

4 Advice and Legal Services in Cornwall

Cornwall has a population of about 450,000, two-thirds of whom live in settlements with fewer than 10,000 inhabitants. It has one of the lowest population densities in England and Wales. Physical access to essential services is, therefore, a problem for most of the population. Someone living in Bude and needing to attend the Truro County Court, for example, would need to undertake a journey involving the train and three separate buses.

Surprisingly for such a rural area, Cornwall has the fourth highest unemployment rate in the United Kingdom – 15 per cent compared with the national average of 11 per cent. It is also an area of extremely low wages. In 1988 the average gross weekly wage for a male working full-time was £191 – 78 per cent of the national average. 83 per cent of adult males earned less than the national average wage. Cornwall also has an especially high number of pensioner households.

A particularly high proportion of the population would, therefore, qualify for legal aid (Regional Trends, 1988).

There are 84 solicitors' firms in Cornwall who run 128 offices throughout the county. These offices are predominantly located in the main centres of population, but there are many small towns with one or two offices. The majority of these are open for normal office hours – only four were part-time consulting rooms.

By comparison there are far fewer advice centres in Cornwall. There are eleven main advice services that, together, run 22 offices throughout the county. Twenty one of these offices provide a generalist advice service (20 CABx and one independent advice centre), the other office being the housing aid service run by Carrick District Council. In addition the Trading Standards Office, based in Truro, provides an information and advice service on civil

matters as well as taking on criminal cases calling for enforcement. There are also two specialist support and consultancy services for advice agencies in Cornwall Devon and Cornwall Housing Aid, based in Plymouth and the Cornwall Money Advice and Welfare Rights Information Project, based in Redruth.

Like the solicitors' offices, advice services are also located primarily within the main centres of population. Nine towns, (Bodmin, Camborne, Falmouth, Liskeard, Newquay, Penzance, St Austell, Saltash and Truro) contain over half of both solicitors' and advice centre offices, including all advice services open five days a week. There are a further eight towns each with a part-time CAB, which together contain a further quarter of the solicitors' offices.

People living within the main centres of population, then, will have access to an advice centre as well as to a choice of solicitors' offices. Those living in the smaller towns, like Perranporth, St Just or Port Isaac will have easy access to only one solicitors' office, while others living in more remote areas will face a journey of over five miles to either the nearest solicitor or an advice agency.

Social welfare work undertaken by solicitors and advice agencies

The questionnaire survey asked both solicitors and advice workers to indicate the level of work their office undertakes in specific subject areas.

Almost all solicitors' offices and advice agencies cover all subject areas – in other words they offer a generalist service. The main difference lies in the type of service offered. In all subject areas, except welfare benefits, advice agencies are more likely than solicitors to provide initial information and advice and to refer clients requiring casework elsewhere. Twice as many advice centres as solicitors provide casework on welfare benefit problems, while solicitors are more likely to take on employment, consumer and housing cases.

This pattern of casework is reflected in the referrals made. Welfare benefits is the area identified by most solicitors as being referred to CAB. In contrast the areas in which solicitors receive referrals from advice services are matrimonial, general litigation, debt and consumer. Matrimonial and general litigation cases are also the ones that advice services say they are most likely to refer to solicitors.

Similarly, advice services are far more likely than solicitors to represent clients at social security tribunals. In all other areas of representation, however, solicitors are undertaking far more cases than the advice agencies. This includes Industrial Tribunals, Criminal Injuries Compensation Board

Chart 1 Social welfare work undertaken by solicitors and advice agencies in Cornwall

Note: The analysis for this and subsequent charts is based on full-time solicitors' offices and the main full-time advice agencies only.

cases and court cases dealing with money advice and debt, consumer, housing and, to a lesser extent, employment and welfare benefit matters.

To get a more detailed understanding of these broad statistics, in-depth interviews were held with three solicitors' firms and three advice agencies. Two of the firms were in Bodmin, where there is a CAB, the third in Bude, where there is no CAB. The advice agencies interviewed included Bodmin CAB, Devon and Cornwall Housing Aid and the Cornwall Money Advice and Welfare Rights Information Project.

Welfare benefits

The questionnaire survey showed that advice services are far more likely than solicitors to undertake welfare benefits casework (nine out of ten advice centres compared with five out of ten solicitors' offices). In fact three out of ten solicitors' offices refer welfare benefit cases elsewhere – in almost all cases to a CAB.

