

Summary of Responses to “Making Legal Rights a Reality in Wales” Consultation period December 2006 - March 2007

We received 32 responses in total, which have been analysed to find out the key themes emerging. This document contains headline points representing the views of respondents to the consultation.

Overall, respondents welcomed the opportunity to consult on the joint policy paper for Wales, and outlined some key areas of concern for the implementation of policy set out in the CLS Strategy. In the main the concerns were based on the divergence of Welsh policy from that in England, particularly the ethos in the development of public services which relies upon collaboration not competition, and the Welsh Assembly led approach to inclusion of the third sector in ensuring citizen-centred policy and service development.

Several different types of organisation responded to the consultation:

- a- Local Authorities (6 responses)
- b- Other publicly funded bodies (6 responses)
- c- Clients or groups representing clients (2 responses)
- d- Solicitors (2 responses)
- e- NfP Agencies (8 responses)
- f- Umbrella groups (7 responses)
- g- Funders (1)

When percentages of respondents are used in the summary for each question, they refer to the percentage of those responding to that particular point, as a proportion of the total responses to the individual consultation question.

Percentages used under ‘Key Issues’ on pages 3 and 6, refer to the percentage of those expressing a particular point as a proportion of the total responses to the consultation as a whole. This variance in approach arises as these points fall outside of the focus of the consultation.

Q1. The consultation document proposes an annual meeting with service providers through the CLS Wales National Forum. Do you agree with this approach? If not, how can the LSC/WAG consult service providers more effectively and how often?

Responses focused on:

1. The proposed frequency of engagement with the CLS Wales National Forum. 66% of respondents addressing this point, considered an annual meeting to be inadequate and the suggested frequency ranged from quarterly to twice yearly.
2. The model for engaging with service providers. Several organisations (24%), of all types, commented that there should be alternative but complementary mechanisms established for consulting with providers. The most common view was that engagement with provider organisations directly was important and the CLS Wales National Forum should only be one mechanism used for this purpose.
3. The composition and role of the CLS Wales National Forum. Several organisations made suggestions for additional members of the CLS National Forum, to ensure it was representative of the interests of Wales. Other respondents had suggested that its work programme should be aligned with that of the Wales Committee, in order for effective contributions to be made. Greater clarity of the purpose of engaging with the CLS Wales National Forum was requested.
4. The Welsh Assembly Government’s inclusive approach to engagement with the third sector in policy and service development in Wales, and the guidance set by the Office of Government Commerce for commissioning and procurement. There was strong support for providers to be raised to equal stakeholders in the development of advice services in Wales, in line with the

Welsh Assembly Government practice set out in the Beecham report and 'Making the Connections', in addition to guidance set by the OGC.

5. Additional methods of successfully consulting with providers. A number of respondents raised alternative mechanisms for consulting with providers. There was support for making greater use of technology, using both email and member areas of websites to communicate on focussed issues and for sharing information.
6. The support and sustainability of the CLS Wales National Forum. 14% of respondents felt that the Welsh Assembly Government and Legal Services Commission should provide the support for the CLS Wales National Forum to enable it to engage in regular and relevant consultation.

In response to the views expressed and in recognition of the policy environment in Wales, Service Providers now have representation on the Wales Committee for the CLS, through the membership of the Chair of the CLS Wales National Forum. In addition, the Wales Committee has committed to engaging with frontline service providers and representative bodies as a minimum on an annual basis.

Q.2. The consultation document proposes the establishment of a client consultation sub group. If you agree with this approach, how can the sub group identify client need and consult users effectively? Which organisations should be represented? If not, how else can the LSC/WAG identify client need and consult users?

