

Community
Legal Service



Making Legal Rights a Reality

*The Legal Services Commission's Strategy
for the Community Legal Service*

Volume One:
A Consultation Paper



legal services
COMMISSION

Our vision

Our vision is for a Community Legal Service that focuses on the rights of individuals. We will develop legal and advice services to uphold these rights, targeted at people for whom, without its support, access to justice might not be possible.

The Community Legal Service has at its core a commitment to use the law to achieve positive change: in individual lives, in communities that share a common problem, and across groups facing particular issues. It is founded on a vision which recognises that people need access to integrated and seamless services, and do not face 'legal problems', but problems to which the law may offer a solution. We aim to develop the Community Legal Service so that it is:

- *Client-focused and accessible*
- *Independent*
- *Cost-effective and co-ordinated*
- *Quality-assured*



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Volume One: A Consultation Paper

July 2005

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This consultation paper, which forms Volume One of the Legal Services Commission's strategy for the Community Legal Service, is supported by a second volume, 'An Overview of the Community Legal Service'. Volume Two is available from the Commission's website, at www.legalservices.gov.uk/civil/docs_for_consultation/civil.asp

Foreword



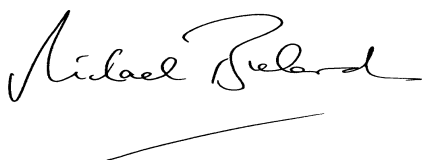
The Commission is a passionate advocate for the Community Legal Service. It has the power to defend and advance people's fundamental rights and to make real improvements in their lives. It achieves this by giving people access to the power of the law through education, information, advice and representation.

Lord Falconer, the Secretary of State for Constitutional Affairs, has recently published "A Fairer Deal for Legal Aid". In this he sets out his vision for the role of legal and advice services in resolving civil disputes or problems. In this consultation paper the Commission sets out the contribution it will make to this vision by improving the focus of civil legal aid on clients and offering leadership to the Community Legal Service.

The CLS and the LSC are not the same - and this is the key difference between the CLS and the old system of legal aid. The CLS is much broader than the Commission's directly funded legal advice and representation. Local authorities and central government departments invest large amounts in legal and advice services, clearly recognising the positive impact that these services can have. The CLS encompasses a wide range of these services and allows us, with our partners, to plan and deliver legal and advice services that better meet the needs of the people we serve.

So the underlying theme of this consultation paper is one of closer and deeper engagement with other stakeholders in the CLS to make it more focused on client needs and more effective at delivering quality services which meet those needs and achieve positive outcomes for clients.

Even after more than 50 years of legal aid and an even longer period of innovative advice services there are still too many people who do not have access to the legal and advice services that they need. The Commission is committed to working with others to change this.



Sir Michael Richard
Chair, Legal Services Commission

Executive Summary

Community Legal Services and the Legal Services Commission

(Section 1, pages 17 -20)

The recently published “A Fairer Deal for Legal Aid” sets out the Lord Chancellor’s vision for legal aid. This consultation paper is an important and central contribution to that vision, setting out the Commission’s plan to improve the focus of civil legal aid, better promote joined up advice services and provide the leadership to the Community Legal Service that it needs.

The Community Legal Service (CLS) was established by the Access to Justice Act 1999, which describes the CLS not as a single body or organisation but in terms of its purpose: principally to promote the availability of legal services – information, advice and representation – in civil law. The Legal Services Commission (LSC) has the duty of developing and maintaining the CLS. However, the CLS potentially includes all those who fund, provide or facilitate civil legal and advice services. Key stakeholders in the CLS therefore include local authorities and central government departments, the solicitor and advice sectors, as well of course as clients - those who actually receive the services. It is a central theme of this strategy that all of these stakeholders working together can achieve better results than working in isolation.

The core objective in promoting the availability of legal and advice services through the Community Legal Service (CLS), and in the LSC directly funding such help, is to protect and promote people’s rights. In particular:

- to enable individuals to protect their fundamental rights in the face of action by public authorities and to receive a fair hearing in, for example mental health and public law children cases;
- to help them resolve private law disputes such as private law family and clinical negligence cases, through negotiation and non-court based solutions where possible, and through access to the courts where this is the only, or most appropriate route; and
- to address problems, such as those relating to debt, welfare benefits, and housing, which contribute to social exclusion, and thereby helping to combat it.

Many of the people that the CLS helps are poor (and so unable to pay privately for access to legal services), socially excluded and dependent on help provided by other government and local authority agencies. Research also shows that where people have one problem capable of legal resolution they are likely to have others.

These client groups and areas of law have been our greatest focus in our wider role of establishing, developing and maintaining the CLS, and therefore form the primary focus of our work with other CLS stakeholders.

Our vision for the Community Legal Service

(Section 2, pages 21 - 22)

Our vision is for a Community Legal Service that places the client at its heart and focuses on the rights of individuals. We will develop legal and advice services to uphold these rights, targeted at people for whom, without its support, access to justice might not be possible.

We also have a clear view that the CLS should have at its core a commitment to use the law to achieve positive change: in individual lives, in communities that share a common problem and across groups facing particular issues. It is also a vision which recognises that people need access to an integrated and seamless service, and do not face ‘legal problems’ but problems to which the law may offer a solution.

All of this fits within a context of acknowledging the contribution of many other services which work to address the same problems for clients. From health and education services to social care and family support services, it is clear that the CLS is but one of a package of tools to help individuals address the problems that they may face.

We want to develop the Community Legal Service so that it is:

- client-focused and accessible;
- independent;
- cost-effective and co-ordinated; and
- quality-assured.

Key challenges and strategic responses

(Section 3, pages 23 - 25)

Although there has been significant progress made in the first five years of the CLS, we believe that the key challenges facing the CLS in delivering this vision are:

- ensuring that all funders of legal and advice services jointly prioritise their expenditure and achieve the best possible value for their money;
- gaining a better understanding of the need for legal services. We will continue to carry out research into legal need (for example, continuing with our Civil and Social Justice Survey) and will need to engage other stakeholders, particularly clients and the groups that represent them, to translate this into a real understanding of clients' requirements;
- making legal and advice services more client-focused – particularly through recognising that clients often have a range of problems that cut across the way in which the CLS is currently organised, with its different funding streams and specialisms. We also need to tailor services in accordance with geographical areas. While urban areas tend to have the highest legal need, we need to maintain a national service and address the particular problems of rural areas;
- making legal and advice services more accessible, particularly to vulnerable groups that do not access traditional services (such as clients with mental health problems); and
- ensuring the co-ordinated availability of legal and advice services to meet priority needs by joining up CLS stakeholders to reduce transaction costs, prevent duplication, and provide the seamless services that clients need.

The need for change

(Section 4, page 29)

The proposals set out in this part of the strategy for consultation flow from:

- our analysis of the research data and evidence set out in Volume Two of this strategy;
- our experience of developing and delivering the CLS to date;
- our analysis of the independent review of the CLS undertaken in 2004 by Matrix Research and Consultancy, and of the House of Commons Constitutional Affairs Select Committee's enquiry into civil legal aid;
- discussions we have held with CLS stakeholders, including those within central and local government, providers of legal and advice services and the people that represent them; and
- analysis and work undertaken by the Department for Constitutional Affairs' Fundamental Legal Aid Review.

We consider that there are five key points arising from this evidence and analysis:

- There is a need for the LSC to provide clear leadership of the CLS including providing strategic direction and working with others to address the causes of problems;
- Not all Community Legal Service Partnership's (CLSPs) have delivered the evidence to allow for a more focussed commissioning of legal and advice services to meet priority needs;
- There is a need for improved access to early legal advice for both existing clients and those who do not get advice about the problems that they face;
- Social welfare legal and advice services need to be provided in an integrated and seamless manner to have the most impact for the most deprived clients; and,
- Currently services are not necessarily in the right places to meet identified priorities in a strategic manner. In future services should be commissioned against agreed targets on access as well as on the range of services of delivered.

We wish to consult widely, with all CLS stakeholders, about these proposals and develop them further in partnership. However, we are clear that change is essential if we are to fully realise the potential benefits of the CLS for its clients and meet the key challenges that we have set out above.

Working together

(Section 5, pages 31 - 34)

We will only deliver our vision by working more closely with other funders such as local authorities and central government departments. We propose to establish a national stakeholders group for the CLS including these key partners and, importantly, client representatives.

At a regional level, we propose to review the current planning function of Community Legal Service Partnerships with a view to reaching more direct and flexible arrangements with other funders. The LSC can offer other CLS funders access to systems of performance management, quality assurance, contract management and needs analysis. This could ensure that funding is directed towards increasing capacity and promoting a seamless service that addresses the range of problems that client's experience.

We will take a more strategic approach, both nationally and locally, in seeking long-term funding commitments for legal and advice services from new sources and in understanding the wider objectives that drive our partners. The CLS can contribute to the wider government agenda by helping to fit legal services with policy developments and improving the processes by which clients engage with the state. We must do this while maintaining the independence of the CLS so the rights of the individual are upheld.

Funding the Community Legal Service

(Section 6, pages 35 - 36)

We will work to improve the funding position by seeking to ensure that increases in legal aid expenditure arising from planned changes in government policy and legislation are catered for. We will need to balance the need to target resources on the most needy with the need to serve the wider community. This involves recognition of the important role of telephone services in providing access to legal advice where face-to-face services may not be available.

Of course, the LSC is not the only funder of the CLS, and joint planning and pooling of resources with stakeholders will enable all concerned to obtain improved value for money.

Priorities for the Community Legal Service

(Section 7, pages 37 - 44)

We have identified three priority areas for our work in developing CLS services:

Individual acts of advice and assistance

We know, from research such as the Legal Services Research Centre's National Survey of Justiciable Problems, that:

- there are likely to be over a million unsolved legal problems each year;
- if a client has one legal problem, they are likely to have another;
- only half of those with a problem seek legal advice, and of those that do, one in seven fail to get it;
- many people that take action to resolve their problem(s) regret their handling of it; and
- the more times a client is referred, the less likely they are to ultimately receive help.

We believe that early advice is vital to prevent people's problems escalating, becoming more numerous and complex, and thus increasing the risk of social exclusion and the overall cost to society and public services. If we cannot prevent problems arising in the first place, we want to help solve them as quickly as possible - and make going to court a last resort.

We propose to:

Expand our current national telephone advice services in order to widen access to legal and advice services and achieve greater value for money. This would ensure that more people had access to basic information and advice, and would provide a legal advice service in areas where there are only limited face-to-face services available (such as rural areas).

Pilot Community Legal and Advice Centres providing jointly-funded, face-to-face legal and advice services in social welfare law delivered under a more client-focused service specification than either existing LSC contracts or many local authority funding agreements. These services could be based in major urban centres, perhaps with satellite offices in the most deprived communities. They will deliver a seamless service, from basic advice and assistance to specialist representation in the highest courts. In order to deal with clients' problems seamlessly, the Centres will cover a broad range of categories of law. They will offer as a minimum, services in a range of social welfare categories, particularly Debt, Housing, Welfare Benefits, Community Care and Employment. They will have effective links with suppliers in other specialist areas of law and over time may develop further to provide some of these services themselves.

Funding for the Centres could be related to achieving specific outcomes for clients. Key activities could include:

- targeting groups that do not access current services, for example through outreach in community centres or GP surgeries focusing on helping people who have a particular need for, and difficulty in, accessing services because of their personal circumstances (such as people with mental health problems or those with physical disabilities), and addressing the patterns of problems they face. They will also seek to ensure effective access for those clients from black and minority ethnic groups that are reluctant or unable to access traditional legal services;
- helping to tackle institutional causes of problems relating to poor delivery of public and private services through dialogue, negotiation, and, where this fails, litigation; and
- helping to make clients aware of their rights, and providing information and self-help packs.

Pilot the joined-up approach proposed for the Centres to other geographical areas through 'Community Legal and Advice Networks'. Although we are proposing to pilot only a small number of Centres, we want to apply the same joined-up approach to other geographical areas.

We therefore intend to pilot Community Legal and Advice Networks, consisting of a group or consortium of quality-assured providers that have signed up to a common specification of services. We propose that each network would adopt the same model, and work together to provide a seamless and integrated service across a broad range of categories of law, including social welfare categories. Like the Centres, they may also tackle institutional causes of problems. We will locate at least one of these pilots in a semi-urban or rural area. We will also consider whether such a network would be practicable on a regional basis to ensure that clients have access to a wide range of services.

Outside the pilot areas explore ways in which we can encourage providers to operate a broader range of services both geographically and in terms of the categories of law covered.

Strategic action to address the need for advice

Legal and advice service providers witness the same kinds of problems time and again, when public services have failed to meet their statutory duties or when commercial companies have misled or exploited their customers. With a unique viewpoint on the pattern of problems that people face, and the possibilities the legal system provides for resolving them, the CLS can contribute to a dialogue between consumers and service providers. This offers a strategic and cost-effective approach to improving services (and thus preventing justiciable problems).

Our focus will be on three main areas of activity:

- Raising awareness of the issues through producing relevant publications and engaging with government and local communities. Our intention is to reduce the need for recurring individual acts of advice and assistance and thus to have a greater impact for clients with the resources that we have available.
- Negotiation, by engaging with service providers at a senior level in a constructive and positive manner to highlight problems and suggest solutions.
- funding litigation where other approaches fail. This will include identifying and bringing test cases, and sometimes funding actions by groups of clients.

Information about legal rights and responsibilities

The CLS promotes information, which enables people to know and exercise their legal rights. We do not seek to encourage unnecessary litigation; we want people to understand how they should use the law to bring about positive change in their lives.

Research shows that such information exists, but access and availability are haphazard because of a lack of standards and consistency. The complexity of the information and advice sector and the diversity of problems facing consumers, together with the number of sources of information, can make consumers feel unable to find the information they need. Therefore we do not seek to increase the amount of information provided; rather, we seek to promote trusted sources and thus help clients navigate through the information and advice that is available. This work will be delivered primarily by working with others, particularly the Department for Constitutional Affairs and its Education, Information and Advice Strategy.

A unified approach to legal aid services

(Section 8, pages 45 - 46)

This section sets out, how as part of our strategy to deliver a seamless legal service across the CLS that connect civil legal aid with Children and Family Services and the Criminal Defence Service. Separate but linked strategies will be published later this year in those two areas; taken together, the three strategy papers will provide a coherent direction for LSC-funded legal and advice services in the next five years.

Timetable and next steps

This is a consultation paper on our strategy for the next five-years. Details on how to respond to the consultation are set out below. We will finalise and publish the post-consultation version of the strategy in the Winter of 2005/06. We will publish a series of policy papers (as outlined in **Appendix One**) during 2005 and beyond, setting out in more detail how we will take different elements of the strategy forward. These papers will contain more detailed timescales, but we expect to start piloting some elements of the work programme in 2005/06, and will continue work to fulfil this strategic vision over the subsequent four years.

How to respond

Responses to this consultation should be sent by e-mail, post or fax by Friday 14th October 2005 to:

Frances Malik
CLS Policy
Policy & Planning Directorate
Legal Services Commission
12 Roger Street
London
WC1N 2JL
Fax: 020 7759 1428
email: CLSPolicy@legalservices.gov.uk

Please note that responses to this consultation may be made public. If you wish your response to remain confidential, please mark it accordingly. A summary of the responses to the consultation will be available in the Winter of 2005/06 when the final version of the Commission's strategy for the Community Legal Service will be published.

