

Time well-spent:

The importance of the one-to-one relationship between advice workers and their clients.



The Council on Social Action was set up by Prime Minister Gordon Brown in 2007. It brings together innovators from every sector to generate ideas and initiatives through which government and other key stakeholders can catalyse, develop and celebrate social action. We consider 'social action' to include the wide range of ways in which individuals, communities, organisations and businesses can seek through their choices, actions and commitments to address the social issues they care about. This report is the work of the Council on Social Action and as such it makes recommendations to Government and others, in its capacity as an advisory body independent of Government. This is not a Government document, nor a statement of Government policy.

Members of the Council on Social Action

David Robinson, Community Links
Kay Allen, Royal Mail
Oli Barrett, Connected Capital
Shankari Chandran, Allen and Overy
Olga Heaven, Hibiscus
Geoff Mulgan, Young Foundation
Julia Ogilvy, Project Scotland
Rob Owen, St. Giles Trust
Tim Smit, Eden Project
Kevin Steele, Inspired Campaigns
David Thomlinson, Accenture
Sophi Tranchell, Divine Chocolate Ltd.
Paul Twivy, Communications Consultant
Julia Unwin, Joseph Rowntree Foundation
Peter Wheeler, Investment and Philanthropy Specialist

Ministers attending Council on Social Action meetings

Rt. Hon Gordon Brown MP, the Prime Minister
Phil Hope MP, Minister for the Third Sector
(to October 2008)
Kevin Brennan, MP Minister for the Third Sector
(to June 2009)
Angela Smith MP Minister for the Third Sector
(from June 2009)
Rt. Hon Hazel Blears, MP Secretary of State for
Communities and Local Government (to June 2009)

Project Team

Julie Bishop, Law Centres Federation
Shankari Chandran, Allen & Overy and Council
on Social Action
Phil Jew, AdviceUK
Bob Nightingale, London Legal Support Trust
David Robinson, Council on Social Action
Caroline Slocock, Refugee and Migrant Justice
Matthew Smerdon, Council on Social Action
Support Team

Acknowledgements

This project could not have happened without *pro bono* help generously provided by Allen & Overy (www.allenoverly.com) and John Corrigan from Group 8 Education (www.gr8education.com). Many thanks to Sophie Orr from Allen & Overy and her team of volunteers, to Aaron Barbour and Jessica Gaviria from Links UK, to participants in a workshop at the Advice Services Alliance conference in March 2009, to Peter Collett, to Maurice Wren from Asylum Aid, to the Information Centre about Asylum and Refugees and to the staff and clients at all the Law Centres and advice agencies that have given their precious time to help with this research. Finally, CoSA would like to thank the members of the project team for their commitment, guidance and support.



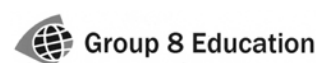
This publication has been produced with the support of Links UK, the national team of Community Links.



The work of the Council on Social Action is funded by the Office of the Third Sector.



ALLEN & OVERY



Published by Community Links © 2009

ISBN 978-0-9561012-0-4

Registered charity no. 1018517

CoSA paper number 10

Design by www.intertype.com



Contents

Time well-spent: The importance of the one-to-one relationship between advice workers and their clients.

Summary	2
1 The importance of the human relationship in the delivery of public services	7
2 A focus on agencies delivering civil legal aid advice	10
3 The role of the relationship between advisor and client	12
4 Increasing pressure on the capacity of advisors	25
5 Measures to improve advisor and client relationships	30
6 The implications of these findings for the delivery of other public services	32
References	33

Time well-spent:

The importance of the one-to-one relationship between advice workers and their clients.

Summary

The quality of the human relationship between the person delivering public services and the person using public services is an important factor in achieving quality.

1. The importance of the human relationship in the delivery of public services

In the CoSA report *Side by Side*, we concluded that it is not only possible for one human being to make a real and lasting difference to another, it is often the only thing that ever does. In the accompanying report on the implications for public services, we argued that the quality of the human relationship between the person delivering public services and the person using public services is an important factor in achieving quality and value for money. We argued that the system of planning, funding and delivering public services needs to reflect this. This includes where public services are delivered by voluntary agencies working under contract to government.

