UK; they represent a very diverse group of advice centres ranging from those that are very small and independent, to those staffed wholly by volunteers, up to national advice helplines. Members also include for example students unions.

Members pay a subscription to Advice UK and they receive development support (for example, to help them gain or maintain the CLS Quality Mark, develop their business plan, funding bids and tenders and work in partnership); reduced rates for training events; learning and skills opportunities; regional networking opportunities and dedicated advice and resources to help them operate as advice providers. Advice UK also offers insurance through a separate company and an on-line case management system. The organisation represents its members to government and stakeholders.

The membership criteria include for example, a requirement for the organisation to provide free advice to the public, and they must meet certain equality and diversity requirements. Advice UK does not engage in monitoring the quality of advice provided.

Members providing legal advice

Around 60 of its members have Legal Services Commission contracts. Not all of those organisations necessarily deliver legal advice themselves through lawyers: some may have entered into consortia to ensure that together with their partners, they offer the range of advice to meet LSC contract requirements.

Funding

The main organisations that typically provide funding to Advice UK members are local authorities, charitable trusts, LSC (via contracts if the required conditions are met), the Big Lottery and the government funds some debt advice through the financial inclusion fund.

Legal Services Act and regulation

The Legal Services Act may open doors to members to operate as Alternative Business Structures themselves. However, if it means more regulation then it would be likely to be negatively received by members. Members, and Advice UK, would prefer a lighter touch approach to regulation.

Regulatory costs should be kept as low as possible, and bureaucracy kept to a minimum. However, regulation should also be adequate to safeguard the public from a bad service. There may also be advantages to the organisation from being regulated in terms of for example, lower insurance premiums if they are seen to be lower risk.

Age UK

Frontier interviewed John Edwards - National Manager, Quality, Partners and Programmes, Information & Advice Department, on 1st April 2011. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The organisation aims to make life more rewarding for people in later life. Age UK was created on 1 April 2009 from the merger of Age Concern England and Help the Aged.

The key objectives and priorities of the organisation have not changed substantially despite the merger of two organisations which had each operated for more than 50 years.

Size, location and structure

Age UK has national partner organisations Age Cymru, Age Northern Ireland and Age Scotland.

Age UK has approximately 170 local partner Age UKs across England

Including the staff working in 470 retail charity shops, Age UK has around 2500 paid staff, plus many volunteers (who mainly work in the charity shops).

As a charity, Age UK has a Board of Trustees and a Chief Executive. It is regulated by a range of organisations including: the Charity Commission; Companies House (given it is a registered company); and the Financial Services Authority (given it sells insurance and has trading arms).

Overview of services offered by Age UK

Age UK Information & Advice helps with: income and benefits; social care such as finding care homes and accessing health care services; housing issues such as how to stay living independently; consumer issues; health; end of life; and legal/financial services (including insurance etc.).

Age UK also delivers practical services (“Handy Van” services; gifted housing, neighbourhood wardens etc.), along with campaigning. Age UK operates at both the national and local level (shops, services etc.).

A range of means are used to inform the public of the services offered including the internet, newspapers, word of mouth, adverts, and PR work such as stories in the news.

In 2010/11, the Age UK Advice Line answered 283,924 telephone enquiries – and 21,680 callers were asking for particular tailored advice, rather than just information. In addition, they distributed information via 4.7 million printed and online information resources.

Overall, some 6 million people received information or advice from Age UK over the last year.

Some Information & Advice services in local Age UKs have however reduced locally owing to funding pressures and there have been some redundancies.

Funding

The main sources of funding at the national level tend to be corporate donors, Big Lottery funding and Trust funds. At the local level, funding streams are primarily grants and contracts that have targets or required outcomes attached – indeed, over 75 per cent of local Age UKs receive income from local authorities or PCTs and nearly 50 per cent receive income from Charitable Trusts; a further 25 per cent derives from contracts. In addition a significant proportion of funds at the local level derive from public donations or are raised by local Age UKs through their trading companies.

Each of these sources is likely to be squeezed in the future implying increasing pressure on services with some likely to reduce. There is already substantial evidence of significant reductions in local authority funding of Age UK I&A. Given the preference for a holistic set of services to be provided, services would be reduced across the board rather than focusing on one particular stream of advice or services.

Legal services offered

The legal services provided mainly involve advice to clients about rights, matters of law, and entitlements. This may for example include:

- Advising on benefits entitlements and helping a person make a claim;
- Challenging decisions of local authorities;
- Advising on rights to social care;
- Providing advice on housing options and care homes; or,
- Providing debt advice

If court action is needed then the advisor would refer the client to a solicitor.

Age UK works very closely with other organisations in the provision of services. For example, the national Age UK may refer clients to a local Citizens Advice Bureau (CAB) or to a specialist health or taxation organisation, or to a local Age

Annexe 3: Interview summaries

UK in order that the local office would be able to source a legal aid funded solicitor who might be able to provide the relevant legal advice.

For most clients, Age UK would have been the first port of call for information and advice. However a range of other organisations often refer clients to Age UK such as social services, CABx, or even neighbours. Likewise, Age UK may refer clients to other organisations such as CABx, social services, health care specialists etc., depending on the nature of the problem.

In terms of triage, the national organisation works with a range of over 200 local partners to assess what information is needed, but it would be for the local offices to manage the clients themselves in the most appropriate way

Given Age UK does not employ solicitors (other than to advise internally on corporate matters i.e. not to advise the public), they do not represent clients in court but do represent clients at tribunals. They do not offer any other reserved legal services, but they have a separate subsidiary which offers Will preparation services. Given the very limited range of legal services provided, they do not have cause to hold any client money.

People delivering legal services

As noted above, a legal team does exist within Age UK but it advises at the internal corporate level only, and does not offer any legal advice to the public.

Information and advice is provided by the Age UK advice team - they are trained to deliver such advice. No previous training or experience is required on joining the organisation.

Means of delivering legal advice

Legal advice is delivered via the same routes as general information and advice i.e. primarily via the local drop-in organisations in face-to-face meetings, and over the telephone advice-line.

Quality of legal services provided

The quality of all advice, including legal, is monitored through case file review and supervision and Age UK operates at the national level under the Legal Services Commission Quality Mark at the level of General Help with casework in housing – this focuses primarily on the processes and procedures rather than the advice delivered per se. Operation and review under this Quality Mark would cover that provided at the national level only such as for example, the national advice helplines and housing caseworkers.. Local organisations are responsible for the quality of the advice they deliver. If they operate under the Quality Mark then this is gained at each individual local organisation level. Given there is a cost to doing so, not all of the local advice providers have it, and the number of local organisations that do may fall in the future due to the cost. Age UK provide

good practice guidance and training for local organisations on delivering quality Information and Advice services.

A new Quality Mark is currently being developed working with the Advice Services Alliance, which will include an assessment of the advice given as well as the processes and procedures.

A formal complaints procedure is in place for the advice delivered at the national level; locally delivered advice is subject to the local organisation's complaints procedures.

Who the clients are

The number of clients helped by Age UK is significant – tailored advice (as opposed to information provision) is provided to over 20,000 per year. At the local level, including information, the number is in the region of some 700,000 clients a year.

The profile of clients is monitored through sampling – this looks at the age, gender and ethnicity of the client. This is collated for internal reporting, though the results may need to be reported at the local level in some local Age UK organisations in order to secure funding.

The key problems on which clients seek help and advice are: benefits; social care; housing (retirement housing advice, or access to sheltered housing); and debt. The demand for all services has increased more generally because the number of alternative options for receiving such advice has reduced in recent years, meaning that there is increasing pressure on those who continue to provide advice.

The extent to which the client would be told who they are seeing when they attend a face-to-face appointment varies by locality.

Knowledge of other organisations

There are other organisations that deliver similar services to Age UK such as councils and care organisations on accommodation matters for example.

If other organisations such as supermarkets enter the market to offer legal services, Age UK suggested that this could lead funders to consider if they need to provide as much funding to charities if there are low cost alternatives available on the market.

Government policy

The operations of Age UK would already appear to be in line with the Coalition's vision for a more productive and responsive government and a more self-reliant and participative society, given the encouragement of volunteering; but Age UK would note that paid employees are still necessary to supervise those volunteers and train them. Building volunteerism and social action is not cost free.

Annexe 3: Interview summaries

A dedicated policy unit tracks the emergence and development of Government policy and significant changes are communicated to advisors in order to ensure up to date advice is provided to the public.

Legal Services Act

Age UK is not yet in a position to determine what impact the Act will have and would welcome clarity from the Government about its scope and what it will mean in terms of implications for organisations such as Age UK.

Future challenges and how they will be managed

The most significant challenge looking forward relates to funding and the extent to which falling resources need to be managed in the context of increasing demand for services. Short term decisions based on cutting expenditure ignore the need for investment to meet the ‘Big Society’ vision and will undermine the long term goal of a vibrant voluntary and community sector.”

Reducing resources in other aspects of the legal spectrum – such as through legal aid for example – would be likely to increase the demand for services from organisations such as Age UK.

In light of these challenges, Age UK would therefore seek to try and influence Government policy and to seek greater resources.

Beneficent Law CIC

Frontier interviewed Steven Whiting, Director, on 6th April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The company was set up in 2008 as a Community Interest Company. Its aims are to make certain legal services available to the local community at low cost. The main areas on which legal advice and assistance are provided are wills and lasting powers of attorney, though advice on other areas of law are provided (such as for example, inheritance tax or probate and letters of administration).

The CIC also aims to provide legal advice to new start-up businesses, those starting up new charities and voluntary organisations (therefore advising on company and commercial law, charity law etc.).

It also aims to train up legal executives and paralegals as they work for the CIC. Helping those from less fortunate backgrounds to join or re-join the legal profession is a core objective in the longer term.

As a CIC, the profits have to stay within the organisation in order to provide its services to the community. If it were to fail as a company then any profits or monies would be donated to a charity (when CIC's are set up, a requirement of doing so is that they nominate a charity for this purpose).

The Director has found that there is a general lack of understanding among the general public of what a CIC is and therefore feels they may be put-off from seeking services from them. The internet helps to explain their activities, however.

Size, location and structure

The company is very small and operates out of a small office attached to the Director's house. There are just three people involved: the Director who is an Associate member of ILEX, one paid part-time assistant, and a volunteer. The Director has full control of the business.

The organisation is regulated by the CIC regulator (which requires the CIC to, for example, file an annual report setting out the operations for the public good over the last 12 months). Also, as an ILEX Associate, the Director is regulated by ILEX Professional Standards. As a primary function is to provide wills, the Director is also an Associate Member of the Society of Will Writers (but compliance with this is not audited in any way). The Director is also a Certified Member of the Institute of Paralegals and a Member of the Chartered Management Institute.

Annexe 3: Interview summaries

Funding

The CIC operates as a company and they charge a low fixed fee per will delivered – the fee is £35 per will. They also receive voluntary donations from clients (i.e. if they have received a good service, they may pay more than the fixed fee, as a donation).

Legal services offered

Legal advice is interpreted to mean the provision of advice and assistance on matters relating to the law. Some areas are regulated, some are not.

Of the advice provided by Beneficent Law, only around 5 per cent is general in nature and the remainder is tailored to the individual.

Beneficent Law CIC collaborates with other organisations if for example advice is required that is beyond the CIC's remit, such as conveyancing. In such a case they would refer to another local legal practice (i.e. a Solicitor).

The CIC advertises through Google and it relies heavily on word of mouth and personal referrals.

The CIC does not undertake legal aid work, civil litigation or criminal law. The CIC lawyer does not represent clients in court or tribunals and he does not undertake the administration of oaths or carry out notarial activities. The main legal services provided are the preparation of wills and Lasting Powers of Attorney (not any of the reserved areas of probate).

No client monies are held.

Delivery of legal advice and people delivering it

The advice is provided on-line via email for the most part, but also over the telephone and some face-to-face sessions.

In terms of qualifications and training, as an ILEX Associate (though not a Fellow), the Director undertakes the continuous professional development activities required by ILEX Professional Standards; he also undertakes the CPD suggested by the Society of Will Writers. A key issue for the Director is that he is an ILEX Associate but is not able to use his current work for the CIC towards qualifying as an ILEX Fellow because CICs are not recognised as qualifying employment.

Charges for legal advice

Charges are applied but at low fixed rates: for example, £35 per will.

Quality of legal services delivered

Beneficent Law employs an independent company to seek feedback from clients on the services supplied (the independence is to ensure that the CIC has no editorial control).

They also have a formal legal complaints procedure as clients are able to refer to the Legal Ombudsman.

Who the clients are

Beneficent Law handled some 2,000 clients last year including 1,500 wills. Information on clients is on file because to prepare a will, clients are asked to complete a personal information questionnaire. The client information is not actively monitored. Clients tend to be from the full range of income groups, and most are over 50 years of age.

Most advice is provided to individuals, though some start-up businesses are given advice (it was noted that there is a gap in the market for the provision of this sort of advice to small and new businesses).

The demand for the legal services provided is growing owing to the economic climate, particularly advice to start-up businesses. Most clients are one-off as the CIC is a new company; there are gradually more returning clients if they need revisions to wills for example.

Clients are informed about the qualifications of the legal advisor (there is only one in the company, the Director who is an ILEX Associate).

Some clients are referred to the CIC from other organisations such as independent financial advisors (three in particular); most clients arrive directly. In turn the CIC refers some people on to other local solicitors.

Knowledge of other organisations

There are many other organisations that offer will services, including the internet. However, the fees are likely to be higher than those charged by this CIC. The offer of fixed fees is the main way this CIC competes, along with the personal input and quality of the service provided.

The internet has been a growing provider of wills in recent years.

Government policies

The Big Society agenda is understood to mean a reduction in Government funding and an increased reliance on volunteers. This does help to raise awareness of CICs but there are not likely to be other impacts.

Government policies are not believed to really have an impact on the activities of this CIC.

Annexe 3: Interview summaries

Legal Services Act

The Act is understood to regulate certain legal activities; it is viewed in a positive light because of this.

It is felt by the Director that will writing doesn't need to be regulated but some activities should, such as probate. If probate were not regulated then there are risks to the consumer, for example if services from a company have been paid for before death, but that company fails before those services are called upon.

Any further regulation of wills would increase costs and would be harmful to competition.

If other organisations such as supermarkets were to offer legal services then this would be likely to have a significant impact on solicitors because it will push them to be more competitive. They are not viewed to be likely to be in direct competition with Beneficent Law though because the latter's fees are likely to be much lower than those other organisations would offer.

Strategic issues

A key issue for the Director in terms of the regulatory framework is that he wishes to be an ILEX Fellow but is not able to become one because CICs are not recognised qualifying employment.

If in the future, the CIC as an entity were to be regulated, then because he is an ILEX Associate, this would create an anomaly.

Future challenges and how they will be managed

There are a range of issues facing this CIC. If wills were to be regulated in the future then this could impose higher costs on the provision of this service (for example, if face to face advice were required). Also, the legal services market may change in the light of ABSs entering the market – it is not clear what impact that will have.

The CIC is also facing the significant challenge of how to expand given funding constraints. To mitigate this particular risk, the Director of the CIC is working hard to find funds and is working very long hours. Access to more loans etc. would also help.

Benefit Advice Shop

Frontier interviewed Barry Speake – Senior Welfare Rights Officer – on Tuesday 19th April 2011. The interview was sent in advance of the interview. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The organisation aims to make sure that no-one loses out of their legal entitlements in terms of welfare benefits. These aims have not changed in recent years. It has been operating since 1988.

The BAS makes clients aware of its services through advertising campaigns, and they work with other organisations as part of take-up campaigns (i.e. those that focus on highlighting a particular benefit). They also rely on the internet and word of mouth.

Size, location and structure

The main office is in Rhyl and they cover three unitary authorities: Denbighshire, Conwy and Flintshire.

They have 7 paid staff, plus three volunteers (2 trainees and one very experienced advisor). Of the paid staff, 5 are trained advisors, and 2 are admin staff (one of which is part time).

The BAS is a charity and a company limited by guarantee; it therefore has a Board of Trustees and a management committee. It is regulated by the Charity Commission and Companies House.

Overview of services offered by the BAS

BAS provides advice on all 54 types of welfare benefits covering immigration, housing, disability living allowance, housing benefits etc. They are able to offer very specialist advice. Around 90 per cent of the advice provided is specialist and tailored to the individual's problems, with just 10 per cent being of a general nature.

BAS is part of two consortia for the purposes of receiving funding through LSC contracts: one is with other charities such as the Citizens Advice Bureau and Shelter; the other is with a private firm of solicitors – they provide the debt and housing areas of advice with the BAS covering the welfare aspects. The BAS therefore has the LSC Specialist Quality Mark as this is a condition of the LSC contracts.

They work with other organisations such as the Child Poverty Action Group (who train some of the BAS staff in certain areas of welfare rights) and they are a

Annexe 3: Interview summaries

member of Advice UK. They also are part of an advice network in Denbighshire, plus they work with the local welfare rights unit.

Funding

BAS is funded through Legal Service Commission contracts; Denbighshire Local Authority; town councils; and, they also have some money from the Big Lottery for a particular project about redundancy.

There are significant risks around funding in the future, particularly because the LSC funding may decline.

Legal services offered

Legal services are considered to be legal help and assistance relating to social welfare law.

The legal services provided are described above – all advice provided relates to welfare law in terms of benefits entitlements and rights.

BAS represents clients in tribunals but not in court (they do not undertake reserved activities). If court representation is required then they would refer the client to an appropriate organisation such as the Child Poverty Action Group who has solicitors and may wish to take the case forward as one of their test cases. The experience and training of the staff allows them to know at what point a solicitor needs to be brought on to the case.

No client money is held.

There are no charges for the legal advice supplied but this issue is being discussed by Advice UK given the funding uncertainties facing organisations.

People delivering legal services

Advice is delivered by 5 paid trained advisors. There are no solicitors within BAS but they work closely with them in other organisations as part of the consortia of which they are a member.

Advisors are trained by the BAS and supervised until they are able to deliver advice on their own to clients. Some of the advisors began as volunteers.

Means of delivering legal advice

The BAS offers its services through several routes including: a free-phone telephone advice line; drop-in services; some home visits (for example if they are provided as part of a Service Level Agreement); and while representing clients in tribunals (social services and commissioners tribunals).

Quality of legal services provided

The quality of advice is monitored because they have file checks every month; the staff are all trained and update their skills regularly; plus, they have the LSC Specialist Quality Mark so they are audited by the LSC; and, but funders are also able to audit them if they wish.

4 of the 5 staff have the LSC Quality Mark Supervisor Standard.

The BAS does operate with a formal complaints procedure.

Who the clients are

BAS provided advice to 8000 clients over the past year (including online) but they had around 15000 enquiries in that year.

The demand for BAS services has increased recently, particularly in the area of Employment and Support Allowances. They are also taking forward more tribunals (which is resource intensive).

The demand for advice from BAS is expected to increase in the future because for example, there are changes being made to the disability benefit system such that many people are finding themselves no longer eligible; also Job Centre Plus has been centralised and so there is more work for advice centres because clients are not able to receive the advice they need through the DWP route.

The profile of clients is not closely monitored but they tend to get clients across all age groups, backgrounds, ethnicity etc.

Most advice is case-work because they are repeat clients and have several problems on which they need help.

Clients are not told much specific in terms of the advisor they are seeing as all advisors are fully trained. Volunteers do not advise unless they are suitably trained (it is hard to recruit volunteers because they tend to work fewer hours than paid staff and need a lot of training).

Clients are referred to the BAS from many other organisations including DWP, the local authority, doctors, mental health organisations, CABs and Shelter. BAS also refers clients to others as appropriate.

Client feedback is sought because this is a LSC requirement – they use a standard client questionnaire (they have received a 97 per cent satisfaction score).

Knowledge of other organisations

There are organisations across Britain that undertake similar activities to the BAS but the BAS is understood to be the only organisation of its kind in Wales.

If supermarkets etc. were to deliver legal advice (as ABSs) then there is a risk that the advice provided is not consistently of a high standard. Such organisations

Annexe 3: Interview summaries

could also be eligible to bid for LSC contracts which could mean that advice centres find it harder to win the contracts – they could be excluded from the opportunities. If supermarkets etc. do win the contracts then the quality of advice would be a risk.

Legal Services Act

The BAS feels that regulation is important to ensure high quality advice standards are maintained. Regulation is needed to maintain standards because, for example, if an organisation is failing then it should be taken over by others or cease to operate. It is important however that a stable environment and framework is created – constant change is frustrating and resources need to be expended for staff to understand what is required of them.

The BAS feels it is already audited and subject to financial stewardship audits for example, and some rules are excessive (for example, they believe client representation in tribunals should be funded by legal aid (where appropriate), but the rules say this is not allowed).

Brighton Housing Trust

Frontier interviewed John Holstrom, Assistant Chief Executive and Director, on 1st April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The Brighton Housing Trust aims to tackle homelessness and to promote change – its objectives are to overcome exclusion, poverty and homelessness in the areas covered.

Over the last 5 years or so, the organisation has doubled in size mainly due to the expansion 2003-04 due to the expansion of “supporting people” funding, absorption of other organisations and the increase in its legal aid work (which has also doubled). Legal advice has been provided since 1981 and has been core to what BHT does for most of its history. It remains core to its mission. BHT Legal Services primarily operates in Brighton and Hove, but also has offices in East Sussex and takes referrals throughout Sussex

BHT has existed since 1968 as it began as a homeless charity which has expanded its functions to a range of specialist provisions in addictions, mental health, rough sleeping, day centre, floating support and access to the private rented sector.