In order to facilitate analysis it would be very helpful if respondents could provide responses to the questions posed at the end of each section. A summary of all the questions can be found on page 10. We also welcome comments on all aspects of this consultation paper, including the appendices.

We welcome responses from local authorities, central government departments and other funders of the advice sector; organisations that represent the clients we serve and legal and advice providers. Copies of this consultation paper are being sent to the above range of organisations.

Additional copies of this consultation paper can be obtained by contacting Frances Malik at the above address or by phoning 020 7759 1446. The consultation paper is also available via the Legal Services Commission website: www.legalservices.gov.uk/civil/docs_for_consultation/civil.asp.

A briefing note containing frequently asked questions and the Commission's answers can also be found on the website.

Consultation questions

- Q.1. Do you agree with the flexible definition of the CLS as we have outlined in paragraphs 1.5 - 1.16?
- Q.2. Do you agree that our primary focus for the CLS should remain as defined in paragraphs 1.17 - 1.23?
- Q.3. Do you agree that the vision set out in paragraphs 2.1 - 2.16 is the right one for the CLS? If not, what would you change or add?
- Q.4. Do you agree that these are the *main* challenges that the CLS faces? Are there others? (see paragraphs 3.1 - 3.13)
- Q.5. Do you support the proposal to establish a national stakeholders group? Do you have any comments on the initial remit and proposed membership as outlined in paragraphs 5.3 and 5.4?
- Q.6. Do you agree that the planning function of CLSPs should be undertaken by a different body? Do you agree the appropriate body should be agreed between the LSC and local authorities? (see paragraph 5.6)
- Q.7. Paragraph 6.3 outlines steps to ensure that appropriate resourcing is available for the CLS. Are there other steps that the Commission should take?
- Q.8. Do you agree with the three priority work areas for the CLS as outlined in paragraph 7.1? If not, what should the priority work areas be?
- Q.9. Do you agree with our proposal to expand our telephone service? Is it right to make a basic level of service (such as information on legal rights and self-help packs) available to everyone regardless of means? (see paragraphs 7.12 - 7.17)
- Q.10. Do you agree that over time we should develop the greatest concentration of face-to-face services in the most deprived communities? (see paragraphs 7.18 - 7.21)
- Q.11. Do you agree with the proposals to pilot Community Legal and Advice Centres and Community Legal and Advice Networks, as outlined in paragraphs 7.22 - 7.32? Do you agree with their proposed remits and the broad descriptions of the services they will provide?
- Q.12. Do you agree that there should be an increasing presumption in favour of services that work across several areas of social welfare law? (see paragraphs 7.33 and 7.34)
- Q.13. Do you agree that the CLS should put more resources into taking strategic action? What other approaches could be taken beyond those outlined in paragraphs 7.37 - 7.47?
- Q.14. What other ways can the Legal Services Commission promote information about legal rights and responsibilities? (see paragraphs 7.48 - 7.52)
- Q.15. Have we identified the key issues in developing the appropriate links between the social welfare areas of the CLS, Children and Family services and the Criminal Defence Service? (see paragraphs 8.1 - 8.11) What other steps could be taken to facilitate these links?

PART A

The Community Legal Service – a strategic approach

1. Community Legal Services and the Legal Services Commission

Our objective

- 1.1 The recently published “A Fairer Deal for Legal Aid” sets out the Lord Chancellor’s vision for legal aid. This consultation paper is an important and central contribution to that vision, setting out the Commission’s plan to improve the focus of civil legal aid, better promote joined up advice services and provide the leadership to the Community Legal Service.
- 1.2 This consultation paper is intended to assist in the process of further and closer engagement with anyone involved with legal and advice services, including users, co-funders and service providers. The strategy set out in this paper will be refined and developed in the light of responses to it and the direct discussion with stakeholders which we intend should flow from it.
- 1.3 We accept that our role within the CLS is significant but not all-encompassing. The breadth and depth of CLS-related activities are such that it is not practical to cover all of them in detail in a single document such as this. Therefore, this consultation is intended to provide:
 - a strategic overview of the direction of our policies across the whole range of our CLS responsibilities;
 - greater detail about our activities and plans for our role in maintaining and developing the CLS; and
 - greater detail about our activities and plans for our role in addressing need in social welfare areas of law.
- 1.4 The paper will be supported by a series of further policy papers which will cover in greater depth the Commission’s strategic direction in other areas of its CLS responsibilities.

The CLS and the Commission’s role within it

- 1.5 The CLS is a statutory creation and is defined in the Access to Justice Act 1999 (c.22). The relevant sections that set out the framework of the CLS are reproduced in Appendix Three.
- 1.6 The Act does not create the CLS as a highly specified and defined entity. It is not a single body or organisation; rather it describes the CLS in terms of its purpose: to promote the availability to individuals of a range of services relating to civil law, legal services and the legal resolution of disputes.
- 1.7 While describing the CLS in broad and loosely-defined terms, the Act makes very specific provisions regarding the role of the Commission in relation to the CLS. The Act gives us two main roles in relation to the CLS which are distinct, but not separate. These are:
 - to establish, maintain and develop the CLS; and
 - to fund specific services as part of the CLS.

Establishing, maintaining and developing the CLS

1.8 Our role in establishing, maintaining and developing the CLS is defined broadly by the Access to Justice Act 1999 but within that are some clear requirements. We must:

- aim, where practicable, to improve the quality, suitability and accessibility of legal and advice services;
- inform ourselves about the need for legal and advice services and about the quality of services provided; and
- in co-operation with other relevant authorities, organisations and individuals:
 - plan what we can do towards meeting the need for legal and advice services by fulfilling our obligations; and
 - facilitate the planning by other authorities, organisations and individuals of what they can do to meet the need for legal and advice services using the resources available to them.

Responsibility for LSC-funded services

1.9 In addition we have responsibility for funding specific services as part of the CLS. In funding these services we must work within the sums of money made available to us and must aim to obtain the best possible value for money.

1.10 We have to set explicit priorities for our funded services which must be in accordance with any directions given by the Lord Chancellor and must take account of the need for legal and advice services.

1.11 We are prohibited from funding particular services, set out in the 1999 Act, but subject to these requirements, we may fund as part of the CLS those services which we consider appropriate.

Understanding the CLS - living with ambiguity

1.12 We believe that the openness of the definition of the CLS as provided by the AJA 1999 is a great strength. It provides a framework within which the Commission, other public authorities, organisations and individuals can work together to provide help to people who need access to the law to protect their rights or address problems in their lives.

1.13 The openness and loose structure of the CLS also give rise to some critical challenges:

- The services delivered by the CLS as a whole are much wider than those which we fund – yet we have no direct power over those services. We must seek to develop those services in a way which is positive for CLS clients through constructive engagement and influence with other funders and providers.
- The CLS is in many respects a ‘virtual’ organisation with services delivered to clients by many funders and providers. This means that the CLS is not highly visible as a single entity or brand, although many of the elements that make up the CLS are very well recognised. This impacts on the recognition and understanding of the CLS which could make it more difficult for clients to access the services they need. We will consider how best to use branding to ensure that the integrated legal and advice services that we are promoting are recognised and accessible.
- The absence of a specific definition of the CLS, or of a single body which is the CLS, provides scope for each participant to attach their own definition and objectives to the CLS.

- 1.14 We recognise these issues but remain supportive of the way in which the CLS has been defined in the legislation. There is not only futility in seeking to define the CLS more specifically. There is also a risk that it would divert energy away from focusing on the real issue – meeting the legal education, information, advice and representation needs of people who require help from the CLS. It could also lead to inappropriate attempts to identify and implement a single solution or model for all legal and advice services, which, we believe, would be to the detriment of clients.
- 1.15 In this paper we expand on these themes but we urge everyone involved in the CLS, in the interests of the people it serves, to embrace the ambiguity and flexibility which give the service the potential to meet the differing legal needs of individuals in ways most appropriate to their circumstances and to deliver positive outcomes for them.
- 1.16 The CLS exists to provide legal help to people with problems – often problems which affect their most fundamental rights. The Commission’s role is to work together with others to provide a CLS which meets those people’s needs.

Focus

- 1.17 Given its very open nature, the CLS has the potential to provide some level of help to any member of society and it would be unwise to impose artificial limits on the CLS which had the effect of excluding any individual from seeking its assistance. However, within that very broad reach, we prioritise both our own funded services and our work with other CLS stakeholders, to serve particular clients and to solve particular types of problem. We do so, and will continue to do so, on the basis of explicit and justifiable priorities.
- 1.18 Our primary focus in promoting the availability of CLS help and in directly funding such help is to protect and promote individual rights. In particular:
- to enable individuals to protect their fundamental rights in the face of action by public authorities and to receive a fair hearing in proceedings such as those relating to mental health and public law children cases;
 - to help them resolve private law disputes, such as private law family and clinical negligence cases, through negotiation and non-court based solutions where possible, and through access to the courts where this is the only, or most appropriate route; and
 - to address problems which contribute to their social exclusion, such as debt, welfare benefits and housing.
- 1.19 Given the largely adversarial and orally-based legal system in England and Wales, services provided to meet the first of these purposes are important to ensure compliance with the European Convention on Human Rights; particularly Article 6 (right to a fair trial). There is also a growing body of human rights case law, which is indicating that services provided for the second purpose are also important to ensure ECHR compliance.
- 1.20 The last of these three areas is, we believe (although often not defined in terms of rights), quite fundamentally about people’s rights. For example, the recipient of Housing Benefit has the right for their application to be dealt with in accordance with the law, and the consequences for that individual of a failure on the part of a public authority can be fundamental – in such a case, potentially, homelessness.
- 1.21 Many of the people helped by the services we fund and provide (and who in general fall within our financial eligibility criteria) are inevitably poor, socially excluded and heavily dependent on help provided by other government and local authority agencies. Research also shows that where they have one problem capable of legal resolution they are likely to have others.

1.22 It has also been the case that these client groups and these areas of law, particularly the social welfare areas of law, have received our greatest focus in establishing, developing and maintaining the wider CLS. This is because:

- these are client groups and areas of law which attract significant levels of service from other funders, particularly central government departments, local authorities and voluntary agencies, so joint planning has been required to maximise the impact of both our and other agencies' funding;
- there is much information and experience within the same group of public authorities, organisations and individuals about the need for services for these client groups and in these areas of law; and
- it is in the social welfare areas of law where we face the most significant challenge in joining up general legal advice and information about people's problems and their options for resolving them through legal information, advice or representation.

1.23 It is our intention that our primary, but not exclusive, focus, in terms of client groups and types of problem, both for our funded services and for our work in developing the CLS, will remain unchanged. However, we plan new developments and changes of emphasis, and details of these are set out in Part B of this paper.

Questions

Q.1. Do you agree with the flexible definition of the CLS as we have outlined in paragraphs 1.5 - 1.16?

Q.2. Do you agree that our primary focus for the CLS should remain as defined in paragraphs 1.17 - 1.23?

2. Our vision for the Community Legal Service

- 2.1 Our vision is for a Community Legal Service that focuses on the rights of individuals. We will develop legal and advice services to uphold these rights, targeted at people for whom, without its support, access to justice might not be possible.
- 2.2 Our first priority is the protection of those important rights related to state actions. These are public law Children Act 1989 proceedings, detention under the Mental Health Act 1983, actions against the police, and asylum. Our vision also extends to providing legal and advice services across other important civil law areas such as clinical negligence, family and of course social welfare law.
- 2.3 We also have a clear view that the CLS should have at its core a commitment to use the law to achieve positive change: in individual lives, in communities that share a common problem and across groups facing particular issues. It is also a vision which recognises that people need to access an integrated and seamless service and do not face ‘legal problems’ but problems to which the law may offer a solution.
- 2.4 All of this fits within a context of acknowledging the many other services which work to address the same problems for clients. From health and education services to social work and family support services, it is clear that the CLS is but one of a package of tools to help individuals address the problems that they may face.
- 2.5 **We want to develop the Community Legal Service so that it is:**
- **client-focused and accessible;**
 - **independent;**
 - **cost-effective and co-ordinated; and**
 - **quality-assured.**

Client-focused and accessible

- 2.6 By this we mean a CLS that is well known, and can be easily accessed by clients when they face problems which may have a legal solution. It must respond seamlessly to the clusters of problems that clients encounter, offering a range of services from information to initial advice and complex litigation. The CLS should encourage and support people to get help in the early stages of a problem and avoid court where possible, but provide representation where this is the best option.
- We will prioritise the needs of people who are at risk of losing their life or liberty, affected by abuse of authority, or whose human rights are threatened.
 - Those who face poverty, disadvantage, discrimination and exclusion are our second core group of clients.
 - We will also provide a legal information and advice service, available to everyone in order to promote the early and proportionate resolution of problems.
- 2.7 The Community Legal Service should seek to promote legal rights so that people are better able to deal with their problems and understand when and how legal advice can help.

Independent

- 2.8 Although central and local government may fund the CLS, it must maintain a robust independence in supporting a culture of rights for all and assisting those who have been unfairly treated by public authorities or private institutions.

- 2.9 The CLS should play a strategic role in addressing the causes of clients' problems where these relate to the failure of public (and sometimes private) services to fulfil their obligations. Examples of this would include cases against parts of government which repeatedly fail to uphold rights or incorrectly refuse benefits, housing organisations with properties in disrepair, or a utility company which ignores its own policies when it cuts off supply.
- 2.10 The independence of the CLS may lead to a tension between the CLS and its funders, but approached appropriately this should be a creative tension that retains a resolute focus on the rights and needs of clients.

Cost-effective and co-ordinated

- 2.11 The CLS should bring together client groups, funders, service providers and other key stakeholders to make this vision a reality. It must ensure services link with each other and make the most effective use of available resources. As in any area of public service, we will need to prioritise and target resources at the greatest need. This means people who can afford to pay privately for legal services, or who have legal problems that are not priorities for public funding or which can be funded through other methods, will need to be referred elsewhere. It also means that we will act to address the drivers of problems that clients face where this would represent a better value approach than to simply fund repeat cases.

Quality-assured

- 2.12 The commitment to placing quality at the heart of the CLS remains a key element of the future vision and strategy. We will build on what has already been achieved and, while ensuring no reduction to the minimum quality standard, we will work closely with our service providers and partners to recognise equivalent quality standards and simplify, as far as possible, the award and audit of those standards.
- 2.13 While the Quality Mark focuses closely on organisational competence and the client interface, our future strategy will also recognise the increasing importance and relevance of the quality of advice and legal work, the competence of individual advisers and the outcomes that clients receive at the conclusion of advice. An independent peer review process is being developed and could become the bedrock of the assessment of the quality of advice for all organisations in the CLS – regardless of who funds the service.
- 2.14 We are also working closely with several umbrella organisations to encourage the development of their own competency / peer review mechanisms in the expectation of recognising such developments and transferring responsibility for achieving quality levels to the organisations themselves.
- 2.15 The Commission is also hosting a groundbreaking project to develop National Occupational Standards for Legal Advice, on behalf of and in partnership with a diverse range of organisations that represent, support, regulate and train practitioners across the private, public and voluntary sectors. National Occupational Standards will, for the first time, provide advisers, especially those in the not for profit sector, with recognisable and transferable training and qualifications.
- 2.16 The combined benefit derived from quality systems and adviser competence is positive outcomes for clients. Our strategy is to enhance the gathering of outcomes data and to increase its accuracy and consistency. We will then be able to work in partnership with suppliers to identify particular strengths and areas for improvement.

Questions

Q.3. Do you agree that the vision set out in paragraphs 2.1 - 2.16 is the right one for the CLS? If not, what would you change or add?