2. A focus on agencies delivering civil legal aid advice

We wanted to examine this topic in an area of public services delivery and chose to look at the relationship between civil legal aid advisors and their clients. Legal aid, across areas of law including debt, housing, welfare benefits, employment and immigration and asylum, helps people to receive the support and the quality of services to which they are entitled. As such, access to legal help is an essential element of strategies to tackle disadvantage and discrimination. The process of seeking and giving advice and the human bond established between advisor and client nourishes confidence, trust and self belief. Provided at the earliest opportunity, it can generate savings for other areas of public services through, for example, helping to prevent homelessness or spiralling debt and, beyond that, to helping someone take more control over their lives.

The process of seeking and giving advice and the human bond established between advisor and client nourishes confidence, trust and self belief.

3. The role of the one-to-one relationship between advisors and clients

A range of factors need to be in place in order to give quality legal advice – the technical knowledge and experience of the advice worker, efficient systems, an appropriate location and so on, but we wanted to explore specifically how the deeper quality of the relationship between advisor and client contributes to achieving a good outcome.

A range of primary and secondary research has been carried out. The evidence is unequivocal:

- (i) clients value a deeper relationship with their advisor. Taking the time to listen and explain, to show empathy and sympathy and to show respect are seen as essential parts of a quality service; However,
- (ii) the importance of the relationship between advisor and client goes further than just an understandable desire to be treated well – the relationship is instrumental to the quality of the work advisors do with their clients in the following ways:
 - Feeling respected and listened to creates trust and confidence between advisor and client and this is essential for gathering and giving accurate information. Where the relationship is poor, information can be withheld, misunderstood or passed on incorrectly all leading to the wrong advice being given, to the wrong outcome being achieved or to failures that have to be addressed later. Furthermore, as the rules and bureaucracy around benefits and rights become increasingly complex, advisors have an important role in helping clients to navigate this complexity.
 - As cases are pursued, advisors need to maintain contact with clients to keep them informed on progress, seek further information and attend future appointments. A good relationship helps to get these necessary aspects of the case in place.
 - Where good relationships are achieved, even if the eventual outcome of the advice is not what the client wanted, the resulting deeper understanding that clients have of the case and the confidence that everything has been done to pursue the case rigorously helps clients to accept this outcome more readily. Where relevant, this may mean that costly appeals are avoided.
 - A good relationship helps to uncover underlying problems being faced by clients that may have contributed to the specific issue being addressed. Advice workers can play an important role in helping clients to access support for these other problems.
 - Linked to this is that the one-to-one attention advisors give to clients is part of advice making a deeper contribution to the personal development of clients. This means that receiving advice goes beyond a one-off transaction to help clients potentially tackle their own problems differently in the future, perhaps seeking advice earlier and preventing problems from escalating, dealing with issues themselves or going on from this moment in their lives with renewed confidence. Giving and receiving advice can either be a transaction whereby information is transferred, or it can be a deeper relationship with the potential to change someone's life.

We have also seen what advisors need in order to establish good one-to-one relationships.

- They need the time – building relationships takes time. Clients repeatedly talked about the importance of advisors taking or having the time to listen.
- They need to begin building relationships at the earliest opportunity.

The relationship is instrumental to the quality of the work advisors do with their clients.

Time well-spent: The importance of the one-to-one relationship between advice workers and their clients

Advisors need to be able to deal with clients as people, not as cases.

- They need to hold certain values– the relationship with clients needs to be based on respect. From this, flow relationships where the dignity and equal worth of clients is recognised.
- They need certain attitudes – the rigorous pursuit of cases requires advisors to be proactive and show that they will not be put off by hurdles. This helps to inspire confidence in the client that the advisor cares about them.
- They need the skills – building relationships requires advisors to be good listeners and good communicators. It also requires an understanding of the impact of multiple disadvantage on people and how, in these circumstances, it is especially important for clients to feel valued and that the service is responsive to their needs.
- They need to be able to deal with clients as people not as cases – they need to operate within a system that recognises the value of building a good relationship: rushed transactions in highly pressured environments, burdensome administration and excessive direction in how to manage the progress of a case all mitigate against creating the conditions needed to develop a productive relationship.

