

Future policies for legal advice and assistance

7 Future Policies for Legal Advice and Assistance

This research provides a fairly detailed picture of how the current provision of advice and assistance works in three local authority areas. Generalising from these to the country as a whole should be done with caution since the similarities between the areas are counterbalanced by just as many differences. Similarly the 18 in-depth interviews provide a greater insight into the work undertaken both by solicitors' firms that make heaviest use of the green form scheme, and by advice centres that do most casework and representation. They are not, however, typical of other firms or advice centres working in the three areas.

The relationship between solicitors and advice agencies

Bearing these points in mind, it is still possible to begin to describe the patterns of delivery of social welfare advice and assistance to local communities. It is, for example, clear that the range of work of both private practice solicitors and advice services varies greatly between different localities.

In Cornwall solicitors' offices greatly outnumber the offices provided by advice services, but both are concentrated on nine main towns. People living in smaller towns usually have no choice – all they have is one solicitors' office. Both solicitors and advice services predominantly offer a generalist service covering all areas of social welfare law. Indeed it has been a deliberate policy that advice services should be delivered in this way. Individual casework is undertaken by local citizens advice bureaux whose staff are trained and supported by specialist housing, welfare rights and money advice services. At the same time, the great majority of firms make some use of the green form scheme – typically submitting fewer than 150 bills a year.

In Oldham, there are only slightly more solicitors' offices than advice service points. Both are concentrated, to a considerable degree, on Oldham town centre. There is a greater variety of advice services, with generalist advice centres serving specific groups in the community, as well as services providing a greater degree of specialisation in particular areas of work. Solicitors, too, seem to specialise in the work that they do.

The situation in Newham is more complex still. There are roughly equal numbers of solicitors' offices and advice service points, but many of the latter are part-time only. At the same time about a third of solicitors' offices do no social welfare work and do not use the green form scheme. There is an even greater polarisation in the work undertaken by both solicitors and advice services than in Oldham. Either they provide a casework service in a subject area, or they do not cover it at all. Far fewer give initial information and advice and then refer elsewhere. Some solicitors are making very heavy use of the green form scheme – over 1000 bills submitted a year – and advice services are far more likely to refer social welfare cases to solicitors than their counterparts in either Oldham or Cornwall. Solicitors in Newham are also far more involved in tribunal and court representation than similar firms in Oldham and Cornwall. In fact, the staffing of offices in Newham is larger and more likely to include solicitors who specialise in particular social welfare areas. The advice services are also more specialised and employ more paid staff than similar services in Oldham or Cornwall.

The inter-relationships between private practice solicitors and advice services also vary between the three areas. In Cornwall, solicitors take part in rota schemes offering free legal advice at CABx. Many of the referrals to these schemes are in matrimonial or other non-social welfare legal areas. Solicitors and advice workers are more likely to meet socially. A similar pattern exists in Oldham, but the establishment of the law centre, in particular, has brought solicitors and advice workers into closer contact. The existence of specialist advice services had created a more sophisticated pattern of provision of advice-giving than exists in Cornwall.

By far the most complex inter-relationships exist in Newham. Here the work of some solicitors and advice services has a great degree of similarity. The East London Legal Action Group provides a forum for collaboration, and has been responsible, among other things, for the establishment of duty rota scheme at the County Court on possession hearing days. Both private practice solicitors and advice workers take part in this rota. As in Oldham, the law centre has brought solicitors into closer working contact with advice workers. Former law centre staff have joined and even established local firms, and there

are four law centre evening advice sessions, staffed by volunteer local solicitors. The interview survey in Newham conveyed the impression that demands far outstrip resources. There are two-hour queues at the CAB; solicitors are regularly closing their books and taking no further referrals, and local firms will refer cases to one another depending on specialisms and the capacity to take on new cases.

Patterns of social welfare law advice and assistance

The Legal Aid Efficiency Scrutiny report recommended that particular areas of social welfare work could be considered for transfer from solicitors to advice services. More recent proposals suggest a system of franchising. Before looking at these proposals in more detail it is worth summarising the work currently being undertaken in six main areas of law – welfare benefits, housing, employment, consumer, debt and immigration and nationality.