1. 65% of respondents who expressed a preference, agreed with the proposal of establishing a Client Consultation Sub Group, subject to the inclusion of a wide range of stakeholders from across the voluntary, statutory and third sectors. The following organisations and specific client focus areas were suggested:
 - Young people; older people; mental health service users and carers; LGBT; Welsh language; Shelter Cymru; Citizens Advice Cymru; Children's Commissioner for Wales; CLS Provider Fora; WCVA; Citizens Advice Cymru; WLGA, Welsh Consumer Council.
2. The most common response to this question, was, that in order for this process to be meaningful, it could only be used as one mechanism for establishing client views. 95% of respondents suggested complementary activity to be undertaken to establish client input to the planning process. The suggestions were varied and included, engaging frontline provider organisations to facilitate the process of client consultation, drawing upon Welsh specific research and data sets, and engaging with local government existing client engagement processes.
3. As a wider point, there was concern that in order to meet the Welsh Assembly Government's commitment to place citizens at the heart of public services, the work envisaged for a sub group must relate directly with the citizen's interests that should be in place on the Wales Committee. A number of respondents (8%) highlighted that the second tier arrangement proposed would not gain the support of organisations committed to the Welsh Assembly Government's approach.

As a means to ensuring that citizens are placed at the heart of public services, initial proposals for establishing a client sub group of the Wales Committee have been reviewed. It is agreed that it is important that clients' views are represented throughout the Governance structures of the CLS. Therefore, the Wales Council for Voluntary Action has been invited onto the Wales Committee to facilitate and represent the views of clients. In addition the Wales Committee is also committed to an annual meeting with clients and their representative bodies. It is recognised that Service Providers have a key role in providing service user feedback to the Wales Committee and representation through the Chair of the CLS Wales National Forum will facilitate this input.

Q.3. The consultation document proposes a number of structures for the delivery of CLACs and CLANs in Wales:

- **One CLAC/CLAN covering the whole of Wales;**
- **Regional CLAC/CLANs; or**
- **Twenty two CLAC/CLANs reflecting local authority boundaries.**

Which do you consider to be most appropriate to the needs of Wales and why?

Overall, 37% of respondents who expressed a preference chose a regional delivery structure in Wales whereas 20% preferred a structure reflecting local authority areas. 10% of respondents considered the regions set out in the Wales Spatial Plan to be most suitable, however other respondents felt that the regions could only be identified following engagement with local authorities and other stakeholders. An alternative regional breakdown of eight pre-unitary authority (1974) areas was suggested. A number of respondents considered the development of CLACs to be inappropriate for Wales due to scale and geography and 16% expressed a view that CLANs were the most suitable structure for service delivery.

Key issues raised

A significant proportion of respondents highlighted some key issues and requests to be addressed in the final paper. Due to the nature of the issues raised, respondents felt they could not provide a response to the specific question asked. The issues raised fell into 3 main categories.

1. Policy environment in Wales

26% of respondents made strong reference to the fact that policy environment in Wales is being driven by the Welsh Assembly Government, and is informed by Sir Jeremy Beecham's review – Beyond Boundaries. The Assembly's response, Delivering Beyond Boundaries and its Strategy, 'Making the Connections' is aimed at a citizen centred model, underpinned by equitable partnerships and service delivery based on collaboration rather than competition. Beecham's report challenged the English approach of competition, contestability and market testing as a means of improving services. In addition, the review reported that major structural re-organisation would be a distraction from the real business of improving services.

Due to the conflict in approaches proposed by the Legal Services Commission, to that of other public services in Wales, these respondents were unable to provide a view on the specific points of CLACs and CLANs. In addition, 10% of respondents asked for public funders in Wales not to provide support for the Legal Services Commission's proposals as they stand. A number of respondents requested that an alternative commissioning approach should be taken forward in Wales based upon collaboration and partnership.

2. Service Design

29% of respondents expressed a view that both advice agencies and communities should be involved in service design, as it was felt that a top down approach would not reflect the needs of local people.

3. Conflict of interest

26% of respondents considered there to be a conflict with local authorities becoming joint commissioners, with its role as opposing party, as providers of advice services and as a funder. It was felt that there would need to be a series of safeguards in place to minimise the risk to service provision. The majority of respondents felt that safeguards would need to cover providers not being excluded as they present too much of a challenge to local authorities and to prevent service design not following local political priorities.