4. Increasing pressure on the capacity of advisors

A range of circumstances are making it more difficult for advisors to establish the types of relationships with their clients where productive outcomes can be achieved. These are:

- The impact of reforms to legal advice services, notably the introduction of fixed fees for advice work. Lord Carter, in his proposals for legal aid reform, summarised the dilemma as follows. He suspected that the existing funding model for not for profit advice agencies

‘may encourage inefficiency, as by paying for hours worked rather than cases completed it may encourage some caseworkers to spend more time on cases than is strictly necessary.’ (DCA 2006: p.45)

As a society, interested in efficient, effective and equitable public services, we should be rightly concerned about the issue of defining what is ‘strictly necessary.’ Under the fixed fees system, how much time is ‘strictly necessary’ is defined by government. For many clients, this time is not sufficient to develop the depth of relationship needed to achieve the sort of transformation we want from public services. Advisors themselves are in a better position to make judgements about how much time to take. Otherwise, as has been reported, in order to make fixed fees financially viable, agencies are forced to close cases early and to “cherry pick” clients whose cases will be quick, over clients whose cases will be complex and cost more than the fixed fee. (Ministry of Justice 2009)

- The impact of the high level of demand for advice services that is caused by failures in the system of benefits and public services administration. Research by AdviceUK in Nottingham reveals that 42% of the demand at advice agencies in the city is ‘failure demand’ i.e. demand caused by failures in the system of public administration. Reducing this would save significant amounts of money and free up advisors to carry out more ‘value’ work with clients.

- The impact of the greater levels of commissioning for services;
- The impact of the recession and the resulting increasing demand for services. For example since April 2008, Citizens Advice Bureaux in England and Wales have seen daily enquiries relating to redundancy increase by 125% (Ministry of Justice 2009).

5. Measures to improve advisor and client relationships

We believe that this report shows the importance of the relationship between advisors and their clients. It is easy to think that spending time and resources on building relationships is worthy, but somewhat of a luxury in an era focused on efficiency and value for money, not ‘strictly necessary’. However, as public policy seeks to define what is and is not necessary, we believe that the quality and depth of the relationship between those delivering and those using public services is a vital part of that definition: These relationships are instrumental to achieving good outcomes. They are not a drain on efficiency and value for money, rather they make an essential contribution to their achievement.

We argue that a significant shift needs to occur, particularly within government, to recognise the value of the relationship between legal advisors and their clients and to reflect this in the way that advice services are planned, funded and monitored.

We think the following recommendations would help to take this work forward.

- The advice sector should review current training programmes to ensure that advice workers are developing skills in building one-to-one relationships with their clients. Group 8 Education will be running a one-day workshop for advice workers to pilot some new approaches to achieving this.
- The Ministry of Justice and the Legal Services Commission needs to work with the advice sector to agree a shared definition of (i) the purpose of legal aid, (ii) the outcomes legal aid is seeking to achieve and (iii) the level of quality of advice provision that therefore needs to be in place.
- The Ministry of Justice and the Legal Services Commission should expand successful approaches, such as those adopted in the Solihull Early Advice Pilot.
- Following the *Study of Legal Advice at the Local Level*, the Ministry of Justice is carrying out further work to examine the impact of fixed fees on issues such as closing cases early and “cherry picking.” This work needs to pay particular attention to the impact of fixed fees on the quality of relationships.

These relationships are not a drain on efficiency and value for money, rather they make an essential contribution to their achievement.

Time well-spent: The importance of the one-to-one relationship between advice workers and their clients

Spending time building productive relationships with people using services is time well-spent.

- The Ministry of Justice and the Legal Services Commission should closely examine the findings of Refugee and Migrant Justice's research on what is quality immigration advice.
- The Ministry of Justice and the Legal Services Commission should closely examine the findings of the work by AdviceUK and Vanguard Consulting on a systems thinking approach to local advice services and support the development of local pilots.
- The research begun here into the role of the relationship between advisor and client in generating a good outcome should be expanded to explore how this relates to different types of clients and different categories of advice. One option may be to use the Crime and Social Justice Survey carried out by the Legal Services Research Centre.
- Further research should be carried out into the savings to the public purse generated by advice work.

6. The implications of these findings for the delivery of other public services

We think the findings here are relevant to other areas of public services: Spending time building productive relationships with people using services is time well-spent. These relationships are instrumental to achieving quality outcomes and value for money. Measures such as fixed fees, inappropriate targets and burdensome administration all get in the way of this effort. By focusing on driving down costs, services end up struggling to provide value.

It is important to invest in this relationship at the earliest opportunity.

Failure demand (mistakes in the wider system of public administration that cause people to seek help) creates a significant additional burden on services. Tackling the causes of these failures frees up time and energy to focus on what really needs doing.