Welfare benefits is the main area where more advice services than solicitors take on cases. In Cornwall and Oldham they were also more likely to represent clients at tribunals. In Newham, however, more solicitors undertook tribunal representation and they had represented at more Medical Appeal tribunals than the advice services. Welfare benefit work carried out by solicitors is, however, frequently part of another case – primarily matrimonial work – and is often not claimed on separate green forms. In Newham firms take on a wider range of benefit work, often as part of debt or housing cases. Among the advice centres there is a wide variety in the types of work undertaken. In Cornwall practically all casework is done by the CABx with support and training from a specialist welfare rights consultancy unit. In Oldham advice and casework is provided by all generalist advice centres, who refer more complex long-term casework to the local authority welfare rights workers. They in turn work with the law centre staff who take on cases of maladministration and challenges to the interpretation of the law. In Newham, again all generalist advice centres provide welfare benefit casework. The local welfare rights team is not, however, a front-line advice service. In consequence the law centre takes on more complex cases and prepares a large number of cases for representation at tribunals.

The *housing* work of solicitors is generally more litigious than that of advice services and many more cases had been represented at court hearings. In Cornwall, both solicitors and advice services are very likely to take on housing cases. There is, however, a difference in the types of case. Solicitors' cases more often involve repossession and illegal eviction, or are part of a matrimonial problem. Advice services, on the other hand, receive many more

straightforward enquiries relating to homelessness, housing allocation or transfers. There are two specialist housing aid services, both of which see their role primarily as a consultancy service for local CABx, who take on the casework. The situation in Oldham is somewhat different. Here, more solicitors than advice services offer a housing casework service, particularly to private tenants. This work involves repossessions, disrepair or housing aspects of a matrimonial case. The generalist advice services work more often concerns housing allocations and transfers, while the law centre concentrates on local authority housing disrepair. There is no specialist housing advice service. In Newham, however, there are two housing aid services, one independent and the other run by the council. More advice services than solicitors take on housing cases, but at the same time they are very much more likely than their counterparts in Cornwall or Oldham to refer housing cases to local solicitors. The work undertaken by some solicitors' firms in Newham is highly specialist and focuses on disrepair and repossessions. There is also less distinction from the casework of the law centre and advice centres. Disrepair and possession cases are also a significant part of their work, alongside cases of homelessness and enquiries about housing allocations and transfers. This seems to be more a reflection of demand than duplication, since there is a coordinated approach to housing repossession work. In general, though, the work of solicitors is far more litigious than that of advice services or even the law centre. The law centre concentrates to a large extent on work with tenants' associations and cases with a wider applicability. The high level of demand for housing casework is clearly demonstrated by the fact that two solicitors' firms, who employ specialist housing lawyers, have both currently stopped taking new cases.

The situation with *employment* law is a little more straightforward. In all three areas (Cornwall, Oldham and Newham) solicitors are more likely than advice centres both to take on casework and to represent cases at tribunal and court hearings. While generalist advice services mostly receive enquiries about conditions of employment – holiday entitlement, holiday pay, statutory sick pay, maternity rights – solicitors are more likely to be consulted about unfair dismissals and unfair selection for redundancy. In Oldham and Newham the CABx specialise to some extent in employment law and consequently receive dismissal and redundancy cases. In Oldham the CAB refers cases to the law centre where there is evidence of sex discrimination. In Newham, the CAB refers cases involving litigation to local solicitors' firms specialising in employment law. The law centre in Newham has a considerable

employment caseload involving wages claims and sex and race discrimination cases as well as dismissals and redundancies.

