



Making Legal Rights a Reality

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

Community
Legal Service



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Foreword

The Community Legal Service (CLS) plays a vital role in helping to ensure that everyone in society has access to justice, in protecting fundamental rights and in helping people to make improvements in their lives. It does this through providing independent high quality legal advice, representation, education and information. Since its inception in 2000 the CLS has made great progress in improving access to high quality legal advice, but now it is time to take the next steps to ensure that we build upon what we have achieved so far.

Later this Spring, Lord Carter of Coles will be publishing his final report following the conclusion of his independent review of Legal Aid procurement. The report will contain recommendations on the future procurement arrangements for the CLS.

The Legal Services Commission (LSC) have developed this strategy for the CLS in the light of the responses to the Consultation Paper *"Making Legal Rights a Reality"*, which they published in July 2005, following my publication of my paper *"A Fairer Deal for Legal Aid"*, which announced the setting up of Lord Carter's Review.

It sets out their thinking on how the CLS can be taken forward through the next five years, working with other key partners such as local authorities and placing the citizen at the heart of priorities. A clearer framework for the commissioning and delivery of legal and advice services would ensure that, at a local level, communities can drive services to reflect the particular needs of their area. A key theme of this strategy is that stakeholders - central and local Government and other public service providers - can produce better results for citizens by working together.

The LSC are publishing this strategy now as a contribution to the process initiated in *"A Fairer Deal for Legal Aid"* and being taken forward through Lord Carter's Review. Lord Carter's final Report, to be published in the Spring, will set out a detailed vision for the future of legally aided services, including the CLS. The aim is a sustainable future for the CLS which continues the good work of the last few years in providing quality legal services to those in need.

Another part of that process, also set in hand in *"A Fairer Deal for Legal Aid"*, is the paper *"Getting earlier, better advice to vulnerable people"*, which I am publishing today. This reflects work by my Department, in conjunction with other Departments and the LSC. It sets out a programme for co-ordinating and enhancing the role of independent advice across Government, and for using feedback from that advice to help improve public services.

A handwritten signature in cursive script, reading "Charlie Falconer".

Lord Falconer of Thoroton

Executive Summary

The key themes of this five-year strategy for the Community Legal Service (CLS) are:

- an increased focus on the needs of the client; and
- working in partnership across the CLS, including central and local government.

Focus on the needs of the client

We will purchase legal services in ways that reflect clients' problems and make it easier for them to access services.

This will mean:

- directing funding and services to where clients most need them;
- commissioning Centres and Networks that provide access to a service which ranges from basic advice to legal representation in the full range of social welfare problems as well as children and family legal problems;
- expanding our free telephone advice service 'CLS Direct' to provide readily accessible specialist advice;
- reaching out to provide legal advice and representation to the most disadvantaged in society;
- making sure that there is consistent access across England & Wales in all civil law areas; and
- an emphasis on protecting fundamental rights.

Working in partnership

We will work increasingly with other funders, particularly local authorities, when purchasing services. Centres and Networks will be commissioned jointly with local authorities and will fully reflect local needs.

The LSC, working with the Department of Constitutional Affairs, will engage across government to support:

- co-ordination of advice funding;
- improvements in public services;
- better legal information and education;
- improved dispute resolution mechanisms that reduce the need for litigation; and
- changes to court and tribunal systems and procedures to make them less adversarial and more user friendly.

1 Vision

We want to develop the CLS so that it is:

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

This strategy describes how the LSC working with other partners in the CLS will aim to achieve this vision over the next five years.

The 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. Over the next five years the LSC will be focused on some very clear roles in the exercise of its leadership of the CLS. These are:

- the provision of specialist legal services;
- the identification of client need for those services; and
- the facilitation of joint planning and funding with other funders of services.

The CLS potentially includes all those who fund, provide or facilitate civil legal advice services. Key stakeholders in the CLS therefore include local authorities and central government departments, the solicitor and advice sectors, as well 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 they can working in isolation.

The LSC's vision is for a Community Legal Service that places the client at its heart and focuses on the rights of individuals. We will continue to develop legal advice services to uphold these rights, targeted at people for whom, without its support, access to justice might not be possible. As part of this we will maintain national standards to guarantee quality and access but will encourage local flexibility and input so that services are genuinely accountable to local communities. We will do this whilst seeking to obtain the best possible value for public money, in line with the procurement arrangements put in place following the final report this Spring by Lord Carter of Coles when his review of Legal Aid Procurement is concluded.

We will continue to ensure that the way forward for the CLS is based on strong evidence. The publication of the second edition of *'Causes of Action'*¹ (the most extensive analysis of the need for advice and the impact of justiciable problems available anywhere) drives our vision that people need access to an integrated and seamless service. People do not face 'legal problems' but clusters of problems to which the law may offer one solution.

