

3 Social Welfare Work by Solicitors' Offices

The survey of solicitors' social welfare work was carried out in three quite different geographical areas:

- a deprived inner city area: the London Borough of Newham, population 206,500
- a metropolitan district comprising part city, part rural: Oldham Metropolitan Borough, population 219,500
- a deep rural area: the county of Cornwall, population 451,200.

These areas were selected for study because other directly relevant research had already been carried out there. In Newham a review of the work of advice agencies was carried out in 1988 and a local development plan produced (Community Information Project, 1988). Oldham Metropolitan Borough Council had commissioned a similar review, and had supplemented it with detailed monitoring of 4,500 people who used advice services in the Borough in a four week period during February/March 1987 (Oldham Metropolitan Borough, 1987). Finally, Cornwall had been the subject of detailed research by the Access to Justice in Rural Britain Project carried out at Exeter University (Blacksell, 1986; Economides and Watkins, 1986; Economides et al, 1985; Watkins, 1986, 1986a, 1986b).

A total of 220 solicitors' offices were identified from the three relevant sections of the Solicitors' Regional Directory, 1988. Of these 16 had moved or ceased trading. A total of 140 questionnaires were returned from the remaining 204 offices, a response rate of 69 per cent. Of these 23 were in the London Borough of Newham (64 per cent response), 30 in the Metropolitan Borough of Oldham (75 per cent response) and 87 in Cornwall (68 per cent response).

Use of legal aid and green form schemes

The survey showed considerable variations in the levels of use of both the legal aid and green form schemes between the three areas. As might be expected, these differences were greatest between inner city Newham and the rural area of Cornwall, with Oldham falling in between. Tables 6 and 7 give further details.

Table 6 Proportion of income from legal aid in 1988

	Cornwall		Oldham		Newham	
Nil	7	9%	7	23%	9	41%
Less than 10%	19	23%	3	10%	2	9%
10-25%	32	40%	8	27%	4	18%
26-50%	21	27%	8	27%	4	18%
51-75%	--	--	4	13%	2	9%
76-90%	1	1%	--	--	--	--
Over 90%	--	--	--	--	1	5%
	(N = 81)*		(N = 30)		(N = 22)	

* In this and subsequent tables 5 solicitors' offices are omitted -- 4 because they comprise consulting rooms only and 1 because it was newly formed and unable to provide full details.

Solicitors' offices in Cornwall are more likely to be making *some* use of legal aid, but, at the same time, very few receive more than 50 per cent of their income from legal aid work. In Oldham, more offices do no legal aid work, and more rely on it for over 50 per cent of their income. The situation in Newham is even more polarised. Four out of ten offices make no use of the legal aid scheme, whereas one in seven receive more than 50 per cent of their

Table 7 Numbers of green forms submitted in 1988

	Cornwall		Oldham		Newham	
None	7	9%	7	24%	9	47%
1-100	37	47%	11	38%	3	16%
101-250	27	34%	7	24%	3	16%
251-500	7	9%	4	14%	--	--
501-1000	1	1%	--	--	1	5%
Over 1000	--	--	--	--	3	16%
	(N = 79)		(N = 29)		(N = 19)	

income from it. This picture becomes even more noticeable when use of the green form advice and assistance scheme is considered (see Table 7).

In Cornwall nine out of ten solicitors' offices use the green form scheme to some extent, but half of them submit fewer than 100 bills a year and only one in ten submits more than 500. In Oldham more offices make no use of the scheme (a quarter of all offices) but those who do submit slightly more bills. The greatest contrast, however, is with Newham. Here offices seem more likely either to make no use of the green form scheme at all, or to be making substantial use of it. A half of all offices replying had not submitted any green forms during the previous year, while the three busiest offices had all submitted over a thousand green forms – a substantial level of use when compared to those identified by the Institute of Judicial Administration survey of green form use. Of the 30 firms they selected as making the highest level of use of the green form scheme in six legal aid areas, only 17 had submitted over a thousand bills (Baldwin and Hill, 1988).

Levels of social welfare work

Solicitors were asked to indicate the type of service they offered in a range of social welfare subjects as well as in more traditional areas of work. Table 8 shows only the proportion of offices which said that they undertook detailed casework in each of the subject areas. The replies are analysed in greater detail in subsequent chapters.

It is clear from this table that, as might be expected, a far higher proportion of solicitors' offices in Cornwall offer a generalist service, when compared to their counterparts in Newham or Oldham. More than three quarters of offices in Cornwall provide a casework service in the social welfare areas of employment, consumer problems, money advice and debt and housing. A half of the offices undertake welfare benefits work.

The two subjects where fewest solicitors' offices in Cornwall offer a casework service are mental health, which is a highly specialist area of work, and immigration and nationality, for which there must be very little demand in such a rural area.