In general, more solicitors' firms than advice agencies take on *consumer* cases, and particularly to represent cases at court hearings. Most of the work of solicitors involves faulty goods – in particular defective cars or major household goods. Generalist advice centres are more involved in general enquiry work about consumer rights or negotiation with traders. In all three geographical areas the local authority Trading Standards Services offers a consumer advice service. This accounts for the generally low level of casework undertaken by other advice agencies who would tend to refer cases requiring negotiation or enforcement to them. Civil litigation cases are referred to local solicitors. The one main exception is Oldham CAB, which offers a similar service to the local consumer advice service. Neither Oldham Law Centre nor Newham Rights Centre takes on consumer cases.

Money advice and debt work is growing in volume in all three geographical areas. It is an extremely time consuming area of work. Advice services are reluctant to take on cases because they have low staffing levels; while solicitors find they soon use up the basic green form payment and need to consider applying for extensions. Where solicitors have an established area of expertise in housing or consumer law they are particularly likely to be consulted about related debt problems. Debt is also an increasingly important aspect of matrimonial work. There are also firms in all three geographical areas who are now attracting debt cases in their own right. Most debt cases received by solicitors involve litigation and often involve money owed to more than one creditor. The advice centres that have decided to become involved in money advice and debt work, concentrate slightly more on debt counselling and negotiation with creditors, but the work is quite similar to that of solicitors. It is clear that recent years have seen an escalation of debt problems and that both solicitors and advice agencies are overwhelmed and coping as best they can. There is nothing like the same distinction in the work undertaken as there is for social welfare areas in which they both have a more long-standing involvement.

Immigration and nationality work is a highly specialised area of law, and one involving fewer enquiries and cases than other areas of social welfare law. Not surprisingly, neither solicitors nor advice services in Cornwall have many immigration cases. In Oldham, where there are larger black and ethnic minority communities, the two main casework agencies are Oldham Council for Racial Equality and the law centre. Oldham CRE handles the more straightforward cases up to Adjudicator Appeal level. The law centre takes

on cases of maladministration or representation at tribunals. Both solicitors and other advice services refer to these two agencies. In Newham, both solicitors and advice services are much more likely to take on immigration and nationality cases. For one firm such work accounts for between a quarter and a half of its caseload. At the same time the three main advice agencies are the law centre, the Council for Racial Equality and one of the generalist advice services serving the Asian community. There are clearly a small number of immigration specialists that include both solicitors and advice services.

The adequacy of current provision

Sophisticated patterns of advice and assistance provision have evolved. Despite the lack of an overall policy and a coordinated method of funding, advice and law centres and private practice solicitors have developed their work so that there is a minimum of overlap. Even in Cornwall where there are generalists, the nature of the work undertaken differs in each subject area.

In view of this, it may seem that the current situation has much to commend it and there is little need for reform or change to the green form scheme. On the other hand, both the review of research and the surveys in Cornwall, Oldham and Newham have shown two major shortcomings to the present scheme. These are:

- the low level of ‘welfare law’ work carried out using the green form scheme, compared to the work of advice services
- the inequality of advice and assistance provision in different parts of the country.

As the annual *Legal aid reports* show, there has been a steady increase in the number of green form bills submitted in certain areas of social welfare law. Even so, the bulk of the work of most private practice solicitors is still within the traditional areas of work – conveyancing, crime, matrimonial and wills. This seems to be true even for firms that make heavy use of the green form scheme (Baldwin and Hill, 1988). The case studies in Cornwall, Oldham and Newham showed that the advice services were receiving far larger numbers of clients for advice and assistance on all areas of social welfare law. Only a very small number of solicitors’ firms in Newham specialised in welfare law.

Not only do advice agencies have a larger number of clients, but they are consulted about a range of problems that differ from those received by solicitors’ firms. Some can be attributed to restrictions in the coverage of the

green form scheme. The most obvious restriction is that of tribunal representation. The survey has shown that firms do undertake a surprising amount of tribunal representation, since in most cases they will receive no payment for doing so. Even so, it amounts to only a handful of cases a year in each firm. The firms in Newham that specialised in aspects of welfare law were deterred from work involving industrial tribunals simply because there was no means of covering the costs. It was particularly noticeable that both law centres specialised in employment cases involving race or sex discrimination – cases which typically involve tribunals lasting up to a week. The other main area where solicitors face difficulties is debt work. Again this is covered only by the green form scheme, and each case would take considerably longer to resolve than the initial limit of two hours' work. The case studies showed frequent applications for extensions to the green form for debt work.