Size, location and structure

The coverage of the organisation has now expanded to cover Brighton, Hove, Eastbourne and Hastings. Immigration services are offered across the wider Sussex area given the high demand for these services.

BHT has around 250 paid employees; 41 of those work directly in the provision of legal services. There are also a further 10 to 15 volunteers.

As a charity, BHT has a Board of Trustees and a Chief Executive plus management board. The organisation is regulated by a number of organisations given the services it supplies. Its regulators are the Charity Commission, Tenants Service Authority (the regulator for social housing), Care Quality Commission (regulator of care provided by the NHS, voluntary organisations, local authorities etc) and the individual solicitors are regulated by the Solicitors Regulation Authority. It also operates to a number of quality schemes such as the Supporting People Quality Assessment Framework and Legal Services Commission Specialist Quality Mark.

Annexe 3: Interview summaries

Overview of services offered by Brighton Housing Trust

BHT aims to provide a holistic set of services: they are a provider of housing (general needs housing); supported housing (this includes hostels for those with additions or mental health problems); floating support (help in clients' own homes); day centres (including the provision of food and be-friendings); private rented sector initiatives; learning schemes and legal services.

Around 60-70 per cent of the clients hear about BHT Legal Services through word of mouth, but they also make people aware of their services through the internet. Clients are often referred to BHT from other organisations such as local authorities and Citizens Advice Bureaux (CABx).

Funding

The turnover of BHT is around £10 million per annum, of which some £2 million is accounted for by the legal services activity, £5 million from the support services such as adult social care; £3 million from rents, and the rest from charitable donations and the Big Lottery.

Of the revenue from legal services activity, some £1.7 million is from legal aid contracts and the remaining £0.3 million is from council grant aid, Big Lottery, Advice Plus and court duty funding from DCLG.

Legal services offered

The legal advice provided through Legal Service Commission (LSC) contracts varies by office location (they have offices in Brighton & Hove, Eastbourne and Hastings). There are 41 staff involved in the provision of legal advice across the organisation, and this includes 7 solicitors.

Brighton & Hove (with 3 solicitors plus 10.5 advisors and 2 support staff) offers the most comprehensive list covering housing, housing court duty, debt, welfare benefits and community care. Additionally, immigration legal advice is also offered from this office with its own team of 3 solicitors, 7 advisors and 2 support staff. Eastbourne (1 solicitor, 4 advisors and 1 support staff) offers legal advice on housing, welfare, and housing court duty. The Hastings office (1 manager and 2 housing advisers) offers just housing legal advice.

BHT will shortly recruit a senior Legal Services Manager who will report to the Assistant Chief Executive. This will give BHT capacity to develop new business and social enterprises.

BHT successfully led bids for Big Lottery Advice Plus funding for 2009-12. In Brighton and Hove it is lead agent for, and chairs, the Advice Partnership (which has a seat on Brighton and Hove Local Strategic Partnership). It also played

central role in formation of the East Sussex Advice Partnership and its successful Advice Plus bid where Citizens Advice is the lead agency.

The provision of legal advice now accounts for around 20 per cent of the services offered (it accounts for 20 per cent of income and 20 per cent of staff are deployed on these areas). Over the last year, they handled some 6,000 new matter-starts (5,100 clients).

The legal services provided have changed in recent years because they have expanded to cover more areas such as debt, welfare advice and community care. This increased coverage was to allow clients' problems to be joined up and dealt with by one organisation, therefore allowing greater cross-referring within the organisation.

The provision of legal services is done very much in collaboration with other organisations where appropriate. The Assistant Chief Executive chairs the Brighton and Hove Advice Partnership which is a city-wide group to deliver advice as part of the Big Lottery funded Advice Plus programme. Also involved in this work are Citizens Advice Bureaux, Age Concern, and private practice solicitors on the community care and family areas of law. The group feeds into the Sustainable Community chapter of the City strategy.

All legal advice provided is tailored to the individual's problems. A triage system is in operation whereby reception staff are trained to handle clients and determine if they qualify for legal aid.

BHT staff represent clients both in court (up to the House of Lords and the Court of Appeal) and they undertake housing court duty. Litigation is carried out in the County Court and the High Court. Staff also help in the preparation of cases for tribunals and represent clients where appropriate.

No other reserved activities are carried out (oaths, wills, administration of probate or notarial activities).

Client money is held by BHT in accordance with Solicitors' Account Rules (SAR) and therefore subject to separate audit. This is all managed by the Legal Finance team.

The 7 solicitors employed supervise their own work. They do not supervise the whole legal team, though they do supervise the cases they are working on and therefore to some extent, the case workers working on them. Solicitors are responsible for the file reviews. BHT is keen that the skills brought to the organisation by solicitors permeate across the whole organisation. The housing solicitors in particular have started to take on a more direct role with independent file reviews to increase the solicitor influence over how non-qualified housing caseworkers undertake housing casework.

The supervisor solicitors are required to have at least 3 years of experience. The non-solicitor advisors are required to have experience of working on LSC

Annexe 3: Interview summaries

contracts as far as possible; however, more recently, they are facing a shortage of such people. BHT therefore have changed their approach and now recruit people with the relevant aptitude for the work and an advice-related background – the interview is more rigorous, such as by including case work questions as part of the recruitment process. Training and other courses are provided to ensure staff have the appropriate skills. Those working on immigration issues are required to be appropriately accredited given the specialist skills required.

BHT works closely with other organisations in the delivery of legal advice. For example, it is in a consortium with Eastbourne and Brighton CABx and they refer clients across them, depending on the nature of the issue in question. BHT is co-located with the Hastings CAB so they take advantage of the CAB triage services.

Delivery of legal advice

The delivery of legal advice varies depending on the service in question. Most debt and welfare benefits-related advice is delivered through pre-arranged appointments only; all immigration advice is through this route. Drop-in sessions are used: around 50 per cent of housing advice is through this route with the other half of housing advice delivered by pre-arranged appointments.

Charges for legal advice

There are no charges at the point of delivery for legal advice, though there is a statutory charge for a certificated legal aid case (this is a case in which money or property is recovered or preserved).

BHT did make an application to the SRA to be able to charge for the legal services provided but the SRA rejected the application. The application was to waive the rule of the solicitors Code of Conduct that precludes in house solicitors employed by Law Centres or similar organisations charging clients for legal work other than payments made by the LSC. BHT see this as a problem because with a limited pot of legal aid funding available, and the expected loss of most of its face to face legal aid services from October 2012, the inability to be able to implement some form of charging for legal services raises significant risks around the extent to which those services can continue to be supplied.

BHT has since heard that the SRA believe that if BHT applied in August for ABS, that *maybe* it can charge clients outside of legal aid, notwithstanding the rule in the Practice Framework that re-enacts word for word the existing provision in the Code of Conduct referred to above. BHT is now considering whether to pursue the waiver application by appeal or simply apply in August for ABS. This presents BHT a confusing position which it is seeking urgent clarification. BHT has only a very short time to diversify income streams ahead of the planned legal

aid cuts, and therefore needs to be in a position as soon as possible to resolve how it is able to add private client income to its business model.

Quality of legal services delivered

BHT does monitor the quality of the legal advice it provides through a range of routes: i) statistics about the number of cases etc ii) peer review of files in line with the LSC Quality Mark and iii) internal monitoring and training of staff.

Outcomes of the legal advice provided are monitored. Client satisfaction forms are sent to all clients for completion and they tend to have a high response rate – around 95 per cent.

Who the clients are

Over the last year, BHT handled 5,105 clients, and they completed 5,989 matter-starts (i.e. 12 per cent of clients had more than one matter).

The profile of clients is monitored and statistics are reported internally on:

- Age profile: over 60 per cent of matters started were for those aged 25-49;
- Whether the client has a disability or addiction: almost 10 per cent had an addiction, almost 10 per cent had a long-standing illness, 15 per cent had a mental health illness and over half had no disability;
- Employment status: over 36 per cent were unemployed and around a quarter were not working due to sickness; and,
- Ethnic origin: just over 10 per cent were black British-African, over half were white British, around 10 per cent were another minority.

The demand for legal services from BHT has remained relatively constant over recent years, although the demand for debt and welfare advice has risen.

In terms of the problems clients tend to arrive with, they are: immigration (asylum), housing (repossession, housing benefits), benefits (taxation), debt (bankruptcy issues), community care (rights under the legislation, residential care, rights to services and disability).

On seeing a legal advisor, the client is told who they are seeing and the nature of their status i.e. solicitor, advisor etc. This is information shared as part of the client care letter.

Knowledge of other organisations

There are several other organisations that undertake similar activity to the BHT.

Annexe 3: Interview summaries

There is only one other housing provider, meaning that there is a high demand for the services of BHT. On debt and welfare issues, the CABx are able to advise on similar issues. On immigration, private practice lawyers handle some clients and they cross refer between one another depending on eligibility for legal aid.

If other organisations – ABSs – such as supermarkets, for example, were to enter the market and provide legal services, this would not be likely to have a significant effect on BHT Legal Services because there would not be likely to be any overlap in the services the new ABSs provide with those provided by BHT legal Services, largely owing to the cost of providing them. There may be an impact however, if the BHT client group were in some way affected.

Legal Services Act

The Director of Legal Services has a very good understanding of the Act.

Future challenges and how they will be managed

If BHT were to be regulated, the impacts of this would be important for the survival of the organisation. It is not likely that there would need to be any change in terms of governance structures.

It may create a permissive framework if regulation were to facilitate BHT undertaking private client work.

There would be a big concern if regulation were to increase the cost burden placed on BHT owing to the pressures that already exist on funding, and these are expected to get worse over time.

Citizens Advice

Frontier interviewed Sue Thomas, Head of Advice Policy & Standards, on 1st April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

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Aims and goals of the organisation

Citizens Advice has the key aims of ensuring that individuals do not suffer through:

- lack of knowledge of their rights and responsibilities;
- lack of knowledge of the services available to them; and,
- an inability to express their needs effectively.

Citizens Advice seeks to exercise a responsible influence on the development of social policies and services both locally and nationally.

These strategic objectives have remained the same since it began operating 70 years ago.

Size, location and structure

The Citizens Advice Service is composed of Citizens Advice as the umbrella body, and its members, the Citizens Advice Bureaux (CABx). The service operates in some 3,500 locations including high streets including high streets, community centres, doctors' surgeries, courts and prisons. Almost all local authority districts have a CAB - there are 394 CABx across England and Wales with a further 22 in Northern Ireland²¹. All CABx are registered charities, as is Citizens Advice.

Of the 28,500 staff who work for the service, the majority – some 21,500 – are volunteers with the other 7,000 working as paid employees²². Citizens Advice sets the standards for the CABx in terms of their structure, governance and operations. It also sets the standards for the quality of advice provided and monitors outcomes against those standards. Citizens Advice is therefore also the regulator of the CABx in ensuring quality and standards are maintained, with disciplinary procedures implemented where they are not.

²¹ http://www.citizensadvice.org.uk/index/publications/annualreports/ar_10.htm

²² http://www.citizensadvice.org.uk/index/publications/annualreports/ar_10.htm

Annexe 3: Interview summaries

As the CABx and Citizens Advice are all individually registered charities, they are each governed by a Board of Trustees, a Chief Executive and a corporate management structure.

They are each regulated by the Charity Commission and, where applicable, the Office of Immigration Services Commissioner (OISC) if they provide advice on immigration issues – trained advisors are allowed to deliver advice in line with the OISC level 1 standard. It also holds a group licence for consumer credit and it has competent authority status which enables it to authorise money advisers to be authorised intermediaries and so able to submit applications for debt relief orders for clients.

Services offered

The services offered by CABx are numerous. They:

- inform the public about their rights and responsibilities;
- provide information so that clients are able to self-help where appropriate;
- provide advice by building an understanding of the client's problem, advising on options and helping to define a way forward;
- undertake case-work;
- advise on prevention measures, such as enhancing financial capability; and,
- offer advocacy where appropriate.

The areas covered are extremely broad (and vary at the CAB level) covering consumer issues, employment, welfare benefits, debt, immigration, housing, family law, among others. These services have remained the same over recent years, but they have seen a growth in the supply of preventative measures.

There is no particular intention to change the services provided, though they are constantly looking for ways to improve how they deliver services. For example, they have moved to a better approach to triage to increase the efficiency of resources and reduce duplication.

Services are delivered through a range of channels including face-to-face, phone and email services, and online via Adviceguide.org.uk. Over the past year some 10.5 million people made use of Adviceguide (this is general information and advice, not tailored to the individual), and over 2 million people received services from the Citizens Advice Service (more tailored to the individual's problems).

Funding

Total Citizens Advice income for the year 2009-10 was £65,215,000. Income derives from central Government Departments such as BIS, DWP and CLG; other charities such as the Royal British Legion and Macmillan Cancer Support; Big Lottery and other Trust funds.

The CABx each have their own sources of funding but may include local authority funding such as service level agreements (SLAs); Legal Services Commission funding for legal aid contracts; Primary Care Trusts; Big Lottery funding; Trust Funds; various companies and a small amount of donations from the general public.

In the future, changes to these funding streams may be expected because local authority funding is expected to be squeezed; the financial inclusion fund revenue from BIS has been restructured for 2011/12 and may not exist in future years; this is a significant chunk of funding; and, legal aid related funding is likely to be reduced dependent on the outcome of the current legal aid review. This is set against the increase in functions that Citizens Advice is taking on, including the running of “Consumer Direct” from April 2012 and “Consumer Focus” from April 2013.

It is likely that funding would be channelled more towards the central Citizens Advice, and then cascaded to members.

The changes would be likely to put pressure on the delivery of services.

Legal services offered

‘Legal services’ are understood to be the provision of information and advice on the use of legal systems, and individuals’ rights and entitlements.

The legal advice provided takes the form of information provision; tailored advice; and, case-work. Services are delivered often in collaboration with other organisations as appropriate, including Shelter, Advice Services Alliance, AgeUK, Connexions, doctors’ surgeries, solicitors (CABx often have formal partnerships with these organisations), Youth Access, Royal British Legion, McMillan nurses, and many more.

More than 50 per cent of CABx have LSC contracts and the majority of the advice they provide is legal advice (over 95 per cent).

Depending on the staff employed at each CAB and their skills, they may offer representation in court and representation at a range of tribunals (benefits appeals, employment, mental health and immigration – the latter would be offered only from the specialist CAB centres); a CAB is also located in the Royal Court of Justice. No administration of oaths, notarial activities, probate or preparation of wills is undertaken.

Annexe 3: Interview summaries

Delivery of legal advice and people delivering it

To improve the efficiency of providing advice, a triage service was introduced in the last 6 months which essentially introduces a gateway process. Individuals who enter a CAB (either face to face or on the phone) are approached by a trained member of staff and they are handled depending on the nature of their problems. This may just require information in the form of fact sheets for example; or, they may be referred to another local advice/service provider (if the CAB is not able to help); or, they would be booked in to see a CAB specialist or general advisor, depending on their issues.

Some CABx employ solicitors and these would be where Legal Services Commission contracts are held. The lawyers would not supervise other staff as they would be responsible only for the advice they themselves provide. No barristers are employed, but there may be a very small number of Legal Executives.

All staff are expected to be competent for the role they are carrying out. Therefore, all generalist advisors would be expected to have achieved a defined level before being able to advise clients. Volunteers are not required to have any specific skills on arrival as they receive training.

A range of channels are used to deliver legal advice including Adviceguide (online); telephone – indeed this is often used as the gateway in order to determine the most appropriate person to speak to, but is also used to provide in-depth advice; pre-arranged appointments are very regularly used; drop-in centres are used but these tend to deliver only general level advice; and email is used.

In response to demand, there has been a shift towards the provision of advice online (hence the recent development of Adviceguide.co.uk). The demand for debt and financial advice has experienced an increase over the last 3 years in particular.

Charges for legal advice

There is no charge for the delivery of legal advice; it is a fundamental principle of the service that advice to clients is free. There is however the statutory charge for legal aid cases where appropriate. A consultation exercise on income generation is currently under way (summer 2011) in the CAB service to establish a co-ordinated and consistent approach and whether any activities should be explicitly approved or rejected.

Quality of legal services delivered

Citizens Advice is responsible for ensuring the standards of advice provided by the CABx. They have developed standards for the casework undertaken on money and welfare issues, and for the general level advice that is provided.

The quality of CABx advice is assessed by Citizens Advice every three years, mainly through peer review of case records, and of the systems in place. This peer review involves independent file review, follow-ups where necessary and training needs. If a CAB fails to meet the standards in any area then they have to agree a corrective action plan with Citizens Advice and are then revisited after 12 months to ensure they have made the required changes to meet the standards.

CABx also have the LSC Specialist Quality Mark where LSC contracts are held.

A formal complaints procedure is in place involving four stages: i) a complaint is raised with the CAB who will then investigate the issues; ii) the complaint is raised with the Chair of the Board; iii) a review is taken forward by the Citizens Advice Chief Executive; and, iv) an independent adjudicator is involved.

Volunteers are subject to the same quality standards as paid employees.

Who the clients are

The Citizens Advice service helped 2.1 million people over the last year with over 7 million problems. The profile of the clients is monitored. Almost all clients are private individuals.

The demand for the services provided depends on economic conditions to a great extent. For example, the demand for debt, income and employment advice tends to increase during recessions; welfare benefits advice increases when changes are made by Governments to the relevant policies or legislation etc.

The extent to which advice provided is one-off or case work varies significantly.

The Citizens Advice service as a whole is not able to offer the services that it would ideally like to, largely owing to constrained resources. For example, not all CABx are able to offer client representation at tribunals. .

Clients are fully informed about the nature of the qualifications of their advisor, for example, whether they are a solicitor or not.

Most clients arrive at the CAB directly or are referred from other organisations. Referrals come from a range of sources such as MPs, other advice agencies or charities, health organisations; CABx are also mentioned as sources of advice in many government leaflets etc. Likewise, CABx would refer clients to others as appropriate, for example Shelter, or other solicitors where the advice is beyond the remit of the CAB.

Feedback is requested through standard forms, and these are used to look at the local community advice needs.

Knowledge of other organisations

There are many organisations that offer similar services to CABx such as Shelter, local advice centres etc. Citizens Advice is aware of these organisations from the

Annexe 3: Interview summaries

point of view of them being both competitors in the market, and collaborators to ensure that people receive all the help and advice they need. In view of this, Citizens Advice has an agreement with Shelter so that they are both aware of the relevant issues.

In view of the tightening of funding for Citizens Advice and similar organisations, Citizens Advice has noticed that other organisations have shifted towards supplying a more holistic set of services, for example, Shelter has moved beyond housing only. Local Authority and LSC funding are very important sources of revenue for these and similar organisations.

Legal Services Act

If other organisations such as supermarkets were to enter the market to deliver legal services, then Citizens Advice believes that this would be likely to affect clients. The new organisations would be expected to offer fee-based services, so this could direct the demand from those clients that could pay (though their ability to pay would still be less than those paying for standard private practice) towards those organisations.

It could also mean that it would push Citizens Advice and other similar organisations to be more efficient and effective.

In terms of the implications and understanding of the Legal Services Act, Citizens Advice understand it to mean that the entity would be regulated rather than the individual lawyer; they would like to see how it matches with what they do anyway and engage with it. For example, Citizens Advice sets the standards for the operations of CABx and the quality of service they provide – and ensure those standards are met. It would want to be the formal and official regulator of CABx. As the official regulator, they would sit between the CABx and the LSB.

Given that the CABx are charities, the Citizens Advice do not believe that they should be made into ABSs because another layer of regulation is not likely to be the best option – Citizens Advice would wish to engage with the LSB to work through the issues.

To make this work, Citizens Advice would be content to strengthen its regulation to ensure that the appropriate standards are being met by CABx but they wish to ensure that the regulatory framework is proportionate. The Citizens Advice does not see any risks that have not already been reflected but, Citizens Advice already takes steps to ensure activity is in the consumer interest. The Citizens Advice is not against the idea of being made more accountable for what they do and to ensure current good practice in CABx continues.

Strategic issues

Citizens Advice welcomes the concept of the Big Society and they really want to work with it, given that Citizens Advice has been working with volunteers and

providing services to the community for many years. The CABx are local, therefore Citizens Advice continues to encourage CABx to offer services in line with the local need.

Citizens Advice activities are affected by a wide range of policies including welfare rights (this is the main area of advice provided); employment; housing and tenancy; discrimination; legislative changes more broadly; and changes to quangos.

Citizens Advice does actively monitor changes to Government policy, and seeks to influence policy based on its experience from clients, responds to consultations etc where appropriate.

Future challenges and how they will be managed

There are many challenges facing the Citizens Advice service going forward including access to funding; an increasing demand for advice and Citizens Advice services; local and national policy; the regulatory framework (potentially); access to skilled people (volunteer availability tends to be counter-cyclical); lack of skills due to the high turnover of staff in CABx; and, keeping pace with the demand and hence the need to improve efficiency in operations.

To manage these challenges, Citizens Advice reviews the strategic plan constantly but there is a need for CABx to be smarter on their local advice delivery. Falling resources against a backdrop of demand needs to be balanced. Citizens Advice is working to improve the consistency in the quality of advice.

To help meet the challenges, Citizens Advice could consider internal restructuring; and it would be willing to work with the LSB to ensure the regulatory framework is appropriate and proportionate. In addition, it will seek to continue to influence Government policy.

To manage financial risks at the CABx, the Citizens Advice sets standards they must adhere to in terms of an annual risk assessment, budgetary planning, contract risk assessment, and cost assessment.

