



Law Centres Network

**Response
Legal Services Board
Regulation of Non Commercial Providers**

July 2012

The Law Centres Network

The Law Centres Network is the representative body for the national network of community based Law Centres. There are currently 56 Law Centres delivering a range of innovative legal services to financially and socially disadvantaged individuals and communities.

Law Centres provide free legal advice and assistance to the poorest and most vulnerable members of society. They are embedded in local communities, run by committees of elected local people, not-for-profit and staffed by teams of expert lawyers who have chosen to base their careers on service rather than on profit. Without Law Centres and other not-for-profit advice agencies, hundreds of thousands of people will have no meaningful access to justice.

Law Centres provide legal advice and representation on a variety of civil law matters, including housing and homelessness, employment, discrimination, immigration and asylum, more complex debt and welfare benefits cases, community care, mental health, education and family law work.

Each year Law Centres help approximately 120,000 people with in depth and complex cases that impact on poor people. Independent research found that for every £1 spent by a Law Centre in the provision of legal service, at least £10 was generated in savings and social benefits.

What is a Law Centre?

A Law Centre is a not for profit legal practice providing legal advice and representation through the courts to the European Court if necessary. Currently such services are provided to people who cannot afford the services of a private solicitor. Since the demise of the Immigration Advisory Service and Refugee and Migrant Justice, collectively Law Centres are the largest not for profit provider of immigration and asylum advice.

The name Law Centre is trademarked and owned by the Law Centres Federation. To be a Law Centre an organisation has to be a member of the Federation and comply with membership rules.

All Law Centres provide reserved legal activities and employ a minimum of two lawyers one of whom must be the Senior Solicitor or Principal Solicitor. All have professional indemnity insurance and most operate client accounts, and to all intents and purposes operate similar to a legal practice. Many undertake other work such as services targeted towards young people, strategic legal work, and social policy. Law Centres take every precaution to provide quality legal advice with the client centred at the core of their services. All hold the Specialist Help QualityMark and are subject to the same complaints reporting procedures as any other solicitor firm.

“The impact of Law Centres has been out of all proportion to their size, the number of lawyers who work in them and to the amount of work it is possible for them to undertake. The volume of work they have attracted has shown how deep is the need they are attempting to meet.” Extract from the final report of the Royal Commission on Legal Services 1979.

Overview

Law Centres find themselves in unprecedented times with regard to funding their work. The bulk of the means by which Law Centres have been able to sustain their existence is to be removed from legal aid. There will be some legal aid remaining but it will cover certain areas and will be limited in scope. Much remains unknown about the way the new system will work and how providers of legally aided funded advice will be able to operate within the system. At the same time more traditional

fundings of advice locally, for example Local Authorities are also under funding pressure and either have or are planning to cut services they currently fund. Local Authorities have certain statutory duties towards the citizens they serve but legal advice is not one of them. Some Local Authorities do fund in house housing advice but this is not adequate to meet the need and is not seen as being independent. Charitable Trusts are supportive but do not have enough funds to keep everyone going. Trusts themselves have been affected as their funds are invested and income from investments has been much reduced.

In the financial year 2010 – 2011 income into Law Centres from all sources was just below £14M out of which Legal Aid amounted to 46% of that figure.

It is against this backdrop that Law Centres are exploring other methods of funding their work. It is a time of great upheaval for public services more generally and legislation recently passed or in progress will have a huge impact on clients that traditionally would go to a Law Centre for help. This is a double edged sword with a rising demand and a shrinking supply both Law Centres and the Federation feel we need to do something in an effort to keep as many services going as we possibly can.

Law Centres do not want to charge for their service, they have come to this decision reluctantly, after a great deal of soul searching. It is a decision of last resort. We anticipated colleagues within the legal profession would help us, and we acknowledge those that do. We do not believe Law Centres charging will pose a commercial threat to others as many of the areas of advice provided by Law Centres are not the areas that other providers outside of the NfP sector have provided in the past, certainly not those that want to make a profit.

We welcome the Legal Services Board's timely consultation. We are extremely concerned by the Solicitors Regulation Authority's lack of response to the Law Centres Federation's request for a waiver to allow Law Centres to charge for some areas of advice.

Consumer Protection Issues

Q1 – To what extent do you think the current non LSA regulatory frameworks provide fully adequate protection for consumers?

Q2 – Do you agree with the LSB's assessment of the gaps in the current frameworks?

Q3 – What are the key risks to consumers seeking advice from no commercial advice providers?

We agree that consumers of legal advice services should not suffer any detriment because of the corporate structure of the provider; however we do not agree that consumers are placed at a higher risk because the provider is a Law Centre. All client care letters point to the complaints procedures and contain the Legal Ombudsman's contact details should the client wish to make a complaint to an independent body.