4. Other points

CLANS

As already noted, CLANS were considered by many to be the most appropriate service delivery model for Wales. It was also considered of importance that CLANS had the support of the Wales Specialist Support Service, in order to maintain quality provision.

Risk / Pilots

A small number of respondents requested that an independent risk analysis be undertaken of the impact of the regional or national delivery models for Wales. Another suggestion was for developmental work to be undertaken with local authorities to showcase different models of commissioning services. It was considered important that all the learning from the pilots in England were shared widely with stakeholders.

It is agreed that a regional service delivery structure would be the most appropriate model in Wales, and as a result, eight procurement areas have now been identified. These areas will remain flexible and will only be finalised through discussions with Welsh Local Government Association and potential joint commissioners, taking into account what will deliver the best possible outcome for the people in Wales. It is also considered likely that the most appropriate model of delivery in Wales will be through Community Legal Advice Networks, however decisions in this regard will only be finalised through discussions in each procurement area.

Q.4. Are you aware of any examples of any current good practice in the fields of joint commissioning and service delivery in Wales? Please provide details.

The highest proportion of responses to this question highlighted examples of good practice for service delivery in Wales, with a strong emphasis of their success arising from collaboration. 25% of respondents highlighted good practice in joint commissioning, of which 50% of these related to local authority joint commissioning.

1. Joint Commissioning

The highlighted example featuring most frequently was the 'Partnership Initiative Budget', which comprised of a pooled resource available to all sectors from the Legal Services Commission, Welsh Assembly Government and Big Lottery Fund. This example was considered to have been a success by funding and provider organisations.

'Value Wales' was highlighted due to its specific remit involving procurement support and in instigating improvement across the public sector. An example of a specific collaborative arrangement across local authorities in relation to the provision of childcare legal advice and support was provided.

Some examples of joint commissioning included:

- Local authorities and NHS Trusts in achieving pan-Wales service delivery - mental health partnership targeting services for looked after children;
- Welsh Assembly Government and Legal Services Commission – independent network of housing advice services across Wales;
- Local Health Board, Local Authority and Age Concern (North East Wales) – a preventative health project moved from project funding to a recent three year Service Level Agreement.

2. Service Delivery

Many of the respondent's examples can be grouped into the following themes:

Utilising Existing Structures

The service delivery model highlighted by most respondents (15%) as an example of good practice is the Better Advice, Better Health Project. The project provides welfare benefit advice in primary health care locations. It is a centrally managed project setting performance standards to

complement existing structures. Another example of where using existing structures is effective, is through links services make with community development teams (Communities First) in Wales, working in the most deprived areas.

Outreach

A small number of respondents suggested that outreach sessions were a good model of service delivery, addressing the advice needs of more rural and remote areas and were found to be of greatest effect when they linked solicitors and not-for-profit organisations together.

Referral/Signposting

IT was suggested as an effective mechanism for facilitating inter-agency referrals, particularly cross boundary. An example was provided of where this is being used effectively. A respondent also provided details of a funded part-time admin post that had administered a referral/signposting mechanism across the County effectively.

Triage

Advice triage was raised as a model about to be piloted in Carmarthenshire. GP's surgeries and libraries were considered to be the likely focus for the pilot.

Welsh Language

The availability of face-to-face and telephone advice services delivered through the Welsh language was raised as best practice for all aspects of service delivery. Respondents commented that the absence of services in the Welsh language was a barrier to access in many areas in Wales.

It is acknowledged that there are many good practice examples in Wales of both joint commissioning and service delivery. The Assembly Government is preparing advice on pooling arrangements that will provide help and support in developing partnerships to deliver improved services in line with local and national priorities or those promoted by Local Service Agreements. The advice will offer practical examples and addresses some of the key questions that arise in developing partnership agreements. As Community Legal Advice Services are rolled out across Wales, this advice and current and past examples of such successes will be used to inform and enhance the development of the Community Legal Service.

Q.5. Are there other stakeholders that should be included?

65% of respondents considered the proposed list of stakeholders to be too narrow, and had provided a range of suggested organisations or specific client interest organisations, to be listed.