3. Key challenges and strategic responses

3.1 It is easy to lose sight of the fact that the Community Legal Service only came into existence in April 2000, to partly replace a system of civil legal aid which had existed and developed over the previous 50 years. Local advice services have developed on an ad hoc basis over an even longer period, and it is this 'advice maze' that has presented barriers to clients getting the advice they need.

3.2 We believe that significant progress has been made in the past five years in establishing and developing the CLS to meet the needs of the clients it serves. Such progress has been a result not only of the Commission's efforts, but also those of other public authorities, funders and providers, both organisations and individuals, who have willingly joined with us. We have set out at Appendix Two details of some of the many achievements of the Community Legal Service in its short life to date. This strategy paper is focused on the challenges that lie ahead, and on what we want to do to improve it.

Availability of funding

3.3 We operate our directly-funded services, (and the Commission as an organisation), within a fixed budget, set as part of the government's three-year budgeting cycle. Within the resources available to us we have to balance the funding needs of the Criminal Defence Service (CDS) (where the demand for services is often driven by factors outside our control) with those of the Community Legal Service. Managing services within a limited budget is by no means unique to the Legal Services Commission, and it is a position familiar to most other stakeholders within the CLS.

3.4 We will always argue for resources commensurate with the levels of need for the CLS. However, we will not always get this and we find ourselves in exactly the same position as most other organisations; the public or the private sector, or the voluntary and community sector.

3.5 We focus on achieving all that we can for clients within this funding framework. Our challenges within this environment are to:

- maximise the volume and quality of legal and advice services we can commission for clients within the available resources, through effective purchasing mechanisms and new delivery mechanisms;
- ensure that we achieve maximum value from these services; in terms of both positive impacts and outcomes for clients, and driving improvements in the service delivery of other public bodies;
- ensure the effective co-ordination of our own directly-funded services with those services funded by our partner funders; and
- attract new sources of funding to the CLS to increase the overall level of resources within the system.

3.6 We recognise that many of our partner funders of the CLS face similar, and often greater, challenges with regard to the availability of resources. We also acknowledge, and must manage, the tension that the policies necessary to deliver this vision may produce in the relationship between ourselves as purchasers of legal and advice services, and those who provide them.

Understanding the need

3.7 We are determined to live up to our commitment of placing the needs of clients at the heart of our decision-making. We therefore have to understand what these needs are. This means that we must continue to build on the approaches we currently take in our regional needs analysis. In particular we must:

- ensure that, at a national level, we understand developments in the legal system and those public services, both local and national, which may impact on the need for legal and advice services;
- engage more closely with other parts of central government, local government, legal and advice providers and other local and national stakeholders, to benefit from their understanding of clients' needs;
- find effective mechanisms to engage more closely with clients of legal and advice services, and the groups that represent them; and
- continue to develop our capacity to translate this information into a real understanding of client needs in order to make decisions about service priorities that are transparent and accountable.

Making legal and advice services more client-focused

3.8 We recognise that certain challenges are presented when moving from an understanding of clients' needs to putting services in action to meet those needs, in particular:

- Tailoring legal and advice services in accordance with geographical factors. The areas of highest social deprivation have the highest need for legal and advice services. While we must focus resources on these areas, we must also maintain a national service. It is inevitable that the areas with the highest geographical concentration of problems – and therefore the greatest need for services – will be urban. However, rural areas have their own particular problems, which we must also address.
- Recognising that clients often have a range of problems. In order to address this effectively, legal and advice services must be structured and delivered in an integrated way which doesn't needlessly lead clients to seek help for different parts of their problems in different places and from different providers. This is particularly important given that referral between service providers is often ineffective.
- Addressing the problems that flow from different services being funded by a variety of funders and delivered by different service providers. The need to refer from a general not for profit advice agency to a specialist lawyer is often a barrier that clients do not overcome.

Making legal and advice services more accessible

3.9 Legal and advice services will not meet client needs if clients do not readily access them. We know that many people do not know either that help is available or where to obtain it. Moreover, we believe that the most vulnerable and disadvantaged clients do not easily access services which follow traditional models, for example high street solicitors and general advice centres.

Co-ordinating legal and advice services to meet priority needs

- 3.10 This is a challenge for all legal and advice services, regardless of how they are funded.
- The Legal Services Commission must improve the value for money and quality of the services it funds while at the same time liberating the best suppliers to deliver services within a framework based on high levels of trust and with low transaction costs.
 - We also recognise that, at least in some areas of law and parts of the country, providers of legal services are facing challenges to continue to deliver services within the current payment levels. However, we recognise that we must also develop our own remuneration systems to provide the right incentives to service providers in order to properly focus on the needs of clients.
- 3.11 The availability of services does not necessarily match the need for legal and advice services and some clients are unable to access advice, either because providers of legal and advice services are unwilling to increase caseloads, or because there are no such providers locally.
- 3.12 The CLS needs to be more effective in engaging with other parts of government to ensure an integrated approach to meeting the needs of individuals and communities. It has rarely played a role in offering potential solutions to problems in public service delivery that give rise to some of the problems that clients experience.
- 3.13 We need to do more to join up the CLS. Although good progress has been made by Community Legal Service Partnerships (CLSPs) in many areas, supporting many worthwhile projects and initiatives, overall the CLSP structure has not achieved the joined-up delivery of services in the way that was hoped:
- it has been difficult to engage many local authorities at a senior level where CLSPs are seen as peripheral to community and regional strategies;
 - the presence of service providers on CLSPs can lead to conflicts of interest; and
 - users have not been regularly involved in CLSPs.

We need to learn from the experiences of CLSPs so that we address these key issues.

Questions

Q.4. Do you agree that these are the *main* challenges that the CLS faces? Are there others? (see paragraphs 3.1 - 3.13).

PART B

Delivering the vision for the Community Legal Service

4. The need for change

4.1 The particular issues addressed in this part of the strategy are:

- more effective working with other CLS stakeholders;
- funding the CLS;
- delivering the CLS innovatively and in a way which is more client-focused and delivers greater benefits; and
- joining up social welfare law delivery with CLS Children and Family Services and with the Criminal Defence Service.

4.2 As we have said in the introduction to this strategy, the scope of the activity that we, working with others, will be taking forward to deliver our vision for the CLS is too great to set out in just one document. We will therefore be producing a series of policy papers during 2005 and beyond. Details are set out in Appendix One to this paper.

4.3 The proposals set out below for consultation flow from:

- our analysis of the research data and evidence set out in Volume Two of this strategy;
- our experience of developing and delivering the CLS to date;
- our analysis of the independent review of the CLS undertaken in 2004 by Matrix Research and Consultancy, and of the House of Commons Constitutional Affairs Select Committee's enquiry into civil legal aid;
- discussions we have held with CLS stakeholders, including those within central and local government, providers of legal and advice services and the people that represent them;
- analysis and work undertaken by the Department for Constitutional Affairs' Fundamental Legal Aid Review; and,
- the importance of delivering the Government's vision for legal aid.

4.4 We consider that there are five key points arising from this evidence and analysis

- There is a need for the LSC to provide clear and unambiguous leadership of the CLS including providing strategic direction and working with others to address the causes of problems;
- Not all CLSPs have delivered the evidence to allow for a more focussed commissioning of legal and advice services that meet priority needs;
- There is a need for improved access to early legal advice for both existing clients and those who do not get advice about the problems that they face;
- Social welfare legal and advice services need to be provided in an integrated and seamless manner to have the most impact for the most deprived clients; and,
- Currently services are not necessarily in the right places to meet identified priorities in a strategic manner. In future services should be commissioned against agreed targets on access as well as on the range of services of delivered.

4.5 In addressing these issues we will continue to face the key challenges set out in section 3 above.

4.6 We wish to consult widely, with all CLS stakeholders, about these proposals, and develop them further in partnership. However, we are clear that change is essential if we are to fully realise the potential benefits of the CLS for its clients.

We do not believe that maintaining the status quo is an option.

5. Working together

- 5.1 To deliver our vision for the Community Legal Service we need to work with a diverse range of stakeholders: other funders, providers of legal and advice services, the Department for Constitutional Affairs as our sponsoring Department and other government departments. Most importantly we will need a better understanding of clients' needs. We need to better understand the particular needs of all clients if we are to commission services that truly address them.
- 5.2 We recognise that clients' needs cut across services and agencies, and across internal organisational structures, so we want to develop seamless services that mirror our clients experience. We will ask people with experience of consulting consumers to help us; we will seek to include client representatives on new local strategic bodies and on the national stakeholders group which we aim to establish. The principle of addressing client need will lead all these relationships with stakeholders.

With other CLS funders

- 5.3 At a national level we propose to establish a national stakeholders group for the CLS. This would include other main funders of legal and advice services, key government departments and client representatives. The role of the national stakeholders group would evolve but, initially, we would want it to:
- achieve a common understanding of relevant agendas;
 - agree the way in which we define client need; and
 - prioritise the challenges that we face.

Ultimately we would need to agree a common way forward for the CLS and the way in which resources are allocated. In short a national stakeholder group would significantly assist the LSC in providing national leadership and direction for the CLS.

- 5.4 We recognise that it will be critical to have a clear remit for the group with agreed success criteria and clarity on the roles of member agencies, who they represent and how. We would expect the group to include senior representatives from a wide range of funders and consumer representatives and we will be working with potential members to establish this group over the remainder of 2005.
- 5.5 We recognise the findings from Matrix Research and Consultancy's Independent Review of the CLS, that the role of the local authorities, sitting alongside the LSC, is critical in this planning process. Furthermore, we recognise the vast amount of partnership experience that local authorities have gained, on a variety of issues, from the many partnerships with which they are engaged.
- 5.6 We believe that a differently constituted body may better undertake the planning function presently assigned to CLSPs. CLSPs have rarely engaged a wide range of private solicitors and have been resource intensive for all concerned. Because of the potential for conflicts of interest, we do not consider that service providers should sit on the planning or commissioning bodies. CLSPs have made a significant and important contribution over the last five years in bringing different legal and advice services and their funders to the same table but having addressed that challenge we now need to take the next important steps towards a joined up approach to the CLS. Whilst CLSPs may remain as service provider forums they are likely to continue without direct input or support from the LSC: we now need to move on to the next phase of local engagement. The planning function should be performed by funders but we would want to consider if this planning or commissioning role could be undertaken through an existing structure (perhaps a Local Strategic Partnership or existing sub-group) before considering if a new body was required. We want the LSC to reach this decision jointly with local authorities. We recognise it is unlikely that one size will fit all and accept that different models will be agreed in different areas according to circumstances. Our overriding ambition in this area will be to simplify the planning and commissioning process whilst making it more robust and

locally accountable where appropriate. There must be no partnership or bureaucracy that does not add value.

5.7 Furthermore, we recognise that links are required across different partnership structures if we are to achieve our aim of offering a seamless legal service to clients. There must be connections made between partnerships engaged with legal and advice services and those working in family and criminal legal matters. Such groups could include:

- regeneration and neighbourhood renewal partnerships;
- crime and disorder partnerships;
- domestic violence forums;
- local criminal justice boards;
- refugee and traveller forums;
- the developing children trusts; and
- partnerships in the primary healthcare field.

We will also consider how the process of assessing legal need can be simplified, and how appropriate evidence and support can be provided centrally.

5.8 Whatever the arrangements for the governance of the CLS, the LSC will work with other funders in an open and transparent manner to deliver joint objectives. We will consider whether the arrangements in relation to Local Area Agreements being implemented by Local Strategic Partnerships offer opportunities for pooled budgets for legal and advice services. We will engage with other funders to establish Community Legal and Advice Centres and Networks (see paragraphs 7.22-7.32 below).

5.9 The LSC can offer other funders of the CLS access to systems of performance management, quality assurance, contract management and needs analysis. This could ensure that all additional funding is directed to increasing capacity and not towards developing duplicate management systems. In seeking to co-operate with other organisations through joint funding initiatives we will need to develop common performance measurements and service specifications. This will promote consistency of quality and make it easier to plan joint services, as well as to manage contracts that have different funding streams.

With government departments

5.10 We need to continue, and improve upon, our work with government departments to:

- contribute to the development of policy that affects people's rights, justiciable problems and access to legal advice and representation;
- seek to ensure that the cost to legal and advice services is considered when policy is developed by government departments, and properly funded when the policy is implemented;
- work together to build the link between improving public services and access to justice;
- understand the programmes being planned and implemented by government departments so that the services we are developing fit alongside these where appropriate; and
- we need to ensure that we have early discussion when initiatives are being planned and engage fully in consultation processes to ensure that what is developed nationally is joined up.

5.11 The LSC already engages with a range of cross-governmental initiatives, and we expect that this strategy will enable us to improve these relationships.

- 5.12 The Department for Constitutional Affairs is the LSC's sponsoring department and we work closely with them on all CLS issues, building upon the Department for Constitutional Affairs' five-year strategy. The Department has a particular focus on vulnerable consumers and upon the importance of education, information and advice; we will continue to support this activity as we work across government.
- 5.13 We are involved in discussions with the Department for Constitutional Affairs and the Department of Health about proposed mental health legislation to ensure that its impact on the need for legal advice is understood and funded.
- 5.14 We sit on joint immigration and asylum strategy boards with Department for Constitutional Affairs and the Home Office and share a joint budget. This has meant that the importance of legal advice in ensuring a fair immigration and asylum process is properly understood as the end-to-end processes are reformed.
- 5.15 The LSC is a member of the cross-governmental over-indebtedness group set up to co-ordinate the government's response to the growing problem of personal debt and to promote financial inclusion. An action plan was published in July 2004, which included the LSC's contributions through:
- Community Legal Service Direct;
 - Legal Services Research Centre research into the economic impact of advice; and
 - a pilot project examining methods of signposting and awareness-raising training.
- 5.16 We are now building strong links with the Office of the Deputy Prime Minister which includes both the Social Exclusion Unit and Neighbourhood Renewal Unit. Together we aim to ensure provision of sustainable legal and advice services in areas of high deprivation and are exploring ways in which we can work more closely in developing our policies and initiatives.
- 5.17 We are contributing to the development of the forthcoming Cross-Governmental Strategy on the Ageing Population, which is being published by the Department for Work and Pensions. We are also part of that department's working group on 'Link-Age', which is developing a joined-up approach to services for older people. This is to ensure that advice services are both accessible to older people and effectively meeting their needs.
- 5.18 The LSC has been working with Jobcentre Plus offices in the Eastern region since March 2004 to raise awareness of the Community Legal Service among frontline staff. We will use our experiences in the Eastern region to inform relationships and future initiatives with other government departments and agencies.
- 5.19 We recognise the need to engage appropriately with the developing agenda for children's trusts and the way in which education, health and social services plan to provide services to children, young people and families.
- 5.20 We need to improve our engagement with the Home Office and identify the way in which new legislation on crime and associated issues like antisocial behaviour will impact the provision of civil legal and advice services.

With service providers

- 5.21 All providers funded as part of the CLS will be expected to provide quality-assured services, staffed by those with appropriate expertise. The LSC will work with service providers to develop high quality services.