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. This is within a context of acknowledging the contribution of many other services that 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 need to be clear about the role for (and sometimes the limitations of) legal advice services in the context of the wider provision of these services by others.

¹ Pleasence, P. (2006) *Causes of Action: Civil Law and Social Justice*, Second Edition, Norwich: The Stationery Office.

2 Core objective and priorities

Our core objective in promoting the availability of legal and advice services through the CLS, and in the LSC directly funding such help, is to protect and promote people's rights. These priorities stem from the Lord Chancellor's Direction under section 6(1) of the Access to Justice Act 1999. Our priorities are:

- those threatened with loss of liberty;
- vulnerable children (particularly special Children Act proceedings);
- those threatened with domestic violence;
- those suffering from maladministration or challengeable lack of service by public authorities; and
- those who are socially excluded (e.g. the homeless or refugees) and who need both protection of the law and positive help to move forward.

The greatest priority within this framework must be given to areas that are important to ensure compliance with the European Convention on Human Rights (ECHR); 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 purpose of resolving private law disputes through negotiation and non-court-based solutions where possible, and through access to the courts where this is the only, or most appropriate route, are also important to ensure ECHR compliance.

The last of these five areas is, we believe (although often not defined in these terms), 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.

This core objective will be achieved through three priority areas of work:

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

In accordance with our statutory duties, the overwhelming majority of the legal aid budget will continue to be spent on the first priority – individual acts of advice and representation delivered through specialist suppliers. We will need to pursue the other priorities in cost-effective ways, (including making use of resources available from central government and other funders) if the CLS is to have its full impact.

3 Providing quality services

Within the legal aid system the primary relationship will always be that between the legally aided individual and their legal adviser. However, the relationship between the LSC and legal service providers is fundamental to the effective operation of that system. We recognise that we can only deliver our strategy for the Community Legal Service by working effectively with legal service providers.

This strategy sets out our priorities for civil legal aid and how we think services should be organised to best meet the needs of clients. It does not address the fundamental issue of the relationship between the LSC and legal service providers; that is to be set out in our consultation paper on Preferred Suppliers. However we can here highlight some of the key principles that underpin our approach to that relationship.

The Review of Legal Aid Procurement by Lord Carter (<http://www.legalaidprocurementreview.gov.uk>) will be making recommendations on civil and family legal aid. The CLS strategy is subject to the recommendations in Lord Carter's final plan, which is due to be published in late Spring 2006, and we will have to take account of the procurement proposals made. However, we consider it likely that the CLS strategy will have sufficient flexibility within it to provide a framework in which Lord Carter's civil legal aid proposals can be taken forward successfully.

The direction set out in this strategy – purchasing bundles of services together, establishing Centres and Networks and contracting at a regional and sometimes national level – will, over time, lead to fewer but larger contracts for legal aid work. We do not expect the number of individual specialist lawyers and advisers working in legal aid to reduce, but rather they will work in a smaller number of suppliers as the market reconfigures itself.

Remuneration will move away from payment through hourly rates. Contracts will devolve many day-to-day decisions to suppliers but are likely to contain targets on outputs. We will begin taking further steps in this direction when we renew contracts in April 2007. This will include moving to a unified contract for both solicitor and not-for-profit suppliers.

By 2009 we will only be contracting with Preferred Suppliers that work in partnership with us to deliver a common goal: access for individuals to good quality, value for money legal services.

The Preferred Supplier relationship will deliver for legal service providers:

- clarity about the services that can be provided to clients through the legal aid scheme and the rules governing the system;
- the lowest level of bureaucracy and transaction costs consistent with the scheme involving large amounts of public funding;
- payment at levels sufficient to recruit and retain staff with the necessary skills and competence to deliver a quality service; and
- sufficient certainty about the future availability of work to make informed business decisions on investment.

For their part, legal service providers will be delivering:

- high quality and value for money services which meet the needs of legally aided clients;
- compliance with the rules and guidance governing the provision of services;
- accuracy in the management and other information required by the Commission;
- the ownership and effective management of the systems necessary to deliver these requirements; and
- an ability to work with the Commission through e-business partnership working which is open, innovative and responsive.

These principles will apply both to suppliers in Centres and Networks and to other Preferred Suppliers outside of them.

