



**Consultation Paper on Delivering Access to Justice  
Through Publicly Funded Legal Services –  
The development of the Northern Ireland Funding Code**

**Deadline: Friday 9<sup>th</sup> June 2006**

Advice NI is a membership organisation that exists to provide leadership, representation and support for independent advice organisations to facilitate the delivery of high quality, sustainable advice services. Advice NI exists to provide its members with the capacity and tools to ensure effective advice services delivery. This includes: advice and information management systems, funding and planning, quality assurance support, NVQs in advice and guidance, social policy co-ordination and ICT development.

Membership of Advice NI is normally for organisations that provide significant advice and information services to the public. Advice NI has over 70 member organisations operating throughout Northern Ireland and providing information and advocacy services to over 100,000 people each year dealing with over 225,000 enquiries on an extensive range of matters including: social security, housing, debt, consumer and employment issues. For further information, please visit [www.adviceni.net](http://www.adviceni.net).

Advice NI is currently actively engaged with the Northern Ireland legal Services Commission (NILSC) regarding the Fundamental Legal Aid Review (FLAR), focussing on how best to provide publicly-funded legal services to those who need them; and the project examining the development of Social Welfare Alternatives – primarily aimed at identifying current legal services available in NI (whether delivered by the advice sector, private or public providers). This project will enable a gap analysis to be completed in terms of the availability of current services against identified need.

In terms of this consultation, Advice NI welcomes the opportunity to comment on the Exposure Document. We applaud this method of engagement with stakeholders as a genuine consultation – with NILSC seeking views on it’s early thinking and stakeholders able to influence thinking at this early stage of policy development.

Advice NI would draw attention to the workload of Advice NI members which is targeted towards geographical areas of need or particular social groups particularly those covered under Section 75 legislation. Our latest membership profile report highlights:

- 705 tribunals represented (449 disability & 256 social security).

To put this in context, the following information as regards success rates was also provided:

Social Security Appeals for the period 1<sup>st</sup> January 2004 to 31<sup>st</sup> December 2004

Represented	Allowed	Disallowed	Withdrawn	Other
1240	727 (59%)	481	19	13
Unrepresented	Allowed	Disallowed	Withdrawn	Other
3128	603 (19%)	2220	102	203

Disability Appeals for the period 1<sup>st</sup> January 2004 to 31<sup>st</sup> December 2004

Represented	Allowed	Disallowed	Withdrawn	Other
2771	1034 (37%)	1551	138	48
Unrepresented	Allowed	Disallowed	Withdrawn	Other
3962	574 (14%)	2952	307	129

Therefore the value of tribunal representation (preparation and actual representation) is extremely important and should be considered under any future funding arrangements.

- Overall 55% of the 225,000 enquiries of members is social security related highlighting that services are targeted towards those on lowest incomes.
- Specialists target their services towards particular social groups for example older people, children, lone parents, people with disabilities, people with housing difficulties. This focus allows a great deal of expertise to be amassed in that particular subject area.

In relation to the working paper, Advice NI welcomes the development of the funding code by the NILSC which seeks to prioritise areas such as “social welfare cases,

including citizens' basic social and economic entitlements" and "issues that will enable people to avoid or climb out of social exclusion, including help with housing proceedings and advice relating to debt, employment rights and entitlement to social security benefits".

Advice NI notes in paragraphs 2.1 and 2.2 that reference is made to "capped budgets" and "within the resources made available". There would be a concern that budgets, financial expediency and the need to make efficiency savings may result in need becoming a victim of financial expediency – with vulnerable people potentially becoming lost and forgotten. Advice NI would welcome a robust analysis of legal need in Northern Ireland with a view to ensuring that this need – particularly as regards the most vulnerable in our society – is catered for consistently now and in the future.

As regards the prioritisation of certain case types, Advice NI believes that some thought could be given to including consumer issues – particularly some types of cases which are taken to the Small Claims Court. Often people on limited means will be involved in disputes which may be relatively small in monetary terms but which are very significant to the person involved. Support with these types of cases could also help instill a great deal of confidence and help towards addressing issues such as social exclusion.

Advice NI would be cautious in commenting on the "strict cost-benefit ratios" mentioned in paragraph 3.3. This approach could lead to a quite rigid and inflexible framework which may not lend itself towards being responsive to needs on an individual case by case basis. The fear would be that the merits of a case become secondary to budgetary considerations and ultimately need becoming a victim of financial expediency.

Advice NI welcomes the reference made to "Help at Court" in paragraph 4.2 and we gather that in England and Wales this level of service often relates to pleas of mitigation. The facts of the case may not be in dispute but for example in cases such as mortgage arrears, assistance in this way may allow time for the client to correct matters.

Advice NI believes that the issue of mediation highlighted in paragraph 4.5 requires careful consideration and may not be as straightforward as first appears. Whilst mediation and Alternative Disputes Resolution processes are attractive, there are pitfalls. There is some evidence to suggest that mediation / ADR may actually reduce access to legal redress, not because the client is satisfied but because legal aid may refuse to fund a case which has been rejected during the ADR process. In addition there may be issues around the timeliness of the ADR process, the quality of service and actually who provides the ADR service.

The working paper talks about further consultation, Advice NI would ask NILSC to consider using the tried and tested Advice NI eConsultation service as a means by which targeted organisations (and the individuals whom they provide a service to) are included in this process. Further information on the Advice NI eConsultation service can be found at <http://www.adviceni.net/econsultation/default.asp>.

**Contact information on this consultation response:**

**Bob Stronge (Director)**

**Kevin Higgins (Head of Policy & Research)**

**Advice NI**

**1 Rushfield Avenue**

**Belfast**

**BT7 3FP**

**Tel: 028 9064 5919**

**Fax: 028 9049 2313**

**Email: [bob@adviceni.net](mailto:bob@adviceni.net)**

**[kevin@adviceni.net](mailto:kevin@adviceni.net)**

**Website: [www.adviceni.net](http://www.adviceni.net)**