- 5.22 The LSC will fulfil its role of identifying needs and commissioning services that meet those needs. We will design remuneration systems for civil legal aid, and for joint funding wherever appropriate, that include incentives for service providers to work with us to provide seamless and good value services that meet clients' needs. We expect to establish a clear commissioner / supplier business relationship.
- 5.23 Quality will remain at the heart of the system. However; we want to move towards a more flexible approach to the Quality Mark, especially at the specialist level. Our aim is that where service providers demonstrate our preferred level of performance through peer review and outcomes for clients then we will no longer monitor proxies for quality. Service providers can demonstrate compliance with management standards through their own internal audit procedures (which we would periodically monitor) or other acceptable accreditations such as Lexcel, ISO or IIP.
- 5.24 Where an umbrella organisation has a credible system for auditing the Quality Mark, and for peer review, we will accept those systems subject to overall monitoring.
- 5.25 Since we aim to ensure clients receive high quality legal and advice services, we must undertake suitable audit and measurement of those services. However, such audit and measurement takes place after the event. It is vital that there is an equivalent or greater focus on the advice delivered being right first time. Advisers who are well trained, competent and motivated will deliver high quality services.
- 5.26 We will continue to move towards solicitor contracts at the Controlled Work level that are based on block or fixed payments rather than hourly rates and which reduce the need for contract compliance auditing.
- 5.27 Building on this, we will issue proposals to harmonise not for profit and solicitor contracts, at least at the Controlled Work level, in April 2007. The emphasis will be on the service to be purchased for clients rather than the nature of the provider, or indeed whether the services are funded by the LSC, local authorities or others as part of the CLS.
- 5.28 We will seek to develop our existing supplier base to continue to deliver best practice within legal aid funding and to join up better with other CLS funding streams. This will involve a specification of the services to be delivered to clients such as minimum standards of access, quality and outcomes. Some CLS suppliers are already providing services that are close to this specification but too many are not. We will seek new ways of developing existing services in order to identify a range of service models that meet the legal and advice needs of clients better. These initiatives will not be centrally micro-managed; instead they will provide a national framework which allows for the development of local services that best meet local need - from the concentration of poverty in some urban areas to the challenges of service delivery across dispersed populations in rural areas.

Questions

Q.5. Do you support the proposal to establish a national stakeholders group? Do you have any comments on the initial remit and proposed membership as outlined in paragraphs 5.3 and 5.4?

Q.6. Do you agree that the planning function of CLSPs should be undertaken by a different body? Do you agree the appropriate body should be agreed between the LSC and local authorities? (see paragraph 5.6)

6. Funding the Community Legal Service

- 6.1 The LSC's current projection of its RAB expenditure on civil legal and advice services in 2005/06 is £813 million (up from £731 million in 2004/05). This includes £528 million on legal representation in court proceedings (up from £449 million in 2004/05); £187 million on initial advice, including representation before Mental Health Review Tribunals (up from £179 million in 2004/05); and £98 million on immigration and asylum (down from £103 million in 2004/05).
- 6.2 As we have said, LSC-funded services are only part of the picture. Other funders make a significant investment in legal and advice services. Local authorities, for example, contribute large amounts of funding to services that provide legal advice in social welfare areas of law.
- 6.3 However, given the pressures on the overall legal aid budget, we need to take specific action to ensure appropriate resources are available to deliver this strategy. In particular, we will need to:
- continue to seek better value for money in all areas of LSC expenditure (both CLS and CDS), and work with others in the civil and criminal justice systems to maximise our ability to deliver vital frontline services to clients;
 - seek new long-term commitments to contributing funds to the CLS, from a wider range of funders;
 - ensure that increases in CDS and CLS costs arising from planned changes in government policy or legislation (for example the draft Mental Health Bill) are both acknowledged and funded accordingly;
 - work with other funders to maximise the effective use of available resources, for example by pooling budgets with local authorities; and
 - continue to focus our funding on the highest priority clients, through scope and financial eligibility criteria.
- 6.4 The CLS has already had some success in securing additional resources. We acknowledge that we need to do more, and, working with the Department for Constitutional Affairs, we are beginning to make progress.
- 6.5 The Department has been awarded an additional £6m over three years by HM Treasury to deliver outreach money advice, and has asked the Legal Services Commission to manage this project. We are developing an approach that will complement this strategy, working in Neighbourhood Renewal areas and targeting particular client groups.
- 6.6 Nevertheless, the CLS has to compete for resources with other core public services, and there will clearly be real limits on what we can fund. There will always be gaps, since:
- not every local area will have legal and advice services in every category of law;
 - we believe that it is reasonable to expect clients wanting face-to-face advice to travel to an appropriate provider, just as they would for healthcare and other professional services; and
 - we acknowledge that some clients may have to wait for non-urgent services, although an expanded telephone service (see paragraphs 7.12-7.17 below) will play an important role in widening access, providing better value casework services for many clients, and thus allowing resources to be redirected towards our greatest priorities.

It is for these reasons that the vision for services we outline below is based on an accessible national telephone service, a concentration of face-to-face services in the most deprived areas, and a regional network of legal advisers across the rest of England and Wales, supported by the existing networks of general advice agencies.

- 6.7 We must balance the need to target resources on the most vulnerable in society with our aim of serving the wider community. We will have to make some hard decisions about how we should prioritise expenditure in order to deliver this strategy. This could result in reducing some current services and not renewing funding for some existing projects. When taking these decisions, we must be sure that we are improving services for clients overall.
- 6.8 We also expect that a major expansion of telephone services will allow us to gradually refocus resources for face-to-face services on both priority neighbourhoods and regional services. We also recognise that access to telephone services may result in increased demand for face-to-face services and legal representation amongst some client groups.

Questions

Q.7. Paragraph 6.3 outlines steps to ensure that appropriate resourcing is available for the CLS. Are there other steps that the Commission should take?

7. Priority work areas for the Community Legal Service

7.1 We have identified three priority areas for our work in developing the CLS. These are:

- **individual acts of advice, assistance and representation;**
- **strategic action to address the need for advice; and**
- **information about legal rights.**

7.2 These are interdependent, and together aim to meet the needs of clients effectively and empower them to use the legal system to achieve positive change in their lives. While we will continue to focus the vast majority of our resources on legal advice and assistance, we will also support work in the other two areas, wherever this is both appropriate and cost-effective. We must ensure that our activity complements that of other public services which share our client focus, and will work closely with government departments, in particular the Department for Constitutional Affairs. By engaging effectively with the Department's Education, Information and Advice Strategy, which has a vital role in enabling strategic action and providing legal information, we intend to support these areas of work while focusing primarily on developing the CLS to deliver legal advice and assistance to individuals.

7.3 We will also continue to draw on research, such as the Legal Services Research Centre's National Survey of Justiciable Problems, to inform our understanding of clients' needs and advice-seeking behaviour.

Individual acts of advice and assistance

7.4 We know, from research such as the Legal Services Research Centre's National Survey of Justiciable Problems, that:

- there are likely to be over a million unsolved legal problems each year;
- if a client has one legal problem, they are likely to have another; if they have eight legal problems, it is almost inevitable that they will have nine;
- only half of those with a problem seek legal advice, and of those that do, one in seven fail to get it;
- many people that take action to resolve their problem(s) regret their handling of it; and
- the more times a client is referred, the less likely they are to ultimately receive help.

7.5 Our challenge is to provide access to legal and advice services that change these startling statistics.

7.6 We believe that early advice is vital to prevent people's problems escalating, becoming more numerous and complex, and thus increasing the risk of social exclusion. If we cannot prevent problems arising in the first place, we want to help solve them as quickly as possible - and make going to court a last resort.

7.7 Of course, we are not the only funders of the Community Legal Service, particularly in social welfare matters, and we will need to work with the many others (local authorities, Primary Care Trusts, and government departments) to ensure that legal and advice services are joined up. While services funded by other partners in the CLS often focus on advice and casework, some also represent clients, notably at tribunals outside the scope of legal aid. Trade Unions, insurance companies and private client work at law firms also provide very valuable sources of legal and advice services.

- 7.8 We are committed to ensuring that the law is used appropriately and proportionately. Alternative Dispute Resolution (ADR), which includes mediation, has an important role to play in an effective Community Legal Service. The Commission's Funding Code encourages ADR before granting legal aid for litigation; an approach we re-emphasised in our recent consultation, 'A New Focus for Civil Legal Aid'. Mediation services are already well-developed in family law, and we fund these directly. However, we want to do more to encourage the use of ADR in non-family cases; this is one of the areas we will address.
- 7.9 We recognise that our funding of legal representation in contested civil proceedings will continue to be a significant aspect of the CLS. This type of legal representation is often necessary to ensure that people have access to a fair hearing, as required by Article 6 of the European Convention of Human Rights (ECHR).
- 7.10 Within this framework (that of early advice, alternatives to litigation, and legal representation where appropriate) we propose to make services accessible to clients by:
- expanding telephone advice services, as a means of widening access to legal and advice services, and achieving greater value for money;
 - piloting Community Legal and Advice Centres where there is the greatest need for joined-up legal and advice services in social welfare law;
 - piloting Community Legal and Advice Networks in a number of other areas to ensure that a seamless service is delivered across wider areas and those with more disparate populations;
 - organising specialist categories of law around the kinds of problems clients most commonly experience; and
 - ensuring access to legal and advice services on issues of fundamental rights.
- 7.11 In developing and delivering a strategy for the CLS, we intend to establish standards and targets for access to legal and advice services that we fund and to work with other funders to agree a common approach to access to CLS services. These targets will be benchmarked against other public services. Targets may be set to cover:
- the proximity of all the population to legal and advice services;
 - the proximity of the eligible population to social welfare law services;
 - the availability of initial telephone or internet advice and information; and,
 - the proximity of eligible clients to non social welfare law services.

Telephone services

- 7.12 In order to ensure that citizens can access high quality legal information and advice, regardless of their means or location, we are planning to further develop the national telephone service, broadly based on the service available from Community Legal Service Direct. We already know from our experience of Community Legal Service Direct, and also from other service delivery environments, of the potential for telephone services to significantly improve access. Many people prefer to access services over the telephone, as was learned from the Commission's Methods of Delivery pilots.
- 7.13 The national telephone service is the key to enabling the CLS to increase the accessibility of legal information and advice services. Within the available resources we do not believe we can expand face-to-face services to provide the breadth and depth of legal and advice services that a telephone service could offer.

- 7.14 We will scope the development of a telephone service that offers basic information on legal rights and responsibilities, self-help packs for those able to take action themselves, advice, support and casework where appropriate. It would seek to deliver a general service across social welfare law and family law and also offer information and advice in other areas of law.
- 7.15 Our aim will be for a basic level service to be available to everyone, regardless of their means. The overall service will help to provide coverage in geographical areas where there are gaps in provision. The casework service will focus on people who are eligible for legal aid and prefer a telephone service.
- 7.16 Where appropriate (such as when a client needs assistance with representation or litigation) it will link directly into face-to-face services by making appointments with providers and passing on relevant information. This will ensure that clients receive a seamless service and are not lost as a result of inadequate referral processes.
- 7.17 As we know from many areas of service delivery it is clients that determine if a service is successful, but we confidently expect this service to be expanded rapidly over the next five years as clients choose this as the preferred access channel. We expect that its growth will allow us to better focus face-to-face services in a sustainable manner.

Face-to-face services

- 7.18 Not surprisingly, the greatest need for face-to-face services is in the most deprived areas where poverty and exclusion are concentrated. These communities face a range of interrelated problems, such as lack of work and low wage work, reliance on benefits, spiralling debt and long-term health and disability problems. Issues of fundamental rights (such as actions against public authorities, asylum and mental health) also attach to this pattern of social welfare problems. Legal and advice services must be able to meet needs across both 'rights' and social welfare issues.
- 7.19 We know from the LSRC's National Survey of Justiciable Problems that factors often associated with social exclusion, such as disability or long-term health problems, poor housing or homelessness, or receipt of benefits are good indicators that a person may also be experiencing associated legal problems (Causes of Action, pp. 21-31). The Survey also shows an additive effect: '[e]ach time a person experiences a problem they become increasingly likely to experience additional problems' (Causes of Action, p.31). Equally significant is that people suffering from long-term health problems or disability, living in high-density housing or private rented housing, in receipt of benefits, or lone parents are more likely to report multiple problems than others (Causes of Action, p.32).
- 7.20 For the people who live in the most deprived areas where these factors are concentrated, accessible legal and advice services are vital to ensure that they receive the benefits to which they are entitled. They need legal and advice services which are located in the heart of their communities and, wherever possible, offer help in all areas of social welfare law in a seamless manner, capable of addressing the clustering of problems that clients often face. There are some examples of services trying to meet need in this way but, overall, services do not address the challenges we set out above.
- 7.21 The expansion of telephone services will allow us to develop face-to-face services with a better focus on meeting the particular needs of the poorest and most disadvantaged communities. The efficiencies that come from an accessible telephone service mean that over time resources can be diverted to ensuring that those who most need face-to-face services have good access. This means that over time we will expect to have the greatest concentration of face-to-face services in areas such as Neighbourhood Renewal Areas (the 88 poorest local authorities in England and the equivalent areas in Wales) and a more regionalised approach to face-to-face services outside of these areas. It is unrealistic to expect every town to have a wide range of legal aid practitioners in every area of law.

Community Legal and Advice Centres

- 7.22 We propose to pilot a small number of Centres providing jointly-funded, face-to-face legal and advice services in social welfare law delivered under a level of service specification that is more focused on outputs and outcomes than either existing LSC contracts or many local authority funding agreements. These services are likely to be based in major urban centres, perhaps with satellite offices in the most deprived communities, or outreach services in GP surgeries and community organisations. They will deliver a seamless service, from basic advice and assistance to specialist representation in the highest courts. In order to deal with clients' problems seamlessly, the Centres will cover a broad range of categories of law, offering as a minimum, services in a range of social welfare categories, particularly Debt, Housing, Welfare Benefits, Community Care and Employment. They will have effective links with suppliers in other specialist areas of law and over time may develop further to provide some of these services themselves.
- 7.23 In developing this model we will draw on existing best practice from, for example, well-run, client-focused and efficient private firms, Law Centres, not for profit agencies, and successful Partnership Initiative Budget projects but with a guarantee of service delivery that is not contained within any existing services that we fund. There is no expectation that these Centres should be run by any one sector – not for profit, private or commercial – but we will expect services to be firmly focused on the needs of clients, delivering to the specification agreed, regardless of the agency or agencies running them. A Community Legal and Advice Centre will be a single legal entity – but it could be run by one supplier or by a range of providers who come together to bid as a consortium. We expect to pilot different approaches to this model. In choosing where to site the pilots, we will seek to identify key funding partners and other stakeholders that want to develop these ideas with us.
- 7.24 We do not intend to replicate existing provision where this is serving communities well. However, we must be confident that services deliver good outcomes for all clients, and are not structured around individual organisational needs. We need to ensure that the services do not 'cherry pick' clients according to whether their cases seem particularly interesting or remunerative. They must also prioritise effectively, rather than rationing through queuing or only being open very limited hours. Current LSC contracts *either* do not specify any minimum volume of work, *or* do not specify any minimum number of clients to be helped.
- 7.25 We will seek to develop these Centres through long-term relationships with providers, to support services of guaranteed quality and accessibility. We will provide a clear specification of the services and outcomes to be delivered, and local providers will be able to bid, either individually or jointly, to provide them. While the broad specification will be set nationally, based on the best research and evidence available, it will allow for flexibility and local variation. The location of services (satellite offices; outreach locations such as GP surgeries), the balance between different categories of law, and the response to specific local issues (such as the need for a service in a particular language) will all be driven by local factors. We do not expect that the people delivering these services would be directly employed by the LSC, although we may pilot such a model.
- 7.26 Funding for the Centres could be related to achieving specific outcomes for clients. Key activities could include:
- Targeting groups that do not access current services, for example through outreach in community centres, focusing on helping people who have a particular need for, and difficulty in, accessing services because of their personal circumstances (such as people with mental health problems or prisoners), and addressing the patterns of problems they face.