1. Additional Stakeholders

Support for the inclusion of the following additional stakeholders or specific client interest organisations included (in order of highest level of support):

- Advice UK
- Stonewall Cymru
- Health Authorities (Boards and Trusts)
- Age Concern Cymru
- Mental Health Service User Groups
- Welsh Language Board
- Tribunal Service
- Welsh Women's Aid
- Consumer Direct Wales
- Dial UK
- Law Centres Federation
- Advice Services Alliance
- Local Government Data Unit
- NYAS Cymru

- NCH Cymru
- Children's Commissioner for Wales
- Young People's Groups
- Lord Chancellor's Standing Committee
- Help the Aged
- DWP
- ACAS
- One Voice Wales
- Trade Unions
- Trading Standards Services
- Communities First Partnerships
- LAPG
- Race Equality Councils

2. Engagement with Stakeholders

25% of respondents provided suggested additional stakeholders to be featured under the 'Understanding Need' section of the table. Suggested stakeholders or client interest organisations included:

- Advice UK
- Representatives of:
 - Young People
 - People experiencing domestic abuse
 - Disabled people
 - Black and minority ethnic people
 - Refugees
 - Lesbian, gay and bisexual people
 - Homelessness people
 - Older people
 - Gypsies and travellers
- Age Concern Cymru
- Advice Services Alliance
- Citizens Advice Cymru
- Shelter Cymru

The Law Society was suggested as an additional stakeholder, for the table on Education & Rights.

One respondent suggested that the proposed engagement with stakeholders table was irrelevant and provided an artificial structure for identifying activity. It was thought that existing and potential stakeholders had interests that crossed over the activity areas.

15% of respondents were of the view that the term 'legal practitioners' should be clarified or separated to show that it included advice agencies and solicitors. The process for engagement with legal practitioners was queried as the paper does not outline how this can be achieved and was considered essential that engagement with umbrella bodies, as non advice providing organisations, should not be considered to be a voice for legal practitioners.

As a result of the consultation process, the approach to stakeholder engagement has now been reviewed. It is acknowledged that a wide range of key stakeholders will have an interest in the development of the CLS. We will seek to engage interested stakeholders in the ongoing development of the CLS on a case-by-case basis without seeking to identify or outline any such organisations or activities in advance.

Key Issues outside of consultation questions

Governance

81% of respondents provided additional comments specifically in relation to the governance of the CLS. These were primarily focused on the Wales Committee for the CLS. These comments can be grouped into two themes, Membership and Role.

1. Membership

Voluntary Sector and Provider Representation

30% of respondents commented that the Committee would not be effective in Wales, in the absence of voluntary sector and provider representation, which could provide front-line policy and service development expertise to its work.

Feedback from the CLS Wales National Forum, as the group proposed in the governance to provide the mechanism for engaging with providers, highlighted perceived problems. It did not believe that this would be the most effective form of engagement, as the proposal had been based upon the wrong assumptions. The Forum highlighted that it does not consist only of provider organisations and that LSC contracts are only a part of the remit of not-for-profit organisations. It was considered important that the Welsh Assembly Government and the Legal Services Commission recognised the National Forum's wider remit in the provision of advice services, and had separate mechanism for provider consultation based upon this.

Client Focus

23% of respondents felt that the balance of the membership should be altered to ensure that citizen's interests are paramount. Respondents expressed a view that membership was almost entirely of the public sector, with the exception of a single organisation. There was little confidence that the Committee in its current form would have the ability to put the customer before public services.

Conflict of Interest

Respondents recognised the outlined reasoning in the paper, for why provider representatives had been excluded from Wales Committee. However, the majority view expressed, had reaffirmed the common position in Wales of managing conflicts in these circumstances, as opposed to avoiding them.

Additional members

In addition to the views expressed above, one respondent suggested that due to the role of the judiciary in the CLS, that value could be added by having an experienced circuit judge as a member of the Committee.

Umbrella organisations were put forward as bodies that were able to represent potential advice seekers.

