



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

legal services

COMMISSION

Making Legal Rights a Reality in Wales

A policy document by the Welsh Assembly Government
and Legal Services Commission

Community
Legal Service



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Assembly Government and the Legal
Services Commission**

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1 Joint Ministerial Foreword

The Community Legal Service (CLS) has 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. Since the launch of the CLS in 2000, good progress has been made to improve access to high quality legal advice.

Making Legal Rights a Reality in Wales sets out the Welsh Assembly Government and Legal Services Commission shared vision for the next steps in the development of the CLS in Wales, taking into account the principles outlined in *Making the Connections – Delivering Beyond Boundaries* and *Legal Aid Reform: The Way Ahead*.

Achieving this vision requires effective partnership and improved co-ordination between government at all levels, service providers and users. The Assembly Government and the Commission have worked together successfully to agree the way forward in terms of strategic direction, policy and funding. This document explains how we, and our partners, will work together to establish – regionally and nationally – a framework for commissioning and delivering quality, co-ordinated services, whilst at the same time ensuring value for money and better results.

The new environment in which legal services are to be delivered is wholly consistent with the wider aims for the transformation of public services in Wales. Public services which are more innovative and citizen centred, designed to meet the needs of all clients. Services provided through more collaborative models of delivery across geographical areas, with more regional commissioning. To be successful we recognise the need for effective mechanisms for joining up the legal aid services funded by the Commission with the general and specialist advice services funded by others, including local authorities and the Assembly Government.

Although legal services are non-devolved, the Ministry of Justice and the Commission recognise they must play a key role in developing more collaborative and citizen-centred services, working within a strong and more joined-up Welsh public service. This framework takes account of the very different political and cultural landscape in Wales and addresses shared concerns about the exclusion of many of the most vulnerable and isolated citizens.

Taking forward this framework is going to prove a challenge to all concerned. The onus is on us all, working together, to deliver this vision and to ensure the successful delivery of legal and advice services in Wales.



Lord Hunt of Kings Heath OBE



Dr Brian Gibbons AM

2 Introduction

This joint policy document from the Welsh Assembly Government and the Legal Services Commission, sets out the framework for implementing the next steps of the Community Legal Service (CLS) in Wales. It outlines how the Commission's CLS Strategy *Making Legal Rights a Reality* will be implemented in Wales, working in partnership with the Welsh Assembly Government and the Welsh Local Government Association. The framework is firmly set in a Welsh context, taking account of devolution, geography, culture and language and sets the direction for the CLS in Wales over the next five years, which will provide people with good access to quality assured, citizen-centred advice services at a cost that represents the best possible value for money.

The proposals contained in this document aim to secure the future of the Community Legal Service in Wales at a time when it's funding is under increasing pressure. It 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).

Additionally, this framework aims to meet the objectives outlined in Making the Connections: more one-stop shops, different ways of accessing services, which reflect the diverse lives we lead, greater effectiveness in reaching the vulnerable and disadvantaged, and putting citizens and communities at the heart of service delivery.

The framework aims to:

- join up civil legal aid more effectively with non LSC-funded legal and advice services;
- provide better access to legal and advice services for those in the poorest areas with the most problems, while maintaining reasonable access elsewhere;
- 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;
- obtain better value for money by co-ordinating different sources of funding;
and
- deal with the institutional causes of the problems that clients face.

In addition, Wales has excellent opportunities to improve service delivery through close working with all key stakeholders, as identified by Sir Jeremy Beecham in his foreword to the review *Beyond the Boundaries*: ‘Wales has a marvellous opportunity, emanating in part from its traditions and in part from its scale, to lead the way in what we call “small country governance”, achieving for, but also with, its people excellent, responsive, accountable citizen’s centred services in a way that its larger neighbours may find more difficult.’