Combined Hospitals Citizens Advice Bureau

Frontier interviewed Melanie Anderson – Chief Officer – on Monday 18th April. The interview was sent in advance of the interview. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The organisation aims to provide independent advice and assistance to clients of health and social care providers in the North West.

The CAB takes a proactive approach to letting others know about the services it offers for example, by giving talks and presentations and offering training services to other organisations to PCTs, social services, Age Concern and others. The CAB has a high level of public recognition – around 97 per cent. Most clients hear about the CAB through word of mouth but they do also produce newsletters, leaflets, posters etc.

Size, location and structure

The CAB has been operating since 1986 (independently since 1993). They operate on a regional basis because hospitals have become increasingly specialised so they operate on a larger geographical basis than just the local area. They specifically operate in 9 procurement areas (most of which are CABx).

The CAB has 22 paid staff. They have no volunteer advisors, but they do have a volunteer who undertakes administrative duties.

The CAB is a charity and a company limited by guarantee and as such it has a Board of Trustees and company directors with a management structure beneath it. It is regulated by the Charity Commission and Companies House; it complies with the Citizens Advice membership standards, and it holds the LSC Community Legal Service Specialist Quality Mark (the next audit is due later this year, with the cost being covered by the CAB).

Overview of services offered by the CAB

The CAB offers a wider range of services but they specialise in welfare, debt and community care. Community care and welfare benefit advice is funded by the Legal Services Commission contracts, and the Big Lottery has provided funding for community care (for those not eligible for legal aid). The CAB carry out ward visits in the hospital; they run an outreach on the antenatal ward; an end of life service is offered to help those who have less than 6 months to live with their financial affairs. They also offer general debt advice; disability services (including helping disabled children) and case-work for debt advice.

Over the last two years they have expanded community care advice because government policy has changed to favour more personalisation of these services so people have more power over the care they receive; plus there has been more funding in these areas. The CAB helps clients to fight for the appropriate community care through legal routes, where the client has a legal case for doing so.

Over the past 3 years, debt advice has increased because people's problems are increasingly of a larger scale. Welfare benefits advice has also grown given changes to policy in this area. Client expectations have generally risen which means that community care advice, for example, is tougher. In the future, services will depend on funding but it is likely that the CAB will need to prioritise (for example, the Salford PCT funds the end of life service so Salford clients may need to be prioritised).

Funding

The main sources of funding are the Big Lottery; Legal Services Commission contracts, the PCT, and the Local Authority Health and Welfare Board.

It is likely that funding will come under pressure in the future. To try and meet these challenges, the CAB is considering alternative funders, but also considering partnerships and consortia with whom they could work to ensure services are provided. For example, they are working with the Salford Community and Voluntary Services to consider opportunities.

Legal services offered

'Legal services' are understood to be the provision of specialist knowledge and support to clients to help them understand the law; and the ability to be able to apply that knowledge to the client's circumstances and put forward a strong argument in a logical and reasonable manner to deliver outcomes to which the client is entitled.

On welfare benefits, the CAB applies its knowledge of the welfare system to identify claims and entitlements; it presents the case and obtains outcomes; and it represents clients in tribunals and second-tier tribunals. On debt, the CAB is able to establish if money is legally owed (i.e. liability); help the client to maximise income; devise a financial statement and ensure creditors accept it; and provide help to the client if action is taken by creditors. On community care, they take forward Judicial Reviews against the local authority or PCTs if those organisations evade their duties.

The services have become more specialised over time; and client expectations have also increased.

The CAB does collaborate with others to deliver the legal advice, for example, they work with the Salford CAB which offers debt, welfare and housing advice,

Annexe 3: Interview summaries

and other organisations such as the Youth Support Foundation. They also offer training to other organisations.

They are likely to work with more partners in the future.

Around 80 per cent of the advice provided is legal advice and just 20 per cent or so is generalist advice (i.e. that which allows the client to help themselves).

A triage service is in operation in the form of a 'gateway'. A trained advisor or paralegal is able to work with the client to understand the issue and determine if they are eligible for legal aid; they are then referred to the appropriate team within the CAB. The generalist advice service is often used to filter clients before they are seen by specialist advisors.

The CAB lawyers do represent clients in court, tribunals and second-tier tribunals, and they do undertake litigation (for example judicial review cases). They are not insured to carry out other reserved activities such as notarial activities, wills, probate or oaths. They do not hold client money.

People delivering legal services

There is a specific legal team (the community care team) headed by a barrister and the team also has one solicitor. They have some staff with a law degree and one paralegal. Of the 22 staff at the CAB, 18 deliver legal advice.

The barrister leads the team and is responsible for all legal advice provided. There are several staff within the team who have the LSC Specialist QM supervisor standard but they don't actually supervise the team – the barrister does.

Training is provided to ensure all staff have the skills needed for community care advice (owing to a lack of people with existing appropriate experience); and for welfare and debt advice, a certain number of years' experience is required of all staff along with relevant experience of tribunals and court. Evidence of the appropriate experience is ensured through file review evidence (this is needed for the SQM supervisor standard).

The barrister is able to offer the community care training and the SRA allows this to count for CPD points.

Means of delivering legal advice

Most advice is delivered face to face by pre-arranged appointment but some is delivered on the phone where this is more appropriate for the client, and online advice is not used. In exceptional circumstances, legal advice is provided on a drop-in basis (e.g. in emergency).

There is no charge to the client for the legal advice provided (the cost is covered by the funders). They would not charge the client in the future.

Quality of legal services provided

Quality is monitored. All areas of advice have supervisors; files are reviewed on a random-choice basis; all new staff have all files checked (the amount of checking declines the longer they have been there as they learn the job); the Chief Officer undertakes quarterly checks of process to ensure all is in order; and all complaints are investigated by the appropriate supervisor.

There is a formal complaints procedure in place. This is a requirement of Citizens Advice membership.

Who the clients are

The CAB offers advice to around 10-50 clients a week (usually at the upper end of this range) – none of which is online.

The profile of clients is monitored as this is a requirement of Citizens Advice membership (disability, local authority area, gender, ethnicity etc). Most of the clients tend to be over 50 years of age.

Advice is provided only to individuals and not to businesses, though training is offered to organisations such as PCTs.

The demand for legal services from the CAB has increased, and client expectations have also increased. Generalist advice is intended to be one-off advice, but there are increasingly more ‘returners’; specialist advice involves case-work.

Typical problems are varied. On welfare benefits, clients may have experienced a health event or have a baby due which means they need to know what they are entitled to; changes to invalidity benefit may have come about; or decisions may need to be appealed. On debt, houses may be at risk of being re-possessed, or bailiffs may have been threatened. On community care, clients may have decided to leave their home as they can’t cope or may be single parents with problems etc.

It is likely that in the future, the legal services will need to be prioritised. Some problems are tricky to deal with such as addiction or mental health because of the issues involved.

Clients tend to hear about the CAB services through word of mouth for example, by the community care or social services workers. The CAB also has a good level of visibility within the hospital and has a good reputation.

Clients are informed who they are seeing because they receive a letter of confirmation with all relevant information such as who they have seen/are seeing, when etc.

The extent to which clients are referred to the CAB depends on the service in question – many who need community care advice are referred, others tend to be

Annexe 3: Interview summaries

more direct clients. The CAB has a referral protocol for when it is referring a client to other organisations.

Clients are asked for feedback via a phone call, and the CAB has a client questionnaire.

Knowledge of other organisations

The Chief Officer chairs the Salford community Legal Advice Partnership so she is very aware of what other organisations offer; the Partnership aims to ensure there is no duplication. They all target different client groups to make best use of resources. They all face the problem of too many clients.

If those other organisations were to face funding pressures then it may increase the advice sought from the CAB.

Experience suggests that there are some other organisations that say that they offer similar services but in practice don't.

If say supermarkets were to offer legal advice then it is not likely to have too much of an effect as they would be offering profitable activity. However, if such organisations were to offer enticements to attract clients then there is an issue about the extent to which clients know what they would be signing up for – such activity should be carefully scrutinised because it could create some problems if not appropriately monitored.

In principle though, it would be a good thing if accessibility to legal advice were to increase.

Government policy

The Big Society is seen as the coming together of communities to deliver for the greater good of society. It could mean that volunteers are relied upon to a greater extent but it should be recognised that they could be more costly because they still need to be monitored and trained, and because they tend to work fewer hours than paid staff, relatively more would be needed for a particular role.

Government policy affects what the CAB does significantly. The personalisation agenda which seeks to ensure patients have greater control over their healthcare has increased the level of demand for their community care services. Funding issues mean that certain services in other organisations may need to be paid for out of different budgets which could squeeze services.

Reductions in disability benefits for example could lead to an increase in demand from clients to help them manage their finances and to understand their entitlements.

Legal Services Act

The basics of the Act are understood but the risk that the quality of advice of new organisations' was raised because if it not adequate, organisations like the CAB would need to deal with the fall-out.

The CAB is already regulated. The LSC carry out audits in relation to the SQM but the LSC also undertake reviews of financial stewardship plus other audits on particular aspects of the organisation. This could be quite onerous (especially now that the CAB needs to pay for the audits).

When ABSs enter the market, and any changes to the regulatory framework must ensure that there is full clarity about what is being regulated and what is expected.

Further regulation could impact on the CAB substantially if they have to pay for additional audits for example. There is already an advice infrastructure in place which requires funding to maintain. Key points are that any regulatory framework must:

- Be clear on what is being regulated
- Ensure that any regulatory framework is appropriate – for example, would the framework that is to be applied to the ABSs be appropriate for the not for profit organisations
- Be proportionate – financial viability is essential to consider

Future challenges and how they will be managed

A key challenge relates to funding. Advice infrastructure needs to be maintained (ie costs of operation need to be covered) but when no profit is made, any reductions in funding can lead to significant impacts on services and/or the infrastructure. The CAB may need to consider merging for example. They are actively considering working with organisations to deliver better services. They are also looking at alternative fund raising options.

It will be challenging to keep up with the demand for services.

The CAB is very aware of outcomes because some recent work funded by the Big Lottery focused on outcomes.

Annexe 3: Interview summaries

Coventry Law Centre

Frontier interviewed Sue Bent – Director – on Friday 15th April 2011. The interview was sent in advance of the interview.

This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

The Law Centre (LC) aims to fight social exclusion and increase rights awareness. They seek to ensure that legal processes are used to fight poverty, discrimination etc. The LC has been operating since 1976.

The LC lets clients know of its services through the internet, word of mouth and it has a column in the local newspaper which takes the form of letters drafted as if written by a member of the public, but are actually ways to convey information. They have run advertising campaigns in the past that have been funded by particular organisations (such as organisations supporting rights against discrimination). Clients are for the most part referred to the LC from other agencies.

Size and structure of the organisation

The office is based in Coventry City centre but they offer services across Coventry, and they also have a LSC contract to provide community care advice in Warwickshire. The LSC public law contract (involving challenging a public decision) is at the regional level.

The LC has 19 case workers including 6 solicitors and 13 very experienced and trained advisors. 12 other staff are 'administrative' i.e. not case-workers (this includes the Director, Finance Manager etc). They have around 5 volunteers – this is often to provide them with experience to help them along with their careers because they work 2 days a week for not less than 6 months.

As a registered charity and company limited by guarantee they are regulated by the Charities Commission and Companies House.

Funding

Around 50 per cent of funding is from LSC contracts and 50 per cent from the local authority. Other smaller funders include the Big Lottery, Baring Foundation, Neighbourhood Renewal with some funds for particular projects such as from the Human Rights Commission for the work on discrimination.

Debt advice is now funded by Whitefriars Housing and Coventry Building Society

In the future, there are risks around the LSC funding and local authorities are likely to be under financial pressure. The City of Coventry Council has in the last protected the LC against cuts given its role in helping deprived areas.

Legal services offered

The services offered covered legal advice in the areas of welfare benefits, community care, immigration and asylum, debt, housing, employment, public law. They prioritise advice on discrimination.

The services have changed in response to LSC contract requirements: public law and debt advice are new. Services offered may change in the future depending on legal aid changes. It is currently proposed that debt, employment, welfare benefits, some of housing and immigration are moved to be outside the scope of legal aid. If this happens then that would significantly affect their funding streams because currently that would represent 50-60 per cent of the LC's legal aid funded work. If this were reduced then they would need to reconfigure as an organisation.

Currently, local Council money is used to undertake work not funded by legal aid and to help those who are not eligible for legal aid.

The LC works very closely with other organisations such as Mind, Alzheimers charities, the Refugee centre, women's refuges, the homelessness section of the local council, social services etc. They identify clients and refer them.

Law Centre is also part of Advice Services Coventry (a partnership of independent advice agencies in the city.) Those other organisations provide the advice and services they are able to, and then refer to the LC for the specific legal advice – they therefore receive the client part way through their case. The clients' details are sent through to the LC, with the consent of the client, so that their case can be considered. The LC provides feedback to those agencies on the referral process to make sure it is working well.

Delivering legal services

All advice provided is specialised and specific to the individual. They do not take on cases that have a low chance of winning because they could not justify spending public money on them – in which case they may offer the client general advice to help.

Around 60 per cent of the advice provided is related to a court case.

The LC employs 6 solicitors and there are 2 levels of responsibility. First, the senior solicitor is responsible for the legal work of the LC and is accountable to the SRA; they are regulated by the Law Centres Federation. Second, the other areas of legal advice are managed by a specialist team and each area of law has a supervisor who meets the LSC Supervisor Standard. They ensure that the quality and content of advice provided meets the required standards.

Annexe 3: Interview summaries

Solicitors are required to have the appropriate certificate to practice and the supervisors are required to meet the LSC Supervisor standards (including at least 3 years of relevant experience). Immigration advisors are more heavily regulated and need to be registered with the OISC plus need to be accredited at the appropriate level (Level 1 or 2 depending on their role, and this involves passing exams etc). The supervisor is a Level 2.

The LC does represent clients at court (up to the European Court of Justice) and at tribunals where they have rights of audience. They work with barristers where appropriate. They also take forward litigation but do not administer oaths or probate, nor prepare Wills or notarial activities.

Client money is held in a separate account and it is the responsibility of the senior solicitor (2 signatories are required).

They do not charge for the services but given funding issues, they are looking at alternative models with the LCF. Charging is a difficult issue and would need significant and careful thought given the client base.

Quality of legal services provided

Quality of advice is carefully monitored because the supervisors undertake file peer reviews and they examine the quality of advice and the tactics used by the caseworker.

They are audited externally through the LSC Specialist Quality Mark standard (though the peer review process is in abeyance).

They have a formal complaints procedure in place.

Who the clients are

They have around 2000 clients, though some 3000-4000 may ask for advice (many would not be taken on for case work given their case may not be strong, in which case they would be given general advice).

Client profile is monitored in terms of employment, gender, disability, ethnicity, and postcode (the latter is to match client location with the deprived areas).

All advice is provided to individuals rather than to businesses. The demand for legal advice has risen over the last 3 years, particular in the areas of debt (which has doubled across all agencies in the city) and employment.

Most clients are referred to the LC from another advice agency. Some do arrive directly, for example where it is clear to them that legal advice is needed (e.g. in some immigration or employment cases).

The LC puts a great deal of effort into making sure the environment of the LC is appropriate for the clients i.e. not daunting and it is welcoming and more relaxed.

This is because many of the clients lack confidence so may be put off by too much formality.

Around 90 per cent of the work of advisors is case work with the remainder being more general advice or one-off.

Typical problems vary widely including: employment (discrimination in the workplace, unfair dismissal, constructive dismissal); community care (access to social services); housing (at risk of losing their home and Court Duty); immigration (visas and asylum); unaccompanied minors; welfare benefits (appeals).

A client care letter is sent out with details of the advisor, complaints procedure etc.

Knowledge of other organisations

There are not really any other organisations that offer the same services because they have almost the whole market for welfare law advice (CABx have a similar market but they offer general advice only), some private law firms have LSC contracts for immigration advice.

There used to be more of the latter but they have now reduced.

If say supermarkets were to offer legal advice then it is not likely to have much of an effect because the type of work the LC does is not really compatible with foot-fall legal advice requirements – the client group would be different. Also, it is not likely to be profitable as it is so specialist and they handle complex cases.

Government policy

All social welfare policy affects what the LC does including welfare benefits, employment rights, the Equalities Act etc.

Legal Services Act

Not a significant amount is understood about the Act.

The LC is felt to be heavily regulated anyway because the SRA regulates the solicitors and the LCF regulates the organisation as a whole. It is felt that the nature of the LC's activities means the risk of being sued because something has gone wrong is arguably generally lower than in private practice, but the personal effects on the individuals could of course be argued to be greater.

It is not thought that further regulation would impact significantly given what is already in place.

Future challenges and how they will be managed

The main challenge is in relation to funding. Also, there may be a risk to the number of solicitors who have adequate experience in the areas this LC

Annexe 3: Interview summaries

specialises in because if LSC funding reduces, there may be less exciting work to attract them to the sector.

The Howard League for Penal Reform

Frontier interviewed Chris Callender, Assistant Director (Legal), on 7th April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and priorities of the organisation

The Howard League for Penal Reform seeks to promote (the information in the following bullet points is taken from their Annual Report):

- the sciences of penology and criminology;
- social health, the welfare and constructive treatment of pre-delinquents and offenders;
- the education, further education, advancement and pursuit of knowledge relating to penology, criminology, social health and delinquency;
- the training of those who deal with offenders and pre-delinquents; and,
- prevention and limitation of criminal and anti-social activities.

The overarching aims of the organisation are to work for the improvement of the penal system and to support clients to prevent their return to custody. They seek to ensure access to justice by, for example, representing clients and they focus on helping children and young adults.

Size, location and structure

The organisation operates across England and Wales, but they are based in a London office. They have more than 10 but less than 50 staff with an additional 2-3 volunteers.

It operates as a membership organisation – members are individuals who wish to support what it does.

As a registered charity, they have a Board of Trustees and a Chief Executive, and they are regulated by the Charities Commission. As a company limited by guarantee they are subject to Companies House regulation.

Services provided

The organisation undertakes a range of activities for example, campaigning, lobbying, research, commissioning inquiries etc., all with a view to improving the penal system. It provides information on various issues through its website.

The organisation as a whole is a campaign body and doesn't deal with clients – only the legal services team does.

Annexe 3: Interview summaries

The main channels for letting others know of the services offered by the organisation are the internet and word of mouth – they rely heavily on building relations with people who work in prisons who then signpost clients towards them. They also have an advice line which allows prisoners to contact them directly.

Funding

As a membership organisation it receives subscriptions from its members, but it also receives funds from legacies, legal aid contracts, grants (such as the Barrow Cadbury Trust), the Big Lottery, and donations from individuals in the general public. The organisation makes a strict policy of not receiving Government money or any funds from local authorities in order that it can remain an independent lobbying organisation.

They receive Lottery funding as part of the “Youth Participation Project” which involves working with young people to seek their views on their experiences.

Legal services offered

The legal team started in 2002 and has expanded since it began (though is now expected to contract again). The legal services provided are broad and the team operates in a similar way to a legal aid firm in the high street. Examples of activities undertaken include advocacy at hearings; adjudication in prisons and taking judicial reviews to the High Court, House of Lords and the European Court of Justice. The nature of legal services supplied has not changed since the team started.

It is the organisation’s policy that they focus on the provision of services to children and young adults.

They do not represent clients in court themselves as they instruct Counsel to do this, though they do take forward litigation in terms of the preparation of papers for court etc. They do not administer oaths, prepare wills, undertake notarial activities or administer probate.

The legal team tends not to collaborate with other organisations in the provision of its services, though it may approach others, depending on the nature of the case, for example, they may need to work with others to build evidence for a case.

Legal services account for around a third of what the organisation as a whole does. All legal advice provided is tailored to the individual. No triage service is used.

They do hold client money, for example if damages are rewarded as the outcome of a court proceeding. The account is held in accordance with SAR rules.

Delivery of legal advice and people delivering it

The legal team has 13 people employed, plus 1 secondee from Clifford Chance, and 3-4 volunteers. Within the team there are 7 solicitors and 2 paralegals (trainees in waiting). The other staff are caseworkers and administrative staff who take forward file costings and access to justice work.

All case work is carried out by the solicitors. The Legal Service Commission contracts stipulate that they have to have supervisors in order to ensure that the Specialist Quality Mark standards are met. They therefore have 3 prison law supervisors and 4 public law supervisors. Holders of contracts have to be solicitors with at least 5 years' experience.

Legal services are provided to clients via telephone, legal visits to prisons, a drop-in centre and via the advice-line which is staffed by solicitors from the organisation who would be on duty between certain hours (including evenings).

Charges for legal advice

There are no charges for the legal advice provided and there is no intention to charge given that most clients are children, and the rest are in the age range 18-21.

Quality of legal services delivered

The quality of legal advice is monitored through file review in line with the LSC contract requirements, and to comply with the Specialist Quality Mark standards.

A formal complaints procedure is in place – this is required for the LSC contracts.

Who the clients are

A typical year would see the Howard League handling around 100 clients with 200 matter starts. The profile of clients is monitored in terms of their age, gender, ethnicity, location, disability, mental health and their case issues.

Around 50 per cent of clients are under the age of 18. All clients are private individuals (i.e. not businesses).

The demand for their services has increased over the last 3 years, largely because awareness of the organisation and its services has increased. Most clients would seek advice more than once (and most of it is case work).

Typical problems would include re-settlement; ensuring appropriate accommodation and support on leaving custody; parole and early release applications; appeals on sentences; treatment and conditions in prison; mental health issues; and a lack of access to services.