Advice services also represent many more people before social security tribunals. Together they represented appellants at:

- 144 Social Security Appeal Tribunals compared with 32 by solicitors
- 43 Medical Appeal Tribunals compared with 8 by solicitors
- 14 Social Security Commissioners Hearings compared with 9 by solicitors.

The majority (nine out of ten) of advice services had represented appellants at Social Security Appeals Tribunals and Medical Appeals Tribunals. In contrast, a quarter of solicitors' offices had represented at SSATs and a tenth at MATs. Representation at Commissioner level was far less common in both cases – a quarter of the advice services had done so and fewer than one in ten solicitors.

It was clear from the interviews with the two solicitors' offices and the CAB in Bodmin that the work they do is complementary. The CAB receives about 1400 enquiries a year relating to welfare benefits, ranging from simple requests relating to form filling (about 100 a year) through to cases requiring representation at Social Security Appeal Tribunals (24 cases) and Medical Appeal Tribunals (4 cases). They use the Cornwall Money Advice and Welfare Rights Information Project staff for consultancy and would refer to them cases that require representation at Social Security Commissioner level.

One of the two Bodmin solicitors' firms interviewed receives about 100 welfare benefits enquiries a year, all of which form a part of a matrimonial

case. The office submits 500 green forms a year, 60 per cent of which are for matrimonial work. The benefits enquiries it receives are almost all paid for on green form and relate primarily to housing benefit entitlement, the transfer of child benefit and maintenance claims. It would refer cases needing tribunal representation to the CAB. The other Bodmin solicitors' office receives a far smaller number of cases – about ten a year, half of which would be part of a matrimonial case, half cases in their own right. The majority of cases require negotiation with the local authority or Department of Social Security, and are paid for on the green form scheme. Cases requiring tribunal representation are referred to the CAB, although they will work in tandem on Medical Appeal Tribunal cases. The CAB represents the appellant, but the firm will get the medical reports and help with case preparation.

In contrast, the solicitors' office in Bude that was interviewed is undertaking rather more welfare benefit work. About 150 cases are received a year, around 70 per cent of which are part of a matrimonial case. They calculate benefit entitlement and negotiate with the local authority and Department of Social Security over entitlements and special payments. A CAB is shortly to be established in Bude and the firm hopes to be able to pass on these cases to them. They represented one client at a Social Security Appeal Tribunal during the previous year.

Of the two specialist advice services, Devon and Cornwall Housing Aid concentrates on work relating to housing benefit entitlement. It receives about 25 referrals a year from advice agencies in Cornwall, and represented two clients before Housing Benefit Review Boards in Cornwall and two at Social Security Appeal Tribunals.

Most of the work of the Cornwall Money Advice and Welfare Rights Information Project is consultancy to other agencies. It is their policy to give front line advisers the necessary skills and information to advise their clients direct. Any referrals that are made are for representation at Social Security Appeal Tribunals, Medical Appeal Tribunals or before the Social Security Commissioners. They are currently representing at about three tribunals a week. Their main contact with solicitors would be for counsel's opinion for Judicial Review or Social Security Commissioners hearings. They also collaborate with a local firm over the preparation of medical reports for Medical Appeal Tribunals.

The pattern that emerges, then, is that where there is a CAB in a town, it receives the bulk of the enquiries and represents clients before Social Security Appeal Tribunals and Medical Appeal Tribunals. CABs use Devon and Cornwall Housing Aid for consultancy about housing benefit law and the

Money Advice and Welfare Rights Project for consultancy about complex cases and those requiring representation. Solicitors' firms undertake much of their work as part of matrimonial casework. They will negotiate with the local authority and Department of Social Security, but are more likely to refer cases needing tribunal representation to the CAB. Where medical reports are required they will usually work together. Cases going for Judicial Review or before the Social Security Commissioners are most likely to be handled by the Money Advice and Welfare Rights Project who contact solicitors when they require counsel's opinion.

Where there is no CAB, as in Bude, solicitors in private practice take on a wider range of more detailed casework.