It would seem, then, that the current green form scheme restricts the work that can be done by solicitors. Certainly where there are no restrictions – in housing law, for example – private practice solicitors are more likely to take on cases. The three firms interviewed in Newham were taking on significantly higher numbers of housing cases than ones involving other areas of social welfare law.

The second main shortcoming of the present system of advice and assistance is its failure to provide equal access across the country. Despite the fact that it has double the population, Cornwall has a far more restricted range of provision than either Oldham or Newham. This may, at first, seem to be a reflection of differing levels of need. In fact Cornwall has the fourth highest level of unemployment in the country and the lowest level of gross pay for men in full-time work. Both of these are known to be factors that increase the levels of need for advice and assistance. Another possible reason for the inequalities in access may be the geography of the areas. Put simply, a highly concentrated population, such as in Newham, would permit a greater concentration of advice and legal services which would in turn allow a greater degree of specialisation. This seems to be supported by the present research, particularly in Oldham, which contains both a concentrated city population and the more rural Saddleworth Moor area. While provision of advice services in the city is almost as diverse as that in Newham, the rural areas have more in common with Cornwall.

The policies of local authorities also play a significant role in determining access, since they are the main source of finance for advice agencies. The level of finance provided by the London Borough of Newham is a great deal higher

than that provided by Cornwall. This plays a major role not only in the level of advice and law centre provision, but also has an effect on the level of advice and assistance work carried out by private practice. The research in Newham has shown that the presence of a law centre in the Borough has led both to an increase in the amount of legal aid work undertaken by private practice solicitors and to the development of firms that concentrate primarily on legal aid work. As earlier work has also shown, law centres refer a considerable number of cases to private practice. In addition, solicitors who have worked in a law centre move to work in local firms or even to establish legal aid firms locally. This has happened in Newham, where two solicitors from Newham Rights Centre had established one of the main legal aid firms in the area.

The question remains, why has the green form scheme failed to meet the needs for social welfare law advice and assistance, while advice and law centres have developed alongside it? Is it the means test? restrictions in the coverage of the scheme? the inappropriateness of solicitors' work methods? lack of interest on the part of private practice solicitors? consumers' preference for advice centres? The answer is crucial to any future change in provision.

Contracting out legal advice and assistance work

In its report, the Legal Aid Efficiency Scrutiny Team recognised that many more people with a social welfare law problem consult an advice centre than consult a solicitors' firm. It proposed that advice and assistance on these aspects of social welfare law should, therefore, be removed from the legal aid scheme and that £16 million of the £25 million saved should be used to employ additional staff in selected advice centres. These centres would be selected through a process of competitive tendering and would receive an exclusive contract to provide initial advice and assistance for all cases involving social welfare law. Cases would be transferred to a lawyer only when they needed to go to court.

These proposals proved highly controversial and were criticised by both solicitors and advice and law centres. Their criticisms focussed on four main points. Firstly, it was maintained that advice and assistance could not be separated from legal representation in the manner suggested. As most cases requiring representation begin with advice and assistance it would be inefficient if the work were carried out by two different agencies. Secondly, it was argued that advice agencies would be unable to take on the additional work required. A report commissioned by the Advice Services Alliance demonstrated that the existing network of advice agencies was under-resourced and geographically uneven, and that the additional £16 million

funding would be inadequate for the role advice centres would be expected to fulfill (Kempson, 1986c). Thirdly, it was held that the process of competitive tendering for contracts would be unworkable and would disrupt the existing patterns of cooperation both within the advice sector and between advice services and private practice solicitors. Finally, it was argued that exclusive contracts would greatly reduce consumers' choice and access to legal advice.