4 Individual acts of advice and representation

When commissioning the services for advice and representation described in this section, we will:

- Work to ensure that services are provided in an integrated way that reflects clients' needs. This means services that:
 - are delivered across different categories of law (including linking social welfare law to family and crime);
 - are available from initial advice to legal representation in complex cases and are therefore delivered by specialist suppliers; and
 - make the appropriate links with other services, including the Criminal Defence Service but also non-legal advice services.
- Ensure joint planning between the LSC and other funders (particularly local authorities and the Welsh Assembly Government) whilst maintaining the necessary independence to protect individual's rights.
- Devolve decisions down to local levels whenever that is consistent with national standards, budget control, and value for money.
- Obtain the best possible value for money – ensuring that services are provided in the most cost-effective way.

We will need to do all of this within the context of a limited budget and of competition for scarce resources with other public services. This will sometimes mean making difficult decisions on priorities.

We will develop and publish access targets for services for advice and representation. They will vary to reflect factors such as population density. These targets will need to reflect the reality of funding levels and of our priorities. In an era of developing technology – telephone advice services, video access, the Internet, Web cams, etc., “access” does not always need to mean access to local face-to-face services. The key is that clients know how and where to get help and that this help is prompt and effective. In developing these targets we will benchmark against standards used by other public services such as the NHS.

Telephone services

We will continue to expand CLS Direct so that it provides a comprehensive telephone service that will deliver a large proportion of LSC funded information, diagnosis and basic advice. It will also deliver a significant proportion of specialist legal advice in social welfare law. We will also seek to expand the service to offer a specialist advice service in family law and immigration and to incorporate family breakdown issues within a new triage service.

The system will be accessible at some level to everyone regardless of means. Information will be accessible to all; as may limited advice with means assessment applying after a set time period. The social welfare areas covered by specialist telephone advice will in themselves be a major filter to ensure that resources are targeted on highest priority issues.

The telephone service will be contracted out directly by the LSC to a single, or small group of commercial service providers who will be responsible for the whole of the service provision, including demonstrating that the advice meets clear quality criteria. In the longer term it is unlikely that the LSC will contract directly with the advice providers.

This telephone service will be supplemented by accessible and user friendly web-based information and other channels as they become more widely available and used by our clients.

In developing these services, we will always bear in mind that there are certain types of case where a face-to-face service is the best solution. CLS Direct will continue to refer cases to face-to-face help. It will link up with Community Legal Advice Centres and Networks (*see the Social Welfare Law section below*) to ensure a seamless service to clients and the best use of overall capacity. This will include clients being given appointments with Centre- or Network-suppliers by CLS Direct, or CLS Direct contacting clients that have approached a Centre or Network.

Face-to-face services

Our priorities in funding face-to-face services will be specialist advice and representation covering the areas set out in our priorities above. In many of these crucial areas, the LSC is the only funder of specialist legal services. We therefore need to concentrate our resources on providing these services as our key contribution to the CLS.

Face-to-face services will be provided in accordance with clear geographical access criteria and targets. These will differ in the different contract categories, for example, some services may be delivered on a regional or even a national basis. Services will be commissioned in locations where clients need them most, rather than necessarily following the historic pattern of supply.

In order to focus the budget on those that need it most and who cannot afford to pay privately for advice, many face-to-face services funded by legal aid will continue to be subject to means tests. To promote integrated services we will maintain uniform upper income and capital limits for all means-tested services, although contributions and other financial conditions may vary. We will also maintain merits tests (as approved by Parliament in the Funding Code) so that public money is not spent on cases that have little chance of succeeding. The reality of living within a budget also means that we will need to keep the scope of legal aid under review to make sure that it is targeted on the highest priorities.

Social Welfare Law

We will commission face-to-face services in social welfare areas of law in bundles that recognise the multiple nature of clients' problems and the inherent difficulties in referral. The core social welfare law bundle will encompass:

- community care;
- debt;
- employment;
- housing; and
- welfare benefits.

All social welfare law contract holders will also have the competence to take public law cases in any areas of their core specialism.

Subject to recommendations by Lord Carter, the way that we purchase this bundle of services will vary by area. We will seek to plan and purchase these services jointly with other funders, and in particular local authorities, whenever practicable.

In urban areas with high social deprivation we will expect over time to contract with suppliers that provide a service ranging from basic advice to representation in all of the categories in the core social welfare bundle themselves. We will ensure that this is done by bringing together the expertise of specialist lawyers and advisers rather than through diluting standards.

In less densely populated and larger geographical areas, it will not always be practicable to contract with suppliers that deliver the entire core bundle themselves and we will therefore develop

ways in which suppliers can co-operate to give access to these services. Telephone based services will be a major frontline service provider in these areas.