- Helping to tackle institutional causes of problems through dialogue, negotiation, and, where this fails, litigation. The type of organisations causing these problems could include utility companies, banks, landlords or government agencies / departments. The Centres will identify these issues using their local knowledge, and may target particular client groups through marketing, and bring test cases.
- Helping to make clients aware of their rights, and providing information and self-help packs. These will usually be commissioned nationally, but may be tailored for local needs.

7.27 The Centres could also develop effective links with suppliers of family legal services building on our existing approach to family services. This would enable an early assessment of all of a client's needs. Clients will be able to access these new services either through the Centres or directly from the existing local network of family law solicitors.

7.28 The Centres would also work closely with the Criminal Defence Service, so that clients subject to the criminal justice system, such as those in or being released from prison, have access to services that meet their civil legal advice needs, for example via videolink or through outreach.

Community Legal and Advice Networks

7.29 Although we are proposing to pilot only a small number of Centres, we want to apply the same joined-up approach to other geographical areas..

7.30 We therefore intend to pilot Community Legal and Advice Networks, consisting of a group or consortium of quality-assured providers that have signed up to a common specification of services. We propose that each network would adopt the same model, and work together to provide a seamless and integrated service across a broad range of categories of law, including social welfare categories. Like the Centres, they may also tackle institutional causes of problems. We will locate at least one of these pilots in a semi-urban or rural area. We will also consider whether such a network would be practicable on a regional basis to ensure that clients have access to a wide range of services.

7.31 The networks could be run through a lead supplier, who would then contract with other suppliers. The main interface with the LSC would therefore be through that lead supplier, which would reduce transaction costs on all sides and would allow the delegation of some LSC functions to the lead supplier as the Preferred Supplier model develops.

7.32 In developing the Centres and networks we will build on the experiences of those services that already adopt a joined-up approach to delivering legal and advice services. Examples include housing possession schemes, projects funded through the Partnership Initiative Budget, and the LSC's duty solicitor schemes for accelerated asylum procedures.

Access to specialist advice on social welfare law

7.33 A truly comprehensive social welfare law service should be available to meet all the needs of clients in areas such as welfare benefits, debt, housing, education, employment, community care and mental health, wherever they live. Outside the pilot areas for Community Legal and Advice Centres and Community Legal and Advice Networks, the current supplier base of law firms and advice agencies will be developed to build upon best practice in social welfare law. This will include an increasing presumption in favour of providers that deliver services in *several* areas of social welfare law (rather than paying for services from numerous providers that offer perhaps only one or two). There will also be an increasing presumption in favour of providers that are able to deliver services across wider geographical areas.

7.34 We will therefore explore ways in which we can make it easier for good providers to offer a broader range of services. Agencies that specialise in Mental Health legal services, for example, may provide access to social welfare advice. We outline below the steps we will take to ensure that legal and advice services are better organised to meet the clients' needs (see Appendix One).

Access to other specialist advice

7.35 We recognise that in areas of law such as clinical and medical negligence, mental health, asylum, actions against the police (and perhaps also in some social welfare categories such as education and community care), a regional approach may be required. We will seek to commission providers that can deliver services across wider geographical areas, working with Centres, Networks and other LSC suppliers to meet local needs.

7.36 Our approach will be to build upon the recently published 'New Focus for Civil Legal Aid'.

Strategic action to address the need for advice

7.37 Individual acts of advice and assistance are the main way in which we can achieve solutions to clients' legal problems and address the poverty, discrimination and disadvantage that many people face; they will therefore always remain the core work of the CLS. It is difficult to overestimate the effect of saving a family home from repossession, or obtaining asylum for someone fleeing torture.

7.38 However, legal and advice service providers witness the same kinds of problems time and again, when public services have failed to meet their statutory duties or when commercial companies have misled or exploited their customers. With a unique viewpoint on the pattern of problems that people face, and the possibilities the legal system provides for resolving them, the Community Legal Service can contribute to a dialogue between consumers and service providers. This offers a strategic and cost-effective approach to improving services (and thus preventing justiciable problems). Revealing failures in public services and demonstrating unlawful conduct has the potential to encourage providers of such services to fulfil their obligations.

7.39 The CLS must play a role in addressing these matters at a strategic level as well as ensuring individuals get the help they need. In addressing the main drivers of the problems that people face, the CLS will be able to achieve a greater impact and bring about wide-reaching change which will benefit many.

7.40 A key issue for us in developing these approaches will be to identify which part of the CLS should take the lead; for example we will consider whether this work is best taken forward by the LSC, cross-funder groups, or legal and advice service providers.

Building relationships with public services

7.41 There has been significant investment in public services over recent years. Central and local government have together developed shared priorities for improving public services, and there is a commitment to continuous improvement within the sector. However to ensure that services improve for the most deprived and not just the average user requires a special focus. The CLS shares clients with these other services and often has complementary objectives. By working together with service providers we can provide them with feedback regarding our clients' problems, especially where they themselves cannot give this.

7.42 "Although some groups of people are consistently being helped less than others, some individuals appear more difficult for public services to help because of the specificity and severity of their multiple disadvantages. If policy continues to improve things for those easier to help, there is a danger that we will reduce the overall risk of social exclusion but that the groups most in need may

be relatively further behind. This suggests that we may need to re-focus effort and targets on those at the lowest end of the distribution of income, skill and health resources. This challenge will be about policy design but also, crucially, about service delivery." (Breaking The Cycle, Social Exclusion Unit (2004), p.111).

- 7.43 The CLS can give a voice to excluded people who are dealing with problems which result directly from the weaknesses of some public services. This approach is increasingly recognised in the work of the Office of Deputy Prime Minister (and its Social Exclusion and Neighbourhood Renewal Units), the Home Office and Department for Work and Pensions, other government departments and local authorities that are identifying the role of citizens and communities in improving public services. In particular the ODPM's 'local:vision' work is of direct relevance, but the role of the CLS in this work needs to be more clearly established.
- 7.44 Through the CLS, we will seek to promote strategic solutions to problems that both service users and service providers are facing. Working together to identify both the problems and the potential solutions, by resolving problems at a strategic level, offers improved services and better value for money.
- 7.45 There are already many ways in which groups can and do use the law to achieve their shared objectives. These could be, for example, tenants on a housing estate working together as a group to compel a landlord to carry out repairs. The CLS could learn from these initiatives and facilitate group responses to collective problems.
- 7.46 We will only achieve these aims by building strategic links with service providers, both nationally and locally. We will work with the Department for Constitutional Affairs, in particular with its Education, Information & Advice Strategy, to deliver this.
- 7.47 Our focus will be on three main areas of activity:
- Raising awareness of the types of problem which can be helped by people working together in a group, through publications and engaging with government and local communities. Our intention is to reduce the need for recurring individual acts of advice and assistance and thus to have a greater impact for clients with the resources that we have available.
 - Negotiation: engaging with service providers at a senior level in a constructive and positive manner to highlight problems and suggest solutions.
 - Funding litigation where other approaches fail. This will include identifying and bringing test cases, and sometimes funding actions by groups of clients.

Information about legal rights and responsibilities

- 7.48 A rights-based culture - in which people have a good awareness of their rights and how to exercise them – helps citizens to play an active role in a just society. The LSRC's National Survey of Justiciable Problems highlights that clients who are able to deal with problems they face without the need to seek advice and further help feel empowered. This links directly with the wider government agenda of building trust in public services and developing citizenship.

- 7.49 The LSC has a statutory duty to promote legal information which enables people to know and exercise their rights; the CLS will work to ensure that people understand their relationship with the state and public services, and the framework of expectations and obligations on both sides which underpin it. We do not seek to encourage unnecessary litigation; we want people to understand how they should use the law and when it is not appropriate to do so. However, research shows that information is available but access and delivery are haphazard because of a lack of standards and consistency. The complexity of the information and advice sector and the diverse problems facing consumers, coupled with the number of sources of information, can make consumers feel unable to find the information they need.
- 7.50 There is a long tradition of legal and advice services providing information, and we do not seek to increase the amount of information provided. Rather, we seek to promote trusted sources and thus help clients navigate through the information and advice that is available. This work will be delivered primarily by working with others, particularly the Department for Constitutional Affairs and its Education, Information and Advice Strategy.
- 7.51 We will work with the Department for Constitutional Affairs to directly influence services providers, so that they provide the right information and advice about their services and deal effectively with complaints and disputes. This should lead in turn to a lower demand for some types of independent advice.
- 7.52 Our website, www.clsdirect.org.uk, has already made progress in helping people find reliable and trusted information from a wide range of sources. The Department for Constitutional Affairs' five-year strategy has a clear focus on vulnerable consumers and we will work with the Department to identify the different needs of young people, older people, BME groups, those with mental health problems and others. We aim to ensure that, wherever appropriate, people are empowered to deal with the problems they face without the need for advice or litigation.

Questions

- Q.8.** Do you agree with the three priority work areas for the CLS as outlined in paragraph 7.1? If not, what should the priority work areas be?
- Q.9.** Do you agree with our proposal to expand our telephone service? Is it right to make a basic level of service (such as information on legal rights and self-help packs) available to everyone regardless of means? (see paragraphs 7.12 - 7.17).
- Q.10.** Do you agree that over time we should develop the greatest concentration of face-to-face services in the most deprived communities? (see paragraphs 7.18 - 7.21).
- Q.11.** Do you agree with the proposals to pilot Community Legal and Advice Centres and Community Legal and Advice Networks, as outlined in paragraphs 7.22 - 7.32? Do you agree with their proposed remits and the broad descriptions of the services they will provide?
- Q.12.** Do you agree that there should be an increasing presumption in favour of services that work across several areas of social welfare law? (see paragraphs 7.33 and 7.34)
- Q.13.** Do you agree that the CLS should put more resources into taking strategic action? What other approaches could be taken beyond those outlined in paragraphs 7.37 - 7.47?
- Q.14.** What other ways can the Legal Services Commission promote information about legal rights and responsibilities? (see paragraphs 7.48 - 7.52)

8. A unified approach to legal aid services

8.1 In developing our strategy to deliver a more seamless legal service across the Community Legal Service, we will continue to make the policy and delivery links between the social welfare law areas of the CLS addressed above, Children and Family Services within the CLS and the Criminal Defence Service (CDS). Family law services are a core part of the CLS and form, in monetary terms, the greatest part of LSC-funded civil services. Given this, it warrants its own strategy paper and we will be publishing a separate strategy paper on this subject later in 2005. Similarly, while the CDS is distinct from the CLS, we must continue to recognise the links and interactions between the services. Although the strategy papers for these services will be published separately, the three will link together to form a comprehensive approach.

Children and Family Services

8.2 The Family justice system is currently undergoing radical reform. As the largest single purchaser of legal services in both private and public law family cases, the LSC has an important role to play in that reform process not only from the perspective of a service funder but also from the perspective of consumer need and improved outcomes, especially for children. This involves working with government departments who provide early education and post-proceedings services for these consumers.

8.3 The link between family law legal information, advice and representation and social welfare law is vitally important. Evidence shows that family breakdown problems are proportionally more likely to give rise to other justiciable problems (see for example, *Causes of Action* and '*One Parent Families' Lone Parent Research 2004*).

8.4 A key issue therefore is how we deliver social welfare law information, advice and representation services to clients who have primarily family problems. We have already begun to develop and research an approach to this through our Family Advice and Information Service (FAInS) initiative. As well as focusing on best practice in family law advice provision, FAInS seeks to place our directly-funded family law advice services within a network of other advice provision, including social welfare law providers, while also exploring mechanisms to address family issues outside of court proceedings.

8.5 We will be working with partners within central government, in particular the Department for Constitutional Affairs and the Department for Education and Skills to build on our existing work, including FAInS, to ensure that CLS family services develop in an integrated and more efficient way. In particular we believe that the current, adversarial, often court-based, process for resolving public law children cases must be reformed.

8.6 The future development of Family legal and advice services will seek to compliment effectively other legal and advice services including, as and where they are developed, Community Legal and Advice Centres and Community Legal and Advice Networks.

8.7 As we take this work forward, it is important to remember that many solicitors and advice agencies provide assistance on both social welfare and family law. Almost 70% of those solicitors' offices with legal aid contracts in family also have contracts in at least one social welfare category (although this has declined from 96% in 2001). There could be a risk that in moving towards more integrated services within social welfare law and family law respectively, we exacerbate one of the problems that we are trying to resolve; namely, the needs which clients undergoing family and relationship breakdown have for legal advice on social welfare issues. We are determined to manage this risk in a way to ensure effectively joined up services which meet client needs.

8.8 In order to make sure that family and social welfare services are joined up, the following options will be explored:

- Creating close connections between Community Legal Advice Centres and family suppliers; for example, Centre staff could provide outreach services at the family supplier's office or vice versa.
- Piloting the provision of family advice directly by Community Legal Advice Centres as part of the pattern of family supply in the area. This could involve joining up a Community Legal Advice Centre with a broadly based Family Centre.
- Engaging family suppliers as part of the pilot Community Legal Advice Networks.
- Encouraging the spread of social welfare law expertise among family suppliers by the use of new, more flexible, social welfare categories and ensuring that the quality of advice to clients is maintained.
- Continuing to build and develop the FAInS model to ensure the effective diagnosis and referral of wider problems.

The Criminal Defence Service (CDS)

8.9 The purpose of the Criminal Defence Service (CDS) is to ensure that individuals under investigation for, or charged with, a criminal offence have access to the appropriate legal advice, assistance and representation, as the interests of justice require.

8.10 There is a clear link between crime and relative social disadvantage, although it is not the only driver of crime. Some of the impact of social disadvantage is demonstrated in the prison population when compared with the general population. The Social Exclusion Unit has found that compared with the general population, prisoners are thirteen times more likely to have been in care as a child, thirteen times more likely to have been unemployed and thirty five times more likely to have been homeless (*'Reducing re-offending by ex prisoners'* July 2002).

8.11 There is a large overlap between CDS suppliers, and social welfare and family law suppliers (60% of CDS suppliers also have a CLS contract). Therefore, we will continue to work to ensure that the appropriate links are made between the CDS and CLS to ensure that clients have access to the range of legal help they need to address their problems.

Questions

Q.15. Have we identified the key issues in developing the appropriate links between the social welfare areas of the CLS, Children and Family services and the Criminal Defence Service? (see paragraphs 8.1 - 8.11) What other steps could be taken to facilitate these links?

Appendices

Appendix One: Next Steps – Community Legal Service policy papers

1. Timetable

This is a draft strategy. We will publish a finalised five-year strategy in the Winter of 2005/06. We will also publish a series of policy papers during 2005 and beyond, setting out in more detail our plans for taking different elements of our strategy forward. These papers will contain more detailed timetables but we expect to start piloting some elements of the work programme in 2005/06 with a view to an evolutionary move towards fulfilling this strategic vision over the subsequent four years.

A list of the key policy papers is set out below together with an outline of the issues that will be covered. This list will be added to as the strategy continues to develop. The second and third of our core work areas; that is, strategic action and information about rights, will not be the subject of separate policy papers. These areas will be progressed as part of our on-going work programme.

We will consult separately on our strategy for children and family legal and advice services.

2. Community Legal Service Direct Telephone Service

We will continue the expansion of the Community Legal Service Direct telephone service. It will provide:

- advice in social welfare categories;
- some advice to all, regardless of means;
- casework for people who are eligible for legal aid; and
- effective referral via appointments with named advisers.