Clients are fully informed about who they are receiving legal advice from.

Annexe 3: Interview summaries

Around 50 per cent of clients are referred to the organisation from those who work in the prison system; the rest would approach the organisation directly as they have heard about the legal services provided or the organisation's reputation. Clients are referred to others but this is mainly to other solicitors, depending on the nature of the particular case.

No client feedback is sought owing to the labour intensive nature of this form of activity. If a client has been referred to another solicitor however, they will often ask about the outcome of the case.

Knowledge of other organisations

There are no other organisations that provide the same services as the Howard League (that they are aware of). This is because the organisation targets its services towards children and young adults, and it seeks to provide a more holistic service (for example, thinking about the issues beyond the immediate problem at hand such as housing after release from prison). If new companies were to enter the market to deliver legal services then it is not believed that this would impact on what the organisation does in any way.

Government policies

The Big Society does not affect what the organisation does. However, other policies do, in particular the reform of legal aid, prison law and judicial reviews. The organisation pro-actively keeps aware of policy developments and inputs to consultations for example.

Legal Services Act and regulation

They don't currently understand too much about the Act though they will be seeking to learn more further to this interview.

In terms of regulation, their view is that they are already regulated because of the nature of the LSC contracts and are therefore subject to the corresponding obligations attached; plus the solicitors are regulated by the SRA.

If additional regulation were to be imposed then they would just seek to take the relevant action for compliance – action would depend on what the regulation actually involved. If regulation were to increase then they may have to change the way the organisation works as it may be less attractive for them to deliver their current legal services.

Future challenges and how they will be managed

Going forward, the most significant challenge relates to funding and the outcomes of the changes to legal aid; the impacts of regulatory changes are as yet uncertain; a lack of people in the organisation may be an issue because of the rising demand for services; and the supply of legal services is constrained.

To try and manage these challenges, the organisation engages with lobbying government. If there are increasing pressures on legal aid funding then there is a risk that case workers would all be fully deployed working on contracts and may not have the time to engage with the public affairs team for lobbying activities and how best to influence government policy.

IncomeMAX CIC

Frontier interviewed Lee Healy – Managing Director – on Thursday 14th April 2011. The interview was sent in advance of the interview. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

This social enterprise company was set up to help people understand their benefits and tax entitlements.

They have been operating since September 2009.

Size and structure of the organisation

They are the BBC's independent experts on tax and benefits and as a CIC, they are limited by shares and are asset locked. The chosen beneficiary should the company fail is Breast Cancer Care. In addition, for every credit check undertaken, £1 is donated to Breast cancer Care.

They have 5-6 contracts whereby they are commissioned by different organisations to provide welfare and tax advice to the clients of those organisations. Benefit entitlement advice and benefit checks are therefore provided free to the clients.

They have an in-house team of benefits and tax experts – there are 6 of them in total.

They are regulated by the CIC Regulator.

Overview of services offered by Incomemax

All advice provided is specific to the individual and it is mainly delivered over the phone.

They offer services nationally but do not advertise what they do. The three main channels through which they deliver advice are:

- Commissioned projects: companies pay Incomemax to provide welfare and tax advice to their clients
- Organisation membership: companies pay for a set amount of welfare checks to be undertaken by Incomemax for their clients
- Vulnerable customers: they received some funding from the Shackleton Foundation to provide advice to vulnerable individuals

The CIC operates with a Managing Director and they work closely with their partner organisations to review quality.

Funding

All income is from business commission, though the Shackleton Fund funding for vulnerable groups was received as a one-off as the Managing Director won a leadership award.

Legal services offered

All advice provided is legal services because it relates to tax and welfare law. They offer a wide range of services, including for example, advice on challenges and appeals.

They work with other organisations such as Advice UK for good practice guidance; Child poverty Action Group (on welfare rights); Rights Net (a website on benefits legislation changes); and London Advice Services Alliance.

Delivering legal services

They provide a personalised service with the advisor speaking to the client to gain a full understanding of their circumstances such as their income, outgoings, disabilities etc.

They do not represent clients at court (though have acted as an expert witness in benefits cases). No litigation or reserved legal services are offered. They do not employ solicitors.

They are trained in the areas of advice they are able to cover and if an issue arises that is beyond their capability and requires a lawyer, they would refer clients to the Community Legal Service.

Quality of legal services provided

A quality review board meets to discuss the quality of advice provided. The Board consists of management from Incomemax plus their partner organisations.

All staff are fully trained by the Managing Director as he has 17 years of experience in the sector. He supervises all advice provided and all complex cases are run through him.

The organisation is currently applying for the Community Legal Service Telephone Advice Quality Mark; plus they are a member of Advice UK so operate in line with their best practice; they are also a CIC coalition member.

The computer system is operated using Customer Relation Management software.

Annexe 3: Interview summaries

Who the clients are

They advise over 1000 clients a year, and the clients are from all backgrounds and ages. They do monitor the profile of clients.

The demand for the services of Incomemax has risen over the last 3 years, and this is largely owing to a significant media presence.

Most advice is provided on an on-going basis to clients and not just as a one-off. The main constraint against providing more advice is funding.

Clients are informed about who they are speaking to and that they are trained etc. All clients are referred to this CIC as opposed to approaching them directly because of the nature of its current business model i.e. a company would pay Incomemax to provide welfare advice to its clients.

Feedback is sought from clients.

Knowledge of other organisations

The organisation believes that it is unique in its approach because its sole objectives relate to the advice on welfare benefits and tax. Other organisations offer similar advice such as AgeUK, CABx etc. but they offer a wide range of other advice too.

If new sorts of ABSs were to enter the market to deliver legal advice then Incomemax would like to think that they would be able to learn from Incomemax for best practice.

Government policy

Their view of the Big Society is that it needs to be co-ordinated to make it work. There are many other government policies that affect what the organisation does including universal tax credits, the welfare rights bill, housing policy, economic policy, funding decisions etc.

Legal Services Act

IncomeMax is aware of the Legal Services Act and will be staying up-to-date through the work of Advice UK, LSC etc. They believe strongly that legal advice should be regulated but that a light touch approach would be appropriate (the CIC Regulator regulates CICs in a light touch way). Appropriate regulation is needed to ensure quality.

Future challenges and how they will be managed

The big issue for IncomeMax is securing funding to provide their service to every person that needs their type of help, but they are confident that developing as a business2business service provider will help them become sustainable.

Law Centres Federation

Frontier interviewed Julie Bishop – Director, on 7th April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and priorities of the organisation

The Strategic Goals are:

- **Independent, sustainable and effective Law Centres** which are centres of excellence that provide specialist legal services to disadvantaged people.
- A **national network of Law Centres** that inspires a shared vision for the Federation and its member Law Centres.
- **National recognition of the role and impact of Law Centres.**
- Government policy change that ensures access to free legal services for vulnerable and disadvantaged people.

LCF sets the membership rules with which Law Centres must adhere to remain operating as a 'Law Centre' (which is a trade mark). LCF has been operating since 1978 and Law Centres (LCs) since 1970. LCs are not-for-profit legal organisations. They originally started in order to provide a first class legal service for the poor, to use legal skills to help them obtain justice.

Size, location and structure

There are 56 LCs across England, Wales and Northern Ireland. There are none in Scotland because it is devolved for the purposes of legal aid etc., though there are 6 Associates in Scotland who work with the LCF closely.

LCs vary in size significantly, the largest has around 45 staff and the smallest has 5-6. In the LCF membership rules, LCs are required to have at least 2 solicitors (the largest have 20 or so).

LCF has 15 paid staff and 12 volunteers.

Volunteers are involved in LCs' activity in several ways: they sit on the Board of Trustees; some LCs run law clinics in association with students who therefore volunteer to be involved; and pro bono clinics are held with volunteers from local law practices.

Funding

Total income for the year 2008-09 for LCs was £22.6 million of which a significant proportion – 42 per cent - came from the Legal Services Commission

Annexe 3: Interview summaries

through legal aid related work; 38 per cent local authorities provided with other funders including the Big Lottery, London Councils, Trust funds, law firms etc.

LCF itself receives a grant from the MoJ, funding from London councils, subscriptions from members and donations from charitable trusts.

Income in-kind is also received in the form of pro bono work from law firms and Freshfields heavily subsidises the LCF offices.

Funding has a significant influence over the viability of LCs. Those LCs that are set up in recognition of the local need by the local people tend to be more sustainable than those that are set up in a top down way (they may have been initiated by the Legal Aid Board for example).

Legal services offered

A range of types of legal advice is provided including immigration, asylum, employment, debt, housing, welfare benefits, community care, mental health, education, public law and consumer law. No LC offers criminal law advice (2 LCs offer family law advice).

The advice is targeted and clients are informed about the services through the internet; newspaper articles which raise the profile of the LC advice provided; word of mouth; adverts in public areas, school and prisons; other community groups.

LC solicitors represent clients at court and tribunals, and carry out litigation. However, they do not administer oaths or probate or write wills, or carry out notarial activities.

Client money is held by LCs in line with SAR rules.

Delivery of legal advice and people delivering it

The range of advice provided is very wide. For example, there is a LC located in a mental health facility; another attends Holloway Prison to advise the inmates on social welfare issues before release; another specialises in children seeking asylum. The most recent LC was set up in Harrow after a local person who worked on a public law project (i.e. a solicitor) identified a local need for one. She approached the relevant authorities and the LCF to move things forward.

It is important to note that volunteers do not provide advice unless they are supervised and have the relevant insurance in place. All volunteer advice is therefore supervised – this is best practice.

LCs collaborate with organisations formally and informally. They have formal networks with other advice providers, for example with other organisations to deliver more general help and advice, with LCs providing the specialist legal

advice. Some LCs may also be in consortia in order to win LSC contracts because specific areas of law are required to be provided.

LCs operate a triage service by a solicitor – this is because the qualified lawyer is able to understand the client’s problem, and identify the extent of its complexity and the most appropriate form of action (i.e. who to speak to or where to go to get it). This is a good way to establish a relationship with the client right from the start, which is important because often if the relationship and trust are not there, the client will just leave and won’t come back for the help they need.

Solicitors, paralegals and trainees are employed by LCs and the solicitors are supervisors: they are responsible for the advice provided by the paralegals and all legal advice provided. Staff must be qualified for the role they are carrying out. There is proactive up-skilling if staff need training on specific areas of law.

Most advice is delivered face to face through appointments, with some provided over the phone.. Some LCs offer out-of-hours appointments or home visits, and some provide advice in schools, children’s centres etc.

Charges for legal advice

There are no charges to the client for the legal advice provided (only the statutory charge for certain legal aid cases). There is no intention to charge owing to the generally low incomes of the clients.(this is currently being discussed but has not been agreed) LCF and LCs have been considering how charging could be applied but the SRA will not allow solicitors (who they regulate) in LCs to charge.

Quality of legal services delivered

Quality is ensured through a range of routes:

- The LC solicitors are regulated by the SRA so they have to maintain their professional standards as appropriate;
- LCs have the LSC Specialist QM and must therefore adhere to the processes in place to ensure quality such as peer review of files for example
- LCF holds forums so that LCs are able to offer each other help and advice on particular issues. For example, the LCs would exchange and discuss cases, ideas and spot trends;
- LCF pays one of the central London LCs to provide consultant advice to other relevant LCs on discrimination law (because they are specialists in it);
- LCF engages with Cloisters Chambers to provide Counsel’s advice to LCs who have difficult cases; and,

Annexe 3: Interview summaries

- LCF offers training and networking opportunities across LCs.

A formal complaints procedure is also in place.

LCF would like to monitor and audit the quality of advice of its LCs more but this would mean having some powers to sanction those that don't meet the required standards. The only sanction at the moment is to cease their membership (i.e. members vote on whether a particular LC should remain a member).

Who the clients are

LCs advise over 120,000 clients a year. Each LC would monitor the profile of its clients. Although almost all advice would be to individuals rather than businesses (indeed advice to small businesses was seen to be a gap in the market), they do advise charities and community groups.

LCF characterises typical clients to be poor, have lower than average educational attainment, have poor literacy and numeracy, come from non-english speaking backgrounds, higher rate than average of disability, higher than average number of clients are under 25, almost 60 per cent are women, 45 per cent only have access to a pay as you go mobile phones, most do not use the internet to access goods or services, they often have mental health problems and they lead chaotic lives.

The demand for LCs' services has increased, largely due to the recession. For example, employment advice has increased by some 30 per cent, but there are clear gaps in the availability of immigration law specialists. Funding constraints prevent LCs providing advice to all those people they would like to.

Clients are informed about who it is they are seeing and receiving advice from. More than 50 per cent of clients have been referred to LCs from other organisations; LCs would refer clients to others depending on the nature of the specific advice required. Feedback is sought from the client.

Knowledge of other organisations

There are other organisations who deliver similar services and LCs work in collaboration with many of them to ensure a holistic service is provided. One issue is that in the other organisations, sometime the general advice providers overstep the level of advice they should be providing and venture into more specialist areas, without the knowledge or skills to do so. Another issue that LCs have noted is that sometimes those other organisations make inappropriate referrals to LCs i.e. the matters are not really those that LCs handle.

If other organisations such as supermarkets were to enter the market then this could be a problem because those organisations would be accessible but they would not necessarily have the expert knowledge required to deliver the

appropriate service. It is also not likely that they would be able to establish a relationship of trust in the same way that LCs do.

Government policies

LCs are part of the Big Society.

There are many Government policies that affect the operations of the LCs including housing, welfare, employment, immigration, family, disability and discrimination, human rights, youth policy and policy for the elderly. The LCF actively monitors changes to Government policy.

Legal Services Act and regulation

The LCF would prefer LCs to be regulated in their own right as they do not fit neatly into the format of law practices, nor general advice centres. The framework of regulation therefore needs to be tailored to be suitable.

If they were to be regulated, it would give LCs a higher level of status to be able to convey to the public that they are proper lawyers and this would help when explaining to other organisations what they do.

Regulation would also allow a simplified approach to be taken if something goes wrong as there would be established procedures.

Particular issues would need to be considered if an appropriate regulatory framework were to be designed including the fact that client files are owned by the LC and not the solicitor (though at the moment the solicitor is regulated not the LC); and there are risks that would need to be accounted for including the potential costs to the LCs of being regulated.

Future challenges and how they will be managed

There are many challenges facing the LCs going forward including funding in particular. Given that such a large stream of income is from LSC contracts, these funds arrive with rules attached so if the rules were to change, or the level of funding available were to fall then resources would be required to adapt to this.

Government policy is also important because it affects the nature of the work carried out.

Skills are an issue because the funding streams are largely tied to the delivery of legal advice and so the hiring of lawyers is a priority – but this ignores the need for financial managers and office infrastructure which is essential to operate effectively.

Keeping pace with demand is also likely to be a key challenge.

LCF is taking lots of action to mitigate some of the risks associated with these challenges, for example by aligning activity with Citizens Advice to improve their

Annexe 3: Interview summaries

joint effectiveness; identifying ways to reduce costs through bulk buying for example; undertaking impact studies to understand the value of the advice provided to society; monitoring to ensure that those LCs at risk of closing are identified early and supported to prevent their closure; and a fundraising strategy is agreed and implemented.

Mind

Frontier interviewed Pauline Dall – Head of the Legal Unit – on Thursday 14th April 2011. The interview was sent in advance of the interview. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

Mind is a campaigning charity focused on mental health. They provide information and advice, and campaign to promote and protect good mental health for everyone.

They work with other disability charities on matters of common interest.

They have been operating since the 1940s.

Size and structure of the organisation

Mind is a national organisation with around 170 employees based in London, Cardiff and Manchester, plus a small number of volunteers. Mind is a federated organisation; local Mind organisations are each separate charities in their own right. The local Mind organisations vary in size but may vary from 5-6 staff up to around 25.

Mind headquarters has a Board of Trustees, a Chief Executive and the rest of the management team. They are regulated by the Charity Commission.

Overview of services offered by Mind

They offer a range of services to those with mental health problems, or their family members seeking advice. For example, they help those who use mental health services; those who are in secure units; they advise on the human rights agenda; and help to overcome the stigma of mental health.

They don't actively advertise their services because they have a local presence and a website so people are aware of what they do. Local Mind organisations offer services in line with the local need. Some for example offer advocacy, counselling, and help those with mental health problems find employment etc. They offer a drop-in service, and arrange meeting places for those with mental health issues to get together for support.

Mind (as a national charity) offers two helplines: one which is InfoLine, and the other which is a legal advice helpline. The InfoLine is there as a way to supplement the information that is available on the website. For example, it helps to explain about mental illnesses, about the drugs prescribed and their effects, where to find advocacy services, and what the information that may have been given by mental health workers actually means.

Annexe 3: Interview summaries

The local Mind organisations offer advice but they tend to focus on delivering more practical help and support to clients. Advice on rights and entitlements would not generally be delivered at the local level as the advisors would refer clients to the centrally run advice line.

Funding

Mind is an independent organisation and receives no funding from local or central government. It is funded by a range of donors including corporate donors, a number of large individual donors and some public donations.

Legal services offered

Legal services are interpreted to mean helping people to identify how the law applies in a particular situation. The legal advice line deals with some 5,000 enquiries a year.

Mind has a legal unit that works with Mind's Policy and Campaigns teams and also offers limited advice to the public on a pro bono basis. Solicitors within the Legal unit are regulated by the SRA. The unit prepares a range of publications that are offered to the public and explained via the helpline, and they take on some high profile cases. They also provide support in relation to legal claims in relevant areas of interest working with the legal firms representing claimants.

The legal advice helpline is used as a way to disseminate the information that has been prepared by the legal unit i.e. by the solicitors who are specialists in the various fields of mental health law mental capacity, human rights and discrimination. The advisors are trained and supervised by the solicitors and they explain how the law works. They supply the clients with the prepared rights guides and suggest that clients seek further specialist advice, if necessary. If a lawyer is needed, they recommend clients seek advice from an external solicitor rather than the Mind legal unit – they do not make specific recommendations for solicitors but rather point the client towards the Mental Health Lawyers Association, Community Legal Advice, Law Centres, Citizens Advice Bureaux, ACAS and the EHRC helpline.

In delivering advice, they refer to other appropriate organisation depending on circumstance For example, they work with other charities such as the National Autistic Society; Beat (for eating disorders) etc.

Delivering legal services

There are 3 trained advisors who deliver advice on legal rights but they do not offer a specific case work service. The legal unit has 2 full time solicitors and 2 part time barristers (there are 3 full-time equivalent lawyers).

The advisors are trained to know where the boundaries lie between what they are able to advise on (i.e. explaining the material that has been published by the Mind legal unit) and when the client should seek advice from a solicitor. They refer only to the publications and help to explain them, and do not offer individualised advice. If it appears there is an issue over rights for example, then they would suggest that a further conversation needs to be had with the appropriate people.

The legal unit would monitor the advice to ensure that the boundaries are clear and not overstepped. The solicitors supervise the advisors.

Lawyers in the legal unit all have relevant experience in one or more of the areas of law that are of interest to Mind, which are mental health, mental capacity, human rights and discrimination.

There are no charges for the legal advice provided; the advice-line does however cost but if a client calls and they really can't afford the call then the service would call them back to save the phone call cost to the client (in exceptional circumstances only, and this is not widely known).

Quality of legal services provided

Quality is monitored and advisors are supervised by the solicitors. All calls to the helpline are recorded and a sample is reviewed on a regular basis to ensure that it is appropriate and that guidelines have been followed. They have a computer based monitoring system that records the nature of the advice given and monitoring details of the clients (e.g. ethnicity, age), but not personal details of the client.

As noted above, all advice is in relation to the published documents that have been prepared by the legal unit (solicitors and barristers) – the guides are explained to clients with no specific advice provided. Referrals are made to others if the advice required needs to involve a solicitor or other expert.

Who the clients are

The demand for services through the helpline has increased over the three years that the legal helpline has been operating; they have increased to three advisors from 2.

This is a confidential advice line and no details of clients' names or other personal details are held.

Typical problems that clients seek help and advice with include: not understanding what they have been told by a health worker; they don't understand the Mental Health Act; they are confused and can't make sense of previous advice (e.g. if they are in a manic phase) or someone has told them they need to go to hospital under the Mental Health Act.

Annexe 3: Interview summaries

The profile of clients is monitored. Of the callers to the advice line, around 40 per cent are mental health service users and some 60 per cent would be family/friend/advocate of a person in need. In terms of age 3 per cent are under 25; 19 per cent are 26 – 40; 43 per cent are 41 – 60; and 14 per cent are over 61 (the remainder declined to provide information). The ethnic minority statistics show that 65 per cent of callers are white; 3 per cent are mixed race; 3 per cent are Asian / Asian British; 2 per cent are Black / Black British and less than 1 per cent are Chinese /other (the remainder declined to provide the information).

When they call in, clients are informed about who they are speaking to and client feedback is sought.

Knowledge of other organisations

There are many other organisations that offer advice in related areas including Shelter, the Equality and Human Rights Commission, Liberty, Rethink etc. as they have helplines that offer advice on legal rights.

If other organisations such as supermarkets were to offer legal advice then it would not be likely to have much of an effect given that what Mind does is specific to mental health. It is not likely to be a profitable activity for them – unlike conveyancing, Wills etc. There may be some effect if legal aid contracts were more difficult to get

Government policy

They are aware of Government policy in the relevant areas.

Legal Services Act

Not all the activities of Mind need to be regulated, for example, campaigning. The solicitors are already regulated by the SRA. Litigation is undertaken but is only a small part of their overall activity – only this would need to be regulated. Barristers are already involved in the high profile cases on a pro bono basis.