Community Legal Advice Centres and Networks

Working jointly with local authorities and other funders we will develop Community Legal Advice Centres and Community Legal Advice Networks as models for delivery of the combined social welfare services set out in the previous section. Centres and Networks will integrate funding streams to provide a service from diagnosis and information through advice and assistance to legal representation in complex court proceedings. They will be responsive to local needs and will have an obligation to meet those needs within the resources available to them. This will include taking legal services to groups of people that currently do not access mainstream services, such as certain Black and Minority Ethnic groups, and to clients that are particularly vulnerable, such as clients with mental health problems.

As preferred suppliers, Centres and Networks will be given the flexibility to decide how best to meet those needs in the area, and will also have an important role in working with the LSC and other funders on strategic action to resolve the causes of problems. The nature of the service that is provided to those who would not be eligible for legal aid will depend on the extent and requirements of funding provided by others such as local authorities. For example, a local authority may provide funding on the basis that it will be used for advice that is not means tested or to pay for representation at tribunals not covered by legal aid.

Centres

A Centre will be a jointly-funded single legal entity that provides the whole bundle of core social welfare law services. We will use the Centre model as a way of testing easier ways to deliver those services together (for example through a combined 'Money Advice' debt and welfare benefits category). The Centres will also provide services in family law as part of a pattern of family supply in the area. Over time it is intended that the Centres will expand their services to offer advice that covers education, mental health and aspects of consumer & general contract (not covered by Consumer Direct or Trading Standard services) such as discrimination in the provision of goods and services.

The Centres will not generally be expected to deliver legal advice services in the remaining civil categories or in crime but may do so if there is a specific need in the catchment area for current services to be increased or if those involved in the Centre hold a particular specialism in these areas. This may be particularly likely in relation to immigration/asylum law. Centres will in any event, link up with these other services and we will explore ways of including them.

A Centre will be clearly identifiable as a CLS service, readily accessible to the community, but it could operate from a number of sites – outreach to client groups will play a particularly important role.

The Centres could be run by any appropriate provider, e.g. private practice solicitor, not for profit agency, etc. We will also provide opportunities for suppliers to come together to bid as consortia to provide services at the Centre under one contract.

Our current thinking is that the benchmark for an area in England that is likely to be suitable for a Centre is those local authority areas with more than 50 000 benefits claimants and a high population density (this gives the closest links to Neighbourhood Renewal Areas). This benchmark suggests we would be developing a possible maximum of 75 Centres. We are working with the Welsh Assembly Government to identify the most appropriate criteria for Wales. However, in practice, the number will be less than this because of:

- The view of other funders, and of local authorities and the Welsh Assembly Government in particular, as to what is appropriate for their area.

- Local patterns for access and delivery of public services, for example as expressed through the Wales Spatial Plan.
- Local geographical factors, for example, Wirral has over 100 000 benefits claimants but no focal town where a Centre could logically be located and may therefore be more suited to a Network.
- Developments in the market for supply of legal services.

At its maximum, this would mean that around 39% of the general population would be in an area with a Centre (this would be 41% of the eligible population - 5.6 million benefits claimants). Further work is now being done to refine the prioritisation of these areas into a ranked list, starting with areas with more than 100 000 benefits claimants (7 local authorities) and those areas that are also NRAs or Communities First in Wales.

Networks

Community Legal Advice Networks will be a group of readily identifiable CLS organisations that work together to deliver the same legal services as a Centre. As with Centres, we intend that Networks will be jointly funded with local authorities and others. The organisations that make up the Network will not be expected to deliver the full range of services outlined individually but instead this will be done collectively by all the Network members. No matter at which point a client accesses the Network, the full range of services will be available to them through a case management procedure. Because they will comprise a group of suppliers, it will be easier for Networks to expand their services to cover the full range of civil legal aid over time in their designated geographical area.

Networks will serve less densely populated (including local authorities with fewer than 50,000 benefits claimants) and larger geographical areas, operating at county boundary level where practicable. Grouping local authorities by county we have identified 36 areas for Networks to be established over the next 5 years once lessons from the first Networks are learned. However the final decision on how many Networks are developed in part needs to reflect decisions made about Centres, CLS Direct coverage/levels of growth in the coming years and will need to be a fairly organic process. In particular, unitary authority areas will be subsumed into a county Network where that best facilitates delivery and fits in with the agenda of the local government bodies concerned, but in other areas they will have to remain as separate Networks. This means that 36 areas will be a baseline rather than a maximum.

While we have set these rough benchmarks, we will remain flexible and responsive to local pragmatic issues that will mean the numbers of Centres and Networks have to be adjusted as the implementation of the CLS Strategy progresses and as lessons are learned.

Contract awards for Centres and Networks

We are currently in discussions with a number of local authorities and will announce details of the areas concerned at the appropriate times. Contracts will be awarded during 06/07 after a tendering process. This process will be open to both the private sector and not-for-profit suppliers.