When the SRA took over regulation, the regulation of Law Centres as a corporate structure fell to the Law Centres Federation. The SRA regulate solicitors in Law Centres individually. The Federation undertakes risk assessments via 'HealthChecks' and intervenes when it becomes known that a Law Centre is experiencing problems. Sometimes complications do arise due to personalities or complex situations but we suspect that this is no different in private firms.

We do not agree with the findings of Frontier Economics whereby the precarious nature of the funding environment places clients at risk. It does certainly place the provider at risk of losing their

business but in our experience there is no detriment to the client in the service that they receive. In practice the opposite has been true whereby many Law Centres experiencing difficulty with funding have done everything within their power to ensure the client is protected including working on with no salary.

For Law Centres the current confusion around the key risk of managing files etc on closure has only existed since the SRA took over the regulation of solicitors. Previously when the Law Society was the regulator they intervened when a Law Centre closed and Law Centres carried the strap line that they were regulated by the Law Society. Clients of Law Centres were offered the same protection as any other legal practice.

All Law Centres have professional indemnity insurance cover of at least £2 million. We want to make a specific comment on the statement in the Impact Assessment that states that the Law Centres Federation does not have a membership requirement for a Law Centre to have PI insurance, this is true that it is not a membership requirement but as all Law Centres employ solicitors and advise clients other than their employers then they must have PI. We do not consider that having PI insurance as a membership requirement is a sign of quality or control as it is a requirement of the profession.

http://www.lawsociety.org.uk/productsandservices/practicenotes/piinsurance/5063.article#pii10_5

The key risks to consumers are if there is no solicitor to take on their case should an organisation go into liquidation. For Law Centres the Law Centres Federation tries to manage the transition of files, or if there is an appointed insolvency practitioner, the Federation will advise and work with them to make every effort to ensure client files are managed appropriately. However in more recent times this practice has been impeded by the Legal Services Commission who as funder of the bulk of the work insists on having oversight of such matters. It therefore goes out of our control.

We strongly object to the findings on quality, and refer to the statement made by the Advice Services Alliance in their response that NfP providers scored significantly better than solicitor firms on contract files. Law Centres have a high level of expertise within their ranks, including a number of peer reviewers and all have the Specialist Quality Mark or Lexcel.

Ending the Transition Period

Q4 – What are your views on the proposed timetable for ending the transitional protection?

Q5 – Should we delay the decisions of whether to end the transitional protection for special bodies/non commercial bodies until we have reached a view on the regulation of general legal advice?

Q6 – Do you have any comments on the Impact Assessment? In particular do you have any evidence about the likely positive or negative impacts of the changes set out in this document and/or information about the diversity of the workforce or consumers that use special bodies/non commercial organisations?

It is the view of the Law Centres Federation that the transitional protection should end. We would welcome clarity as the current situation is too confusing. Law Centre managers and solicitors have/are spending considerable amounts of time planning for their future survival and need to have the flexibility to prepare. Law Centres are aware of forthcoming regulatory changes and how it will affect them. Delaying implementation makes it difficult to plan for the future.

We do not agree that specialist organisations should have to wait for more generalist non commercial providers. Our preference is for the Transition Period to end at the earliest possible opportunity but certainly no later than March 2014. We agree with the licensing of Special Bodies and believe that this could be implemented earlier. The Law Centres Federation can assist with preparation for licensing, but Law Centres are concerned about the cost involved in applying for ABS status and continuing fees and that these should be proportionate.

Removal of Unnecessary Regulatory Restrictions

Q7 - What are your views on allowing special bodies/non commercial organisations to charge for advice? What do you think are the key risks that regulators should take into account if these bodies can charge?

Q8 – What are your views on our proposed approach to allowing a full range of business structures?

We believe that the regulatory restrictions preventing Law Centres from charging should be removed as soon as possible. We can see no justification for maintaining them. We do not consider the risks of charging presenting any different issues or be any greater in non commercial bodies than private solicitors.

We understand the thinking and concern around the issue of separate businesses but for Law Centres the main reason for a Law Centre wanting to set up a separate business is to protect funding and to clearly distinguish between the Law Centre as a free service and those services for which they may charge a fee. We agree with the approach that Law Centres, as Special Bodies, be allowed a full range of business structures and that unnecessary restriction be removed.

Group Licensing

Q9 - Do you agree with our analysis of group licensing?

The Law Centres Federation currently operates a Group Licensing Scheme for Consumer Credit. This works well but it is a simple process and relates to one area of advice namely debt advice. It is possible such a scheme would work but we share the concerns on conflict of interest.

Content of Licensing Rules

Q10 - What are your views on these issues that may require changes to licensing rules?

Q11 - Are there any other areas where the LSB should give guidance to licensing authorities?

We agree with the Advice Services Alliance in their response to this question.

For further information please contact

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