The reputation of the organisation is paramount which is why they have already made sure they have the accreditation for the information provided via the information helpline (not yet the legal advice helpline but that is planned). Accreditation is a good way to go about making sure of the quality of the advice provided.

Future challenges and how they will be managed

It is a concern that there may not be the solicitors available with adequate specialist skills. Although Mind does not refer clients to specific solicitors, such solicitors do need to be in the market place to be able to pick up the work and help clients. Risks to funding may reduce the number of such solicitors given it is such a specialised service.

Funding is a very significant challenge.

Royal National Institute of Blind People (RNIB)

Frontier interviewed Fran McSweeney, Head of Information and Advice Services, on 4th April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

RNIB has been operating since 1868 and has three overarching aims:

- Prevention of avoidable sight loss: education and research activities;
- Living with sight loss: support and advice for those affected and their families; and,
- To create an inclusive society: campaigning work with Government, working with business and services providers to increase accessibility e.g. transport services etc.

These objectives have not changed recently.

Size, location and structure

RNIB is UK-wide; it works with Action for Blind People which operates at the local level. It has 2500 paid staff and some 3000 volunteers.

As a charity they have a Board of trustees, a Chief Executive and a corporate management structure. It operates as a membership organisation so any person that has sight loss, or is affected by losing their sight, can be a member – those members have a representative who also sits on the Board. At least 50 per cent of Trustees must be affected by sight loss.

As a charity, RNIB is regulated by the Charity Commission; and as it has the Royal Charter, it is also regulated by the Royal Charter and Byelaws.

Services offered

A wide range of services is provided by the organisation “from cradle to grave”. These include support for parents of babies born with sight loss; social support for affected children or those at school and college; support for employees and employers; training services; information and advice on losing sight; rights based advice (such as on welfare benefits, the Equality Act, social services and the NHS); counsellors; peer support over the phone and provision of residential care homes.

The provision of information and advice has risen over the last 3 years owing to an additional investment in these services of £1 million; the Legal Rights Service has been delivered for around 2 years, although RNIB has been offering advice, advocacy and representation in Welfare rights, Community Care and Disability Discrimination for 10+ years.

RNIB offers services through having a big internet presence (its website, twitter and facebook pages); through intermediaries such as GP surgeries, schools, colleges and social services; telephone advice line; email and face to face appointments, plus some home visits.

The internet is well used and delivers a significant proportion of the information and allows clients to be increasingly informed before seeing an advisor; email and telephone contact allows more tailored advice to be provided.

Funding

Funding comes from three main sources, in equal shares: Central and local Government contracts; legacies; and, general donations. Within this, corporate organisations, Trusts and the National Lottery (usually project based) together account for some 20 per cent of the funding.

Legal services offered

The legal services offered are similar to those provided by Citizens Advice and those delivered by LSC contract holders in social welfare law. The Advice Service operates at General Help with Casework level, the Legal Rights Service at Specialist level. The main areas of law are welfare benefits, social care and equalities (discrimination in relation to provision of goods and services, employment and education).

Delivery of legal advice and people delivering it

RNIB has a specific Legal Rights Team with 6 people along with an advice team of 19 full time advisors. The legal team is headed by a barrister and in his team are 1 solicitor and 4 other trained legal rights officers. The barrister is responsible for the advice provided by the Legal Rights team.

The legal rights officers mostly have law degrees and are specialists in welfare rights. The Advice team are all experienced advice workers, many with a CAB background.

Legal advice is significant because it accounts for over 50 per cent of the advice provided by the organisation. All legal advice is tailored to the individual.

They sometimes work with others such as Citizens Advice Bureaux to deliver second tier advice, and they may refer clients to local advice centres if appropriate.

Annexe 3: Interview summaries

The advice service often acts as the triage for the legal team because they provide legal advice up to a particular level, before referring clients to the Legal Rights Team if appropriate. If required, the legal team would represent clients in court and at tribunals; and they take forward litigation, both on behalf of clients, and as RNIB for example, by judicially reviewing public authority decisions. No oaths, wills, probate or notarial activities are undertaken and no client money is held.

The members of the legal team must be appropriately qualified for the role they are filling – the head of the team must be a solicitor or barrister.

Most legal advice is provided via the telephone with other channels used being pre-arranged appointment, email or some home visits. The provision of legal advice has expanded recently, but the same areas are covered.

Charges for legal advice

There are no charges for the legal advice provided and there are no plans at all to do so.

Quality of legal services delivered

The quality of legal advice is monitored as RNIB operates in line with the LSC Community Legal Service Standards. They hold the Specialist Quality Mark of the Legal Services Commission (welfare benefits category), though the LSC has not audited this in 6 years. In view of this, RNIB employ an accredited auditor to make sure of the quality of the services provided.

RNIB will be applying for the SQM to be renewed as the LSC are shortly to start auditing again.

A formal complaints procedure is also in place.

Who the clients are

RNIB helps some 300-400 clients a week through general advice with around 30-40 receiving specialist advice.

The profile of the clients is monitored: most are over 75 years of age and all are blind or partially sighted (or it may be their family that gets in touch on the client's behalf); most are eligible for means-tested benefits; 12 per cent are black or ethnic minority; and, 55 per cent are women.

No services are provided to businesses, only individuals. The demand for legal services has increased since the election in 2010 due to the changes to the welfare system. Most problems tend to be related to welfare benefits or discrimination in terms of the provision of goods and services, or at work. Another key area is community care.

RNIB feels it is able to help the client groups it wishes to, but would like to do more face-to-face rather than having to rely on the telephone which allows it to help more clients through the removal of the need to travel.

Many clients approach RNIB directly, but some are referred by the Citizens Advice, trade unions, the telephone helpline or Action for the Blind. RNIB also raises awareness of its services through for example running 'eye care week'.

Clients are informed who they are receiving advice from in terms of whether they are a solicitor etc because they receive a client care letter. Feedback on the advice provided is routinely sought in two forms: customer satisfaction forms which are sent out with the case closing letters; and, volunteers make follow-up calls 3-4 months after the initial contact has been made. This feedback is used to improve the quality of services provided. 99 per cent satisfaction rates are received, but this is not informative in terms of areas to improve, so the RNIB has moved towards impact measurement: more detailed feedback is sought through the follow-up call.

Knowledge of other organisations

Other organisations provide advice for disabled people but not those affected by sight loss specifically; CABx and local solicitors are the main organisations with similar legal service activities. Such organisations impact on RNIB because if for example legal aid funding falls, the operations of those other organisations may fall which may increase the demand for RNIB's services.

RNIB has found that over the last 6 months it has been increasingly difficult to refer clients to other local advice centres because they are facing substantial uncertainty over their funding.

If other ABSs were to enter the market then they would not be expected to impact significantly on RNIB because the operations of RNIB are very resource intensive so it is not likely to be attractive for commercial organisations.

Government policies

RNIB believes that cuts to funding and services are likely to impact on their client group. For example, the disability living allowance budget will fall by 20 per cent and the partially sighted could lose the mobility part of the Disability Living Allowance.

Government policies that tend to affect the work of the RNIB are those related to social welfare law, equalities and health and social care (including the changes to the NHS).

Annexe 3: Interview summaries

Legal Services Act

RNIB feels it has a basic understanding of the Legal Services Act in the sense that special bodies could be regulated in the future.

Strategic issues

In terms of regulation, RNIB would be content to be regulated if it were a replacement for the SQM, as long as the form of regulation were pragmatic. This is because they are committed to quality anyway so if this were formalised with external checks for example, then this would be in line with their objectives. However, it would depend on how the form of regulation works – it would need to be appropriate for the work that RNIB does.

One suggestion that it would be willing to explore with the LSB is to ringfence the legal advice team within RNIB for the purposes of regulation.

Future challenges and how they will be managed

The most significant challenges going forward are funding constraints, Government policy changes and the ability to keep pace with demand.

To manage the uncertainties, RNIB have developed criteria for taking on cases so that they only take on those that they are likely to win. They also keep close links with fundraisers to maintain the profile of RNIB through that contact and through the media.

In addition, they are seeking cost reductions and efficiency improvements in order to make better use of resources.

To navigate the challenges, they would be interested in developing a network of similar providers of services in order to support one another.

Shelter

Frontier met with Simon Pugh – Head of Legal Services – on Monday 28th March 2011. The interview questions were sent to Mr Pugh in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

Shelter has been operating since the mid-1960's and its overarching objectives are to ensure everyone has access to good quality housing, and is able to keep it once they have it. The organisation campaigns for changes to housing policy, and provides advice and support to people who are currently homeless or who are in poor quality housing.

The objectives of Shelter have not changed notably over the last 5 years, though the organisation is approaching the end of a 3-year strategy period. A process will therefore be taken forward shortly to consult internally on the strategy for the next 3-year period.

Shelter uses a range of methods to inform others of its services, including the internet, newspaper advertising, word of mouth, and adverts placed in public areas. In addition, it relies on referral networks and partnerships with other organisations such as Citizens Advice, local authorities, other advice agencies, local solicitor firms etc.

Size, location and structure

Shelter operates in England and Scotland, and has a presence in Wales through the separately managed Shelter Cymru. There are 5 Divisions within Shelter, one of which is Scotland. Therefore, the Head of Legal Services only deals with England.

The total staff in England consists of around 900 paid employees, complemented by around 150 volunteers. The structure of the organisation – which is a registered charity – is that it has a Board of Trustees which has responsibility for the governance of the organisation. A senior management team consisting of the Directors of each of the five Divisions runs the organisation at the working level.

As a charity, Shelter is regulated by the Charity Commission. The Solicitors Regulation Authority also regulates the solicitors employed by Shelter.

Overview of services offered by Shelter

Shelter provides both 'advice' and 'support' to its clients; advice accounts for around 60 per cent of the services provided, and support accounts for the other 40 per cent. It defines 'advice' to be the legal advice it provides to individuals; 'support' takes more of a practical nature in terms of, for example, helping

Annexe 3: Interview summaries

people find somewhere to live, helping people move to a new house from their previous place of stay, or helping people with managing their finances.

The range of advice provided is wide, covering the four main areas of: housing, debt management, welfare benefits and community care. The provision of such advice is funded by a range of sources including legal aid, charitable income, local authorities, corporate and Trust owners etc.

The range of support provided includes tenancy support, peer education (helping homeless children), supporting those who have experienced domestic violence, and helping families who have been engaged in anti-social behaviour. Shelter does not provide accommodation itself and does not run homeless shelters. Support services are mainly funded by local authorities.

These services are delivered through a range of channels: telephone helplines; the website (for basic information); the website is used to provide advice on housing law to professionals who subscribe; email; and, face-to-face.

The services provided have not changed notably in the last 3 years but looking forward, Shelter is currently working through the changes that may come about in light of the changes to legal aid. The organisation would remain focused on housing, whatever changes may emerge.

Legal aid is a very significant funding stream for Shelter as it funds around 60 per cent of the face-to-face advice services provided. There is however a risk that it could be reduced by some 40-50 per cent in the future.

Over the last year some 40,000 people received advice through the telephone helpline, and a further 40,000 people received advice face-to-face. The former form of advice tends to be one-off in nature, with face-to-face advice generally being more of a casework (i.e. continued for a period) nature.

Funding

The annual reports contain the detail of funding. The 2009-10 report states that total money in £51.1m of which £25.5m (50 per cent) was voluntary income and £4.1m was Government grants and £5.5m was from legal services contracts. Other income sources were Shelter shops, other grants, training courses, publications.

Of the face-to-face services provided, some 70 per cent are funded by contracts from local authorities, legal aid, the National Offender Management Services (NOMS), the other 30 per cent of funding comes from a mix of other sources.

The telephone helpline is funded largely by charitable donations, and from other organisations including local Government, and the Big Lottery Fund.

Funding to Shelter therefore comes from a range of sources including the public, corporate donors (such as Marks & Spencer, Co-op, Nationwide etc.), the Big Lottery Fund, major Trust Funds, and several others.

Charitable income contributes towards funding of both the advice and the support services offered. This is mainly given to Shelter centrally and then is allocated across the services; however, some donors may stipulate the use to which their donation is put.

Going forward the funding streams may change. For example, there may be reductions in legal aid and local authority funding given the general resource reductions they are facing. A further change that may have implications for Shelter's funding relates to the removal in 2010 of the ring-fence around the local authorities "supporting people" funds which seek to help vulnerable people.

The actual effect of such changes is not yet known in full though it is possible that contract funding would be squeezed with consequent reductions in the services provided, unless charitable donations are able to fill the gap.

Legal services offered

Shelter uses the same definition of 'legal services' as the Legal Services Act as this is seen to be a reasonable working definition. In more general terms, legal services can be considered to be the provision of legal advice (i.e. advice on a matter of law) and representation.

As described above, the legal services provided by Shelter cover the full range of social welfare law involving on-going casework and representation in court (both litigation and advocacy). The range of services offered has changed over the past 3 years because Shelter has moved towards advising on debt, welfare benefits and community care. The expansion of services provided was driven by the re-tendering of legal aid which required the larger range of services to be provided.

Legal services are often delivered by Shelter in collaboration with other organisations such as Citizens Advice, local agencies or another not-for-profit advice agency.

Legal advice is provided by around 200 advisors and around 40 solicitors (this has grown from around 25 over the past year). Advisors are not qualified solicitors but offer specialised legal advice relating to non-reserved legal activities. Solicitors are based in the advice centres – of the 30-32 advice centres in England, solicitors are based in around 18-19. Solicitors undertake all reserved legal activity.

When an individual seeks advice from Shelter, they are advised by an advisor who continues to work on their case until the issue goes to court for example, in which case the solicitor would become involved (as this is a reserved legal activity).

Solicitors supervise only each other, they do not supervise the advisors as they are each managed within separate teams. The advice team is separately supervised by their non-solicitor team leader.

Annexe 3: Interview summaries

All the advice provided by Shelter is legal advice, no other forms of advice are provided, only support (as defined above) which is all of a practical nature. All the advice provided is tailored to the individual – whether it is provided via the telephone helpline or through face-to-face meetings.

Some legal services are handled through a triage process as the client would first speak to a Shelter worker who would determine if the individual is eligible for legal aid. If they are then an appointment would be made with the appropriate advisor (eligibility is assessed via means-testing); though Shelter does also help some non-eligible people where possible, paid for by charitable funding.

In terms of the specific legal activities undertaken, as noted above the reserved areas are carried out by solicitors. These include representation in court (county court, court of appeal, the Supreme Court, European Court of Justice. The majority of the work is litigation. Shelter does not administer oaths, undertake notarial activities, prepare wills or administer probate.

Shelter does hold client money and it does so through a specific client account. The handling procedure is fully compliant with Solicitors Account Rules (SAR) and is audited under the SAR, in the same way as an account in private practice would be.

People delivering legal services

Solicitors are employed to undertake reserved legal activities, and a few paralegals work with them. No barristers are employed though they may be instructed by Shelter where required. Expert witnesses may also be instructed as appropriate.

The solicitors employed are fully qualified and on joining Shelter are required to have at least 3 years of experience of housing work. This experience is necessary because they need to be self-supporting given they are few in number (they have to manage themselves).

Advisors are not required to have any particular qualifications but they do need relevant experience if they are employed as team leaders. Advisor team-leaders are covered by the Legal Service Commission's Specialist Quality Mark Supervisor Standard. Training is provided in the form of relevant legal training, supervision, support and practical day-to-day skills. A wholly owned subsidiary of Shelter provides housing law training to paying clients – Shelter is allocated some free places for this training.

No skills gaps have been systematically identified in Shelter staff.

Means of delivering legal advice

The full range of delivery methods is used to deliver legal services such as online, telephone, pre-arranged appointment, drop in centres, and Shelter solicitors act as Duty Officers on court duty (courts that offer 1-2 days a week to deal with

housing issues, for which Shelter solicitors would represent people without their own representative).

The main changes to legal services provided by Shelter over the last 3 years have been the expansion of services to cover debt, welfare benefits and community care. Consequently, the number of solicitors expanded significantly from 25 or so to around 40.

Shelter does not charge for the legal services provided and it is not known whether they would in the future.

Quality of legal services provided

The quality of legal advice provided is monitored through several processes including file review, supervision, performance management and compliance audits undertaken both by the Legal Services Commission and internally.

There are two complaints procedures in place: one to cover the work of advisors, and the other to cover the work of solicitors. For solicitors, in the first instance the complaint would be directed to the supervising solicitor and on appeal, to the Head of Legal Services. Clients also have the right to approach the Legal Ombudsman. All procedures are fully available to view on the website and in client letters etc.

Who the clients are

Shelter provides legal advice to around 80,000 people a year. The profile of clients is monitored. All clients are individuals, though Shelter does provide advice to organisations which in turn help individuals. Second-tier advice is provided to advisors; this is funded by the LSC specialist support contract and the National Homelessness Advice Service (NHAS) scheme funded by DCLG and local authorities.

The demand for legal services has risen in recent years, but it not possible to meet it all as legal services that can be provided are essentially capped by the number of 'matter starts' that are funded by legal aid. Charitable income is used where possible to supplement this.

The problems clients approach Shelter with are in the areas of housing, debt, welfare benefits, and community care. However, Shelter faces capacity constraints so it is not able to help all the people who approach it with these problems. Constraints include the number of advisors and solicitors available – if it were possible to increase funding then more could be provided.

Clients generally find out about Shelter through a range of routes including the internet, newspaper advertising, word of mouth, adverts, leaflets, local radio adverts, advisors placed in shopping areas, face to face fund raising activities etc.

Annexe 3: Interview summaries

Clients are always told who it is they are receiving their advice from and whether they are an advisor or a solicitor – this is included in the client care letter.

Clients are often referred to Shelter from local advice agencies, local authorities, job centres, other consortia partners. These are also organisation to whom Shelter would refer clients, if the nature of the problem required it. In addition, within Shelter, clients may be referred for legal advice from the support teams and vice versa.

All clients are asked to provide feedback in the file closure letter but the response rate is very low – perhaps around 1-2 per cent though they are looking to improve this. The results of any feedback are analysed internally.

Knowledge of other organisations

Similar legal services are provided by a range of other organisations including Citizens Advice Bureaux, solicitor firms, advice agencies, law centres etc. These organisations are seen both as competition and as partners, depending on the particular issue.

Shelter has found that the provision of services by these other organisations has declined in recent years, largely driven by reductions in legal aid. This has caused some organisations – both not-for-profit organisations and solicitors firms, large and small – to shift their work into other areas instead.

If new entities were to enter the market as ABSs then this would increase the competition and would be a particular risk due to the finite nature of the legal aid resource. Shelter does not view players such as Tesco having an interest in legal aid work however. Significant thinking is being done internally on these types of issues, plus the new telephone gateway that has emerged out of the legal aid reform process (a single call centre would deal with the issue over the phone).

Government policy

The Big Society is interpreted to mean a desire to promote localism and volunteerism. This may affect Shelter to the extent that more power is being devolved to local authorities from whom Shelter receives funding. It may also affect the number of volunteers.

The main Government policies that are likely to impact on Shelter include legal aid reform, welfare reform, reform of housing tenure (the localism Bill proposes to change the nature of social housing and housing benefits so clients may require more help from Shelter). Each of these issues is addressed through Shelter's "Safety Net" campaign.

A full division – Communications, Policy and Campaigns - in Shelter is responsible for monitoring Government policy.

Legal Services Act

Shelter is very familiar with the LSA and they are thinking internally about its implications. It does not have a policy on regulation as it is seen as something over which they are not able to have significant influence. They are aware however about the anomaly that is solicitors being regulated themselves, but the organisation is not. This creates a lack of clarity for the client.

The Head of legal Services does however work with the SRA on their work which relates to special bodies.

If Shelter were to be regulated then a significant impact may be likely. Work is being done to consider this in depth over the next 1-2 years given that it will be required to become an ABS under the LSA rules. Advisors would therefore be required to work within a regulated entity which they are not used to doing – other implications include different training requirements, different corporate Governance, changes in the finance Department, implications for SAR compliance, confidentiality and ring-fencing issues would need to be managed, IT systems may need to be revised if separate databases were needed for example, etc.

Future challenges and how they will be managed

Going forward the key challenges are likely to be in the areas of funding; Government policy; regulation (managing the transition); competition (though this would depend on what services they offer); skills of those in the organisation because it is likely to be difficult to find solicitors with the required housing experience given the gradual shift away from legal aid; and, keeping pace with the demand for services.

To address these, internal work is being taken forward on ABS related work and fund raising activity – in particular a project is being taken forward to explore the demand for services and how this may change in the coming years, and what services may be required.

Speakeasy Advice Centre

Frontier interviewed Warren Palmer – Centre Director - on Wednesday 13th April 2011. The interview was sent in advance of the interview. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

This charity has been operating since 1992 and provides free legal advice on welfare, debt and housing. All advice provided by the organisation is of a legal nature, and the services are offered both to those who are eligible for legal aid, and to those who are not.

Most clients hear about the services offered through word of mouth; they have no need to advertise because they often receive clients referred from social services or other community groups.

Size and structure of the organisation

The advice is provided to those in Cardiff, Ebbw Vale, Tredegar Porth, Treorchy and Merthyr-Tydfil. They have 8 paid staff (though some are part-time) and 1-2 volunteers (one of which is a barrister). Paid staff includes 3 solicitors and 1 trainee solicitor.

As a charity, they have a Board of Trustees and a Centre Director as head of the management structure. They are regulated by the Charity Commission, and the solicitors are subject to SRA regulation. They are also members of Advice UK and the Law Society.