Following the tendering process, we may reduce or not renew some of our other social welfare contracts from April 2007 where we consider that the Centre or Network will be supplying the necessary services. This approach will vary locally and by category and announcements will be made on this issue when we launch each tendering process so that suppliers that might be affected have the opportunity to take part in bidding. The initial phase will allow us to evaluate how best to ensure that we deliver seamless and integrated services through Centres and Networks. This will inform the next phases of the rollout of the CLS Strategy.

In the meantime, outside of areas where Centres and Networks are being introduced initially, we will be prepared to consider other ways of delivering the priorities that we have set out.

This will include working with other local authorities in ways that fall short of full joint funding at this stage, so that at the very least decisions on advice services are taken in consultation with each other.

It will also include ensuring we are flexible enough to ensure seamless and integrated services even where the LSC is the only funder for the time being. For example, some groups of suppliers have already begun to develop their own network approach and we will seek to encourage these pending more formal arrangements where funding permits and where we consider that they offer improved services.

However, our direction of travel is clearly one where all legally aided social welfare advice and representation is provided by a combination of Centres, Networks and CLS Direct subject to continuing evaluation to ensure quality, access and value.

We will also consider how best to link up services provided in other categories of law with this pattern. For example, a supplier that provides a service in education law that covers several local authority areas could be a member of a Network in one area and link up with a Centre in another.

Family Law

In respect of children and their families our priorities for family law services will be:

- Public Law Children proceedings;
- children and adults who are victims of violence and abuse in the home; and
- other, private law, proceedings concerning the welfare of children including proceedings relating to residence and contact.

This reflects Government priorities which focus on protecting vulnerable children and young people within the family setting.

All family law providers will be required to integrate their core specialist legal services with other service providers supplying complementary services dealing with family breakdown. This will include mediation and counselling services, which will involve an initial diagnosis of a family's problems by the provider and proactive referral to those services. It will also mean, for example, making legal services available at places where clients access other community and family support services such those provided by Children's Trusts, via Children's Centres, extended schools or SureStart provision.

Subject to Lord Carter's recommendations in his final plan, family legal services in private law matters are likely to operate at two clear levels with initial Family Help being focussed on resolving issues quickly and, wherever possible and appropriate, without recourse to litigation, including by mediation. Clients will need to satisfy strict merits criteria to move beyond Family Help. We will consider what decisions can be appropriately devolved to suppliers consistent with safeguarding the fund.

After the conclusion of the Child Care Proceedings Review by DCA and DfES we will consider how best to integrate the provision of services relating to Public Law Children proceedings with overall delivery of family legal services. This will be included in the publication of a separate strategy dealing with legal aid and children and family services. This strategy will give further details of how we will take these and other proposals forward.

Given the clear links between relationship and family legal problems and other civil legal problems, family legal services will be linked with services in other areas of law. Family law contract holders may also hold social welfare contracts but it is likely that there will not always be a sufficient volume of funded work to allow or require every family supplier to do so. As now there will therefore remain a pattern of supply that includes those that only provide family legal services. However:

- In areas where there are Community Legal Advice Centres we will include family law provision in the service, although there will be other family providers in the area.
- Where a Centre is successful, we may restrict the social welfare contracts given to other family suppliers – for example limiting them to providing a social welfare service to their family clients.
- We will include some family provision in Community Legal Advice Networks.
- We will use the Centres and Networks to test out a special social welfare category for family suppliers, focusing on housing but incorporating elements of debt and welfare benefits.
- Other family contractors must be able to identify when a family law client requires specialist legal advice in another category of law and have effective links to ensure that such advice is provided to the client. One key way of achieving this will be through a focused use of referrals to CLS Direct at an appropriate point in the case.

Other civil non-family areas of law

There will be contracted provision for advice and representation in the other civil non-family areas of law funded by legal aid. The principal categories are:

- Actions Against the Police, etc.;
- Clinical Negligence;
- Education;
- Immigration and Asylum;
- Mental Health; and
- Public Law.

Although some of these areas of law are high priority, it is impracticable either in terms of demand or supply to have a supplier in every town. Over time, many of these services will be regionally based and contracted with large providers that operate either at a regional or national level to provide effective access for clients. Services may be provided from Centres and Networks, but where they are not, suppliers will have close links with those entities.

We will maintain the current regime of a specialist panel of clinical negligence providers and will look at extending this into 'Actions against the police, etc.' and possibly education. Panel membership will include requirements as to outcomes, which will include appropriate use of Alternate Dispute Resolution to ensure that disputes are resolved without contested litigation. There will be an emphasis on seeking to resolve issues by using redress schemes before taking litigation.