2. Role

13% of respondents provided comments in respect of the role of the Committee. One view was that the role, and in turn the membership of the Committee was unclear. There was uncertainty regarding the commissioning role that it would have. The detail for the Committee's engagement with the CLS Wales National Forum was queried. Further clarity in respect of all these issues was requested.

One suggestion was for a nominated Committee member to liaise specifically on provider issues arising from the Committee and Client Sub Group. It was felt that this approach would allow for providers to raise issues with a Committee member without having to wait or rely on an annual meeting. It was considered important that the Committee engaged with local groups and that Committee meetings held across Wales would facilitate this process.

Policy Environment in Wales

Respondents raised many points under Question 3, highlighting the variance in approach to the development of public services across Wales and England.

In addition 13% of respondents queried how the document could be reconciled with the Beecham Review and the collaborative approach to public services in Wales. It was noted that the new legislative powers devolved to the Welsh Assembly Government will mean additional challenges for service providers in Wales in the future. The general view of respondents was that the unique close and constructive relationships between politicians, local authorities and providers should be taken advantage of, as this approach does not exist in England.

Third Sector

Key areas of conflict raised specifically in relation to the Third Sector were; the commitment in Wales for the Third Sector to champion the voice of the citizen and service users at every level of service provision; its role in developing an enhanced role as citizens advocates and as providers of policy and service development expertise; and developing new ways of providing service and an increasingly mixed economy.

Local Service Delivery

As detailed under Question 3 - the proposed approaches for commissioning services was received with concern. Respondents highlighted the Welsh Assembly Government's vision in the policy paper, which raises the point that improving service delivery in Wales can be achieved by more co-ordination between providers to deliver sustainable, top quality, responsive services, rather than by increased competition between providers. Beecham's Review reinforced this vision and threw doubt over major structural re-organisation, as a distraction from improving services.

Telephone Advice

10% of respondents support the plans for the expansion of telephone advice services through CLSD.

23% of respondents raised additional points of concern. These included the request for a commitment to safeguard the current level of face-to-face provision, as it was not felt to be client centred to expand CLSD at the expense of face-to-face advice. It was highlighted that this can reinforce social deprivation by focussing on urban poor or concentrations of deprivation and missing individuals in real need.

Concerns were expressed regarding the expansion, particularly in the light of research showing that young people have difficulties in discussing their problems through this media and services for this client group could deteriorate. Mental health service users were also raised as a group that would be vulnerable through the expansion. It was suggested that a proper referral mechanism should exist between providers and CLSD.

Provision of Advice through Welsh Language

10% of respondents highlighted the need for Welsh language provision to be available across Wales. It was noted that there is a continually increasing population of Welsh speakers, which will result in greater demand.

Joint Commissioning

10% of respondent raised concerns regarding the impact of joint commissioning on core services provided by advice agencies, which are in addition to direct advice provision. In particular the areas of work such as volunteering, attracting further funding, developing local communities, education, training and social policy work. It was felt that there was an evident lack of recognition of preventative work in providing long-term solutions to contributors of social exclusion, and that the service delivery framework must not hinder this process.

Current and Future levels of Legal Aid practitioners

A number of respondents raised the issue regarding the problem in Wales in recruiting staff due to the serious decline in Legal Aid practitioners. This understanding of the situation is supported by Law Society Wales research, and access to services for vulnerable people may be affected. It was requested that the paper specifically addresses this point.

Quality Mark

A small number of respondents queried the future of the Quality Mark, as it was felt that this validation process should continue. This was particularly the view of local government advice services and clarity was requested in relation to the plans for the non-specialist levels of the Quality Mark.

Specific Client Groups

One respondent highlighted the increasing levels of migrants into Wales, and requested that the proposals in the paper should address how this client group can ensure access to legal advice services.

Many respondents expressed views on issues that did not directly respond to the consultation questions. These views were welcomed and taken into account when determining the most effective way of taking forward the Community Legal Service Strategy in Wales. Many of the points raised, particularly those in relation to the Governance of the CLS and the policy environment in Wales, are reflected in the responses above.