



**Advice NI's Response to the Northern Ireland Legal Services Commission
Consultation: Exposure Document - Developing a Registration Scheme**

Deadline: Friday 30th 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.

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 its early thinking and stakeholders able to influence thinking at this early stage of policy development.

From the perspective of the voluntary advice sector, in many ways the development of the Registration Scheme potentially bears many similarities with the Quality Mark scheme in England and Wales. Quoting from the England & Wales Legal Services Commission website:

“What is it?”

The Quality Mark is part of the Community Legal Service (CLS), a major government initiative launched in April 2000. The aim of the CLS is to improve access, for the public, to quality information, advice and legal services through local networks of services supported by co-ordinated funding and based on an assessment of local needs. Initially it will consist of members with a Quality Mark for the level of service they provide. The Quality Mark is the quality standard that will underpin all CLS services, so that members of the public who need legal information, advice and other help can rely on receiving a quality assured service. To be awarded the Quality Mark and be able to display the Quality Mark logo organisations will need to demonstrate that they meet the standard required for the type of service being delivered. The 3 Quality Mark standards are:

Information

General Help

Specialist Help”

If we take this as a starting point, the Quality Mark has come under much criticism for being overly bureaucratic and not really impacting on the quality of advice service provision. Quoting from the Department for Constitutional Affairs independent review¹ of the CLS April 2004:

¹ <http://www.dca.gov.uk/pubs/reports/clsreview.pdf>

“The Review has highlighted the need to establish a clear evidence base to demonstrate that the CLS delivers effective and cost-effective advice provision. What is specifically lacking is evidence identifying the extent to which advice and legal services contribute to the reduction of social exclusion as well as its contribution to other social policy objectives. Such an evidence base should make a conclusive case for the CLS’s role in tackling the social exclusion agenda, enable the prioritisation of funding and encourage the future development of evidence based advice interventions.”

“The Review has identified a number of problems with the way in which services within the CLS are funded and managed. At national level, the CLS budget appears vulnerable to policy changes, particularly those made by other government departments, with the civil legal budget being eroded by the increasing demands of the criminal legal services agenda in particular. At delivery level, both the contracting and the quality assurance systems that the providers have to negotiate are seemingly overly complex, burdensome, costly and bureaucratic. The Review has identified the need to develop ways in which the impact of legislative change can be managed more effectively and that there is scope to simplify the contracting arrangements and develop a more distinct focus on the quality of services provided.”

“Change the contractual basis of for profit and not for profit contracting to achieve a better focus between outputs and outcomes by the contracted basis for both being based on a Service Level Agreement.”

At delivery level, the research evidence suggests that, although the Quality Mark is generally understood to be useful for providers of advice and information, there is scope to simplify the Quality Mark and develop quality assurance processes which place greater emphasis on the quality of advice provided.”

Advice NI welcomes the intention of the document to develop shared understanding of what constitutes quality and identifying best practice. However Advice NI would be concerned about the message given page 5, paragraph 1 ff that quality is also linked to

“value for money”, “value for money access to justice to those who need it most”. Linked to our previous response on the Funding Code we would be concerned that the need for legal advice services (and the quality of these services) may become a victim of financial expediency.

Advice NI agrees with NLSC that the quality assurance, audit & compliance model represents an appropriate delivery model – with a reservation about the detail contained therein.

- A non procurement based model has the distinct advantage maximising accessibility and ensuring legal advice coverage across Northern Ireland, thus minimising the risk of ‘advice deserts’ occurring in NI;
- The introduction of fixed fees should enable NILSC to plan effectively in relation to matching budgets to spend;
- Advice NI welcomes targeting social need as an intended feature. A number of research papers² produced by DCA have demonstrated how legal and advice services can make a vital contribution to tackling social exclusion. Quoting from these papers: *“legal and advice services are fundamental to the creation of a rights based culture - they promote citizenship and encourage people to take part in the democratic process and promote access to justice in local communities”* & *“the paper shows how legal and advice services can make a vital contribution to tackling social exclusion. The kind of problems where people need legal help and advice are often the ones that most affect someone's everyday life. For example, where would you turn if the landlord will not fix the broken window, or you cannot pay all your bills, or you have been refused help looking after an elderly relative, or you are not sure you will have a roof over your head for much longer?”*