The planning, funding and administration of public services needs to focus on the quality of the human relationship at the point of delivery. This is not about access to services; it is about the deeper quality of relationships that have the power to transform.

1. The importance of the human relationship in the delivery of public services

It's nice to know that there are people out there like yourselves who help people like us when you think you are on your own fighting the world.

Sheffield Law Centre client, client feedback form, 2008.

Side by Side

One-to-one working includes all kinds of transformative relationships where knowledge and experience are shared with another person who is not a family member or close friend. Such relationships can unlock potential in us all, tackle need, build social capital and erode inequality. The Council on Social Action (CoSA) has focused a significant amount of its work on understanding where one-to-one work is done well and how success might be replicated. This work has witnessed in powerful ways how:

“It is not only possible for one human being to make a real and lasting difference to another, it is often the only thing that ever does.”

(CoSA 2008 p.1)

Side by Side, the CoSA paper outlining actions for developing one-to-one work, concludes that one-to-one is a route to unleashing energy, experience and compassion in every community, school, business and public agency. This recognises that one-to-one working covers a spectrum of activity from universal school befriending schemes through to specialised staff.

CoSA's work so far has observed how the process of one person supporting another is immensely powerful. The features that make these relationships so transformative are:

- The human interaction; someone to talk to, someone to listen to;
- The sense of feeling special and valued when people give their time to one another;
- The opportunity to establish a relationship over the long term; where the relationship is a good one, being able to see the same person, enjoying the continuity this offers and the opportunity to build trust and confidence;
- The opportunity to consider with someone what resources you have and how best to use them; resources may be very widely defined and include experience (taught and shared), the power to make decisions, energy, compassion, talent, ambition, aspiration and in some cases money;

One-to-one working can unlock potential in us all, tackle need, build social capital and erode inequality.

One-to-one is a route to unleashing energy, experience and compassion in every community, school, business and public agency.

The relationships established when working one-to-one help people to develop new resources and opportunities and to increase their sense of control over their lives.

- The way that each person gets something of value from the relationship that helps them to move on in substantive terms; a new feeling of self-worth, new experience, new skills, new networks;
- The opportunities that this approach generates to push and to challenge people to change or progress.

The wider results are valuable social capital, generated and distributed via these connections between people; social capital both in the sense that these relationships help people to “get by” through having positive contact with others, but also in the sense of helping people to “get ahead” through learning new skills, building confidence, receiving support and making new contacts.

So, working in this way should not be seen either as rather too informal to be taken seriously in terms of tackling society’s evils, or that giving time to working in this way is some sort of luxury. The relationships established when working one-to-one help people to develop new resources and opportunities and to increase their sense of control over their lives. These relationships have the power to boost confidence and to help people make their voices heard.

In a companion paper to *Side by Side*, called *Side by Side and the Implications for Public Services*, (CoSA, 2008b) we considered the lessons from our work at the voluntary end of one-to-one working and how they might be applied to the ways in which public services are planned and delivered, including where services are contracted out to voluntary organisations. The report argued that we require a move beyond top-down models of inputs and outputs as well as a different approach to personalisation which, even in its most radical forms, still emphasises issues such as ease of access to services rather than a real focus on productive, personal, human relationships through which services can achieve the greatest benefit.

We concluded that we needed the **humanisation** of public services. Strong and supportive human relationships between those providing public services and those using public services should be the operating logic of public services, generating better outcomes at better value for money. In order to achieve this, the planning, delivery and evaluation of public services should be turned absolutely on their head so that they focus on the quality of the one-to-one relationship at the point where public resources are used by the people who need them. In order to do this, a set of values, attitudes and behaviours is required, backed up by systems and resources that give primacy to the moment when two people work together to generate the best, most transformative outcome: The GP working with a patient, the teacher working with a pupil, the advice worker working with a client.

The Prime Minister Gordon Brown captured why this is important when he said:

“For every child in care, the young family stretched to breaking point, the elderly neighbour alone, strength and hope and friendship come not from markets and states or incentives and commands, but from the human touch.”

Brown (2007, p.71)

Strong and supportive human relationships between those providing public services and those using public services should be the operating logic of public services.