The government took account of these criticisms but stated, in the subsequent White Paper on *The Future of Legal Aid*, that they remained attracted to the idea of using the skills of advice agencies in providing legal advice and assistance. They believed that areas such as welfare benefit, housing and employment law could be contracted out to advice agencies on a competitive basis. The responsibility for investigating the possibility of contracting out such work was given to the newly appointed Legal Aid Board.

The Board has considered the contracting out proposals in some detail and, in its second Consultative Paper, concluded that:

There appear to be such strong disadvantages in awarding monopoly contracts that the Board is reluctant to recommend this option, except as a possible method to encourage the provision of a service in an area where there is currently no provision (Legal Aid Board, 1989).

The results of this study support the Board's conclusion. In all three areas surveyed – Cornwall, Oldham and Newham – exclusive contracts would greatly restrict consumer choice. In more rural areas they would also lead to restricted access.

The proposals would also be very complex to implement if the current quality of service is to be maintained. This research has shown that there is considerable variation between different geographical areas in the extent to which solicitors in private practice and advice services are involved in advice and casework in a particular subject area. The situation in Cornwall is different from Oldham and both differ in turn from Newham. In theory this could be done; in practice it would be complicated.

There is also a great variation in the range of advice services provided. In Cornwall almost all advice and casework is undertaken by CABx, supported by training and consultancy from specialist housing, welfare benefits and money advice services. In Oldham and Newham, where distance is less of a problem, specialist advice and law centre services are directly available to the public. There is also a wider range of generalist advice services, so that, in addition to CABx there are advice services for specific groups such as elderly people, disabled people and the black and ethnic minority communities. There

is clear evidence from earlier research in both Oldham and Newham that these form a sophisticated pattern of provision, which is well understood by the public.

There is no one advice agency which currently has a high level of expertise in all areas of social welfare law. Each has adapted its work in the light of other provision locally. Even if each subject area were considered for contracting out separately, the most appropriate agency would vary from one part of the country to another. In Cornwall a welfare rights contract might be given to the CABx, while in Oldham it would be more appropriate to the local authority welfare rights officers. A housing contract might be given to Shelter Housing Aid in Cornwall, but to the law centre or legal aid firms in Newham. In theory this could be done; in practice it would be very complicated to do so.

The research has also shown that, in most subjects, the nature of the work of solicitors is quite different from that undertaken by advice services. Advice services certainly receive more enquiries, but these are often much simpler and quicker to answer. The advice and assistance work by solicitors is more often linked to cases where litigation, including tribunal representation, is likely to be involved. These are also the types of cases that advice services are most likely to refer to solicitors. Both law centres surveyed had shown a high degree of sensitivity to the work best undertaken by either private practice or other advice agencies. They had tended to concentrate on types of work or groups in the community that were not covered by others.

It would not, therefore, be a simple matter for advice agencies to take on the advice and assistance work done currently by solicitors. In many instances they would require expertise in new areas of casework. However, much of the advice work undertaken by solicitors precedes litigation and it would be difficult for any agency not involved in litigation to acquire the necessary expertise.

The main exception is welfare benefits work where, in all three geographical areas, advice services had a wider range of expertise than private practice. The research has shown, however, that most of the welfare benefits work done by solicitors is an integral part of another case. Typically these are matrimonial cases but they also include debt and housing work. Service to clients would be reduced if they needed to consult two agencies for different aspects of an overall problem.

It would seem that, as the Legal Aid Board has concluded, the proposals for contracting out could not both be simple to organise and also ensure that the quality of advice and assistance is maintained. Further it would be quite

impracticable in Cornwall where many communities have access only to a solicitors' firm. In the context of Oldham and Newham, where advice agencies and solicitors work together, exclusive contracts would damage that close working relationship and ultimately the quality of service to the public.

Franchises for legal advice and assistance work

As already noted, the Legal Aid Board's consultation paper on the green form scheme has moved some way from the Government's original intention of a system of competitive tenders (Legal Aid Board, 1989). Instead the Board's preferred option is a system of franchising which it defines as:

a system that would involve identifying those who can satisfy criteria of competence and reliability and to assist and encourage them by freeing them from some of the restrictions now applying to legal aid.