Overview of services offered by Speakeasy

The main areas of advice are welfare benefits and debt. They offer a range of services including dealing with appeals and challenges to DWP and HMRC decisions, negotiate with creditors, and represent clients in court or tribunals. The services offered have expanded more lately in the area of housing advice as this is linked to contracts and general client needs.

Going forward, they will continue to offer advice in the areas of housing, welfare and debt. Most advice offered, around 95 per cent, is specialist, as opposed to general advice or information.

Funding

The charity receives its funding from LSC legal aid contracts, local authority grants, charitable grants and public donations. They also receive funds from charitable trusts and lottery grants.

The organisation lost a significant legal aid contract last year which has substantially reduced its income. It has been forced to restructure and some staff have been made redundant. In some areas, the advice offered tends to take more of a one-off nature now because it means more people can be helped, than if case work were accounting for the majority. They are trying to respond more promptly to the needs of the client.

There are likely to be significant funding constraints in the future because it is likely to be increasingly difficult for smaller organisations to secure funding as the procurement processes are changing. Contracts are moving towards being nationally procured rather than through locally tendered grants – the effect of this is to make it more difficult for smaller organisations to compete against the larger organisations which have the resources to meet all of the requirements of the process and prepare successful bid.

Reductions in funding would imply squeezes on the ability to offer case-work. Volunteers may be relied on for general advice (though trained advisors would still be responsible for the specialist advice).

Legal services offered

All of the advice and services offered are legal services.

Legal services are defined to be legal advice relating to rights and entitlements, and helping people to enforce rights.

A triage service is not required. They have a drop-in service and the advisor decides what help and advice is needed and who the client should speak to. Most advice is provided through pre-arranged appointment, with the telephone relied on only very rarely.

Speakeasy represents clients in court sometimes, and on occasion they represent clients at social security tribunals (though not many). They do not undertake litigation or undertake other reserved activities, apart from the administration of oaths perhaps less than one a year. No client money is held.

Delivering legal services

They have three solicitors: one solicitor supervises each area of law (housing, welfare and debt). Appropriate qualifications are required of the solicitor; and all staff are trained as appropriate. They used to have one non-legally trained advisor but no longer.

They do not charge for the legal advice provided. They would not seek to charge the client but they would consider charging, for example, a Housing Association if they are providing advice to their clients.

Annexe 3: Interview summaries

Quality of legal services provided

The quality of the advice provided by the organisation is monitored and they have the LSC Specialist Quality Mark. The supervisors undertake file reviews; and they also have a substantial level of informal supervision.

There is a formal complaints procedure in place.

Who the clients are

The organisation provides advice to around 1300 clients a year; the profile of the clients is monitored (age, income, ethnicity, disability etc). This information is sometimes required for the LSC and local authorities.

The profile tends to be mixed, for example: 98 per cent of clients are over 18; in Cardiff 20-25 per cent are non-white and outside Cardiff 5 per cent would be non-white.

They provide advice to individuals only, rather than to businesses.

The demand has generally risen over the last 3 years, particularly in the areas of debt and benefits owing to the economic climate, but also due to changes in benefits and social security policy.

Typical problems might be credit card debt, threat of bailiffs, personal debt issues, failed businesses, benefits problems etc. Many find out about Speakeasy through the internet or word of mouth. The split between direct approaches and referrals is likely to be 50:50. They also refer clients to other parties where appropriate such as to CABx, the local Law Centre, or other independent advice centres.

Clients are informed about the advisors they are seeing (i.e. that they are a solicitor). Their feedback is sought through a client questionnaire at the end of each case.

The loss of the legal aid contract did constrain the extent to which the organisation is able to help all the groups that it would like to.

Knowledge of other organisations

Other organisations that offer similar services are CABx, Law centres, independent advice agencies (there are 4 in Cardiff). They tend to work well together to meet the needs of clients.

If say supermarkets were to enter the market to offer legal advice then this would not be likely to affect the organisation much because the advice is offered for free, but the other organisations would be seeking commercial opportunities.

Government policy

The likely reductions in legal aid are problematic because other organisations such as the CABx are not able to handle all the necessary cases. The voluntary sector relies heavily on public funding, but this is being squeezed. This is a big challenge. Speakeasy makes sure it is aware of the changes to Government policy.

Legal Services Act

The organisation has little detailed knowledge of the Act; it is likely that ABSs would rival high street practices, not advice agencies.

They do not think that they should be regulated further because they are already audited by their funders i.e. the LSC for the contracts; the Big Lottery monitor the outcomes of the project for which they provide funding; local authorities look at the outputs (such as numbers of clients etc) and they are also a member of Advice UK. Plus the solicitors are subject to SRA regulation.

They are not sure what the impact of further regulation would be.

Future challenges and how they will be managed

The most significant challenge going forward is the reductions in public funding. Linked with this is the additional challenge posed by changes to procurement which are likely to make it more difficult for smaller organisations to win contracts because they are nationally procured.

They are therefore looking at alternative sources of funding and monitoring finances very closely. They also engage with lobbying. It would be a significant help if it were recognised that local advice centres and agencies need access to local funding streams.

Vinbrooke Support Kent CIC

Frontier interviewed Prince Adeola – Chief Executive, on 8th April 2011. The interview structure was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and priorities of the organisation

The aims of the organisation are to provide the community with legal information and support in order to help build a fair society where information and advice is available to all. The objectives of the organisation have slightly expanded recently to incorporate lobbying activity and action to influence decisions.

The company has been operating for 1 year. Its engagement with the public to highlight its services is primarily through the internet and word of mouth, though they also attend public events to raise the company's profile.

Size, location and structure

The organisation is a community interest company and has 9 people – 8 paid employees and one volunteer. They deliver services in Kent and the environs.

The company is structured with a Chief Executive, and a management committee which takes the relevant decisions via a vote. The Chief Executive is an ILEX Fellow.

As a CIC, the company is regulated by the CIC regulator, and the legal professionals employed are regulated by ILEX as appropriate.

Services provided

The services are mainly in the areas of debt advice and debt counselling though they cover other issues too – most of the advice provided relates to legal matters. Only around 5-10 per cent of the advice provided is of a general nature with the vast majority tailored to the individual.

Funding

The broader company charges some clients if they are able to afford to pay for legal advice; if not, they are advised through the CIC and do not pay. They look for funding through funding schemes but have not secured any yet. Also, they undertake fundraising from the general public.

Five of the employees are on the Future Jobs Scheme which is funded by the Government's Future Jobs Fund. This means that they are able to work for the company for free.

Legal services offered

Legal services are interpreted to mean advice to people on the steps to take to address their legal issues (these are usually things that affect their daily lives).

The particular forms of legal advice provided are legal advocacy and guidance in the areas of employment, immigration, education, debt advice and conveyancing.

The CIC collaborates with other organisations in the provision of advice, for example, by referring clients to a specialist debt advisor if appropriate. Indeed, if they are not able to handle a particular client's issue themselves then they would refer the client to other organisations.

The CIC represents clients in County Court (though not the High Court) and at tribunals and they carry out litigation (preparing and filing papers for court). They do undertake the administration of oaths but not the preparation of wills or administration of probate, or notarial activities.

They do not hold client money.

Delivery of legal advice and people delivering it

The CIC has 2 ILEX regulated lawyers. It also employs one legal secretary. Only the qualified lawyers deliver advice to clients.

The lawyers have over 2 years of experience, and the legal secretary is required to have relevant background. Where there were skills gaps, such as on immigration law, training was sought, and this included attending relevant seminars etc.

Legal advice is provided through pre-arranged appointments and on a drop-in basis.

Charges for legal advice

There are no charges for the advice provided by the CIC (clients are asked to complete a means-testing questionnaire). They do not undertake legal aid work.

Quality of legal services delivered

The quality of advice is monitored because all advice passes through the Chief Executive before it is sent to clients. They also undertake peer review and meet every six months to discuss cases.

CPD is undertaken in line with SRA and ILEX requirements, as appropriate.

Annexe 3: Interview summaries

There is a formal complaints procedure in place. This would involve the client sending in the complaint to the Chief Executive for him to take forward. Clients could also complain to ILEX.

Who the clients are

Over the last year, the CIC had well over 60 clients. The clients' age is monitored as this will be on the client information held on file.

The advice provided is to individuals, and they also provide advice to those who are seeking to become self-employed.

The demand for the legal services of the CIC has increased because more people are now aware of the services of Vinbrooke – word of mouth is the key way clients find out about the company. They do not advertise so that they are able to keep demand to manageable levels.

Local community organisations such as charities or immigration advice services refer clients to Vinbrooke. Other clients also do. Vinbrooke also refers clients to other parties as appropriate for example, to barristers, or to debt service specialists.

Clients go to Vinbrooke with a range of problems. For example, if they have an employment problem such as a dispute with their employer (e.g. unfair dismissal); family disputes; or immigration problems such as regularisation so that people can stay in the country, applications for new visas, issues with the Home Office etc.

Clients are informed about who they are seeing when they receive legal advice; and they are informed about the complaints procedure.

No feedback is sought from clients about the quality of the service received – the quality is judged on the basis of the number of referrals from others.

Knowledge of other organisations

They are not aware of other organisations that provide similar services in the area.

If other organisations such as supermarkets were to enter the market to deliver legal services then the effect on this organisation might be that it would take some of their demand away. Such organisations may also lead to a reduction in the specialisation of legal advice provision.

Government policies

The Big Society is understood to be a situation in which communities (that share a common interest) come together to address concerns and achieve something.

There are many Government policies that affect what the CIC does, but none specific. They do keep aware of changes to government policy. For example, they are part of Parliament outreach to stay aware of developments, and they monitor the websites of the Law Society and ILEX for new policies. We work with other law development agencies to make sure they are up to date with new legislation and legal information available.

Legal Services Act and regulation

The Act is understood to mean that there will be more organisations delivering legal services; it will also ensure that organisations are regulated properly.

Law firms or individuals working with firms could face disciplinary procedure for misconduct.

They believe that there is more than enough regulation now so they do not think that they should be further regulated. The regulation is there to facilitate accountability, transparency, to ensure appropriate complaints procedures are in place, that clients receive appropriate services and are referred correctly, and there are processes in place to handle companies that do anything wrong.

If they were to be regulated more, they would do what they need to do to comply. It would make them more aware of the services provided.

Future challenges and how they will be managed

The key challenge going forward is around funding because they need more people. They are applying to other public bodies for funding, and they train their staff to make sure that financial risks can be managed appropriately.

Youth Access

Frontier met with James Kenrick – Advice Services Development Manager – on 31st March 2011. The interview was sent in advance. This note is structured in line with the interview. It is not a transcript of the interview but seeks to capture the information as accurately as possible.

Aims and goals of the organisation

Youth Access (YA) is a national umbrella body for those organisations offering advice, support and counselling services to young people. YA itself provides: consultancy services to its members; training; research into young persons' legal advice needs; and campaigning for policy change.

The strategic aims are to promote best practice and quality in the delivery of youth advice services; improve young persons' access to support and advice; shape and influence policy and to secure a vibrant national membership. These aims have not changed in recent years; it is not likely they will be reviewed for the time being given the substantial uncertainties looking forward.

Size, location and structure

YA has been operating for around 30 years and it has 194 members across the UK, three-quarters of which are voluntary organisations with the other quarter managed by local authorities. Some 90 per cent of the members are youth agencies. They do not provide advice directly as it is all through their members.

A survey was undertaken in 2009: "The Youth Advice Workforce, Now and in the Future" which found that in the UK as a whole (i.e. including and beyond YA members) there are some 600 paid employees (including some part time staff, and some that work in Citizens Advice Bureaux and Law Centres) and 1500 volunteers in the youth advice sector who have the provision of rights based advice as part of their primary role.

As a registered charity, YA operates with a Board of Trustees and is regulated by the Charity Commission. Given their work with young people, workers are also subject to Criminal Records Bureau (CRB) checks.

Overview of services offered by Youth Access

Members provide information, advice and counselling services to young people. Advice covers a broad range of legal rights issues, careers advice, bullying support, sexual health advice, housing advice, and education and employment advice. These have not changed over the past 3 years.

Going forward, members may have to reconfigure the services they supply with the level of income they receive (given funding uncertainties). They will however seek to keep the services holistic – i.e. offering the broad package of services that young persons need, rather than specialising too much.

Of the services that are provided, perhaps around 10-20 per cent would be legal advice though the proportion would be very diverse across members. Around 1 million enquiries are handled a year by YA members, with around 25 per cent being rights based (primarily housing, homelessness and debt).

Of the young persons to whom rights based advice is provided (which would include some form of legal advice), 57 per cent need advice on housing/homelessness issues; 15 per cent debt; 11 per cent employment rights; 11 per cent education rights and 36 per cent welfare benefits.

Around 68 per cent of advice provided to the young is general advice relating primarily to housing & homelessness, debt and benefits, followed by education and employment advice.

Funding

YA itself is funded entirely by grants. All Government funding that has previously been received (around 45 per cent of its income) has been cut as from 1st April 2011. Funds come from sources such as Comic relief, and the Baring Foundation but it does not rely on donations from the public (though some members might).

Funding is a very significant issue for YA members because 86 per cent of them are facing reduced income this coming year. Of the organisations surveyed, some 42 per cent are threatened with closure this year as a result of funding problems, and a further 7 per cent reporting that they are definitely closing. This will mean that around a quarter of the youth advice services provided will cease to operate and a further 50 per cent of youth advice services will operate at a reduced level.

Other organisations do sometimes contribute to the work of YA. For example, Barclays has provided funding for a project relating to financial capability.

Funding arrangements for YA may change in the future but it is hard to say. Funds are expected to be mainly from charitable trusts, but some central Government funds may come forward, such as from the Department of Health for mental health.

Any reductions in funding would mean that YA would have to scale back its support for members. For example, it runs a youth advice training programme focusing on young persons' rights but this may have to be cut back.

Legal services offered

The term "legal services" is understood by YA to refer to the provision of legal information, advice, assistance, representation and public legal education.

In delivering legal services, YA and its members work with a wide range of other organisations and campaigns including: Citizens Advice Bureaux, law centres, Children's Society (they have a programme "Lawyers for Young People"), the

Annexe 3: Interview summaries

“Just Rights” campaign, The Howard League for Penal Reform, the “Streetwise Community Law Centre” (this provides specialist law advice for young people) and “Just for Kids Law” (which involves the private sector in the delivery of legal services).

A triage service is offered in the sense that when a young person goes into an advice centre to find information, they are engaged by a youth worker who then assesses the needs of the individual and refers them on to the appropriate place. A more sensitive approach is needed to engage the young, so the traditional CAB approach of entering a waiting room etc. doesn't work – the model of youth agencies is adapted to the client.

YA members do not generally represent their clients in court (though solicitors from law centres might). Advisors may represent individuals at social security tribunals. No reserved activities (oaths, wills, probate etc) are offered, unless the member in question is a law centre (i.e. has a solicitor). No client money is held.

The extent to which YA members (youth agencies) have a dedicated legal team varies – they are not likely to have a legal team (unless it is a law centre) but they are likely to have a specialist advice service team providing advice, including legal rights advice.

People delivering legal services

A wide range of people in the member organisations deliver advice. They tend to shy away from detailed specialised legal advice because they are not trained to provide it. There are around 600 staff who deliver advice, some of which would be legal advice.

Of those that are employed there are no requirements in terms of qualifications though the recent survey in 2009 showed that some 59 per cent have A levels, 42 per cent have a degree and 7.3 per cent have a MSc. Some 18 per cent have completed a legal advice qualification (vocational or professional such as a NVQ) and a further 4 per cent are working towards such a qualification.

YA identified that there is a skills gap so they developed a training programme – not accredited – with a range of courses within it relating to the provision of advice. This was running for 6 years but is no longer funded so may have to stop.

Means of delivering legal advice

The main channels through which advice is delivered by YA members are the drop-in centres, and they also use telephone services and online facilities (e.g. nationally through “youthnet.org”) and pre-arranged appointments.

Of the legal advisers, 68 per cent are engaged in direct advice, 32 per cent in case work; around 7 per cent in representing individuals in tribunals; 9 per cent in social policy work, which is using evidence from casework to influence policy.

Young people are often found to have a range of problems so a holistic set of services is required.

All services are free at the point of delivery and YA members would not consider charging in the future.

Quality of legal services provided

YA has identified the need for additional training of those who provide advice to young people so it developed a training programme and a qualification.

The latter involved working with the National Occupational Standards for Legal Advice Programme, with YA developing two modules: one relating to the first line of advice and the other focusing on more specialist advice concerning rights under the law.

For those that provide detailed legal advice, the LSC Quality Mark was helpful in improving quality but there were issues with it. This Quality Mark started out being free to the organisation, but the LSC then moved to charging organisations around £800 – £2000 (most paid around £1500) which led to around three-quarters of those youth advice agencies who were involved dropping out.

The Advice Services Alliance led quality standard (which came from the “Working Together for Advice” project) was piloted by YA but has not yet been rolled out due to funding constraints. Without subsidy, the costs of such quality schemes would be too great given the need to rely on audits.

Who the clients are

YA members provide advice on rights based issues to between 1000 and 5000 people a week. The profile of clients is monitored and YA undertook some research which found that:

- 24 per cent of clients were 22-24 years of age, 35 per cent were 19-21 and 29 per cent were 16-18. Very small numbers were of ages either side;
- Some 17 per cent of clients were black, 65 per cent were white, 3 per cent were Asian and small numbers of mixed or other ethnicities;

Over recent years, the demand for advice from the young has increased, particularly in the areas of housing, benefits and debt as a result of a rise in youth unemployment. Longer-term unemployed people tend to have more problems and hence more advice would be needed. The holistic service requirements mean that most advice is more than just one-off in nature.

The legal problems clients approach YA members with are those relating primarily to housing and homelessness; benefits; debt; and education and unemployment.

Annexe 3: Interview summaries

When asked, organisations indicated that of the one million clients collectively seen per year, some 45,000 would not be able to be dealt with this year due to funding reductions going forward. This figure may increase if funding constraints place greater pressure on services.

Clients who receive advice are generally told who it is they are seeing because it is important to generate trust between the advisor and the individual. Those that seek advice have mostly found out about the services through word of mouth, though some may have been referred from another service, e.g. youth offending team, social workers, or youth services.

Feedback is sought on the advice provided by many of the YA members, and YA developed a toolkit to monitor the outcomes of advice provided so that the information can be collated at the aggregate level. This covers for example, a brief outline of the client profile, the type of advice that was sought, ‘hard’ outcomes achieved (such as housing improvements, health improvements, or financial position improvements) by age and gender; and ‘soft’ outcomes (feelings about the future, ability to deal with a problem themselves, family situation etc.).

Knowledge of other organisations

Along with the services which focus on the individual areas that YA members advise on - health workers, social care, housing associations etc. – advice is provided by citizens advice bureaux and law centres, although it should be stressed that young people do not enjoy good access to legal advice. The main organisation that offers advice that is similar to that provided by YA members is the Department for Education’s “Connexions-direct” scheme. This is mainly careers focused but does offer some advice to young people on a wide range of issues such as health, housing, money, education etc.

There appears to be greater awareness of the issues faced by young people, as a result of work conducted by YA, so more organisations have been trying to meet those particular needs, though funding cuts are likely to place these under pressure in the future.

Government policy

In terms of the Big Society, the encouragement of volunteer work is a key relevant factor. As cuts in central and local Government are likely, this implies that some organisations may try to fill any gaps through greater reliance on volunteers. This raises risks around the quality of advice provided and the extent to which they are appropriately supervised.

YA actively monitors the main Government policies that are likely to affect young people. The main policy areas are:

- Youth policy: a “Youth Strategy” is intended for publication by the Government in 1-2 months;
- Funding: reduced local authority funding will have a direct effect on services offered;
- Legal aid reductions: YA have campaigned to exempt young people from the reductions in legal aid, but reductions are likely to cause difficulties;
- Mental health and NHS: research for YA suggests that there is link between mental health, social welfare problems and youth. Advice services are linked with these areas directly;
- Welfare policy: changes to benefits may affect young people; and
- Housing: housing policy may have implications for youth homelessness and access to housing.

Legal Services Act

The Act is not expected to have a significant impact on the activities of YA or its members because they generally don't employ solicitors (apart from the law centres and some Citizens Advice Bureaux).

However, it would be problematic for those that do if the scope of regulation were to be extended because of the compliance costs involved. If regulation were to be extended then the level of advice given would be likely to fall – quality would not be expected to increase but the quantity of advice offered would fall.

Future challenges and how they will be managed

Looking to the future, the main challenge identified by the YA is funding and revenue. Government policy, a lack of legal advice skills in front-line services and keeping pace with the demand are all likely to be issues that members are likely to need to address in the future.

YA is trying to help its members manage these challenges by concentrating on raising funds, supporting its members and campaigning.

Annexe 4: Literature Review

Mapping the sector

The civil legal advice sector is large and diverse, with a variety of organisations and staff providing different services to a varied client base. Under its broadest definition, the sector includes both solicitors in private practice and a wide variety of Not-for-Profit (NfP) organisations, as well as some staff working in local authorities or other governmental bodies. The literature tends either to address the sector as a whole, or to focus on individual organisations; there are very few publications which address the NfP sector both in its entirety and in isolation.

This review first describes the types of information and data available in the published material, and then goes on to use that information and data to map out the NfP legal advice sector, within which special bodies can be found. It should be noted that there are significant gaps in the available material, not least because no single study has considered the whole NfP advice sector in its entirety before. The material presented here is therefore illustrative but it does give a feel for the various aspects of the market.