This conclusion is reflected in different areas of public services where emphasis is being put on the nature and quality of relationships between deliverer and user and the contribution this makes to better outcomes. Whether it is a child struggling at school who receives the additional one-to-one support of a learning support assistant, or a pregnant woman who is supported throughout the whole of her pregnancy and birth by the same midwife, a number of public services are acknowledging that in some situations there is no substitute for focusing on the quality of the human relationships.

A practical example of this comes from work in schools by Group 8 Education. This organisation focuses on the development of people through their relationships with others, with a particular focus on working in schools in Australia and the UK. Its work has emerged from research into the “ideal school” with the help of the latest neuroscience to explain its findings. It has found that students consistently identify five priorities for the ideal school. The ideal school is where children know:

- I am safe
- I am respected by teachers
- I am believed in by teachers
- I am listened to by teachers
- My teachers are knowledgeable (Corrigan 2008)

When these conditions are in place, students say that they feel greater confidence to do what they need to do, they feel respect for the teacher and they will go out of their way not to let the teacher down. The reason that these conditions are ideal for children and schools is simple – being engaged by another human is the key. Group 8 argues that this approach is universal in its application to the individual, and, indeed, teams and organisations. (*ibid.*)

We were interested to examine in more detail the value of one-to-one relationships in public services. We particularly wanted to:

- (i) explore how staff and users view the importance of one-to-one relationships in the context of public service delivery;
- (ii) focus this investigation on a specific area of public services that is important to social action; and
- (iii) examine how far it is possible to achieve productive one-to-one relationships in this area of service delivery under present government arrangements for funding, managing and evaluating services;
- (iv) explore what changes, if any, need to be made to the conditions under which services are delivered in order to develop better one-to-one relationships.

There is no substitute for focussing on the quality of the human relationships.

2. A focus on agencies delivering civil legal aid advice

At the heart of delivering legal aid advice is a human relationship.

We chose to focus on voluntary organisations delivering civil legal aid advice services under contract to the Legal Services Commission. Legal aid as a whole serves two distinct functions. Firstly **criminal** legal aid provides protection and representation to those accused of a criminal act, underpinning the guarantee of a fair trial. Secondly, **civil** legal aid provides advice and representation to people across a range of social welfare issues (DCA 2005). It is this civil, social welfare side of legal aid that our report focuses on. We felt this area met our requirements well:

In terms of the role of one-to-one relationships – people come to advice agencies in a variety of circumstances – distressed, concerned, angry, confused, scared and they rely on their advice worker to support them through the issue being faced. Providing legal aid advice then involves collecting and communicating often complex information usually with a series of contacts over time as clients first present cases and advisors pursue them. So, at the heart of delivering legal aid advice is a human relationship. We recognised that a range of factors and resources need to be in place in order to give quality advice – technical knowledge and expertise, efficient IT and administration, an appropriate office and so on, but we wanted to explore specifically how the quality of the relationship between advisor and client contributes to achieving a good outcome.

In terms of an area that is important to social action – civil legal aid is an essential element of strategies to tackle disadvantage and discrimination. It is often referred to as an additional pillar of the welfare state or at least that it ‘helps make the other pillars of the welfare state work properly.’ (Callaghan, 2009) People who have recourse to civil legal aid across areas of law including debt, housing, welfare benefits, employment and immigration and asylum, are often vulnerable with complex needs. Effective legal aid ensures they receive the support and the quality of services to which they are entitled. Furthermore, effective legal help provided at the earliest opportunity makes a vital contribution to preventing future problems such as homelessness, spiralling debt, family breakdown or stress (Bhavnani 2008a and 2008b, Pleasence et al 2007), mental illness (Pleasence and Balmer 2007), as well as supporting people as they leave prison (Park and Ward 2009) and helping refugees to settle more successfully into life in the UK. (Aspden 2009) Research by the New Economics Foundation found that for every £1 invested in a law centre, a further £15 of social value is generated. (NEF Consulting 2009) This role in prevention generates savings for other areas of public expenditure and so a civil legal aid service that is generating good outcomes is of immense benefit to wider society and public finances.

In terms of examining this in the light of present government arrangements – legal aid is an area of public expenditure that has experienced intense reform in recent years. Principally this relates to the recommendations arising out of Lord Carter’s independent review of legal

aid. (DCA 2005) These reforms have caused significant concern in the advice sector, reflected in the Ministry of Justice's decision to carry out its recent *Study of Legal Advice at the Local Level* (Ministry of Justice 2009) This study also looked at another factor with the potential to put pressure on the relationship between advisors and clients namely the increase in the number of people seeking advice as a result of the recession.