It will also help to fill gaps in areas where the availability of face-to-face advice is limited.

3. Commissioning strategy

We will set out principles of how we intend to take forward work with our suppliers, including proposals to align the end of the not for profit contracts with the end of the current solicitor contracts. We will be redesigning and harmonising not for profit and solicitor contracts to run from 2007, and will also be considering the most appropriate method for the letting of those contracts.

In 2004 we piloted new arrangements for working with Preferred Suppliers and the outcome of this pilot is currently being evaluated.

4. Community Legal and Advice Centres

We will detail our plans to pilot a small number of Community Legal and Advice Centres. These will operate from one central site, and may have satellite offices. The Centres will be situated in areas where there is high social deprivation, and are likely to be in neighbourhood renewal areas. Based on minimum service specifications, providers of legal and advice services will be able to bid to deliver services, either alone or in consortia.

We envisage that these Centres will:

- combine funding from the LSC, local authorities and other key players;
- provide a full range of services, from basic legal advice to representation at court (including for complex litigation matters);

- as a minimum, offering services in Debt, Housing, Welfare Benefits, Community Care and Employment;
- test the feasibility of including other areas, such as Family or Mental Health law;
- provide targeted outreach in locations that are already familiar to consumers;
- seek to serve the whole community within the resources available and balance the need to ensure a quality service with the aim of increasing the number of people helped;
- pilot some services such as welfare benefits or homelessness advice on an entirely non-means tested basis;
- help tackle the institutional causes of problems through negotiation and dialogue with (and where this fails, litigation against) other organisations that are causing some of the problems for clients; and
- provide legal information to local communities.

4. Community Legal and Advice Networks

We recognise that in some places it may not be appropriate or possible to develop a single service. There are already some very effective networks of legal and advice providers, but in many places links between general and specialist suppliers, and between different specialist suppliers, are not delivering seamless services.

We will therefore pilot Community Legal and Advice Networks. These will differ from CLSPs and will comprise a small number of local providers, possibly working as a consortium, jointly contracted to deliver services similar to those provided by the Community Legal and Advice Centres. We will work with other funders and stakeholders to determine how best to develop and to deliver a client-focused service.

5. Community Legal Service Partnerships and local governance of the CLS

We will issue a policy paper containing options for local governance and involvement in the CLS. We expect to propose that any changes occur in an evolutionary fashion, building on the progress made by CLSPs and learning from other successful local partnerships.

We will aim to ensure that local governance arrangements do not stand alone, but fit into the area's existing decision-making framework. One option for future governance could be a local strategic board operating as a sub-group of the Local Strategic Partnership.

6. Extending the evidence base for the Community Legal Service

This paper will cover the range of ways in which the Commission is working with others to improve our knowledge of the Community Legal Service and the impact of legal advice on clients.

We will look at ways of improving and making more robust the current process of assessing need for legal advice. We will also consider how the LSC could support the assessment of need at a local level through centrally-provided data and research. The aim is to create a better flow of information to assist in local needs assessment and in the design of local services to meet these needs.

We will also look at different ways of ensuring that hard-to-reach groups can access the advice they need, learning both from the range of existing innovative projects, and client representative groups. We will build on the work of the Department for Constitutional Affairs on the needs of vulnerable groups.

7. Quality of Advice and Outcomes

All providers that wish to be recognised as members of the CLS are required to achieve the Quality Mark standard, and providers wishing to deliver services funded through legal aid services need to attain the award at Specialist level. While all types of Quality Mark include proxy requirements for the quality of advice and competence of advisers, these proxies, by their very nature, do not directly measure the quality of advice. During 2005/2006 we will develop and consult on several new processes that will more accurately measure the quality of advice and also assess the outcomes that advisers achieve for their clients. This will be a significant advance in ensuring both clients and funders receive value for money services. These developments include:

- Peer review – an independent assessment, by a suitably qualified practitioner, of legal and advice work. This process is generally recognised as an effective tool for assessment.
- Quality Profiles – a risk assessment methodology that utilises a broad range of existing data on supplier performance and includes case outcomes (a description of the conclusion of a legal case).
- File Assessment – an analysis of the quality of advice, designed to identify areas for improvement.

These processes will underpin the contracting strategy and the identification of high-performing suppliers.

8. Tribunal Services

This paper will explain our approach to the challenges and opportunities raised by the unification of Tribunal Services under the Department for Constitutional Affairs, following the Tribunals White Paper.

The aim of our proposals will be to improve advice, information and assistance for people appealing against decisions of tribunals and those considering going to tribunal, in order to achieve the best outcome at the earliest stage.

We will:

- develop proposals to improve advice and information for people without representation who are appealing decisions;
- raise awareness of services available through Community Legal Service Direct to those considering appeal; and
- work to ensure that where representation is funded by legal aid or other sources it is quality-assured and appropriate.

9. Alternative Dispute Resolution

We will work with the Department for Constitutional Affairs to develop the role of Alternative Dispute Resolution (ADR) within the CLS, as part of their five-year strategy. This will include looking at ways of encouraging mediation in non-family housing cases. We will also examine ways of developing the use of ADR in the context of tribunals.

10. Social Welfare Specialist Quality Mark Categories

We will consult on reforming the Specialist Quality Mark categories in order to increase access to integrated social welfare law services, improve how we deal with problem clusters, and reduce the need for referral.

Options may include:

- a single Money Advice category, combining Debt and Welfare Benefits;
- a single Social Welfare category, combining elements of Money Advice, Housing, Employment and Community Care; and
- a combined Money Advice and Housing category.

We would expect the new categories to be available alongside the existing categories. Providers that already cover existing social welfare categories would not be expected to replace them, although we would encourage all suppliers to recognise new developments in best practice in order to better meet clients' needs.

There will be real advantages for clients if providers broaden their knowledge beyond current specialisms to provide a more integrated service. This will mean, for example, that when a client with a debt problem visits an adviser, they will be able to resolve the client's welfare benefit issues and other related matters. Advisers will still be specialists and we will use tools such as peer review to check that quality is being maintained.

11. Actions Against the Police etc.

As a category of law, these cases have particular constitutional importance. Access to the courts is vital to deter unlawful conduct by agencies of the state. However, as highlighted in the LSC's 'New Focus' consultation, we recognise the need improve the success rate of the claims we fund.

We will issue a paper with proposals for:

- restricting funding to a specialist panel of solicitors' firms chosen primarily on the basis of their successful track record; and
- improving how the LSC handles these cases by creating a limited number of centres of excellence to deal with all applications of this type.

Improving police complaints procedures mean that we will keep under review the need for legal assistance in this category.

12. Clinical Negligence

The future funding of clinical negligence claims is highly dependent upon reforms. Two NHS complaints redress schemes are awaited:

- a fast-track scheme for low-value clinical negligence claims; and
- a no-fault scheme for severely neurologically-impaired babies.

We will operate a strong presumption that funding for court litigation should not normally be granted until available redress schemes have been pursued. We will keep open the question of whether some form of legal support, funded through legal aid, would be necessary to support cases under a redress scheme.

As with police claims, we need to review the role of Legal Help in clinical negligence cases in the light of other services available, including the Independent Complaints Advisory Service.

Clinical negligence funding is already restricted to specialist panel firms. We would in principle be interested in reducing the size of the Clinical Negligence panel based on the outcomes produced by existing panel firms.

13. Immigration and asylum

We have introduced major reforms in this area in recent years; through accreditation, new controls for casework, competitive bidding for contracts, and duty schemes in detention facilities. As the impact of these reforms is felt, we can be increasingly confident that we are dealing with a provider base that is committed to providing quality services. We will therefore publish a further policy paper this year which builds on that base. This area will remain under scrutiny, and features as a key priority for the Department for Constitutional Affairs in its five-year strategy.

Although suppliers require expertise in both areas, there is a significant difference between asylum and non-asylum in the proportion of applications where LSC funding is provided to clients. In order to satisfy Immigration Rules, clients with a non-asylum matter are unlikely to be eligible for LSC funding, and less than 10% of such applicants receive it. The LSC funds some level of legal advice in around 90% of initial asylum applications, although that figure drops substantially at appeal, since funding is restricted to cases with merit. For this reason, we have concentrated principally on asylum, although immigration advice must be part of a package of social welfare issues, which should also be joined up with other services.

The Commission will ensure there is appropriate access to legal and advice services in asylum law for all clients that require it, and that services are tailored to their needs (taking into account the process their particular application will go through). The Commission will publish a policy paper that addresses the following issues:

- Clients held at a police station for an immigration-related matter may need a different service from those held for criminal matters.
- Clients who are being detained while their asylum application is being considered need a service that reflects both this, and the speed of the asylum process.
- Clients need sufficient provision in appropriate locations to ensure that they may have legal advice either when applying for asylum, or before they have their Home Office interview.
- Clients need sufficient suppliers in locations where they have been dispersed and / or near Immigration Appellate Authority hearing centres to ensure that they have access to legal advice in respect of any appeal wherever it is appropriate.
- Clients detained at the end of the process, perhaps awaiting removal, may need to access legal advice in respect of bail or the circumstances of their removal.
- Clients claiming asylum are among the most vulnerable. Legal and advice services, including representation, must be of high quality. To achieve this we will look to build upon the accreditation scheme for solicitors and paralegals. In addition, the Commission will work with regulatory bodies to join up quality assurance approaches.

The Commission will also consider expanding telephone services where this is the most appropriate method of giving specialist advice or support both to clients and providers. In particular this method of delivery may be used to assist criminal practitioners where a client they are representing under the police station duty solicitor scheme may have an immigration issue.

14. Mental Health

We will issue a paper outlining our intentions to pilot new approaches to providing access to advice and representation for clients with mental health problems. As well as experiencing all types of legal problems in the same way as the rest of the community, such clients often have very particular advice needs. Clients subject to the Mental Health Act 1983 require access to expert independent advice on the legal implications of detention / treatment, and effective recourse to and representation at the tribunal.

Access to independent advice must be prompt and we will therefore aim to provide local access wherever practical. The anticipated increase in tribunal hearings following new legislation means that we will also need to take steps to increase supply.

Clients with mental health problems need access to a range of legal advice on social welfare issues, particularly housing, welfare benefits and debt. Resolving problems relating to these issues can also help to alleviate mental health problems.

This advice is important not only for those in or about to be released from hospital, but to the much wider group in the community not subject to the formal powers of the Act. However, the number of mental health suppliers that can provide this seamless legal and advice service is limited. We will therefore need to provide access to social welfare legal advice for this client group.

Clients with mental health problems, either within a hospital environment or in the community, often have associated needs for legal and advice services in Community Care. The provision of services by the local authority and healthcare services can be crucial to a return to or stability in the community. However, many Mental Health specialist contract holders do not have Community Care contracts.

We will therefore set out our intentions to pilot new Mental Health Law contracts which:

- are based on (but not restricted to) serving a particular hospital / location;
- specify the services that clients can expect;
- test out models of funding that move away from hourly rates; these models could include block payments or funded posts; and
- provide an integrated legal and advice service to clients, including on social welfare law.

The paper will also consider how an element of community care advice can be best provided by Mental Health contractors - perhaps through inclusion of Community Care elements in the Mental Health category and how clients who have mental health problems but are not detained can be given access to social welfare advice through targeted outreach.

We will also deal with issues of recruitment and retention of Mental Health lawyers, and service standards.

15. An approach for Wales

Although the legal aid system is not devolved, it must work with advice agencies and other services that are within the devolved environment. We will work with the Welsh Assembly Government to build upon its existing work on an advice strategy for Wales to ensure that we take account of several key factors, including: the 'Making the Connections' approach to the delivery of public services; the emerging differences in the healthcare, local authority and education services in Wales; and devolution and the importance of recognising the different needs within Wales. After undertaking further work with the Welsh Assembly Government and other key stakeholders, we will publish a separate policy paper for the CLS in Wales which will consider how the approach set out in this strategy will be delivered in Wales.

Appendix Two: Achievements of the Community Legal Service – The First Five Years

The focus of the Access to Justice Act 1999 is on improving access to high-quality, cost-effective and co-ordinated legal services for the people who need them most.

The first five years of the Community Legal Service (CLS) has seen much progress towards this vision. Notable achievements include:

- an increasing focus on clients' needs;
- an improving evidence base to contribute to an understanding of the problems that people face;
- the adoption of the Quality Mark across the sector as a badge of excellence;
- refocusing legal aid expenditure on clients with the highest priority needs through the Funding Code and Regional Reports;
- the transformation of civil legal aid from a reactive system of processing claims to proactively commissioning the services clients need;
- the beginnings of a co-ordinated approach to funding and service delivery across the CLS in order to support seamless services for clients;
- the development of local networks of service providers and other stakeholders in Community Legal Service Partnerships;
- the launch of Community Legal Service Direct, which has widened access to services;
- the beginnings of work to prevent legal problems arising, and to educate people about their legal rights and responsibilities; and
- funding training grants for law students to increase the number of solicitors choosing a career in legal aid work.

This part provides examples of how the CLS has begun to improve:

- access;
- quality;
- value for money; and
- co-ordination in legal and advice services.

1. Access to the legal and advice services that clients need, when they need them

- i **Community Legal Service Direct**, launched in July 2004, provides free legal information, help and advice direct to the public on a range of common legal issues via:
 - a national Helpline, 0845 345 4 345 (previously piloted);
 - a website, www.clsdirect.org.uk (formerly JustAsk!); and
 - a series of information leaflets.

Clients are signposted to face-to-face services where these are more appropriate.

Effective signposting - working with problem noticers

In Merseyside, Wardens Information Service Surgeries have been set up in high need areas of Knowsley. This project involves the training of community wardens throughout Knowsley, to enable them to act as problem noticers, signposting people in need of information and advice to relevant sources of support. As a result of the success of the project, it is now being promoted as a good practice example to other community warden schemes in the North West of England.

In the Eastern region, a joint protocol has been developed with Jobcentre Plus to enable its users to access legal advice from the Community Legal Service when they use the Jobcentre.

- ii **Housing Possession schemes**, funded by local authorities, the LSC and others, provide emergency assistance to people facing eviction proceedings at county courts across England and Wales. The schemes are run by a variety of solicitors' firms and not for profit agencies. In Birmingham, for example, nine agencies work on the scheme, which is managed by one lead agency contracted by the LSC. The scheme not only provides emergency assistance at court, but has worked with the Court Service to send out along with summons leaflets in several languages, encouraging people to seek advice before their court hearing, and thereby gain earlier access to legal advice.
- iii **The Partnership Initiative Budget (PIB)**, launched in 2001, supports over 140 innovative and experimental projects that improve people's access to legal advice and information. Over £18 million has been committed to PIB projects, each attracting additional resources in match funding (25% minimum). Projects provide the Commission with a particularly valuable insight into a variety of approaches to delivering legal and advice services to clients. Some projects have recently been reviewed in order to identify and share lessons, and a report outlining the findings of this review will be available in Spring 2005.
- iv Several **Videolink projects**, run jointly by the Legal Services Commission, local authorities and a variety of advice agencies, enable people to speak directly to legal advisers and access other services from public libraries, community centres and even from within prisons. They provide legal help and advice to those who are unable or reluctant to access mainstream services. They aim to tackle social exclusion, and are often targeted at rural areas, and places with high levels of social deprivation.