In order to achieve these aims the paper commits the Commission to:

- a clear governance structure that will ensure joint policy and funding approaches, together with mechanisms to understand the advice needs of the citizens of Wales;
- an expanded telephone service that will provide an effective gateway to a wide range of advice provision for all the citizens of Wales;
- joint commissioning of advice services, through Community Legal Advice Services (centres and/or networks), that will ensure coordination of funding and easy local access to a wide range of complementary advice services. This will deliver services in line with the recommendations in *Making the Connections*.

The publication of this paper follows the joint consultation paper by the Commission and the Welsh Assembly Government, *Making Legal Rights a Reality in Wales*, which was published in December 2006. A wide range of stakeholders engaged in the consultation and have helped to shape the way that the CLS will be taken forward across Wales.

Making Legal Rights a Reality in Wales and a report on the consultation exercise are available on the Welsh Assembly Government and Legal Services Commission websites: www.wales.gov.uk and www.legalservices.gov.uk

3 Vision

The Access to Justice Act 1999 sets out the duties for the Commission in establishing and maintaining the CLS. Its objectives are to promote the availability to individuals of legal information and advice services and to ensure that individuals have access to services that effectively meet their needs. The Commission is committed to fulfilling its duty of understanding individuals' needs and to ensuring services are designed to meet them.

This framework recognises the unique circumstances that exist in Wales and provides a commitment to moving forward in a way that will put the people of Wales at the heart of services. The Commission and the Welsh Assembly Government are committed to improving their understanding of each other's policy environment. This approach will help to identify ways in which we can work collaboratively to maximise the impact of legal advice services funded by the Legal Services Commission, Welsh Assembly Government and Local Authorities.

The Commission is fully supportive of the Welsh Assembly Government's approach in the development of citizen centred public services. The Commission is confident that this model will enable the involvement of the public more fully in the design of services.

The framework also provides for the opportunity to work with other stakeholders to ensure that the legal advice services meet the needs of individuals in Wales. The framework for procurement of services is one approach to ensuring that services are available to the most vulnerable in society. It must however be complemented by whole justice system reform, allowing all stakeholders to maximise efficiency and effectiveness.

Our shared vision for the CLS is that it places the client at its heart and focuses on the rights of individuals. Legal services will be developed to uphold these rights, targeted at people for whom without its support, access to justice might not be possible. The CLS 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 the recognition that people do not face 'legal problems' but problems to which the law may offer a solution and that in those situations they need access to integrated and seamless services.

The Commission aims to develop the CLS in partnership with the Welsh Assembly Government and other key stakeholders so that it is:

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

Making the Connections, the Welsh Assembly Government's strategic framework for public services in Wales, outlines the view that excellent public services are essential to a prosperous, sustainable, bilingual, healthier and better-educated Wales. Citizens and communities are brought into the centre of the way that public services are designed and delivered so that services are responsive to the needs of users and easy to access. The Commission fully endorses this approach.

Putting the citizen first, working together to deliver services and securing better value for money will allow the Commission to deliver its vision in line with the concepts set out in the Welsh Assembly Government's *Making the Connections: Delivering Beyond Boundaries*.

The Commission will therefore encourage local flexibility and input so that services are genuinely accountable to local communities. This will be done whilst seeking to obtain best possible value for public money, in line with procurement arrangements outlined in the report on Lord Carter's Review of Legal Aid Procurement: *Legal Aid Reform: The Way Ahead*.

4 Governance of the Community Legal Service

For the CLS to function effectively, it must have mechanisms for bringing together the key players. It is essential that effective mechanisms exist for joining up the general and specialist advice services funded by others, such as local authorities, with the legal aid services funded by the Commission.

Wales Committee

Following discussion with key organisations in Wales, the Commission has established a Wales Committee for the CLS. This will enable the Commission to fulfill its duties under the Access to Justice Act of facilitating joint planning and commissioning of legal advice services. The Committee will strengthen and improve the delivery of the strategy in Wales by bringing together key policy makers and funders of advice services and by sharing information.