A final factor in choosing this area to focus on is that it reflects a particular field of interest and expertise of the CoSA team that has led this work: CoSA member Shankari Chandran leads City law firm's Allen & Overy's *pro bono* programme. This programme provides extensive support to Law Centres in London, giving Allen & Overy a close knowledge of legal aid advice agencies; CoSA Support Team member Matthew Smerdon formerly ran the large specialist-level legal advice service at Community Links and now leads the Strengthening the Voluntary Sector (STVS) grants programme at the Baring Foundation, which is currently focusing its support on legal advice organisations in England. (Smerdon 2009)

To help us carry out this work we formed a project group of leading organisations from the advice sector: AdviceUK, Law Centres Federation (LCF), London Legal Support Trust and Refugee and Migrant Justice (RMJ). AdviceUK, LCF and RMJ are also all currently working together under the Baring Foundation's STVS grants programme.

3. The role of the relationship between advisor and client

The quality of the relationship between advisor and client is an essential element of achieving a good outcome.

The hypothesis we wished to explore was that the quality of the relationship between advisor and client is an essential element of achieving a good outcome. We chose to explore this through a combination of our own primary research as well as examining existing sources of evidence drawn from current research and practice.

Group 8 Education research for CoSA on what do clients value

Group 8 Education is an organisation carrying out pioneering work in the education field to create the best environments for learning and development. The organisation devised a methodology and carried out the analysis for this research. Group 8 Education's work is based on a belief that the quality of the interaction between professionals and their clients is an important part of client value. Therefore, improving the quality of interactions is a means for both increasing effectiveness and ultimately lowering costs. Group 8 Education's work in schools, as noted above, shows how when people feel safe, are accepted for who they are, are listened to and have confidence in the skills of the professional, they are most likely to arrive at a sustainable solution to their problem as well as be satisfied by the experience.

Group 8 Education has developed tools for measuring the quality of such interactions and development programmes to assist professionals in raising their quality and hence their value to clients. Over the last seven years, this work has been focussed in the education sector where the teacher-pupil interaction is at the core of effective outcomes. However, the organisation has found that its work to improve the quality of the teacher-pupil interaction is suitable to a broad range of services elsewhere in the public sector, as well as in the voluntary and private sectors.

For this research, Group 8 Education developed a Client Voice measurement tool in two steps:

1. An initial poll of clients asked them to describe their ideal advice provider. This broad question was designed to draw out the many different elements that clients value not just, and potentially not even necessarily, the relationship with their advisor. This exercise, carried out in five Law Centres and advice agencies, generated 800 client statements. These responses then went through a data reduction process to generate a minimum number of characteristics that fully describe the ideal provider. This exercise generated 27 characteristics that became the basis for 22 face-to-face surveys with clients in seven London Law Centres.
2. Clients were asked to put the 27 characteristics in the order of greatest impact on their ultimate satisfaction and this order was recorded. The process generates a set of ordered conditions where, typically, the top six account for what is considered the ideal.

What is the ideal advice provider?

1	Advisors are knowledgeable and appropriately qualified to provide advice to clients
2	Advisors provide high quality advice and effective guidance
3	Advisors communicate effectively with clients and take care to explain the issues clearly and honestly
4	Advisors take the time to understand client situations and problems
5	Advisors are experienced in dealing with client issues
6	Advisors are effective problem-solvers able to handle a wide range of situations
7	Advisors are careful to maintain client confidentiality at all times
8	Advisors work hard and try their best at all times to meet client need promptly
9	Advisors listen closely, patiently and with empathy to their clients
10	Advisors are approachable and friendly and make clients welcome
11	Advisors are helpful and supportive to clients
12	Advisors are well organised, well prepared and efficient when meeting clients
13	Advisors are trustworthy and non-judgmental
14	The office provides a high level of service through friendly staff
15	Advisors are understanding of client situations and issues and remain calm at all times
16	The office has meeting spaces that ensure client confidentiality
17	Advisors are fair and treat all clients with the same consideration
18	The office staff are open and friendly and treat clients with respect both in person and over the phone
19	The office is conveniently located and easily accessible
20	Advisors use a wider range of resources and people to meet client needs
21	The office has convenient opening times
22	Advisors are positive, caring and encouraging
23	The office is organised and staffed so as to minimise waiting times
24	The office is welcoming, tidy and comfortable
25	The office provides a comprehensive set of information pamphlets and leaflets
26	The office has a good computer network and other resources
27	The office has good facilities e.g. drinks, internet, toilets, public phone