The range of funded clinical negligence services will be reviewed when the proposed new NHS redress scheme comes into operation.

The distribution of mental health contracts will need to reflect:

- The need for regional flexibility to provide access to clients that are not currently detained.
- The absolute priority of providing face-to-face advice and representation to those detained in special hospitals.

However, as with the other categories in this section, we expect the number of mental health contracts to reduce as the supplier base is concentrated into larger suppliers that are able to operate strategically and flexibly across a region; provide or link up with other legal services (including as part of a Centre or Network) and complete the move away from working on hourly rates. However, we do not expect the overall number of advisers working in the field to reduce and Government legislation may well drive the need to increase overall capacity, although not numbers of contracts.

In immigration and asylum law there were major reforms to the contracting regime in April 2004 and we will build on the improvements made to the quality of the supplier base to introduce new arrangements that return key decisions on individual cases to suppliers. We will develop services to ensure that those who qualify for advice and representation have access to services tailored to meet their needs wherever they are located in England and Wales. This will include services to those who are detained at the police station or in detention and removal centres. The movement of clients around the country means that the most efficient provision of services may be through a network of national suppliers and the further use of dedicated contracts in some locations. We will produce a detailed consultation paper on our strategy for immigration and asylum in the near future.

Links with criminal law

CLS advice and representation services will link with the Criminal Defence Service to reflect the importance of civil advice in preventing re-offending. This will include initiatives such as advice desks at Community Justice Centres, prison rotas and close links between criminal law suppliers and CLS Direct. We will also establish links (for example through outreach sessions) between Centres and Networks and crime suppliers – including the Public Defender Service. We will feed in the results of the research being carried out by LSRC and the Home Office on the efficacy of advice to offenders. We will also look at ways of linking with other agencies to provide access to advice as part of a package of victim support and consider how we can best use CLS Direct to support this objective.

5 Strategic action to address the need for advice and representation

Legal 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 or employees. It is better for both clients and service providers if this knowledge can be used to inform strategic action to improve services.

In taking strategic action we will focus on:

- 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.

At a local level, Centres, Networks and other providers will also inform solutions by sharing their experience of advice services. Nationally our sponsoring department the Department of Constitutional Affairs (DCA) will take the lead in negotiations with other Government Departments as part of the delivery of their Civil Advice Strategy.

A related issue is changes to the need for legal advice arising as a side effect of Government or other public sector policy developments, including legislation. These changes are not necessarily as a result of poor service delivery, but simply a natural consequence of changes to legal rights or procedures affecting legal rights. Examples might be alterations to the benefits system, the immigration system or to the Mental Health Tribunal process. In these cases DCA/LSC will be involved at an early stage so that:

- Any oncosts to the CLS are understood and provided for by those making the changes.
- Procedures are designed to minimise unnecessary legal disputes but to allow access to legal advice and representation where this is needed to protect rights.
- Customers are given the appropriate information about the changes and their rights and responsibilities.

The introduction of the Legal Aid Impact Test into the Regulatory Impact Assessment for new legislation has gone some way towards supporting this approach. In the field of immigration and asylum the Government has gone further and created a joint budget between the Home Office, DCA and LSC which funds both the application and appeal processes for asylum/immigration status and legal advice and representation. This arrangement places access to legal advice at the heart of the process of government decision-making. Working with other government departments, and subject to any proposals by Lord Carter, the DCA will explore whether joint budgets should be created in other areas where legal representation is an integral part of the process.

The LSC will also input to the work the DCA will be carrying out to implement the '*Clementi Reforms*'. We will seek to support changes to court and tribunal systems and procedures to make them less adversarial and more user friendly, reflecting the fact that civil courts and tribunals are there for the benefit of citizens. The creation of the unified tribunal service under the DCA will give an early opportunity to engage in this work. We will also work to help support and improve other dispute resolution mechanisms that reduce the need for litigation.

In the first instance, other work on strategic action will concentrate on four areas:

- Mental health – to ensure that changes in legislation fully incorporate the essential role of independent legal advice and representation for those detained.
- Housing law – this will include continuing to work with the Law Commission on their proposals for housing law, with the Civil Justice Council on their arrears protocol and seeking to resolve issues raised by Housing Benefit administration so that client's homes are not put at risk by a lack of joined up procedures.
- Welfare reform – seeking to make sure that the potential cost of legal advice to those affected is catered for in considering any changes, and helping to minimise any disruption to benefit claimants by working with Government to facilitate information about those changes.
- In asylum we will continue to work closely with the Home Office to ensure that independent legal advice and representation is provided effectively in the New Asylum Model as the new processes for dealing with applications are developed.