² Legal and Advice Services: A pathway out of social exclusion, November 2001

Legal and Advice Services: A Pathway to regeneration, May 2004

- Advice NI shares the view that there should be an effective partnership between NILSC and providers re quality of services. There must also be a shared understanding that quality costs (both in terms of financial resources and non-financial resources). There should also be a balanced approach as regards putting in place support structures as well as structures as regards compliance. Again looking to the situation in England and Wales, projects such as Advice UK's Inclusive Quality Project recognised that whilst the LSC wished to target need, the organisations at the forefront in targeting need (whose clients were people from disadvantaged and socially excluded groups) required help to achieve the CLS Quality Mark. Advice NI believes that NILSC should take this on board, particularly as the Commission is keen to move to a mixed economy model. Advice NI would be concerned that some organisations, often dealing with the most socially excluded people, would find themselves unable to meet registration requirements and be excluded from the very funding opportunities which are aimed at targeting social need and reducing social exclusion. Advice NI would be keen to work in partnership with NILSC to look towards addressing this issue.
- The intended feature of introducing measurable codes and standards is also to be welcomed. Advice NI believes that these codes and standards should build on current best practice for example maximising the use of standards such as the membership criteria of organisations such as Advice NI, the Investors in People standard, training and development qualifications such as the NVQ in Advice & Guidance and the National Occupational Standards for Legal Advice. Advice NI believes that NILSC should work in partnership with the Advice Services Alliance (ASA will be taking forward quality assurance work which will impact on the advice sector) to ensure compatibility of approach between NILSC, the ASA and DSD.

At this point it is worth highlighting fundamental principles of voluntary advice provision which includes a service which is independent, impartial, accessible, confidential, effective, accountable and free. Advice NI believes that these principles, in particular

independence and confidentiality, may require careful attention in terms of balancing the needs of clients and providers with the needs of NILSC.

In terms of value for money, Advice NI understands the reality that services will have to be provided within the confines of limited resource availability. Advice NI believes that it will be very important that NILSC choose value for money measures which cater for the all-important human dimension, and show what it means to the quality of the life of the people involved, and how it helps them and their families to improve their personal circumstances through achieving justice. However, this type of measurement can be very difficult to quantify. Advice NI would propose that NILSC undertake detailed work to provide a thorough statistical analysis of the impact of NILSC spending on the individual and the state, and the wider effect upon society of justice being seen to have been done. This will actually be a hugely important piece of work – one which should influence quality measures, value for money analysis, audit/compliance and how effective NILSC is in targeting social need.

Also in relation to VFM, there has to be a shared understanding that ‘quality costs’: ongoing staff development and training costs; purchase of up-to-date information material costs; time taken to introduce and maintain quality systems costs – NILSC should recognise this reality and build this in to the process, otherwise there will be a gap in the rationale undermining this work. Just on this point it is interesting to note at paragraph 9.6 that NILSC will need to develop desk instructions, training and development for it’s staff. Again we would argue that similar will be required by providers.

A final point on value for money would again relate to a thread running through this response and Advice NI’s previous response – namely that need may become a victim of financial expediency.

In terms of implementing a registration scheme, Advice NI believes that NILSC is missing an opportunity to maximise the effectiveness of ICT. The exposure document

says very little about the role of ICT in the registration process (from meeting the support needs of providers to the verification of providers). For example NILSC could set a prerequisite that certain transactions between NILSC and providers must take place electronically which could lead to quicker turnarounds and less bureaucracy. Further, if a stated goal was to be that providers should hold all client files electronically, these could be forwarded to NILSC with the result that compliance need not necessarily be carried out in each providers premises – or at least not on every occasion.

In terms of the issue of peer review Advice NI has carried out some desk research and would at this stage highlight that peer review can assist in moving forward the compliance / audit issue. However there are several issues which would require careful attention and these include:

- Contemporaneousness of the peer reviewer's own experience;
- Expertise in particular specialist areas of law eg immigration;
- Consistency of approach taken by different peer reviewers;
- Adequacy of file samples;
- Scoring system;
- Issue of Northern Ireland being 'a small pool' eg impartiality of reviewer;

In terms of the provisional registration scheme, Advice NI believes that the voluntary advice sector should be included in the rollout of this scheme. NILSC is keen to develop a mixed economy model and with this in mind it would be essential that all providers are included and involved in the development of the registration scheme. To reiterate, Advice NI would draw attention to the quality assurance developments already taking place within the independent advice network and we would advocate building on current best practise rather than introducing new, overly bureaucratic systems which do not have the interests of clients at heart.

Advice NI would also 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> .

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