Advisor competencies
 Advisor and staff attitudes
 Office

Of the top six priorities, the first, 'Advisors are knowledgeable and appropriately qualified to provide advice to clients', the second, 'Advisors provide high quality advice and effective guidance', and the fifth, 'Advisors are experienced at dealing with client issues,' reflect the importance clients give to the knowledge, qualifications and experience of the advisor. These factors combine to ensure that the substance of the advice is accurate which, of course, is vital to achieving the right outcome

Convenient location, convenient times and waiting times are all important to clients, but a knowledgeable advisor who had the time and skills to listen is considered much more important.

and to keeping down costs by solving problems without delays caused by mistakes. This makes absolute sense and the finding sits well with other Group 8 Education surveys where clients indicate that it is important for them to have confidence in the competence and experience of the professional. The sixth priority 'Advisors are experienced problem-solvers able to handle a wide range of situations', reflects clients valuing advisors to be proactive and creative about facing the hurdles encountered in the course of the case.

In terms of our interest in the quality of the relationship between advisor and client, the third priority, 'Advisors communicate effectively with clients and take care to explain the issues clearly and honestly', and the fourth, 'Advisors take time to understand client situations and problems', can be said to reflect the basis for a particular type of positive relationship, namely the ability to communicate and the time and the ability to listen. Again, this echoes responses that children in schools give about the importance of feeling safe, being listened to and being respected. Making sure to explain the issues rests first on a commitment by an advisor to respect their client. Taking the time to listen and understand is all about showing support and empathy and demonstrating that the advisor cares about what is happening to the client and wants to apply their knowledge and experience to addressing the issue at hand. It leads to clients and advisors having trust and confidence in each other. The contribution of these relationships to securing quality outcomes is explored in more detail below.

This exercise was necessarily small scale given that it was carried out on a *pro bono* basis. However, having started with a very broad question about the ideal advice provider it went on to support the hypothesis that the relationship between advisor and client is an essential element of what clients identify as being necessary for achieving quality. Carrying out the exercise across a larger number of advice centres and with a larger sample would be worthwhile. In particular, with the necessary resources, a sample that represented different demographic groups, categories of advice and issues would be extremely valuable to explore whether there are variations in the importance placed on the relationship. Findings from the Civil and Social Justice Survey carried out by the Legal Services Research centre and reported in the Ministry of Justice's *Study of Legal Advice at the Local Level* show that the proportion of people seeking advice in person differs greatly between categories of advice with immigration (75%), homelessness (66%) and mental health (57%) contrasting with neighbours (26%), domestic violence (30%) and relationship breakdown (31%). (Ministry of Justice 2009)

It is interesting to note in Group 8 Education's research the lower priority given to characteristics to do with the quality of the office environment and the ease and convenience of access. These are factors that receive particular priority in the drive towards personalisation through for example 24-hour call centres, one-stop-shops and longer opening times. Convenient location (19th), convenient opening times (21st), minimal waiting times (23rd) and the provision of leaflets (25th) are all important to clients because they were raised in the initial interview about the ideal advice provider, however, a knowledgeable advisor who has the time and the skills to listen to them is considered much more important. This perhaps emphasises the difference between personalisation and humanisation.

Refugee and Migrant Justice – Cost of Quality Legal Advice Research

An in-depth study into the cost of quality legal advice is currently underway, led by Refugee and Migrant Justice (RMJ). The Research Steering Group involves a range of voluntary sector advice organisations including AdviceUK, Asylum Aid Immigration Advisory Service, Immigration Law Practitioners Association, the Law Society and government departments such as the UK Border Agency, LSC and Ministry of Justice. The research is being carried out by the Information Centre about Asylum and Refugees based at City University London. Phase one of this research involves interviews with refugees and is currently underway. Interim findings relating to the relationship between solicitors and clients have been shared with CoSA.