6 Information and education about legal rights and responsibilities

The CLS will continue to play a role in ensuring people understand their legal rights and responsibilities, and how to exercise them. The LSC's role will not be to provide formal education, or to duplicate the large amount of information that is currently available. Instead we will add value by making that information more accessible and coherent – particularly for those that currently have difficulty in accessing it because of language barriers or learning disabilities. The LSC will lead and develop the information work through:

a) The CLS Direct website www.clsdirect.org.uk

Visitors to the website can find a local legal adviser, ask a question or choose a topic and link to the right place on the best advice sites in England and Wales, see if they are eligible for legal aid using the online calculator and read legal information leaflets. The series of 31 CLS information leaflets covers a wide range of subjects from dealing with debt to divorce and separation; from losing your home to wills and probate. These leaflets are written by independent authors in plain English and are free to order via the telephone helpline 0845 345 4 345 or download via the website.

In its first year of operation over 500,000 visits have been made to www.clsdirect.org.uk and 1.7 million information leaflets have been distributed.

The LSC is undertaking a review of the information we produce and any new leaflets commissioned will cover key aspects of legal issues within the scope of legal aid and be written in ways that are accessible to our core clients. We will continue to ensure links are made to existing information on other sites, which cover other legal issues and will encourage other sites to link to CLS Direct.

b) Syndicated information columns in the local press

Some local papers already run advice columns, but we suggest this channel has not been fully exploited by the CLS. We will explore opportunities to offer a regular advice column, covering a range of topical information in an accessible form.

c) The development of self-help packs

Similarly, the potential of self-help information has not been fully harnessed by the CLS (with the notable exception of National Debtline) and in some cases there has been duplication of effort as local projects write their own versions. Self-help packs provide not only information to people about the problems they are facing, but tactics on how to solve them and tools, such as specimen letters, for people to use. The LSC is planning how such packs can most effectively be used as part of the CLS Direct service – both via the Website and telephone advisers. The self-help route will not be used where clients need and are eligible for advice services, but it is important that this alternative is available for those people who wish to act on their own or who do not qualify for means-tested assistance.

This information work - as with all other aspects of the CLS - will be carried out by the LSC working closely with other CLS stakeholders. The DCA has been developing an Education, Information and Advice strategy to which the LSC and many others are contributing. The LSC is pleased to be a member of the Public Legal Education Strategy Task Force recently established by the DCA and chaired by Professor Hazel Genn. By the end of 2006 the taskforce is to have developed the case for a national strategy for public legal education and recommendations as to how this would be taken forward. The DCA has also initiated work to improve the information on legal issues available to schools and its dissemination, and is aiming to set up better links between the educational and legal worlds. The Community Legal Advice Networks and Centres will play a role in delivering this plan, as well as delivering information to meet the specific identified needs of the adult community.

7 Governance of the Community Legal Service

To function effectively the CLS must have mechanisms for bringing together the key players at national, regional and local level. It is absolutely central to this strategy that there exist effective mechanisms for joining up the general advice funded by others, in particular local authorities, with the specialist advice funded by the LSC. The LSC has two relevant statutory responsibilities:

- the identification of client need for those services we fund; and
- the facilitation of joint planning and commissioning with other funders of advice services.

The CLS needs to have structures that enable both these functions without creating unnecessary bureaucracy. Additionally, in order to ensure that clients' needs and views inform the development of services, the CLS structure must enable client involvement. It must also encourage delivery through expert suppliers that provide services that are fit for purpose.

Wales

In Wales, our key partners are the Welsh Assembly Government and local authorities, and discussions are ongoing with them as to the best structure for working together.

National level

A National Forum will be established in order to assist the LSC in providing national leadership and direction for the CLS in England and Wales. It will include the other main funders of legal advice services, in particular key government departments and representatives of Wales and of English local government. The detailed terms of reference will be determined by the National Forum, but we would want it to:

- achieve a common understanding of members' relevant agendas and how these affect or support the development of the CLS;
- listen to the views and experiences of clients;
- endorse the way in which we propose to assess the need for advice services;
- explore and propose ways to improve focus, co-ordination and effectiveness of funding for the CLS; and
- have a role in strategic action addressing the causes of problems.

In order to obtain a client view, we propose that the Forum set up a sub-group of client representatives and that the Chair of this group is a member of the Forum. The Forum will have to decide whether it requires a separate group in which supplier networks can give their input or whether that would merely duplicate existing channels of communication and consultation.

The need for advice, in terms of the nature of justiciable problems, the links between them and the types of individual that are most likely to be affected can all be assessed at a national level through the LSRC rolling survey. This shows that 'need' in this sense is broadly the same across England and Wales. However, decisions on which services to should be funded in response to that need in a way appropriate to a particular area must take into account local factors. These will include issues such as population density and distribution, levels of deprivation, proportion of BME groups or non-English speakers, housing stock, the job market and local geography that affect the way that people access advice. Most if not all of this information will be available to local authorities.