Data and information available

Surveys

Matrix Research and Consultancy (2006), “Estimating the size and nature of the civil legal advice sector in England and Wales” and Smith, M. & Tam, T. (Legal Services Research Centre) (2007), “Findings from the Legal Advice Sector Workforce Surveys” both provide valuable information on the make-up of the civil legal advice sector as a whole.

The 2006 Matrix report was commissioned by the Department for Constitutional Affairs with the following objectives. To:

- define the civil legal advice sector;
- establish what organisations and individuals make up the sector;
- estimate the extent of supply of advice in terms of workforce and cost implications; and
- explore the drivers which shape it.

The report was based on scoping research (a review of the literature and interviews with stakeholders); a Delphi study²³; national and local data collection; and the generation of estimates using Monte Carlo techniques. Among other insights, the study provides an estimate of the financial value of the civil legal advice sector.

Smith and Tam's wide ranging study, "Findings from the Legal Advice Sector Workforce Surveys", provides a wealth of information on the publically funded legal advice sector as a whole and the profile of the workforce, as well as on strategic issues facing the sector, such as skills shortages. The report summarises the key findings of three surveys:

- A survey of the Legal Advice Sector Workforce
- A survey on the Attitudes of Publicly Funded Legal Advice Workers
- A Skills Foresight Report for the Legal Advice Sector (organisational survey)

Usefully for our purposes, the Smith and Tam analysis is broken down by type of organisation: the report therefore provides statistics on the NfP sector specifically.

The published material indicates variations in the definition of "legal services" used. This is important to be aware of when mapping the sector, but also importantly, when using this information and considering it from a regulation perspective.

²³ Experts were asked to complete a series of questionnaires, with the results of the first questionnaire being shared before the second is carried out and so on, thereby allowing views to evolve throughout the process

Definitions of legal services and advice

Not all studies state explicitly what they understand by “legal advice” or “legal services”, and there appears to be wide variation in the use of the term. Hence what may be considered “legal advice” by some may not be by others. Helpfully, the two large survey studies give their working definitions of advice.

Smith and Tam:

“Advice and information provided to members of the public about their rights, entitlements and responsibilities under the law.

The advice provision is independent, i.e. the advice is in the best interests of the client and is not influenced in any way by the interests or views of anyone other than the client.”

Matrix:

“Advice involves some form of dialogue and analysis of the problem before any forms of action can be determined. Providers of advice are involved in a translation process of hearing (and sometimes questioning) a problem and providing appropriate solutions.

The advice sector includes a range of activities which can be broadly classified as: acting; enabling; and informing.

The advice sector can be viewed as a continuum which includes different levels of advice provision activities that can be distinguished from each other, even if the precise point at which one level meets the next is not clear.

Information alone, although an important part of the advice sector, particularly as a point of access to advice (signposting), cannot be considered advice giving.”

Citizens Advice data

While only reporting data from their own organisation, the breadth of the Citizens Advice Bureaux network, both in geographic terms and in the range of issues on which they provide advice, means that Citizens Advice represents a valuable source of information.

Citizens Advice Bureaux have a sophisticated database system, which allows them to collate detailed statistics on their clients and their clients’ problems. All clients are recorded on a single database, with one single record for an individual client. The client record contains profile information on age, gender, ethnicity and other characteristics.

Whenever a client contacts the bureau, an adviser will either add a new enquiry to their record, or continue work on an existing enquiry if the client has returned about an ongoing problem. A client may therefore have several enquiries over time. Each interaction with a client (called a contact) is also recorded within an enquiry, so an enquiry may consist of a single contact or multiple contacts for a complex ongoing case. Within the enquiry, codes for ‘advice issues’ are recorded reflecting all the problems on which the client is being advised within that enquiry.

Citizens Advice publishes summary statistics of this data from bureaux in England and Wales on a quarterly basis in “Advice Trends”. Here, we draw on “Advice Trends January – March 2010”, which reports annual statistics for the year 2009/10, and “Advice Trends July – September 2010”, the second most recent publication.²⁴

Publications on specific organisations or issues

Other publications provide useful detail on specific organisations or aspects of the sector. These publications are listed below but the focus of their research is introduced in the relevant section of text which follows:

- Age Concern (2008), “General Help Providers - the end of the line? The Age Concern Perspective”;
- Age Concern and Youth Access (2008), “General Help Providers - the end of the line?” (Conference presentation)
- Buck, A. et al. (2010), “Piecing it Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres”, Legal Services Commission
- Citizens Advice (2008), “What clients and other groups say about advice services” (Presentation)
- Citizens Advice (2008), “Employing solicitors in Citizens Advice Bureaux” (2008)
- Citizens Advice (2004), “Geography of Advice: An overview of the challenges facing the Community Legal Service”
- Department for Constitutional Affairs and the Law Centres Federation (2004), “Legal and Advice Services: A Pathway to Regeneration”

²⁴ The most recent publication, “Advice Trends October – December 2010” includes data affected by the severe weather in December 2010 and might therefore be unrepresentative.

Annexe 4: Literature Review

- Legal Services Board (2010), “The future of legal services: Emerging thinking”, in particular Section 5.2.

Mapping the sector

We have used the data and findings in the sources listed above to sketch a picture of the main characteristics of the NfP advice sector.

Role and importance of NfP advice agencies

One of the themes that emerges forcefully from the literature is the importance of NfP advice agencies and the key role they play in local communities where access to solicitors is limited, either by a lack of firms, lack of finance or by lack of awareness that a solicitor could help with a particular problem.

“Legal and Advice Services: A Pathway to Regeneration”, a policy paper published by the Department for Constitutional Affairs and the Law Centres Federation in 2004, highlights the role of the advice sector in tackling social exclusion and emphasises the role of the Community Legal Service in bringing organisations together into partnerships which can address people’s multiple needs.²⁵

Research by MORI in 2003/04, quoted in the 2008 Citizens Advice presentation, “What clients and other groups say about advice services” suggests that two in five people (41 per cent) have a problem on which they would like advice. Of the 61 per cent of people who seek help, 24 per cent approached a CAB, 16 per cent approached a lawyer or other professional, 12 per cent approached the local council, 8 per cent a friend or family member, and 27 per cent made contact with ‘other’ bodies, including the independent advice sector.

A similar picture emerges from the 2006-09 English and Welsh Civil and Social Justice Survey, quoted by Pleasence and Balmer in Section 5.2 of “The future of legal services: Emerging thinking”. The survey indicates that people seek formal advice about almost 60 per cent of “justiciable” problems, but that advice is sought from solicitors in only 13 per cent of cases. The paper goes on to explore what leads people to seek advice from solicitors in some instances, but not in others, and concludes that the use of lawyers may be driven by whether or not people characterise problems as being “legal”.

Pleasence and Balmer argue that the broad advice sector is crucial to the accessibility of legal services and, ultimately, justice, because it facilitates access to legal services for those who do not see the legal dimensions of the problems they

²⁵ The Community Legal Service (CLS) is a network of Legal Services Commission-funded organisations and advice providers that fund, provide and promote civil legal aid services.

encounter. They also argue that this comes in addition to the obvious benefits of having more affordable options in the legal services market.

This “gateway” role of NfP organisations is also emphasised by Genn et al. (2004) in “Understanding Advice Seeking Behaviour: Further findings from the Legal Services Research Centre (LSRC) survey of justiciable problems”, quoted in the 2008 Age Concern and Youth Access presentation, “General Help Providers - the end of the line?”:

“The position of these first points of contact or ‘problem noticers’ in the fluid structure of advice-seeking and advice-giving is absolutely pivotal. Providing the right sort of information and help at the earliest possible stage must be a central objective in developing an effective policy for the provision of information, advice and assistance to members of the public involved in justiciable problems.”

The Citizens Advice report, “Geography of Advice: An overview of the challenges facing the Community Legal Service”, looks at how well the Community Legal Service structure is working and fulfilling the objective of delivering access to justice.

The report’s focus is on legal aid-funded services, and not specifically within the NfP sector. However, it gives another indication of the importance of NfP organisations in certain areas underserved by other legal advice providers. For example, a survey for the report found that 39 per cent of Citizens Advice Bureaux thought that their bureau was in an “advice desert”. Further, 68 per cent of bureaux reported difficulties finding legal aid solicitors who could deal with immigration cases, and 60 per cent reported difficulties finding solicitors to deal with housing cases.

Finally, MORI research (quoted in the Citizens Advice “What clients and other groups say about advice services” presentation) gives an indication of the very tangible benefits of advice for individual clients. The 2005 research quotes survey results suggesting that 33 per cent of people felt less stressed or anxious after receiving CAB advice, while 14 per cent had fewer health problems/were less depressed, and 37 per cent were better off financially. 47 per cent of people felt more confident about dealing with their problems and 41 per cent have information they can use in other situations.

Overview of the sector

Smith and Tam (2007) report that there are approximately 8,700 organisations delivering legal advice services supported by public funding in England and Wales. They subdivide these organisations into three subsectors: private practice firms (52 per cent of organisations); Not-for-Profit (NfP) organisations (37 per cent) and statutory bodies (11 per cent). However, more than half of the labour force (62 per cent) work in NfP organisations (39 per cent as paid employees and 23 per cent as volunteers). 29 per cent of advice workers are employed in private

Annexe 4: Literature Review

practice, with the remaining 9 per cent in the statutory sector (teams in local authorities).

They describe the NfP sector as a combination of large national voluntary organisations with both paid and unpaid staff, local community groups and locally based NfP agencies. Some NfP bodies are members of, or are affiliated to, large national networks but there are a range of smaller community based organisations, often staffed entirely by volunteers, with no network membership or affiliation.

The 2006 Matrix study estimated the financial value of the civil legal advice sector, using a Monte Carlo analysis on local authority area case study data and national data on providers of advice. The resulting model suggested that the value of the civil legal advice sector is most likely to range from £5.06 billion to £6.84 billion.²⁶

The share of this value accounted for by different types of organisations was estimated as follows:

- 42.7 per cent – Local support and resource groups
- 25.7 per cent – Solicitors in private practice
- 20.2 per cent – National advice providers (e.g. Shelter, Age Concern, CABx)
- 11.4 per cent – Others (e.g. Registered social landlords)

There are two interesting things to note here. Firstly, around two fifths of the wider advice sector was accounted for by local charitable, voluntary and NfP groups (rather than local branches of a national organisation). Secondly, 63 per cent of the total value of the advice sector is accounted for by NfP organisations, which is a very similar result to the Smith and Tam finding that 62 per cent of the advice sector workforce work in NfP organisations.

However, the Matrix estimates of the number of NfP organisations are much higher than those in the Smith and Tam study (3,226 organisations). The Matrix report estimates that there are between 10,000 – 17,500 local support and resource groups providing some sort of advisory activity in England and Wales, as well as 3,000 – 5,000 local points of access to national organisations. One possible reason for this large discrepancy is that the 3,226 organisations quoted in

²⁶ The research does not include services specifically targeted at young people. Further, a lack of available data meant that advice services provided by the prison and probation services were also not included in the estimates generated.

Smith and Tam refers only to member organisations of national networks, which would correspond well with the Matrix estimate.²⁷

The Matrix report also sub-divides the sector by role, into “Advice providers”, “Referrers and Signposters” and “Signposters”. Definitions and examples of the three categories are given below:

- **Advice providers:** Organisations and individuals that operate in formal settings and provide ‘bespoke’ advice in response to particular problems that a person might have. Such advice givers may also signpost and refer in addition to providing advice.

e.g. Law Centres; national independent advice organisations; solicitors in private practice; organisations providing advocacy; barristers; trade unions and employee bodies; local authority consumer and trading standards departments; local authority welfare benefits departments; consumer organisations; local independent advice centres; individuals who are accredited advice givers; financial advisors; and the Legal Services Commission.

- **Referrers and Signposters:** Some of these individuals or organisations may provide advice, but the main role of organisations in this category is to signpost and refer people to advice providers.

e.g. Local authority social services departments; local authority housing departments; mediation services; self-help groups; housing associations; police; probation; prisons; courts; youth justice teams; members of parliament; professional representative bodies (other than trade unions); local authority councillors; organisations providing support services; and regulators and ombudsmen.

- **Signposters:** These organisations and individuals only signpost the availability of civil legal advice provision. Such organisations play a significant role within the sector, often acting as key ‘gateways’ to sources of advice. However, signposting activities do not constitute advice, and therefore such organisations cannot be termed advice providers.

²⁷ It is unclear what type of organisations the Smith and Tam estimate includes. Their description of the sector makes reference to NfP organisations unaffiliated to national network bodies. However, in the description of their methodology, Smith and Tam suggest that their sample was drawn only from members of networks: “The sample for each of the three surveys needed to be representative of those organisations and individuals providing publicly funded legal advice services in England and Wales. There was no pre-existing sample frame for this population and therefore a listing of some kind had to be constructed especially for this project. This was assembled to include those member organisations of Not-for-Profit networks, private practice firms holding contracts with the Legal Services Commission and teams operating within the statutory sector.” (p.2)

e.g. Voluntary and other support organisations specialising in counselling and guidance; government departments; estate agents; faith representatives; insurance companies; medical practitioners; health care organisations; organisations undertaking risk awareness campaigns; banks and building societies; and tenants' and residents' associations.

Size and location of organisations

Smith and Tam (2007) also report data on the size of organisations in the sector. **Table 16** indicates that the vast majority of NfP organisations are small enterprises, and over two thirds of all organisations (69.8 per cent) employ ten people or fewer.

Table 16. Number of paid employees within NfP organisations

Number of paid employees	Proportion of organisations reporting different bands (per cent)
1-2	15.4
3-4	18
5-6	21.7
7-10	14.7
11-15	15.8
16-25	7.7
26-40	2.6
41-70	1.8
71-99	0.7
100+	1.5

Source: Smith and Tam (2007)

However, these numbers will underestimate the true size of some NfP organisations, as a significant proportion of organisations have volunteers. The same survey reports that approximately 40 per cent of all NfP organisations have

between 1 and 10 volunteers. There are 20 per cent of organisations with between 11 and 20 volunteer workers and a further 15 per cent of organisations with between 12 and 30 volunteers. Around 6 per cent of organisations have more than 100 volunteer workers.

The geographical spread of NfP organisations and the NfP workforce, as reported by Smith and Tam is set out in **Table 17**. The data indicates that around 35 per cent of workers and organisations are based in London and the South East.

Table 17. Geographical distribution of NfP workforce and NfP organisations

Region	Proportion of workforce (per cent)	Proportion of organisations (per cent)
Eastern	9.3	7.4
East Midlands	8.9	4.4
Merseyside	1.8	2.3
London	15.4	24.6
North East	5.4	6.2
North West	7.1	6.8
South East	18.8	10.6
South West	7.3	6.6
West Midlands	9.9	10.9
Yorkshire and the Humber	10.4	15.2
Wales	5.7	5.0

Source: Tam and Smith (2007)

Advisor profile

In terms of the age profile, Smith and Tam find that the age profile of the legal advice sector workforce as a whole is skewed towards people over the age of 35: only around 25 per cent of workers are under the age of 35, and only 4 per cent

Annexe 4: Literature Review

under 25, the majority are therefore between 35 and 65 with as many as 7.5 per cent over 65. The NfP sector has an older workforce profile than this, reflecting the large number of volunteers, many of whom are of post-retirement age.²⁸

The NfP legal advice workforce is found to be around 70 per cent female, while 11 per cent of the workforce reports that they have a long-term illness, disability or impairment. 37 per cent of NfP workers are volunteers, 6.9 per cent are on fixed term contracts and 55.4 per cent are permanent employees. Only 57.3 per cent of the workforce are working full time.

On average, paid employees have been in their current role for 4 years, in their current organisation for 5.5 years and working in the legal advice sector for 10.7. Volunteers have been in their current role slightly longer (4.9 years) on average than paid staff and in the legal advice sector significantly longer (14.67 years). This may again reflect post-retirement age volunteers with long experience: 12.1 per cent of volunteers have worked in other parts of the legal advice sector, of which almost 50 per cent had previously worked in private practice.

Smith and Tam also highlight the high share of statutory and paid NfP workers (around 30 and 25 per cent respectively) who have previously worked as volunteers within the sector, suggesting that volunteering may be a route into paid employment.

Qualifications, training and skills

Smith and Tam report that 68 per cent of workers in the NfP sector are educated to A-Level or above. Over 50 per cent of paid staff have a first degree, although only 11 per cent have a first degree in law, while 6 per cent of paid staff and 11 per cent of volunteers have no formal qualifications. Full details are given in **Table 18** below.

Table 18. Proportion of Respondents with Formal Academic Qualifications

Qualification	Private Practice (per cent)	Not-for-profit		All NfP (per cent)	Statutory (per cent)	All (per cent)
		Paid (per cent)	Voluntary (per cent)			
O-Level or GCSE	95.2	87.9	84.1	86.5	90.8	89.5
A-level or Equivalent	92.2	68.0	68.9	68.4	72.5	75.8
First degree (non-law)	18.0	40.1	39.0	39.6	33.5	32.7

²⁸ Smith and Tam do not report the exact age profile for the NfP sector.

First degree (law)	69.1	11.3	6.4	9.5	11.1	27.2
Masters degree	6.6	7.4	5.4	6.6	5.5	6.5
Doctorate	0.3	0.2	1.3	0.6		0.5
Common Professional Examination (CPE)	26.7	8.6	8.6	8.6	6.9	13.8
No formal qualification	0.6	5.9	11.2	7.9	5.1	5.5

Source: Smith and Tam

In addition, 30 per cent of paid staff and 23 per cent of volunteers have some sort of vocational or professional qualifications or an accreditation related to giving legal advice. Of the 23 per cent volunteers with a vocational or professional qualification, 44.6 per cent have achieved a CAB Certificate in Generalist Advice Work.

Over 90 per cent of paid NfP staff and around 85 per cent of voluntary staff in the Smith and Tan study had had some sort of training in the past two years. Most paid staff in the NfP sector had received an induction (66 per cent) and general advice skills training (74 per cent) over the course of their career. The full results are reproduced in **Table 19** below. Note that more than twice as many paid NfP staff as private practice staff (40 per cent against 17.5 per cent) had received training on working with specific client groups, suggesting again that the NfP sector is providing advice to clients with particular needs.

Table 19. Proportion of respondents who have had job-related training over the course of their career

Qualification	Private Practice (per cent)	Not-for-profit		All NfP (per cent)	Statutory (per cent)	All (per cent)
		Paid (per cent)	Voluntary (per cent)			
Induction	50.2	70.5	59.0	66.3	74.3	62.3
General Advice Skills	45.5	72.4	75.3	73.5	64.7	64.4
Basics for specific areas of law and procedure	55.8	51.3	32.4	44.3	47.0	48.0

Further law/knowledge updates building on the basics	60.0	36.8	17.4	29.6	42.7	39.8
Advanced for specific areas of law and procedure	46.3	21.8	5.1	15.6	24.8	25.5
Working with specific client groups	17.5	40.1	19.7	32.5	41.9	28.9
Management training	26.7	29.3	12.2	23.0	22.1	24.0
Supervision skills	21.9	36.3	13.5	27.9	26.6	26.0
IT skills	31.3	45.7	31.1	40.2	59.0	39.3
No job-related training	13.1	5.7	12.9	8.4	4.6	9.4
Other	0.7	0.7	0.4	0.6	0.5	0.6

Source: Smith and Tam (2007)

57 per cent of NfP organisations in the Smith and Tam study had tried to recruit paid staff in the past 12 months and of those, 47 per cent had experienced some or significant difficulties recruiting. The most common reason for this was difficulty finding applicants with suitable skills. When asked which skills were in short supply, 30 per cent cited advice and counselling skills, while 20 per cent cited subject specific legal training and 17 per cent legal knowledge. **Table 20** below sets out the responses in more detail.

Table 20. Proportion of NfP organisations reporting specific skills in short supply

Skill type	Proportion of NfP organisations reporting
Subject specific legal training	20
Legal knowledge	17.2

Giving advice/counselling skills	30
Supervision skills	10.3
Communication skills	10
Finance	3.4
Using computers and other information technology	3.4
Leadership	3.3
Fundraising	
Language skills	3.4
Managing volunteers	0
Experience	
Other	3.4

Source: Smith and Tam (2007)

There is a similar pattern for volunteers: 80 per cent of NfP organisations had tried to recruit voluntary staff in the past year, and over half of these (52 per cent) reported some or significant difficulties recruiting. However, while finding applicants with suitable skills was also a problem in the voluntary sector, the most common problem was a general lack of applicants.

Retaining volunteer workers is also a problem, with one in four organisations reporting some difficulty with retention. Interestingly, a significant minority of organisations reported that retention problems were the result of volunteers gaining paid employment within the organisation or that experience has led to jobs in other organisations. This suggests once again the volunteering is an important route into paid work in the sector.

27 per cent of NfP organisations reported gaps in “generic” skills within their existing workforce and 15 per cent reported specific skills gaps, most commonly in IT skills. “Generic” skills were defined as those skills which apply to occupations and posts across the organisation while specific skills are particular to individual posts or roles.

Annexe 4: Literature Review

Types of activity

Smith and Tam also report findings on the different activities undertaken by advice staff, which are summarised in **Table 21** below. Information provision, advisory work and casework form the bulk of activities for most paid and unpaid staff.