The membership of the Wales Committee is now strengthened from the original proposal and includes policy makers and funders, in addition to the Wales Council for Voluntary Action to represent the voice of clients and the Chair of the CLS National Forum for Wales to represent the views of service providers.

The Committee will meet at least four times a year with one of the meetings being dedicated to a wider engagement with clients and another to a wider engagement with service providers. Organisations represented on the Committee will continue to engage as present outside of this structure with both clients and service providers.

The terms of reference for the Committee and the list of members are at Annex A.

National Consultative Committee (NCC) for England and Wales

In addition to the Wales Committee, a National Consultative Committee (NCC) for England and Wales for the CLS is to be developed, as outlined in *Making Legal Rights a Reality*. A link will be formed between the Wales Committee and the NCC for England and Wales to ensure that particular issues to Wales are reflected on that group. The Chair of the Wales Committee and a senior representative from the Welsh Assembly Government will sit on the NCC for England and Wales.

Working Together

It is recognised, however, that strong relationships cannot rely solely on Committee structures. The effective delivery of the CLS will require strong, working level relationships between officials in the Commission, the Welsh Assembly Government, Welsh Local Government Association and officials in central and local government. Existing arrangements and relationships are being built upon and it will be important for effective working relationships to be maintained and developed between elected representatives and officers, Assembly Members and Commissioners.

The Assembly Government recognises that existing methods of communication with providers, such as meetings between Ministers and officials, should also continue as these provide valuable feedback on the effective delivery of advice services across Wales.

5 Service Delivery

Community Legal Advice Services

The legal services funded by the Commission only provides part of the picture in terms of provision as many advice service providers receive funding from a range of other sources. In particular local authorities and the health sector contribute significant amounts of funding to legal advice. In many circumstances the disparate nature of the funding has resulted in a provider base that is fragmented in nature and clients often have to seek help from a number of sources in order to resolve the complexity of their problems.

Therefore wherever possible services will be jointly commissioned with funders in Wales, invariably initially this will be with local authorities and, where feasible, the Welsh Assembly Government, particularly for areas of work outside of the scope of legal aid, but ultimately the aim would be to involve other funders. The Assembly Government's policy agenda across a number of service sectors is clear: the use of pooled budgets and other resources is an important tool to support partnerships in their delivery of citizen focused public services. A clear statement in "One Wales", to develop Local Service Boards and agreements including a commitment to pooled budgets, underpins this agenda.

It is acknowledged that jointly commissioning services in Wales is not a new concept, and it is the intention to build upon past successes, for example those in health and social care, to deliver the best quality and accessible services for the people of Wales. There have also been examples where informal arrangements have existed between the Assembly Government and the Commission to provide legal services, such as Assembly Government supported housing advice services, which have been complementary to Commission funded services.

Our policy is therefore to move towards the delivery of social welfare and family law services through a more integrated approach, utilising both telephone and face-to-face services. As the unit cost of telephone advice is lower than the cost of face-to-face advice, where telephone advice can be shown to be an effective method of delivery the Commission will expand the services provided by Community Legal Service Direct to help more people. For face-to-face advice, social welfare and family law services will be procured wherever possible through joint commissioning.

Community Legal Advice Services will be responsive to local needs and will be required to meet those needs with the resources available to them. They will bring services to those clients who do not currently access legal advice services, particularly those from vulnerable priority groups, they will help tackle the common causes of people's problems and will help raise awareness of clients' rights.

In providing these services we recognise the choice for citizens in Wales to use the Welsh language and, in ensuring that this right is protected, we will seek to identify the Welsh language needs within each service at the design stage and prior to the commissioning of services. The needs of individuals living in Wales, whose first language is neither that of Welsh or English, will also be taken into account at this stage.

Telephone Services

Community Legal Service Direct will provide a comprehensive bilingual telephone service that will deliver a large proportion of Commission funded information, diagnosis and basic advice particularly in social welfare law. The Commission will expand the service to offer a specialist advice service in family law and to incorporate family breakdown issues within a triage service. When expanding the telephone service in Wales, work will be required to identify other language groups, which would benefit from accessing the service. Effective marketing solutions will address the identified need.