In the North East, the **Reducing Offending Through Advice Project** has ensured that prisoners and their families have access to family and social welfare advice, not only in a prison setting but also via videolinks to a network of legal advisers. The project has recently experienced its first successful bankruptcy hearing, which was delivered via videolink between the prison and the County Court. The project now has plans to enable applicants for Disability Living Allowance to attend their tribunal hearings using this technology.

- v **Outreach services**, run as additions to mainstream contracts or through the PIB, target particular groups and bring services closer to the clients who need them. These include projects which place advisers in GP surgeries and other healthcare settings, or provide advice services within an established youth centre.

In London, the **Streetwise Law Centre** provides legal advice to young people, based in a youth centre already used by local young people for a wide range of activities. The centre has a contract with the Commission to provide specialist legal advice, and in addition runs a Partnership Initiative Budget capacity-building project offering a telephone advice line for young people, and second tier support to a number of other local youth centres.

Birmingham Citizens Advice Bureau has an outreach contract to deliver specialist legal services to inpatients at the Mother and Baby Unit of the Queen Elizabeth Psychiatric Hospital. These services help the patients to deal with a range of legal problems, in hospital and via home visits.

2. Quality services that meet clients' needs

- vi The **CLS Quality Mark** publicly recognises services which demonstrate the key elements of a high quality service for clients, and, at the Specialist level, sets a standard for delivering contracted civil legal aid services.
- vii **Support** has been available to a wide range of organisations in applying for the Quality Mark during its introductory phase. The CLS Support Project, delivered by the Advice Services Alliance, provides consultancy, training and briefings on the Quality Mark and LSC contracting to members of major advice networks. Local initiatives, too, support the introduction of the Quality Mark, for example where a local authority requires providers to hold the Quality Mark as a condition of funding. In St Helens, a series of seminars has helped prepare local agencies for the introduction of such requirements for funding in April 2005.
- viii **Specialist Support Services** provide expert advice, training and support with casework to help legal and advice service providers deal with complex or unusual cases. The Commission's national Specialist Support service is available to organisations holding the CLS Quality Mark at Specialist and General Help with Casework levels.
- ix The Commission also grant-funds the London Advice Services Alliance (LASA) to maintain and develop www.rightsnet.org.uk, an expert resource for advisers on welfare benefits and tax credits.

Benefits Information Project, Kingston-upon-Hull City Council

Through the Benefits Information Project, Hull City Council Welfare Rights Service works with local organisations to improve the quality of legal information they provide, increase their capacity to identify potential legal needs, signpost and refer clients effectively and give high-quality advice. It offers help with improving systems and processes, including support in applying for the Quality Mark, provides access to an in-house Welfare Rights consultancy service, and offers bespoke training on welfare benefits. The project is funded by the PIB, with match funding from Hull City Council.

Capacity-building in Derby, Derby Council for Voluntary Service (Derby CVS)

Following the introduction of a new requirement by Derby City Council that organisations need to hold the Quality Mark in order to be eligible for funding, this project runs workshops and information sessions to raise awareness of the award, and provides one-to-one support for organisations applying for it. It also arranges mentoring for those in the process of applying for the Quality Mark from those who already have already achieved it, in order to share experiences and best practice. It is producing a toolkit for use by other agencies and partnerships.

The project is funded through the PIB, with match funding from Derby CVS.

- x The Commission is currently developing a more strategic and comprehensive approach to quality assurance, for example through peer review, the development of quality profiles and (in partnership with others across the sector) National Occupational Standards for Legal Advice.

3. Value for money - the best possible services within the available resources

- xi **Contracting** for civil legal aid services has replaced a system of processing claims, in order to concentrate work in the hands of quality-assured suppliers and to ensure that expenditure is focused on current priorities. In the North West, the Legal Services Commission Regional office provides training for not for profit contract-holders to help them identify the most effective ways to use their contracted hours and to promote the appropriate use of Certificated Legal Aid.
- xii **Eligibility criteria** for civil legal aid, outlined in the Funding Code, enable the Commission to focus legal aid expenditure on clients with the highest priority needs.

4. Co-ordinated services, funding and information to tackle social exclusion

- xiii **Community Legal Service Partnerships** have been established, providing local advice agencies, funders and stakeholders with the opportunity to work together to improve services for clients. A great deal of valuable work that supports the development of strategic and joined-up services for clients is co-ordinated at this level.
- xiv **Joint working** between the Commission, local authorities and legal and advice service providers has enabled the development of accessible services addressing a range of problems, and better referral and signposting.

The **Mental Health Outreach and Legal Services Development Project** run by Brighton Housing Trust and partners, aims to improve the accessibility and quality of social welfare advice available to local people with mental health problems. The project focuses on building the capacity of its constituent partners to meet the needs of clients, in particular, homeless and vulnerably housed people, asylum seekers and refugees, older people, and members of black and minority ethnic groups. As a result, Mind in Brighton & Hove has tripled its advice provision, and has achieved the Quality Mark at General Help level.

In Liverpool, the **Mental Health Project** (run by Garston CAB in partnership with North Liverpool and Toxteth CABx) aims to address the unmet advice needs of people experiencing mental health problems across the city by providing seamless, independent and confidential advice, information and representation to clients who have poor mental health. The project is funded by the LSC (through the PIB), Liverpool City Council, Citizens Advice and the Mental Health Consortium. It has prompted the development of a more flexible draft Quality Mark standard specifically for this type of service.

York City Council funds **York and District Citizens Advice Bureau** to provide money advice to tenants (of the Council and other Registered Social Landlords) who have growing rent arrears. In this way the initiative aims to resolve clients' arrears and, where possible, prevent the need for possession proceedings and further court action. To complement this the Legal Services Commission provides funding to a local housing advice charity for a County Court Housing Possession Duty Scheme (in partnership with contracted housing solicitors) to assist clients at York County Court.

- xv The **Family Advice and Information Service (FAInS)** provides access to family services through a single point of contact. Solicitors and advisers act as case managers for their clients in order to both provide a joined-up approach to family and relationship dispute resolution and to identify other required services (such as counselling, debt advice and other legal services) and refer clients where necessary. Research on FAInS has been undertaken and a report will be published in 2005. The service will be further developed and expanded over the next three years.

Of the suppliers with LSC contracts in Family Law, 70% also have contracts in other social welfare categories, enabling them to provide a more integrated service.

- xvi **Funders' Forums** exist in many regions, with representatives from, for example, Regional Development Agencies, local authorities and Local Strategic Partnerships, as well as the Legal Services Commission.
- xvii Legal Services Commission staff have been seconded to a number of Regional Government Offices to ensure, that appropriate links are made between information and advice services and regionally sponsored initiatives.

In Wales, **funding from the Community Fund (now the Big Lottery Fund) and the Welsh Assembly Government** resulted in expanded Partnership Initiative Budget funding in the second round of the PIB. As a result inward investment into the CLS in Wales through the PIB increased from £250,000 to £950,000.

In the East Midlands, the Legal Services Commission has **seconded a member of staff to the Government Office for the East Midlands (GOEM) in order to raise awareness among key partners of the role of advice and the CLS in the context of wider government agendas.** Working within the Home Office part of GOEM, the secondee also aims to improve awareness of the need for advice services for prisoners and ex-offenders, to increase access to such services and to demonstrate the impact they have on re-offending rates. One example of the effect of the secondment is the work with the prison service to provide electronic information kiosks in local prisons. These kiosks are to be purchased through the CLS Development Fund, and have been designed by BT, with distinct pages given over specifically to resettlement information with LSC editorial control. The kiosks increase provision of information about how to get help with issues that affect the chances of re-offending such as debt, housing, benefits and family advice.

- xviii The **Single Asylum Fund** centralises government expenditure on asylum in a single budget, from which the costs of legal aid are met, along with the costs to the Home Office and Immigration Appellate Authority. In order to ensure that the provision of legal advice and representation is considered when new asylum processes are being designed, piloted or introduced, the Commission has representatives on many of the Home Office and Department for Constitutional Affairs project boards, enabling it to make specific provision for legal services as needs arise and priorities change. For example, the Commission has introduced a duty scheme for the Harmondsworth fast-track centre and North West pilot as well as introducing exclusive contracts at Oakington.
- xix **Community Legal Service Direct** provides opportunities for the Commission to work in partnership with other advice providers and helps offer a seamless service to clients.

In Wales, one of the options available to callers to Community Legal Service Direct is to speak to Consumer Direct. This allows clients access to a wider range of legal advice. It is hoped that this will provide a model that can be extended to other services, such as the National Debt Gateway.

The **Bristol Libraries Project** aims to improve local people's access to information and advice services through the city's libraries service. Promoting Community Legal Service Direct as a gateway to the CLS, it delivers training for library staff on how to use the Community Legal Service Direct website, and ensures they are aware of the full range of services available.

- xx **Research**, in particular the Legal Services Research Centre's first National Survey of Justiciable Problems, is providing funders and providers of legal services with evidence of the kinds of problems people experience; the impact of quality legal services in resolving them; and a framework for future policy development.

For more detailed information on the Community Legal Service, see Volume Two of this strategy, '*An Overview of the Community Legal Service*'. This is available from the Commission's website at www.legalservices.gov.uk/civil/docs_for_consultation/civil.asp.

Appendix Three: The Access to Justice Act 1999 (Extract)

The following extract is Part I, sections 1-11 of the Access to Justice Act 1999 (c.22). These establish of the Legal Services Commission and the Community Legal Service.

PART I

LEGAL SERVICES COMMISSION

Commission

Legal Services Commission. 1. - (1) There shall be a body known as the Legal Services Commission (in this Part referred to as "the Commission").

(2) The Commission shall have the functions relating to-

(a) the Community Legal Service, and

(b) the Criminal Defence Service,

which are conferred or imposed on it by the provisions of this Act or any other enactment.

(3) The Commission shall consist of-

(a) not fewer than seven members, and

(b) not more than twelve members;

but the Lord Chancellor may by order substitute for either or both of the numbers for the time being specified in paragraphs (a) and (b) such other number or numbers as he thinks appropriate.

(4) The members of the Commission shall be appointed by the Lord Chancellor; and the Lord Chancellor shall appoint one of the members to chair the Commission.

(5) In appointing persons to be members of the Commission the Lord Chancellor shall have regard to the desirability of securing that the Commission includes members who (between them) have experience in or knowledge of-

(a) the provision of services which the Commission can fund as part of the Community Legal Service or Criminal Defence Service,

(b) the work of the courts,

(c) consumer affairs,

(d) social conditions, and

(e) management.

(6) Schedule 1 (which makes further provision about the Commission) has effect.

Power to replace Commission with two bodies. 2. - (1) The Lord Chancellor may by order establish in place of the Commission two bodies-

(a) one to have functions relating to the Community Legal Service, and

(b) the other to have functions relating to the Criminal Defence Service.

(2) The order may make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to the Lord Chancellor to be appropriate.

(3) The order shall include amendments of-

(a) any provisions of, or amended by, this Part which refer to the Commission, and

(b) any other enactments which so refer,

to replace references to the Commission with references to either or both of the bodies established by the order.

Powers of Commission. 3. - (1) Subject to the provisions of this Part, the Commission may do anything which it considers-

(a) is necessary or appropriate for, or for facilitating, the discharge of its functions, or

(b) is incidental or conducive to the discharge of its functions.

(2) In particular, the Commission shall have power-

(a) to enter into any contract,

- (b) to make grants (with or without conditions),
- (c) to make loans,
- (d) to invest money,
- (e) to promote or assist in the promotion of publicity relating to its functions,
- (f) to undertake any inquiry or investigation which it may consider appropriate in relation to the discharge of any of its functions, and
- (g) to give the Lord Chancellor any advice which it may consider appropriate in relation to matters concerning any of its functions.

(3) Subsections (1) and (2) do not confer on the Commission power to borrow money.

(4) The Commission may make such arrangements as it considers appropriate for the discharge of its functions, including the delegation of any of its functions.

(5) The Lord Chancellor may by order require the Commission-

- (a) to delegate any function specified in the order or to delegate any function so specified to a person (or person of a description) so specified,
- (b) not to delegate any function so specified or not to delegate any function so specified to a person (or person of a description) so specified, or
- (c) to make arrangements such as are specified in the order in relation to the delegation of any function so specified.

Community Legal Service

Community Legal Service.

4. - (1) The Commission shall establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to services that effectively meet their needs.

(2) The descriptions of services referred to in subsection (1) are-

- (a) the provision of general information about the law and legal system and the availability of legal services,
- (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
- (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
- (d) the provision of help in enforcing decisions by which such disputes are resolved, and
- (e) the provision of help in relation to legal proceedings not relating to disputes.

(3) Services which the Commission is required to fund as part of the Criminal Defence Service do not fall within subsection (2).

(4) Every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to-

- (a) promote improvements in the range and quality of services provided as part of the Community Legal Service and in the ways in which they are made accessible to those who need them,
- (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
- (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.

(5) The Commission shall fund services of the descriptions specified in subsection (2) as part of the Community Legal Service in accordance with the following sections.

(6) The Commission shall also inform itself about the need for, and the provision of, services of the descriptions specified in subsection (2) and about the quality of the services provided and, in co-operation with such authorities and other bodies and persons as it considers appropriate-

(a) plan what can be done towards meeting that need by the performance by the Commission of its functions, and

(b) facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them; and the Commission shall notify the Lord Chancellor of what it has done under this subsection.

(7) The Commission may set and monitor standards in relation to services of the descriptions specified in subsection (2).

(8) In particular, the Commission may accredit, or authorise others to accredit, persons or bodies providing services of the descriptions specified in subsection (2); and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.

(9) The Commission may charge-

- (a) for accreditation,
- (b) for monitoring the services provided by accredited persons and bodies, and
- (c) for authorising accreditation by others;

and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.

(10) The Lord Chancellor may by order require the Commission to discharge the functions in subsections (6) to (9) in accordance with the order.

Funding of services.

5. - (1) The Commission shall establish and maintain a fund known as the Community Legal Service Fund from which it shall fund services as part of the Community Legal Service.

(2) The Lord Chancellor-

- (a) shall pay to the Commission the sums which he determines are appropriate for the funding of services by the Commission as part of the Community Legal Service, and
- (b) may determine the manner in which and times at which the sums are to be paid to the Commission and may impose conditions on the payment of the sums.

(3) In making any determination under subsection (2) the Lord Chancellor shall take into account (in addition to such other factors as he considers relevant) the need for services of the descriptions specified in subsection (2) of section 4 as notified to him by the Commission under subsection (6) of that section.

(4) The Lord Chancellor shall lay before each House of Parliament a copy of every determination under subsection (2)(a).

(5) The Commission shall pay into the Community Legal Service Fund-

- (a) sums received from the Lord Chancellor under subsection (2), and
- (b) sums received by the Commission by virtue of regulations under section 10 or 11.

(6) The Lord Chancellor may by direction impose requirements on the Commission as to the descriptions of services to be funded from any specified amount paid into the Community Legal Service Fund.

(7) In funding services as part of the Community Legal Service the Commission shall aim to obtain the best possible value for money.

Services which may be funded.

6. - (1) The Commission shall set priorities in its funding of services as part of the Community Legal Service and the priorities shall be set-

- (a) in accordance with any directions given by the Lord Chancellor, and
- (b) after taking into account the need for services of the descriptions specified in section 4(2).

(2) Subject to that (and to subsection (6)), the services which the Commission may fund as part of the Community Legal Service are those which the Commission considers appropriate.