Housing

The questionnaire survey showed that solicitors' offices are more likely than advice services to provide casework on housing matters. Even so, the level of casework by both is fairly high (Chart 1). There is one solicitors' firm, in Penzance, for whom housing work comprises between a quarter and a half of their work. Over the county as a whole, there seems to be a very low level of referrals between solicitors and generalist advice services. One in twenty solicitors' offices would refer housing cases, in particular, those involving local authority tenants, to a CAB; while one of the ten generalist advice agencies would refer cases to a solicitor. There are, however, two specialist housing advice services in the county – a front line service provided by a housing adviser in Carrick District Council and the Devon and Cornwall Housing Aid Service. It is clear that these two services work closely with generalist advice agencies who refer complex cases to them. In addition, Devon and Cornwall Housing Aid provides a consultancy service to generalist advice agencies, to enable them to undertake cases requiring long-term support or mediation. Both these specialist housing advice services refer cases to solicitors, often where counsel's opinion is required or where counsel needs to be briefed.

This pattern of referral is reflected in the numbers of cases represented at court. Half the solicitors surveyed had represented clients with housing problems, amounting to a total of 631 cases. By comparison, two out of ten advice services had together represented just three clients. As might be expected, more advice services (four out of ten) had represented appellants at Housing Benefit Review Boards compared with solicitors (fewer than one out of ten). The numbers of cases were not, however, large. Advice services had represented six cases; solicitors' five.

The detailed interviews provided more information on the nature of the work undertaken. Again, one of the Bodmin solicitors' offices receives substantial numbers of cases – about 80 to 90 a year. Like the welfare benefit work they do, these housing cases form part of their significant caseload of matrimonial work. Almost all the housing work is undertaken on the green form scheme and it primarily relates to transfers of tenancy and allocation of the matrimonial home. Ten cases were represented at court during the year. The other solicitors' office in Bodmin receives about ten housing cases a year – all cases in their own right and mostly repossession cases. Most are paid for on the green form scheme. Six cases were represented during the year, primarily private tenants who filed a defence to a possession order. The senior partner attended a housing course run by Devon and Cornwall Housing Aid and would consult them about housing cases. They receive referrals of repossession cases from the local CAB.

Bodmin CAB receives 650 housing enquiries during the year, almost all of which are from local authority tenants. Quite a number of these concern housing allocation or transfers and included in the figures are neighbour disputes, which solicitors would consider as general litigation rather than housing cases. Cases involving eviction or repossession would be referred to local solicitors. During 1988-89, they consulted Devon and Cornwall Housing Aid about nine cases. Three of these cases were related to marital breakdown, three concerned landlord and tenant difficulties, one repossession and two general housing information.

The solicitors' office in Bude is consulted by tenants about 80 housing cases during the year, with a similar number from landlords. About three quarters of the tenants' cases start on green form and most would lead to litigation and full legal aid. These cases encompass a fairly wide range of areas, including homelessness and rehousing, repossession, landlord and tenant disputes and the preparation of agreements for leases. They include both private sector and slightly fewer local authority tenants.

Devon and Cornwall Housing Aid received 264 enquiries from Cornwall during 1988-89. Of these 30 were from the Bodmin/Bude area of North Cornwall – in the main self referrals or recommended by a friend (15 cases) or referred from the CAB (10 cases). The three main categories were homelessness (nine cases), landlord and tenant problems (eight cases) and marital breakdown (six cases). The relationship between Devon and Cornwall Housing Aid and other advice agencies varies considerably. Some refer cases to them very early on – for example homelessness cases – while others contact the Housing Aid Service to discuss how best to handle the case and refer only

complex landlord and tenant problems. Cases of illegal eviction or repossession for rent arrears are normally referred by the Housing Aid Service to solicitors. They also refer homelessness cases where they feel the authority of a solicitor will carry weight in negotiations with a local authority. Any cases where litigation is imminent are referred to a solicitor immediately. Finally, work is undertaken jointly with solicitors where a repairs case needs an independent inspection report. The Housing Aid Service say that they receive a higher proportion of enquiries from young single unemployed people than do solicitors. They also help a number of private tenants who feel that their landlords would react adversely to them consulting a solicitor.

The pattern of housing advice and assistance provision is clearly quite different from that for welfare benefits. The work undertaken by solicitors is clearly more litigious and focusses on three main areas – repossession, illegal eviction and marital breakdown. These are also the areas that advice services, including the specialist housing ones, would refer to solicitors. Most housing work undertaken by solicitors begins on the green form scheme. In contrast the work of advice centres includes more cases of housing allocations and transfers and of people who are homeless or needing rehousing. The exception to this is the work of the Devon and Cornwall Housing Aid Service, which provides consultancy to CABx and others over more complex cases relating to homelessness, marital breakdown, landlord and tenant, repairs and repossessions. In Carrick District Council there is also a front-line housing advice service which, at present, concentrates on work with private tenants. It, too, hopes to develop as a consultancy service for CABx and other generalist advisers.