The expansion of Community Legal Service Direct provides part of the solution to the issues surrounding rural access. However, it is acknowledged that there are certain types of cases or circumstances where a face-to-face service is the best solution. Community Legal Service Direct will continue to refer cases to other telephone helplines such as Consumer Direct Wales and to other providers where the client requires face-to-face advice.

At this time the demand for telephone advice is unknown. The Commission will work with clients and providers to understand not only what balance between telephone and face-to-face advice is required, but also the types and level of advice that are more suited to telephone advice services. Community Legal Service Direct will link up with Community Legal Advice Services, as detailed below, once they are established.

Face-to-Face Services

Making Legal Rights a Reality provides the policy for the delivery of social welfare law. It sets out the Commission's intention to purchase legal services in ways that reflect clients' problems and make it easier to access services, which means directing funding and services to where clients most need them. This approach is based upon evidence provided by the Legal Services Research Centre's national civil law and social justice survey, which found that where an individual experiences a civil justice problem then this is likely to lead to further problems. The research confirmed that individuals do not experience problems in isolation and therefore often need advice across a range of issues or categories of law. Further evidence of this can be found in research recently conducted by Cardiff University and Matrix Research and Consultancy where up to half of the individuals involved in the study presented with problems that cut across specialist category boundaries.

Face-to-face social welfare law services will be commissioned in bundles, ie will include the five categories of community care, debt, employment, housing

and welfare benefits, in recognition of the multiple nature of clients' problems and the inherent difficulties in referral. Developing integrated social welfare and family law provision that meets the needs of clients is our primary objective. There is a firm belief that the principle of integrated services will help to achieve this but it is accepted that there must be a flexible approach, particularly in relation to the models by which such services are delivered.

There will be a move towards a single contract approach in social welfare law to ensure the complete integration of services that will be formally linked to a number of family contracts. The social welfare law contract will cover all the work carried out in the procurement area in the five categories of law and all levels of service from general advice to representation at court. It is most unlikely that one service provider would currently be able to deliver these services. The expectation therefore is that it will require a number of service providers working together to provide the full range of services albeit that these will be administered under a single social welfare contract in each area.

In *Making Legal Rights a Reality*, Community Legal Advice Centres and Community Legal Advice Networks were identified as the models for the delivery of integrated services. However, we accept that there needs to be flexibility in determining the most suitable delivery model, according to the needs of clients in each individual procurement area. This is particularly important for Wales when identifying the needs of a procurement area. Therefore whether a service should be a network or a centre will not be prescribed at the outset, but determined through local discussions about the service specification. Having said that it is currently envisaged that networks are likely to be the most suitable model across much of Wales.

It is recognised that there are already a range of effective service delivery models for legal advice services in Wales. Service providers may need to innovate their services based on examples of good practice e.g. outreach, referral and triage, in order to deliver to individuals in need of assistance.

Centres aim to provide seamless and integrated services for clients by bringing all key services within a specified area into a single legal entity. This will mean that clients can access all the services they need through a single organisation although generally this will involve a number of service providers.

A single organisation does not mean a single site service and in order to reach some priority client groups it will be necessary to deliver services through outreach sites and secondary offices. It may also be appropriate for an organisation to have multiple delivery sites, for example where the area covered is fairly large in terms of geography or there are clear access/travel patterns for the local population. Ultimately whilst funders may stipulate certain requirements in terms of how the service is delivered, it will be for those closest to the clients, ie. the service provider, to decide how best to provide the service.

Networks share the same aims as centres but are envisaged to be a more appropriate model for semi-urban, rural and larger, possibly, regional, areas. Networks may therefore be the most appropriate model for regional working in Wales. Networks would bring together a consortium of organisations to provide these services and would therefore be likely to have multiple providers able to provide complementary rather than competing types of advice. The preferred model for a network is for the funders to contract with a lead supplier who would then sub-contract with other suppliers.