This pattern of work is reflected, to some extent, in Oldham. Again the social welfare areas where most solicitors provide a casework service are employment, consumer, money advice and debt and housing, but in this case primarily to private rather than council tenants. More notable, however, is the very low level of involvement in welfare benefit work – only one in seven offices.

Table 8 Proportion of offices providing casework by subject area

	Cornwall		Oldham		Newham	
Welfare benefits	41	50%	4	13%	6	26%
Employment	60	73%	23	77%	12	52%
Immigration and nationality	11	13%	6	20%	10	43%
Health and mental health	33	40%	6	20%	5	22%
Consumer	67	82%	21	70%	11	48%
Money advice and debt	12	55%	19	63%	13	57%
Housing - private tenants	73	89%	22	73%	12	52%
Housing - council tenants	67	82%	17	57%	12	52%
	(N = 82)		(n = 30)		(N = 23)	
Family and domestic	71	91%	23	88%	13	65%
Conveyancing	76	97%	25	96%	20	100%
Wills and probate	75	96%	24	92%	19	95%
Crime	71	91%	24	92%	14	70%
Personal injury	72	92%	25	96%	13	65%
	(N = 78)		(N = 26)		(N = 20)	

The situation in Newham is more complex. The figures in Table 8 indicate a generally lower level of involvement not only in areas of social welfare law, but also in some of the more traditional areas of work for solicitors like family and domestic matters, personal injury and crime. It is clear, however, that there is a much higher degree of specialisation in the work of solicitors in Newham. It has already been noted that a high proportion make no use of the green form scheme. In addition, eight of the 22 offices replying said that they undertake no social welfare work at all. When allowance is made for these, the level of involvement in social welfare work is comparable with that in Cornwall. The exception is immigration and nationality work, which is undertaken by seven out of ten firms involved in welfare work – reflecting the multi-cultural population in the borough.

Referral to other agencies

In general, then, welfare benefits and immigration and nationality work are the two areas of social welfare law undertaken by the fewest solicitors' offices. This fact is mirrored by the cases most frequently referred to others. Welfare benefits cases are referred elsewhere by four out of ten offices in Cornwall and five out of ten in Newham and Oldham. Immigration and nationality cases are referred by three out of ten offices in Newham and four out of ten in Oldham.

Representation at tribunals

Legal Aid does not cover representation before tribunals, with the exception of Mental Health Review Tribunals. The green form scheme does, however, provide payment for the preparation of cases to be heard before a tribunal. It might, therefore, be expected that solicitors would represent few clients at tribunals since they would be unlikely to be paid for the work. In view of this a surprising number of firms were, in fact, representing clients. In all three geographical areas, a half of the offices had represented clients at industrial tribunals during the previous years.

Representation at other tribunals was generally lower (see Table 9). There were also some significant differences in the extent to which solicitors' offices were involved in tribunal representation.

Table 9 Representation at tribunals

	Cornwall		Oldham		Newham	
	% offices	ave. no cases	% offices	ave. no cases	% offices	ave. no cases
SSAT	23	2	10	2	22	5
MAT	6	2	7	1	17	5
MHRT	10	6*	7	2	13	36*
Ind. Trib.	46	4	43	6	35	8
HBRB	1	5	--	--	4	10
Imm. Appeal	--	--	3	2	30	6
CICB	26	2	40	3	35	7
SSC	5	2	3	1	9	3
EAT	7	3	3	10	9	1
Imm. Trib.	--	--	--	--	22	8
	(N = 82)		(N = 30)		(N = 23)	

* One firm was representing very high numbers of cases before MHRTs.

In general, offices in Newham were more likely to be representing clients at tribunals than were their counterparts in Cornwall, and, more particularly, in Oldham. This becomes even more significant when the fact that more Newham offices undertake no social welfare work at all is taken into account. This means that, of those offices that do cover areas of social welfare law, a far higher proportion in Newham represent at tribunals. They are also each representing more clients at these tribunals than offices in either Cornwall or Oldham. Again, it is clear that offices in Newham are more involved in immigration and nationality work.

Summary

What emerges from this analysis, then, is a significant difference in the work undertaken by solicitors' offices in the three different geographical areas. At the one extreme, rural Cornwall, there seems to be a preponderance of generalist solicitors' practices, taking on work across the whole range of social welfare subjects as well as the more traditional areas of work. At the other extreme, inner city Newham, offices seem to be far more specialist. Half do not use the green form scheme at all, nor do they undertake work on social welfare matters. The other half are more likely to be providing detailed casework and to be representing clients before tribunals than offices in either Cornwall or Oldham.

These differences are likely to be attributable to two factors – variations in levels of need for social welfare advice and assistance, and variations in the range of other advice agencies in the locality. These factors are explored in greater detail in the following chapters.