Employment

There seems to be little difference in the proportions of solicitors and advice services providing casework in the area of employment (Chart 1). Over the county as a whole, seven out of ten solicitors do so, compared with six out of ten advice agencies. There is also almost no referral. One solicitor refers employment cases to a CAB and one CAB refers employment tribunal cases to solicitors.

Half of the solicitors' firms had represented employees at Industrial Tribunals, while four out of ten advice agencies had done so. Together they represented 147 appellants – 134 represented by solicitors, 13 by advice services. As might be expected, fewer cases had been represented at Employment Appeal Tribunals – 36 in all, of which 20 were represented by solicitors; 16 by advice agencies. While fewer than one in ten solicitors

represented clients before EATs, two in ten advice agencies had done so. Solicitors, however, were far more likely to be representing employment cases in the courts. Two out of ten offices had represented a total of 95 cases. Only one advice agency had been involved with employment court cases and then only twice.

The two solicitors in Bodmin who were interviewed each undertake very little employment work. Neither had had more than five cases in the previous year. All of their cases involved dismissal or redundancy claims by employees. Most of these would be settled without recourse to a tribunal and one of the offices had represented two appellants at Industrial Tribunals during the previous year, the other last represented a case at tribunal several years ago.

Bodmin CAB received many more employment enquiries during the year – 400 in total. However, these are mostly general enquiries, relating to health and safety, holiday entitlement and holiday pay. They formerly had a volunteer who would represent clients at tribunals and had, in fact, represented 4 appellants at Industrial Tribunals. Since the volunteer has left little casework is undertaken and cases requiring tribunal representation are referred to other CABx.

The solicitors' office in Bude has about 50 employment cases a year from employees and a further ten or so from employers. The majority of employee cases are dismissals or redundancies and would be paid for on green form. They represented two appellants at Industrial Tribunals and fifteen court cases.

Most solicitors and advice agencies, then, receive cases relating to employment law, but it would appear that the number of cases is relatively small compared with other subject areas. While the cases received by solicitors predominantly involve dismissal or redundancy, CABx have many more general employment enquiries.

Consumer

Consumer work is one of the main areas of social welfare work undertaken by solicitors in Cornwall, with eight out of ten undertaking casework and fewer than one in ten not covering the area at all. For two solicitors' offices – one in Newquay, the other in Truro – consumer cases accounted for between a quarter and a half of their total workload. Advice services were rather less likely to provide a consumer casework service – a half said they did so, with a further third saying they provided an information service and referred cases elsewhere. In addition the Trading Standards Department of the County Council provides advice on civil matters and will take up cases where enforcement is needed. Again there is a very low level of referral, with no

advice agencies saying they refer consumer cases to solicitors. One in twenty of solicitors (4 offices) refer cases to advice agencies – either to the CAB or to Trading Standards. One CAB refers cases to Trading Standards.

Solicitors are also very much more likely to represent consumers at court – primarily the small claims court. Six out of ten offices had represented a total of 902 consumers. In contrast only two out of ten advice agencies had represented consumers and during the year this totalled six cases.

The Bodmin solicitors interviewed each receive fewer than ten consumer cases a year. Mostly these involve faulty household goods or defective cars. One of the firms had represented three cases at the small claims court. The Bodmin CAB receives about 350 consumer enquiries a year, but does not undertake detailed casework. Most enquiries are about faulty goods and they normally give advice and encourage enquirers to negotiate with the trader themselves in the first instance. About one in ten people return for further help because they were unable to negotiate with the trader. Cases where enforcement is needed would be referred to Trading Standards.

The Bude solicitors' office, however, receives many more enquiries. About 90 people consult them a year, mostly on problems with faulty goods, and defective cars in particular. Almost all are paid for on green form and will eventually involve litigation. About two consumer cases a week are represented at court.

In general, then, most enquiries to both solicitors and advice agencies involve faulty goods. While advice services are more likely to explain to enquirers what their rights are and encourage them to negotiate with traders, solicitors are more likely to receive cases where litigation is called for.