Unlike the contracting out proposals, these franchises would be non-exclusive and would be available to any solicitors' firm, advice centre or law centre meeting the criteria laid down by the Board.

The Board has identified two possible types of franchise: general practice and specialist. 'General practice franchises' would 'almost always be provided by a solicitors' firm and would cover most, if not all, types of cases likely to be required by legal aid clients'. They would be granted to firms that receive payments from the Legal Aid Fund of at least £40,000 a year. In 1988-89 2,832 of the total number of 11,558 offices met this criterion.

Specialist franchises 'could be provided by solicitors' firms, law centres, advice agencies and even national organisations giving advice to individual clients'. It is envisaged that law centres and advice agencies 'might apply for welfare law franchises covering welfare benefits, housing, employment, debt, consumer and immigration but perhaps with discretion for the Board to agree fewer categories'.

The existing green form scheme 'would be expected to continue in something like its present form for a number of years'. There would, therefore, be a transitional period, but the aim would be to concentrate the majority of legal advice work on organisations with a franchise. In addition the Board recognises that there would be problems in involving advice agencies in the franchise system. Until these are sorted out the franchises would, initially, be granted only to solicitors' firms and possibly to organisations, like law centres, that employ solicitors.

The franchise proposals represent a considerable improvement on those for exclusive contracts, and, in many respects, on the current green form scheme.

Firstly, it is proposed that legal advice and assistance would continue to be funded in response to demand and would not be cash limited. Secondly, in proposing franchises the Board has replaced the earlier proposal for price competition in favour of an emphasis on the importance of ensuring quality and access. Just as important, however, is the fact that the proposed franchises could, potentially, build upon the strengths of existing provision. They allow greater flexibility in the organisations that would be eligible than either the existing green form scheme, which is restricted to agencies that employ a solicitor, or the proposals for exclusive contracts with advice centres. In theory at least, franchises would be given to any firm or agency able to demonstrate a sufficiently high level of expertise.

By overcoming the current administrative problems involving green form payments, franchises could also make legal advice and assistance work more attractive to solicitors' firms. The effects could be similar to those of a local law centre, in encouraging firms to develop their casework and expertise in areas like social welfare law that were previously considered to be uneconomic.

The end result should, therefore, be a network of both solicitors' firms and advice agencies with a higher degree of expertise.

There are, however, problems. The Board's proposals emphasise the importance of ensuring quality and access, indeed the success of a system of franchises depends upon them. Yet these are two of the major gaps in current knowledge. There has been no assessment of the ways of measuring the quality and effectiveness of advice. The Board itself acknowledges that it does not 'underestimate the problems inherent in attempting to define and monitor standards of quality in a professional service'.

Similarly there is no empirical research on access to legal services. The National Consumer Council, in its report *Good advice for all*, reviews research relating to advice centres and recommends that no one in an urban area should have to travel more than one mile to use an advice centre, two miles to a law centre. In more rural areas, towns with 12,000 population should have a full-time CAB and those with 50,000 population should have a law centre. Even in a rural area effective access to a law centre reduces dramatically beyond a distance of five miles. More detailed research is required to extend this information to cover solicitors' firms.

At present, the franchise proposals fail to take account of either quality assessment or access. It is proposed that initially general franchises would be given to firms who currently receive more than £40,000 from the legal aid fund. The postal survey of solicitors' offices in Cornwall, Oldham and

Newham did not, unfortunately, collect details of the total sums of money received from the legal aid fund. It did, however, collect information on the proportion of total income received from legal aid and the level of green form use (see Tables 6 and 7). The in-depth interviews provided further details about the firms making heaviest use of the green form scheme. From this information it would seem that the current level of access in Cornwall and possibly also in Oldham would be greatly decreased if franchises were based solely on level of income from legal aid.