The core objectives for any service will be to reduce the amount of times a client needs to be referred and ensure that once a client contacts any part of the service they will have access to the help they need to resolve their civil legal problems.

Procurement Areas

The Commission supports the Welsh Assembly Government and Welsh Local Government Association's view of regional working in Wales, as outlined in the Wales Spatial Plan and the WLGA Regional Partnership structure. Therefore although we are proposing to procure services on a regional basis the format of the procurement areas will be finalised through discussions with potential joint commissioners and may take a staged approach. The Commission's proposed regional areas for procurement are outlined at Annex B.

It is planned that the first Community Legal Advice Service in Wales will be in place by April 2009. The roll out of integrated social welfare law and family services throughout Wales will continue up until 2012.

Fixed Budget

Services within specified 'procurement areas' will be commissioned against a fixed legal aid budget. A national funding formula will be used as the starting point for producing an indicative budget for each area to ensure that each area of Wales receives an appropriate allocation of the available resources.

The allocation of funding will therefore not be solely based on the historic pattern of spend. However before changing the existing distribution of funding the Commission will engage with stakeholders in order to fully understand how clients are currently accessing services. For example do clients travel outside their procurement area to access services because they do not exist locally or because it is typical of the way that they access both public and commercial services. The aim of any change to the distribution of funding will be make to services more accessible to clients.

All indicative budget allocations will be based upon a broad range of factors that allows local decision makers to take responsibility for local decisions. The aim would be to contract for these services for a minimum period of three years and other funders would therefore be expected to also commit funding for the duration of the contract.

Service Specification

The service specification will outline the services to be delivered, including any priority client groups or geographic areas that must be targeted, the performance standards required (e.g. number of clients) and the budget available for the area. It will be for the providers to identify how to best to meet the specified requirements within the allocated fixed budget. Providers will need to bear in mind that as the sole recipient of both central and local government funding for legal services, they have a responsibility to all clients who require services within their procurement area not merely those who are most able to access them or who they have provided services to historically.

Before any tender process begins draft service specifications will be openly discussed with local providers and service user representative groups to ensure that the needs and priorities of the area are correctly identified. This will ensure that the Commission is procuring the right services for the local population.

We are committed to commissioning independent services, that are empowered to deliver access to justice for individuals, and we have a strong tradition of doing so. All future commissioning decisions will be undertaken in line with this commitment.

Tendering

As with all existing legal aid contracting arrangements, ultimately these services will be commissioned through a tendering process and remuneration will be based on whatever arrangements are in place elsewhere at that time. It is recognised, however, that tendering may not always be appropriate in the initial stages of developing integrated services and so there needs to be flexibility on this point. The timing will, to a certain extent, depend on the nature of provision that already exists within the procurement area. Factors to be taken into account include, the number of core categories delivered in an area, the number of contracts in those categories and the number of providers. It may be more appropriate for funders to initially work with existing provision to see how they can better work together to deliver integrated services before moving to a tender process.

An open tender would always be undertaken where funders were looking to alter the number of service providers or the amount spent within an area. An open tender would also take place if additional categories needed to be brought into the area. In some cases it might also be appropriate to only tender for part of the service. However at the end of any contract procurement law demands an open and fair process to allocate future resources so ultimately there will always be a tender process at some point in the future.

The main objective in re-organising services in this way is the recognition that improvements to the current arrangements need to be made to ensure that clients have access to the full range of legal services that they need. It is felt that the best way of tackling this is through one social welfare law contract in

each procurement area with formal links to family legal advice, recognising the needs of clients with multiple problems. Community Legal Advice Services will take into account the need of clients to access non-legal family services, in addition to having formal links with family legal advice.

Examples of how the Commission has established Community Legal Advice Services with Local Authorities in England are available on the Commission website. The Commission will consult before introducing any form of Best Value Tendering based on price. www.legalservices.gov.uk

6 Conclusion

This policy document sets out the direction for the Community Legal Service in Wales over the next five years, representing quality assured, citizen centred advice services. In addition, it offers value for money for taxpayers.