(3) The Commission may fund services as part of the Community Legal Service by-

- (a) entering into contracts with persons or bodies for the provision of services by them,
- (b) making payments to persons or bodies in respect of the provision of services by them,
- (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,
- (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
- (e) making grants or loans to individuals to enable them to obtain services,
- (f) itself providing services, or
- (g) doing anything else which it considers appropriate for funding services.

(4) The Lord Chancellor may by order require the Commission to discharge the function in subsection (3) in accordance with the order.

(5) The Commission may fund as part of the Community Legal Service different descriptions of services or services provided by different means-

(a) in relation to different areas or communities in England and Wales, and

(b) in relation to different descriptions of cases.

(6) The Commission may not fund as part of the Community Legal Service any of the services specified in Schedule 2.

(7) Regulations may amend that Schedule by adding new services or omitting or varying any services.

(8) The Lord Chancellor-

(a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in the direction, and

(b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case.

(9) The Lord Chancellor shall either-

(a) publish, or

(b) require the Commission to publish,

any authorisation under subsection (8)(b) unless it relates to an individual case (in which case he or the Commission may publish it if appropriate).

Individuals for whom services may be funded.

7. – (1) The Commission may only fund services for an individual as part of the Community Legal Service if his financial resources are such that, under regulations, he is an individual for whom they may be so funded.

(2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be so funded for individuals without reference to their financial resources.

(3) Regulations under this section may include provision requiring the furnishing of information.

Code about provision of funded services.

8. – (1) The Commission shall prepare a code setting out the criteria according to which it is to decide whether to fund (or continue to fund) services as part of the Community Legal Service for an individual for whom they may be so funded and, if so, what services are to be funded for him.

(2) In settling the criteria to be set out in the code the Commission shall consider the extent to which they ought to reflect the following factors-

(a) the likely cost of funding the services and the benefit which may be obtained by their being provided,

(b) the availability of sums in the Community Legal Service Fund for funding the services and (having regard to present and likely future demands on that Fund) the appropriateness of applying them to fund the services,

(c) the importance of the matters in relation to which the services would be provided for the individual,

(d) the availability to the individual of services not funded by the Commission and the likelihood of his being able to avail himself of them,

(e) if the services are sought by the individual in relation to a dispute, the prospects of his success in the dispute,

(f) the conduct of the individual in connection with services funded as part of the Community Legal Service (or an application for funding) or in, or in connection with, any proceedings,

(g) the public interest, and

(h) such other factors as the Lord Chancellor may by order require the Commission to consider.

(3) The criteria set out in the code shall reflect the principle that in many family disputes mediation will be more appropriate than court proceedings.

(4) The code shall seek to secure that, where more than one description of service is available, the service funded is that which (in all the circumstances) is the most appropriate having regard to the criteria set out in the code.

(5) The code shall also specify procedures for the making of decisions about the funding of services by the Commission as part of the Community Legal Service, including-

- (a) provision about the form and content of applications for funding,
- (b) provision imposing conditions which must be satisfied by an individual applying for funding,
- (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,
- (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
- (e) provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures.

(6) The code may make different provision for different purposes.

(7) The Commission may from time to time prepare a revised version of the code.

(8) Before preparing the code the Commission shall undertake such consultation as appears to it to be appropriate; and before revising the code the Commission shall undertake such consultation as appears to it to be appropriate unless it considers that it is desirable for the revised version to come into force without delay.

(9) The Lord Chancellor may by order require the Commission to discharge its functions relating to the code in accordance with the order.

Procedure relating to funding code.

9. - (1) After preparing the code or a revised version of the code the Commission shall send a copy to the Lord Chancellor.

(2) If he approves it he shall lay it before each House of Parliament.

(3) The Commission shall publish-

- (a) the code as first approved by the Lord Chancellor, and
- (b) where he approves a revised version, either the revisions or the revised code as appropriate.

(4) The code as first approved by the Lord Chancellor shall not come into force until it has been approved by a resolution of each House of Parliament.

(5) A revised version of the code which does not contain changes in the criteria set out in the code shall not come into force until it has been laid before each House of Parliament.

(6) Subject as follows, a revised version of the code which does contain such changes shall not come into force until it has been approved by a resolution of each House of Parliament.

(7) Where the Lord Chancellor considers that it is desirable for a revised version of the code containing such changes to come into force without delay, he may (when laying the revised version before Parliament) also lay before each House a statement of his reasons for so considering.

(8) In that event the revised version of the code-

- (a) shall not come into force until it has been laid before each House of Parliament, and
- (b) shall cease to have effect at the end of the period of 120 days beginning with the day on which it comes into force unless a resolution approving it has been made by each House (but without that affecting anything previously done in accordance with it).

Terms of provision of funded services.

10. - (1) An individual for whom services are funded by the Commission as part of the Community Legal Service shall not be required to make any payment in respect of the services except where regulations otherwise provide.

(2) Regulations may provide that, in prescribed circumstances, an individual for whom services are so funded shall-

- (a) pay a fee of such amount as is fixed by or determined under the regulations,
- (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
- (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;

and in paragraph (b) "relevant conduct" means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.

(3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.

(4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of-

- (a) any loan made to him by the Commission as part of the Community Legal Service,
- (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
- (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.

(5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.

(6) The regulations may-

- (a) include provision requiring the furnishing of information, and
- (b) make provision for the determination of the cost of services for the purposes of the regulations.

(7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service-

- (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
- (b) other sums payable by the individual by virtue of regulations under this section,

shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.

(8) Regulations may make provision about the charge, including-

- (a) provision as to whether it is in favour of the Commission or the body or person by whom the services were provided, and
- (b) provision about its enforcement.

Costs in funded cases.

11. – (1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances including-

- (a) the financial resources of all the parties to the proceedings, and
- (b) their conduct in connection with the dispute to which the proceedings relate;

and for this purpose proceedings, or a part of proceedings, are funded for an individual if services relating to the proceedings or part are funded for him by the Commission as part of the Community Legal Service.

(2) In assessing for the purposes of subsection (1) the financial resources of an individual for whom services are funded by the Commission as part of the Community Legal Service, his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.

(3) Subject to subsections (1) and (2), regulations may make provision about costs in relation to proceedings in which services are funded by the Commission for any of the parties as part of the Community Legal Service.

(4) The regulations may, in particular, make provision-

- (a) specifying the principles to be applied in determining the amount of any costs which may be awarded against a party for whom services are funded by the Commission as part of the Community Legal Service,
- (b) limiting the circumstances in which, or extent to which, an order for costs may be enforced against such a party,
- (c) as to the cases in which, and extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
- (d) requiring the payment by the Commission of the whole or part of any costs incurred by a party for whom services are not funded by the Commission as part of the Community Legal Service,

- (e) specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom services are so funded,
- (f) requiring the payment to the Commission, or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
- (g) as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

Appendix Four: Initial Impact Assessment (Regulatory, Equality and Rural)

1. Introduction

The proposals in the strategy are presented in outline only, and are wide-ranging. It is therefore not possible to present a detailed impact assessment at this stage. As proposals are developed further the LSC will publish additional policy papers, which will consider in more depth the potential impacts of each initiative.

2. Title of proposal

'Making legal rights a reality: The Legal Services Commission's strategy for the Community Legal Service'

3. Purpose and intended effect of the measures proposed

a) Background

The Legal Services Commission is responsible under the Access to Justice Act 1999 for maintaining and developing the Community Legal Service (CLS) for the purpose of ensuring (within the resources available, and priorities set) that individuals have access to specified civil legal and advice services, as set out in the Act. Such services include the provision of:

- i) general information about the law and the legal system, and the availability of legal services;
- ii) help by the giving of advice as to how the law applies in particular circumstances;
- iii) help in preventing, settling or otherwise resolving disputes about legal rights and duties;
- iv) help in enforcing legal decisions by which such disputes are resolved; and
- v) help in relation to legal proceedings not relating to disputes.

Under section 4(4) of the Act, every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to:

- i) promote improvements in the range and quality of services provided as part of the CLS and in the ways in which they are made accessible to those who need them;
- ii) secure that the services provided in relation to any matter are appropriate, having regard to its nature and importance; and
- iii) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.

The LSC directly funds, from the Community Legal Service Fund, services provided by solicitors and not for profit agencies. It also has a wider responsibility to facilitate the planning by other authorities, organisations, groups and individuals of what they can do to meet the need for services using any resources available to them. In relation to services paid for by the Community Legal Service Fund, the LSC has an obligation under the Act to obtain best value for money.

The proposals contained in this consultation paper aim to secure the future of the Community Legal Service at a time when its funding is under increasing pressure. The strategy also seeks to address key issues identified in the Legal Services Research Centre's report on the National Survey of Justiciable Problems, 'Causes of Action' (2004), as well as in the Frontier Economics report, 'A market analysis of legal aided services provided by solicitors' (2003) and the report of the Independent Review of the Community Legal Service undertaken by Matrix Research and Consultancy (2004).

b) Objectives

The proposals in the strategy are aimed at addressing the challenges facing the CLS in focusing on the needs of clients. In particular, the proposals aim to:

- i) join up civil legal aid more effectively with non LSC-funded legal and advice services;
- ii) expand some legal and advice services to be available to all;
- iii) provide better access to legal and advice services for those in the poorest areas with the most problems, while maintaining reasonable access elsewhere;
- iv) provide integrated services, from basic advice to complex litigation, that can deal with a range of problems in different categories of law, and that minimise the need for referrals;
- v) obtain better value for money by co-ordinating different sources of funding; and
- vi) deal with the institutional causes of the problems that clients face.

To achieve these aims, the LSC proposes to:

- i) Work to improve the understanding of the role of legal and advice services in addressing social exclusion. This strategy is the first step towards producing a national framework for legal and advice services that all funders can help develop in order to better meet the needs of clients.
- ii) Continue the expansion of the Community Legal Service Direct telephone service into a well-publicised, national service for obtaining legal advice.
- iii) Build on existing supply to pilot Community Legal and Advice Centres and Community Legal Advice Networks which pool legal aid with local authority and other funding, to provide easily accessible face-to-face services (from early advice to legal representation) to address the combinations of problems people experience.
- iv) Encourage, through more flexible approaches in our contracting system, legal and advice service providers in other localities to broaden their areas of speciality in social welfare law.
- v) Consult on new national and local governance for the CLS in order to provide for better co-ordination among funders, and that includes input from client groups.
- vi) Engage with public and private organisations to help address the delivery issues that can lead to problems for clients, both centrally and locally.

3. Risk assessment

The first key risk to the successful implementation of the CLS strategy relates to the future availability of resources:

- i) Increasing financial pressure on the CLS Fund (that is, legal aid) may require the LSC to focus on initiatives that deliver cost savings quickly, at the expense of medium-and longer-term objectives to develop innovative services; and
- ii) Increasing financial pressures on key stakeholders such as funders and providers may reduce their willingness and ability to participate in the CLS.

To minimise this risk we will:

- i) ensure that increases in legal aid costs arising out of government policies (for example the new Mental Health Bill) are recognised and funded appropriately;
- ii) seek additional funding for the CLS from other sources;

- iii) continue with initiatives to secure the best possible value for money in the services we commission;
- iv) work with funders and service providers to reduce transaction costs wherever possible, for example through the development of common performance management standards; and
- v) keep under review the scope and financial eligibility restrictions for CLS funding (legal aid).

A second risk is that the new approaches to delivering services might prove disruptive to effective existing services. We will seek to minimise this risk through effective consultation, piloting and review of changes.

4. Options

- a. Do nothing
- b. Develop only some of the proposals put forward in the CLS strategy and not others
- c. Develop all the proposals for further consultation.

5. Benefits of options

- a. Do nothing

There are no apparent advantages to doing nothing. We cannot ignore the issues raised by the research and analysis referred to in the background section of this impact assessment, and financial pressures are only likely to increase over time, intensifying the need for reform.

- b. Develop only some of the proposals put forward in the CLS strategy and not others

It would be possible to uncouple some of the proposals and develop them in isolation. This would have the potential benefit of minimising the disruption caused. However, for the reasons set out below, we do not consider that this would be the most effective approach in the longer term.

- c. Develop all the proposals for further consultation

The advantage of developing all the proposals together is that they have been designed to be mutually supportive, and adopting a systems-wide approach is more likely to deliver a robust and comprehensive framework to bring about improvements.

6. Costs

The costs and benefits of these proposals to all stakeholders will be examined in the detailed policy papers to follow. However, the overriding objective will be to maintain or increase value for money, and to reduce transaction costs wherever possible by streamlining processes and methods of delivery.

7. Small firms impact test

Many providers of legal and advice services are small businesses. Their interests will be represented through the Law Society, the Legal Aid Practitioners Group and other representative bodies with whom the LSC will consult in respect of these proposals. We anticipate that the proposals will offer both challenges and opportunities for small firms. The expansion of Community Legal Service Direct and the development of Community Legal and Advice Centres may reduce the need for traditional, face-to-face services funded from the CLS Fund, allowing us to target services more effectively on the particular needs of the poorest and most disadvantaged communities and clients.

8. Competition assessment

The proposals will impact on firms providing legal and advice services under contract to the LSC.

Having applied the Cabinet Office's competition filter test to the relevant market (suppliers of legal and advice services), we anticipate that if implemented the strategy will have some impact on the market, but it is not yet possible to identify whether this will be significant, in advance of the development of more detailed proposals.

9. Equity and fairness: Equality Impact

Our preliminary assessment of the impact of the proposals on access to civil legal and advice services is that they have the potential to improve equality of opportunity by providing better-targeted and more accessible quality services to clients.

The impact of the proposals on providers of services funded from the CLS Fund will in part depend on how far we are able to refocus provision of services through Community Legal Service Direct and Community Legal and Advice Centres, and to target services on the poorest and most disadvantaged communities and clients. We are committed to ensuring that any selection process for the award of pilot and future contracts is fair and transparent, and does not directly or indirectly discriminate against black and minority ethnic owned organisations.

Each policy proposal when issued will have its own equalities impact assessment, which will deal in more detail with the likely issues raised by the particular proposal.

10. Rural Impact

Our preliminary assessment is that the expansion of telephone services through Community Legal Service Direct and the development of Community Legal and Advice Networks may have a positive impact on access for clients in rural communities.

We anticipate that proposals will have some impact on rural suppliers delivering services funded from the CLS Fund, but it is not yet possible to identify whether this will be significant.

11. Consultation

We will consult on the CLS strategy, and the more detailed proposals that flow from it, in accordance with the LSC Code of Practice on consultation (which can be found on our website, www.legalservices.gov.uk). The proposals will be the subject of individual policy papers, considered in more detail the issues refined in this Impact Assessment, and thus refining it further.

12. Monitoring and review

After implementation, we will monitor the impact of proposals on access to services, and on suppliers, and report on changes.

13. Recommendation

For the reasons set out above, it is recommended that Option 3 be adopted, subject to amendment following consultation on the CLS strategy.

Appendix Five: Consultation criteria

The Legal Services Commission is committed to the Government Code of Practice on Consultation, which came into effect on 1st April 2004.

The six consultation criteria in the Code are:

- a. consult widely throughout the process, allowing a minimum of twelve weeks for written consultation at least once during the development of the policy;
- b. be clear about who may be affected, what questions are being asked, and the timescale for responses;
- c. ensure that your consultation is clear, concise and widely accessible;
- d. give feedback regarding the responses received and how the consultation process influenced the policy;
- e. monitor your department's effectiveness at consultation, including through the use of the designated consultation co-ordinator;
- f. ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full text of the Government Code is available from the Cabinet Office website at: www.cabinet-office.gov.uk/regulation/consultation/code.htm.

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