Local level

Section 4 above sets out those face-to-face advice services which can be planned and commissioned together at local authority level. There need not be one commissioning model to fit all local authority areas, but whichever model is best suited to:

- involve other funders and users of legal advice services;
- take into account existing local partnership structures and the strategic priorities of other key local partnerships, including the Community Strategy, the Local Area Agreements and Local Public Service Agreements;
- effectively translate the needs of the local area into a co-ordinated commissioning plan; and
- ensure local accountability. This is best provided by local authorities that are democratically accountable together with representatives of the communities in need of advice services.

This approach is likely to be used in the Community Legal Advice Centres and Networks, where the joint funders will agree the most appropriate local arrangements.

The LSC will no longer facilitate Community Legal Service Partnerships (CLSPs), and it will be up to the members of each CLSP to decide whether the partnership has a role to play as a provider forum. We anticipate that many existing CLSPs will decide that the partnership does not add enough value to justify its continuation. Indeed many have already done so. However, the LSC and other local funders will keep dialogue going with any that do continue as a way of obtaining a supplier perspective on need, service gaps and proposed changes.

Furthermore, suppliers who successfully obtain contracts are likely to be entrusted with devising approaches in order to deliver effective integrated local services. For example funders will specify which groups Centres and Networks are expected to serve and will set targets; however, it is the contract holders who will decide how and where best to deliver services in order to fulfil this obligation. They will also expect to involve users not only in client satisfaction surveys, but also in the development of new services. Data from such providers will inform the funders about remaining unmet need and may lead to additional funding for development.

As set out above, the need for legal advice services in different areas can in future be effectively identified through a combination of methodologies. One of the most important of these is the Legal Services Research Centre's survey of justiciable problems. This was not available to us six years ago when the CLS began and CLSPs were set up. Moreover the LSRC periodic survey of justiciable problems is being replaced by a continuous survey, which has a number of advantages as it will:

- provide strategic information beyond the capacity of the previous surveys, including on the need for and access to legal advice services;
- provide PSA measures at confidence levels acceptable to H.M. Treasury;
- provide quarterly reporting;
- add to the evidence of the massive cost impact of civil justice problems on government departments, such as Department of Health, Department for Work and Pensions and Department for Education and Skills;
- allow analysis of seasonality in the experience of problems and access to advice services; and
- allow, at low cost, for the occasional inclusion of additional policy-linked question modules to address issues of immediate policy concern.

The survey data will be supplemented by a range of different data:

- national data, for example the Index of Multiple Deprivation (measured differently in England and Wales), numbers of benefit claimants;
- client input and client representatives' feedback;
- performance against the proposed standards for accessibility of legal advice services;
- information from our suppliers and those of partner funders;
- information from other local partners and partnerships, including Local Strategic Partnerships.

By overlaying all these sources of information we will build up robust pictures of local need for advice services and likely location of services.

Regional level

These local structures will render the existing Regional Legal Service Committees redundant and they will therefore be abolished in April 2006. The LSC itself will retain a regional structure in order to allocate resources between the different local authority areas, to deal with cross boundary and county-wide issues and to commission those specialist services that need to take a regional or national approach such as mental health, clinical negligence, actions against the police, education, asylum and immigration.

LSC budgets will continue to be devolved to regional level, with funding allocated on the basis of national priorities, regional population and access targets, and any geographical factors, all of which may affect the cost of serving the population. This could be expressed through a funding formula. The LSC also requires regional staff in order to undertake those elements of contract management which include building a relationship with local providers and local authorities. Relationships will also be built with other key regional players, in particular through the Governmental Offices in England.

8 Conclusion

This strategy sets out our aims for the CLS over the next five years. It is part of a set of papers that complete our overall vision and flesh out many of the details. A Regulatory Impact Assessment has been prepared for this strategy and is available on the Legal Services Commission Website under Community Legal Service – Developing the CLS.

Three further information papers – ‘CLS Governance’, ‘Information on Civil Legal Advice Centres and Networks and ‘Developing CLS Direct’ will be released shortly after this strategy and will be available on our website.

Over the next 12 months we will further publish policy papers on a number of topics including:

- our strategy for children and family legal services;
- the CLS in Wales;
- mental health legal services; and
- immigration and asylum legal services.

In particular, however, we await Lord Carter’s final report on legal aid procurement, which will include his recommendations on civil and family legal aid. The final report is due in late Spring 2006, and implementation of the CLS strategy will take account of his proposals.

Legal Services Commission