It also seems, from the postal survey, that the firms most likely to do the full spread of work are the small firms in Cornwall. These are the ones least likely to qualify for a general franchise if it is based on a yearly income of £40,000 from legal aid. Conversely the three solicitors' offices interviewed in Newham would all qualify for a general franchise, but do not undertake the full spread of work.

Similar problems would arise with specialist franchises for social welfare law. Again the firms in Newham did not cover all aspects of social welfare law even though they were recognised as specialists in some of the subject areas. If specialist franchises were offered to advice agencies, no one single agency surveyed would be able to offer an expert service across all subject areas.

These are not criticisms of the theory of franchises, but they do indicate that much more information is needed before the theory can be translated into practice.

There are other problems relating to the involvement of advice and law centres in a system of franchises. Not least, as the Board itself recognises, is the current method of funding. All advice and law centres receive grant aid which is reassessed before renewal each year. In most cases the funding is provided by local authorities, many of whom are subject to financial restraint. The local authorities who are most generous in their funding of advice services are also the ones most likely to face rate-capping. As a consequence most of the advice and law centres surveyed have funding that is both insecure and inadequate to meet the demands made of them.

There are, therefore, a number of problems, all of which have been acknowledged by the Board. Firstly, there are difficulties 'in grafting a centrally-funded service onto this disparate pattern of provision'. These difficulties are exacerbated when the centrally-funded service is paid on a case-by-case basis, while the local service is grant-aided. Secondly, the uncertain future of most advice and law centres would make it difficult to guarantee a continuity of service. Finally, there is a possibility that local

authorities might reduce their own support for agencies that receive money from the Board. These problems would need to be addressed for the franchise system to achieve its full potential.

The franchise proposals also fail to take account of work other than individual casework that is done by advice and law centres. One of their significant contributions to legal services has been their experimentation with alternative work methods. Law centres, in particular, have actively innovated in order to reach people who would not otherwise consult a solicitor, and to do so in a cost effective way. The housing work of Newham Rights Centre is a good example, as is the education and consultancy work of the Cornwall Money Advice and Welfare Rights Project. It would greatly strengthen the franchise system if it took a wider range of work methods into account.

Finally, the franchise proposals, like the green form scheme, would be means tested and would not cover tribunal representation. Both will continue to limit the service available.

Future policies for legal advice and assistance

The surveys in Cornwall, Oldham and Newham have shown that, in all three areas, there are close networks of advice and law centres and private practice solicitors' firms that are complementary in their work. The main problem is one of ensuring equal access to services with a high level of expertise.

Government proposals for reform of the green form scheme have been designed to try to build on what have been perceived as the strengths of the existing provision. In the case of contracting out, it was recognised that, in many instances, more social welfare law enquiries are received by advice centres than by private practice solicitors. Franchises, on the other hand, are designed to be more flexible and build upon expertise in a wider range of organisations.

The problems that have arisen in translating both sets of proposals into practice have come about because, whilst the complexity of current provision is recognised, the solutions fail to take it into account. Both contracts and franchises are an attempt to make the central government funded legal advice and assistance scheme more cost effective. Yet it cannot be seen in isolation from advice and law centres the majority of which are funded by local authorities, and some, like welfare rights officers and consumer advice services, directly provided by them. The Legal Aid Board itself notes that it will be 'difficult to isolate the work that comes to an advice agency as a result of any funding by the Legal Aid Board from that it would have received in any event, for which the Board should not pay'. It concludes that the Board

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and existing funders of advice agencies would need to have an agreement over who should pay for what.

What is needed is a set of policies for legal aid and the provision of advice and law centre services that have been developed alongside one another. At the same time, there are significant areas where more information is required. These include research into the extent and nature of unmet need; into the cost effectiveness of alternative work methods; into ways of measuring quality and effectiveness; and into levels of access that are required for legal advice services.

It should be emphasised that the system is complex and multifaceted and any attempt to develop a policy for publicly funded legal and advice services needs to be based on detailed understanding. The establishment of the Legal Aid Board offers a structure for collecting this information and translating it into appropriate policies.