Money advice and debt

Money advice and debt casework is undertaken by more than eight out of ten of both solicitors' offices and advice agencies. The high level of casework by generalist advice agencies is supported by consultancy from the Money Advice and Welfare Rights Information Project. In three solicitors' offices – in Callington, Bodmin and Wadebridge – between a quarter and a half of their work involves money advice and debt cases. As with consumer cases, referrals between solicitors and advice agencies are very low indeed.

Six out of ten solicitors' offices had represented clients with debt problems in the courts. Together these totalled 927 cases. Four out of ten advice agencies had also represented debt cases, but these involved only 21 cases in total.

One of the two Bodmin solicitors interviewed undertakes relatively few debt cases – between 10 and 15 a year, two of which had been represented in court. Most of these cases are housing repossession ones, often involving high rents compounded by non-claiming of housing benefit. When approached, the solicitors are prepared to help people with multiple debts. The second Bodmin solicitors' office receives around 75 cases a year and had represented 20 in the courts. Half of these form part of a matrimonial case and half are cases in their own right. They cover a wide range of problems from single debts with mail order companies, utilities, building societies or landlords to cases of multiple debt. All involve negotiation with creditors, rescheduling the debts and on occasion applying to the court for administration orders. Both firms use the green form scheme to cover this work, only rarely applying for an extension because of the problems that would entail.

In total about 500 people a year consult the CAB for money advice or debt problems. These vary from simple enquiries about a single debt to clients with judgment debts or owing money to up to 20 creditors. CAB staff neither represent clients at court, nor do they accompany them. They do, however, help clients to present their own case to the court. Because it is so time consuming, the nature of debt work undertaken by Bodmin CAB depends very much on whether there are volunteers willing and able to take on cases. At present one volunteer, who works for 20 hours a week, specialises in debt work. However, this volunteer is shortly to stop working at the CAB. Consequently the debt caseload is consciously being reduced at present. It currently stands at six on-going cases whereas formerly this would have been around eleven.

The solicitors' office in Bude also undertakes a great deal of debt work, amounting to about 100 cases a year, paid for on green form with extensions beyond the £50 limit when needed. The cases involve both negotiation with creditors and representation at court. The incidence of multiple debt is increasing. Unlike the Bodmin firms, the one in Bude also undertakes substantial amounts of debt recovery work for creditors – at least another 100 cases annually. They hope, when the Bude CAB is opened, to be able to refer debt cases to them.

Of the two specialist advice agencies, Devon and Cornwall Housing Aid receives enquiries from other advisers on rent and mortgage arrears. It does not take these on as cases and any that come direct from members of the public are referred to their local CAB.

The Cornwall Money Advice and Welfare Rights Information Project concentrates primarily on consultancy work, helping CABs, social workers,

youth workers and probation workers to undertake the casework. Of the enquiries it receives, about one in ten are taken on as casework. They represented eight clients in court hearings for debts during the year – over a third of such cases represented by all advice agencies.

It would seem that advice agencies and solicitors are taking on very similar cases in the area of debt. However, the advice services, with consultancy from the Money Advice and Welfare Rights Information Project, are more likely to negotiate with creditors and help clients to present their own case if it goes to court. While solicitors will also negotiate with creditors, they are much more likely to represent clients in court than to help them present their own case. In many cases this work is fairly unremunerative and was described by one of the solicitors as a ‘loss leader’.

Immigration and nationality

As might be expected in a rural area such as Cornwall, immigration and nationality cases form a very minor part of the work of both solicitors and advice agencies. Only three out of ten advice agencies and two out of ten solicitors say that they undertake casework. In fact, three out of ten advice agencies and six out of ten solicitors undertake no immigration work at all. No cases had been represented at either Adjudicator Appeals Hearings or Immigration Appeals Tribunals.

None of the three firms interviewed could remember having an immigration case and Bodmin CAB receives only 50 enquiries a year, most of which are very straightforward. If it did get a complex case it would refer it to the Joint Council for the Welfare of Immigrants (JCWI) in London, or one of the offices of the United Kingdom Immigrant Advisory Service (UKIAS).

Summary

What emerges, then, is a situation where solicitors and advice agencies offer a complementary service. This was borne out by the interviews in Bodmin and Bude. Living within a small town, it is inevitable that advice workers and solicitors will meet socially and be well aware of each other’s work. Indeed, the wife of one of the three solicitors is a volunteer with the CAB. However, the low level of referrals between solicitors’ offices and advice agencies seems to suggest that the public is also aware of the different areas of expertise.