Table 21. Proportion of NfP respondents reporting activity as main part of their role

Activities	Paid staff	Volunteers
Information provision	50.1	43
Advisor	70.2	92.3
Casework	41.7	28.6
Representation at Court or Tribunal	18.5	3.6
Second tier support	33	14
Support functions, e.g. training, marketing or finance	22.6	6.1
Line management	20.6	1.3
Case supervision	19.4	3.5
Strategic management	12.4	0.4
Development/ Project/ Research Work	15.2	1.2
Social policy	18.2	9.6
Fundraising	9.6	2.6
Network support	11.6	1.4
Other	1.2	0.4

Source: Smith and Tam (2007)

Further, 67.3 per cent of paid staff and 89.1 per cent of volunteers spend 50 per cent or more of their time providing advice to individuals. Advice to individuals is primarily delivered face-to-face (over 70 per cent), with some advice given over the telephone (just under 20 per cent). The remainder of advice in the NfP sector is delivered either by post, through home visits or through outreach work. The study also notes that no private practice firms reported using home visits or outreach work as a mode of delivering advice.

The subjects on which organisations offer advice are very diverse, as **Table 22** shows. For the NfP sector, the most common areas of advice are welfare benefits (almost 70 per cent of NfP organisations offer advice on this), housing (58 per cent of organisations) and debt (48 per cent of organisations). This is a very different profile to private practice, where family law (on which 62 per cent of organisations offer advice) and crime (57 per cent of organisations) are the most common subject areas.

Table 22. Proportion of organisations offering advice and information in different legal categories

	Private Practice (per cent)	Not-for-Profit (per cent)	Statutory (per cent)	All (per cent)
Housing	20.9	58.3	57.9	40.0
Debt	15.6	47.5	26.3	30.6
Welfare Benefits	15.0	69.4	44.7	41.4
Consumer/General contract	15.3	29.5	28.9	22.5
Employment	18.7	44.6	15.8	30.2
Actions against the police	9.7	19.8	2.6	13.8
Education	9.0	29.0	10.3	18.1
Public law	14.6	18.7	10.5	16.2
Community care	8.7	31.7	13.2	19.3

Mental Health	11.3	25.5	10.5	17.7
Immigration	13.3	30.6	5.3	20.6
Family	61.8	28.1	10.5	43.4
Personal injury	28.9	14.7	5.1	21.0
Clinical negligence	11.3	12.6	5.1	11.5
Crime	56.5	16.9	7.9	35.7
Discrimination	10.6	21.9	5.3	15.4
Children	13.7	19.7	5.3	15.9
Human rights	8.6	19.1	2.6	13.0
Domestic violence	12.3	20.5	10.5	15.9
Other	1.7	4.7	7.7	3.4

Source: Smith and Tam (2007)

Client profile

The most comprehensive data on the demographics of advice clients comes from the information recorded by Citizens Advice Bureaux. While this data may be indicative of the profile of advice clients in general, it is only an imperfect proxy for the sector as a whole.

In the year to March 2010, Citizens Advice Bureaux advised 2.1 million clients about 7.1 million problems, in the course of 5.7 million contacts with clients (face-to-face, or by phone, email or letter). In parallel to this individual service from bureaux, the Citizens Advice 'Advice Guide' website received over 7 million visitors.

The profile of Citizens Advice clients in July – September 2010 was as follows:

As shown in **Table 24** 55 per cent of clients were women and 15 per cent were from black and minority ethnic backgrounds. **Table 23** shows 79 per cent of CAB clients were aged between 25-64, with 11 per cent aged under-25 and 10 per cent aged 65 or over. 16 per cent of households were single parents and 20 per cent were couples with dependent children. 30 per cent of clients were disabled or had long term health problems (of those clients where this data was reported).

Table 23. Age profile of CAB clients July – September 2010

Age	Per cent
0-16	0.3
17-24	10.9
25-34	20.6
35-49	33.8
50-64	24.1
65-74	6.6
75-84	3.0
85+	0.7
Total	100
Age not recorded	9

Source: Citizens Advice Bureaux, "Advice Trends July – September 2010"

Table 24. Ethnicity profile of CAB clients July – September 2010

Ethnic origin	Per cent
African	3.4
Caribbean	1.9
Other Black background	0.6
Bangladeshi	0.7
Indian	1.5
Pakistani	1.5

Other Asian background	1.5
Mixed White/Black Africa	0.5
Mixed White/Black Caribbean	0.5
Mixed White/Asian	0.3
Other Mixed background	0.4
White British	78.6
White Irish	0.8
Roma/Gypsy/Traveller	0.2
Other White background	5.5
Chinese	0.3
Any other ethnic group	1.8
Total	100
Black and minority ethnic	15
Ethnic origin not recorded	6

Source: Citizens Advice Bureaux, "Advice Trends July – September 2010"

In total, most clients are not in paid employment: only 40 per cent of clients were in paid work (24 per cent in full-time employment, 13 per cent in part-time employment, and 3 per cent self-employed). 33 per cent were owner-occupiers of their homes, 26 per cent were social housing tenants, 25 per cent private sector tenants, and 11 per cent did not have their own home (homeless, hostel or living with relatives/friends).

Not unexpectedly, Age Concern clients have a rather different age and health profile. 62 per cent of Age Concern clients are female, with 47 per cent of clients over 80, 35 per cent in their 70s, and 15 per cent in their 60s. 89 per cent have

disabilities or health problems which affect their daily lives. Most had multiple chronic health conditions which are unlikely to improve.²⁹

Most common client problems

As shown in **Table 25**, over 60 per cent of the problems advised on by Citizens Advice Bureaux in 2009/10 concerned debt and welfare benefits. Employment and housing were the next biggest sources of difficulty. These four issues (benefits, debt, housing and employment) are also the areas on which NfP organisations are most likely to offer advice in the Smith and Tam study (although not stated in the report, this could be linked to the conditions on which funding is achieved, for example, legal aid contracts).

- 580,000 clients were advised about 2.4 million debt problems, including mortgage and rent arrears
- 690,000 clients received advice on 2.1 million benefit issues concerning their entitlements, and help with new or on-going claims.
- 290,000 clients received advice about 590,000 employment problems
- 280,000 clients received advice about 470,000 housing problems

Table 25. Problems in Citizens Advice Bureaux by category (Annual 2009/10)

Category	Number of problems	Per cent of total problems
Debt	2,374,000	33
Benefits and tax credits	2,074,000	29
Employment	586,000	8
Housing	468,000	7
Relationships and family	330,000	5
Legal	298,000	4
Signposting and referral	195,000	3

²⁹ Age Concern (2008), "General Help Providers - the end of the line? The Age Concern Perspective"

Consumer goods and services	139,000	2
Financial goods and services	141,000	2
Utilities and communications	104,000	1
Immigration and asylum	94,000	1
Health and community care	78,000	1
Tax	53,000	1
Travel, transport and holidays	48,000	1
Education	30,000	0
Other	85,000	1

Source: Citizens Advice Bureaux, "Advice Trends January – March 2010"

Employment of solicitors and other legal professionals

Citizens Advice (2008), "Employing solicitors in Citizens Advice Bureaux" provides detailed guidance to Citizens Advice Bureaux who might be thinking about employing a solicitor. It also provides some useful insight into the role that solicitors play in Citizens Advice Bureaux. Traditionally a small number of bureaux at any one time have employed a solicitor, either because a bureau wanted to provide clients with a broader range of services or because someone who happened to be or have been a solicitor was appointed to a specialist caseworker post. However, this report suggests that LSC requirements that organisations must have a solicitor or barrister in place in order to be eligible to apply for certain contracts are likely to encourage more bureaux to employ more solicitors.

Community Legal Advice Centres and Networks

The Legal Services Research Centre (LSRC) was asked to examine and report on the establishment and early operating life of Community Legal Advice Centres (CLACs)/ Community Legal Advice Networks (CLANs).

CLACs and CLANs pull together key services in a geographical area into either a single entity (Centres) or a consortium of providers supplying complementary services (Networks). Central to CLAC/CLAN provision is the concept of a one-stop shop: offering advice in a range of categories of law, with core provision in debt, housing, welfare benefits, employment, community care and family law.

The LSRC research focused on issues relating to the delivery and implementation of services for funders and providers and an assessment of the benefits to clients.

The research findings are set out in four reports:

- Fox, C., Moorhead, R., Sefton, M. and Wong, K. (2010) Community Legal Advice Centres and Networks: A Process Evaluation
- Buck, A., Smith, M., Sidaway, J., and Scanlan, L. (2010) Piecing It Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres
- Smith, M. and Patel, A. (2010) Using Monitoring Data: Examining Community Legal Advice Centre Delivery
- Buck, A., Smith, M., Sidaway, J. and Balmer, N.J. (2010) Community Legal Advice Centres: A Survey of Clients in Reception Areas

The “Piecing It Together” report presents the results of a qualitative study, examining the advice process from the perspective of both clients and advisors in the CLAC setting. The report finds that clients perceived CLACs to be accessible and that “seamless working” was being achieved, although not all of the time and not for every client. Among other findings, the study reports that successful identification of a clients’ problem was influenced by issues such as demographic characteristics, client demeanour, client disclosure and confidence in advisors.

Quality and standards

How best to measure, monitor and improve the quality of legal advice has been a central concern of the advice sector and government over the last fifteen years. Ensuring clients’ receive high quality of advice represents an ongoing challenge, and different attempts to address the issue have achieved varying degrees of success. A number of reports analyse the benefits and drawbacks of these different approaches, as well as providing insight on the quality of legal advice being offered in the not-for-profit sector.

The Community Legal Service (CLS) was launched by the Legal Services Commission in 2000, and introduced a system of “quality marks” awarded to organisations judged to meet certain standards. The Quality Mark covers three different levels of advice: “Information”, “General Help” (and “General Help with Casework”) and “Specialist”. The scheme built on the previous Legal Aid Franchise Quality Assurance Standard (LAFQAS) but with the crucial difference that the CLS Quality Mark became a compulsory requirement for legal aid suppliers. Only 38 per cent of legal aid suppliers (providing 68 per cent of funded

Annexe 4: Literature Review

work) had voluntarily submitted to the franchising quality requirements under the LAFQAS system.³⁰

Marson, J. & Ferris, K. (2008), “Advisors v Legal Services Commission: Which is the Appropriate Measure of Quality Advice?” analyses the CLS Quality Mark system and assesses its impact. In particular, Marson and Ferris consider how the quality of advice may be determined, and examine ‘quality’ from both the advisor’s and the LSC’s perspective. They conclude that quality may not be fully captured by evaluation through audits and paper trails. Whilst well intentioned, attempting to offer a degree of transparency to advice and justifying public funding, clients are largely unaware of the Quality Mark system and advisors have considered such regulation as a movement away from the philosophical underpinnings and ethos of the NfP sector.

The 2004 “Independent Review of the Community Legal Service” undertaken by Matrix Research and Consultancy for the Department for Constitutional Affairs provides a very full analysis of the CLS. On the issue of the Quality Mark, the report concludes that it has been a key tool for seeking to increase the quality of advice: “Most people we spoke to believed that the Quality Mark was a positive initiative which had improved and had a positive, if limited, impact upon the quality of advice. This limited impact was due to its focus on improving the quality of key management processes within organisations rather than focusing directly on the quality of advice delivered.”

The focus on processes rather than outcomes is a common area of criticism of the CLS QM. In order to address this perceived deficiency, a number of advice agencies, led by the Advice Services Alliance, and managed by Citizens’ Advice, worked to develop a new quality mark system, in the context of the wider Working Together for Advice project. The new quality mark was developed with the aim of eventually replacing the CLS Quality Mark and has two components: a service or organisational audit looking at the procedures used for managing advice (similar to the CLS QM); and an innovative quality of advice assessment, checking the accuracy and quality of the advice given to clients in a sample range of cases.

In 2009, the Quality Workstream team of the Working Together for Advice Project published feedback from agencies which took part in the first consultation on the proposed new quality mark³¹. The consultation exercise gathered feedback on both the proposed standards and five possible methods of assessing performance against those standards: case review by external

³⁰ Matrix Research and Consultancy (2004), “Independent Review of the Community Legal Service”, Department for Constitutional Affairs

³¹ Working Together for Advice Project – Quality Workstream (2009), “Developing the New Quality Mark: First General Consultation on the Draft Standards and Potential Assessment Methods – Findings Report”

assessment; case review by self-assessment with external verification; observed interviews; mystery shopping; and client interviews.

In general, the feedback was very positive, with 93.1 per cent of respondents agreeing that the standards were relevant to their organisation and easy to understand. The most popular assessment options were self-assessment with external verification (64.7 per cent approval), external assessment (60.7 per cent approval) and mystery shopping (57.1 per cent approval). Key messages identified in the consultation include:

- Cost and the limited time and resources of agencies are a major factor;
- Achieving consistency of assessment across the sector is a major challenge but if achieved will raise standards for clients;
- There is some interest in using a variety of quality of advice assessment methods but this is tempered by concerns over cost, resource constraints and the impact on clients and staff

The draft quality mark was piloted in twenty advice agencies from April to December 2009 and the results of an evaluation of the pilot were published by ADP Consultancy in 2010.³² The evaluation was positive, concluding that the work stream had devised standards and processes for assessing the standards that were endorsed as comprehensive, understandable, useful and robust. In particular, the evaluation reported that the Quality Standard was felt to meet a huge gap in accreditation or validation of quality of advice delivery.

One important point to note is that a considerable number of findings raised in the evaluation relate to pilot agencies from networks other than Citizens Advice. Citizens Advice has operated a quality system for some years and the individual Citizens Advice Bureau in this pilot have experience of having undergone similar assessment and audit processes.

The 2009 Advice Services Alliance paper, “Review of outcomes frameworks”, fed into the development of the new quality standard. The paper examines different methods of measuring advice outcomes and sets out some common challenges which recur with different methods. These include the problem of resources, the need to ensure that assessment examines a representative sample of clients, the diverse nature of NfP advice sector and the difficulty in measuring the financial benefits of advice.

“Peer Review in Legal and Advice Services” by John Seargeant offers an overview of current developments in peer review within the legal and advice

³² ADP Consultancy (2010), “Working Together for Advice, Draft Quality Mark: Evaluation of the Quality Mark Pilot”

sectors. It contains a useful summary of recent research in the sector on quality and different quality assurance mechanisms that have been developed over time by both government agencies and NFP advice organisations.

Sergeant concludes that peer review is a valuable tool for the measurement of advice quality. Unlike approaches to quality that focus on procedures and their implementation as bases of evidence, peer review has the potential to examine directly the real quality of advice work. The report identifies three broad types of peer review: review by generalist assessors who are familiar with the organisation being assessed; review by a subject specialist; and assessment by a leading specialist in the field.

For a 2005 study for the Department of Constitutional Affairs, “Advice Agencies, Advisors and their Clients: Perceptions of quality”, Johnstone and Marsdon interviewed forty-six non-legally qualified advisors and fifty-eight of their clients across a range of advice organisations in Sheffield, Leeds and Manchester. They report on both the clients’ perceptions of the quality of legal advice services received and the providers’ views of the service they offer.

The key qualities needed by advisors were identified by clients and advisors as being the ability to communicate, together with knowledge of the law and legal procedures. Clients also valued qualities such as empathy, honesty in advice, interest in their problems and effectiveness in helping to resolve the problems. Overwhelmingly, clients were very satisfied with the advice they received and felt that the assistance had been ‘very helpful’. The majority said that they would use the advice centre again and would recommend the centre and the advisor to others. Negative experiences tended to focus on the organisational aspects of service: waiting for advice, advisors spending too long with other clients and restrictive opening hours.

Advisors thought quality marks were important but the majority of clients were not aware whether the advice centre they were using had any quality marks or followed any quality standards. For some advisors, meeting the CLS Specialist Quality Mark criteria meant moving away from providing the kind of holistic service to their clients which they felt had previously set them apart from their solicitor colleagues. In addition, applying for quality mark recognition was felt to be a burden mainly by the smaller advice centres, although they had a strong incentive to seek these marks, as they were important when seeking further funding. The majority of advisors felt that the advice sector network could be improved, especially by increasing accessibility and outreach work – including court based services – in order to meet unmet legal need.

“Quality and Access” by Richard Moorhead, Richard Harding and Avrom Sherr (summarised in Advice Services Alliance (2004) “Quality and Access - a brief summary) focuses on “tolerance work”, where solicitors or advisors carry out advice work outside of their area of specialism. The report compares tolerance work to specialist work and tests the assumption that providers who meet the

LSC's specialist contracting requirements do better-quality work than generalists. For solicitors' cases, the study's peer review exercise found that 30 per cent of contract files and 43 per cent of tolerance files were marked as less than satisfactory or below.

Only 14 of 194 tolerance cases were undertaken by NfP agencies (as NfP agencies do significantly less tolerance work than solicitors) so the report's relevance is somewhat limited. However, it is interesting to note that specialist contract files handled by NfP agencies scored significantly better than solicitors' contract files, with only 14 per cent considered less than satisfactory or below. Further, Moorhead et al. found that NfP profit agencies scored more highly than solicitors on every single criterion of the individual peer review criteria.

Impact of the Legal Services Act 2007 & Regulation and consumer protections

The Legal Services Act 2007 represents a major change in the regulatory framework of the legal services sector, with significant implications for NfP organisations delivering legal advice. A number of publications discuss the potential impact of the Act, or analyse the positive and negative elements of current and possible future regulation.

A 2005 presentation by the Department for Constitutional Affairs, "Regulating Legal Services: Implications for the advice sector", outlines how the government expected the planned legislation to affect NfP organisations. The major change likely to affect the NfP sector is the introduction of Alternative Business Structures (ABSs).

Crucially, the presentation states that any NfP organisation providing reserved legal services will need to be licensed as an ABS firm, and organisations will have to meet the relevant criteria for licensing, for example, employing a Head of Legal Practice. Further, once an organisation is licensed as an ABS, all the services it provides will be subject to regulation, whether they are:

- reserved or non-reserved
- legal or non-legal
- provided by qualified lawyers or lay advisers

However, the presentation also suggests that providers of a wide range of services might want to consider only licensing the legal services part of the organisation.

The presentation emphasises that maintaining a strong advice sector is vital to the improvement of access to justice (a statutory objective of all regulators), and that it is in the public interest that NfP organisations should continue to be able to offer services to consumers. Regulators will therefore have access to various

Annexe 4: Literature Review

special measures to minimise regulatory burden on NfP providers, taking into account their lower resources. Regulation will be risk-based and the lack of profit motives will mean NfP providers are lower risk than commercial ABS firms. Regulators will also be able to take a flexible approach to the licensing of ABS firms, for example:

- Group licences: licence granted to umbrella organisation which is responsible for ensuring compliance in each unit;
- Reduction or waiving of licensing fees;
- Altering or waiving licensing requirements based on risk;
- Altering or waiving licensing requirements based on competence

The presentation suggests a number of benefits of the new regulatory framework:

- Consumers should receive the same level of protection wherever they obtain legal services, with the Office of Legal Complaints acting as a single point of entry for all consumer complaints;
- Greater clarity about how legal services regulation applies to the NfP sector;
- An equal footing for NfP and commercial lawyers

Two 2010 publications by the Advice Services Alliance (ASA) address these and similar issues from the advice sector perspective: “Alternative Business Structures: approaches to licensing. The response of the Advice Services Alliance to the Legal Services Board’s consultation paper” and “Wider Access, Better Value, Strong Protection: The Advice Services Alliance’s response to the Legal Services Board discussion paper”.

The ASA consider the current system of regulation, where solicitors are regulated as individuals but the NfP organisations they work for are not regulated, poses a potential risk to the consumer. The ASA believes that there is currently little clarity about what solicitors are responsible for within NfP organisations and that regulation of special bodies would help to deal with potential conflicts of interest that exist in the current system, such as:

- Pressures from funders not to act in the clients’ interest
- Those between the clients’ interests and the interests of the organisation

The ASA makes a number of proposals regarding the regulation of special bodies. Given that the Board in an NfP organisation is responsible for governance, the ASA argues that it is reasonable that the Board, or a specific

Board member, should take responsibility for compliance with legal services regulation. Sanctions should be imposed if compliance is not achieved.

The ASA recommend that someone with a Head of Legal Practice-type role should have responsibility for compliance with legal services regulation and for reporting non-compliance. (The DCA presentation indicates that this would be a compulsory requirement if the NfP organisation were licensed as an ABS).

The ASA also suggests that the organisation could create an internal ringfence between their regulated activities and their non-regulated activities. This would ensure that confidential information would not pass outside the ringfence and that there is clarity within the organisation about the obligations of those inside the ringfence to comply with regulatory requirements.

The ASA argue that that it is in the consumer interest for special bodies to be required to apply for a licence. Above all, the framework for licensing should make it clear who is responsible for meeting regulatory requirements and what services are regulated.

In the 2009 “Big Bang Report: Opportunities and threats in the new legal services market”, Robins explores the anticipated effects of the Legal Services Act 2007 based on over 50 interviews with a range of entities, including NfP organisations.

Citizens Advice, one of the NfP organisations interviewed for the Big Bang research, indicated that their view of ABSs was more favourable than the legal profession’s, as they welcomed the probable increase in competition. Citizens Advice argued that the entry of new firms, subject to suitable safeguards, may benefit consumers and the significant group of people above the threshold for legal aid eligibility but who cannot afford to pay a solicitor.

Another issue, raised by a legal aid practice, was that, while many consumers may benefit from lower cost and more efficient service from a “Tesco law”-style ABS, other consumers, in need of a type of advice not offered by the Tesco-style ABS, may suffer, if other firms offering that type of advice go out of business, having been unable to compete for more profitable work. For example, if Tesco offered wills and conveyancing at low cost, other practices might find their residual social welfare law work potentially unprofitable.

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