The document outlines:

- A clear governance structure, ensuring joint policy and funding approaches, together with mechanisms to understand the advice needs of the citizens of Wales will be invaluable to the future development of the CLS in Wales.
- An expanded telephone service will provide an additional gateway for all the citizens of Wales, to a wide range of advice provision.
- Joint commissioning of advice services, through Community Legal Advice Services, will ensure coordination of funding and easy local access to a wide range of complementary advice services. This will deliver services in line with the recommendations in Making the Connections.

The proposals in this paper will take time to implement, and require the help and support of a wide range of stakeholders. The Welsh Assembly Government and Legal Services Commission and others will work together to ensure the further improvement of advice service provision in Wales.

Annex A

Wales Committee for the CLS - Terms of Reference

Purpose

1. To strengthen and improve the delivery of the Community Legal Service in Wales by bringing together funders of legal and advice services.
2. To identify how changes in political structures, the law and social policy in Wales will impact on the delivery of legal advice services and plan for these impacts.
3. To identify issues arising in Wales of which the National Consultative Committee for England and Wales needs to be aware of in its discussions.
4. To facilitate the sharing of knowledge and information about:
 - a. the need for legal advice services in Wales, identifying ongoing and future programmes in this area and considering how these can be enhanced and better outcomes and value achieved by co-ordinating these activities more effectively
 - b. the current delivery of legal advice services in Wales
 - c. the providers of legal advice services in Wales.
5. To facilitate joint planning of other public services which impact on clients' legal advice needs.
6. To develop ways of addressing systemic or "root cause" issues in the delivery of public (and private) services which give rise to legal problems for clients.
7. To give the Welsh people a voice in the development of the Community Legal Service.

Indicative Membership

Representatives of:

Legal Services Commission

Welsh Assembly Government (appropriate representatives from Units within WAG)

CAFCASS Cymru

Children's Commissioner for Wales

Welsh Local Government Association

Welsh Consumer Council

Commission for Equalities and Human Rights in Wales

Her Majesty's Courts Service (HMCS)

National Offender Management Service (NOMS)

Legal Services Research Centre (LSRC)

Wales Council for Voluntary Action

CLS National Forum for Wales

SOLACE Wales

A member of the Legal Services Commission will chair the Committee. The Commission will also be represented by the Director of the Community Legal Service, representative from the LSC Civil Policy Team and by the LSC Wales Director.

Secretariat

The Commission will undertake secretariat duties for the Committee, but papers and agenda items will be sought from all represented organisations and bodies.

Meetings

The Committee will meet a minimum of four times a year at venues convenient to members. One meeting a year will include a meeting with representing providers of legal and advice services in Wales. It is proposed that this will take place through the CLS National Forum in Wales. One meeting will include a meeting with a client consultation group, which is to be established. No attendance fees will be paid to members, as they will be attending as representatives of their particular organisations.

Review

Terms of Reference for the Wales Committee for the CLS will be reviewed annually.

Annex B

Proposed Regional Area Working in Wales: Each of the procurement areas outlined below are flexible and will only be finalised through discussions with potential joint commissioners. Ultimately commissioning will be undertaken on a regional basis in a way that will best address the needs of the people of Wales.

Region	Local Authorities
Bridgend, Cardiff, and the Vale	Bridgend Cardiff Vale of Glamorgan
Central Wales	Ceredigion Powys
North East	Denbighshire Flintshire Wrexham
North West	Conwy Gwynedd Ynys Mon
Rhondda Cynon Taff & Merthyr Tydfil	Merthyr Tydfil Rhondda Cynon Taff
South East	Blaenau Gwent Caerphilly Monmouthshire Newport Torfaen
South West	Carmarthenshire Pembrokeshire
Neath Port Talbot and Swansea	Neath Port Talbot Swansea