Refugees mentioned the following points when describing their feelings towards their solicitors on good quality case management practice. In order to be satisfied that the solicitor is carrying out quality work, clients stated that they should: (this list is not in priority order)

- Have experience in asylum work and specialist knowledge about refugees;
- Carry out proper research into the facts about the case;
- Acknowledge the client situation (including trauma, upheaval and ability to recount story);
- Spend sufficient time with the client to explore complex cases early on in the process;
- Engage with, interrogate, and cross-check evidence provided by the client in order to ensure the accuracy and credibility of the application;
- Determine the full story early on in the claim – failure to do so undermines trust and can lead to additional trauma;
- Have regular, easy and informal contact with the client;
- Have a proactive approach, exploring all possible legal routes;
- Pay attention to the context of the claim (geo-political and cultural issues).

This list sits closely with the list of priorities identified by the Group 8 Education research – in particular the importance of the knowledge and experience of the advisor and time and ability to listen and communicate. Interestingly, there is greater emphasis in this list on acknowledging the clients situation and on the importance of research and preparation for gathering facts and building the case. This reflects perhaps the complex nature of immigration and asylum applications, plus the consequences for people whose applications fail.

Further to this list, the research identified a number of ways in which clients felt that the solicitor had provided them with a good quality one-to-one relationship. The factors associated with this were that the solicitor was:

The relationship between advisor and client is an essential element of what clients identify as being necessary for achieving quality.

Time well-spent: The importance of the one-to-one relationship between advice workers and their clients

- Thorough and meticulous;
- A good and careful listener;
- Respectful of the client (various indicators were mentioned, including body language);
- Empathetic;
- Sympathetic;
- Patient when dealing with the client during meetings and telephone calls;
- Confidence-inspiring;
- On the side of the client.

Some powerful and insightful quotations were gathered that illustrate both positive and negative experiences of one-to-one relationships.

Factors leading to a negative experience included:

‘When we went to the (legal aid solicitor) he was so – I don’t know how to describe it – this case is my life, it’s very important to me and we found him, me and my husband, really obnoxious and uncaring...I couldn’t give my life into his hands, honestly, it was very important to us.’

‘Well, my first solicitor, the one I got when I made my initial application for asylum, was not interested in anything, my welfare or anything. They are competent but indifferent to the plight of their clients, including myself.’

This last quotation supports the findings above about the combination of client priorities, that whilst competence is important, it is not enough for a quality service.

Factors leading to a positive experience included:

‘He was empathising with me. He put himself in my position.’

‘He tried to listen to his client, what they’re saying, where they’re coming from. He was professional but he also empathised with his clients.’

One person appreciated the fact that she was able to cry in front of her solicitor on various occasions and was comforted by her.

Again through direct quotations, the research identifies ways in which the one-to-one relationship has a negative and positive impact on different aspects of the work advisors do with their clients.

Evidence gathering

Negative – *‘The thing I saw, maybe it was that man in particular, my case was very specific and I could understand that he couldn’t understand what I was saying, that we had different kind of forces in our country. It’s complicated, and when I was explaining to him he literally didn’t understand, and he kept saying to me “Why are you doing that? What’s the problem?”’* *‘My first solicitor did not research, did not care to find out what I was saying. All they were doing was to say that “this is what my client presented, according to him he said this, in making an application for this, we want you to look at this.”’*

‘He tried to listen to his client, what they’re saying, where they’re coming from. He was professional but he also empathised with his clients.’

Positive – *‘I had some very big confidence in him that I did not feel at any moment that I should hide anything from him. This is very important. He was a very nice person, he was very friendly.’ ‘If he wouldn’t or couldn’t understand my situation, if he couldn’t accept my story, if he was not convinced I was telling the truth, I think it wouldn’t have reached this level of relationship.’ ‘He did a lot of research, yes. He really cared, I could see that. He really cared. He went too far... like he really cared.’ ‘The solicitor needs to understand your case as good as you...there doesn’t have to be any confusion about it because it can really affect your case.’*

‘I had some very big confidence in him that I did not feel at any moment that I should hide anything from him. This is very important.’

Case management / conduct of the case

Negative – The failure to give the full story at initial stage due to solicitor’s time constraints and belief that details are not needed leads to greater problems at interview and appeal stages where these details are required, and prolongation of the case. Being dropped halfway through a claim felt to one person like being “left in the middle of the road.”

Positive – *‘He was prompting me, too, we need this evidence, you said this happened, get this and that. He got involved in almost everything, so I felt valued, something like that.’ ‘Some solicitors make representation on your behalf; they will not give you a copy of it. He made sure that every representation he made on my behalf that I had a copy of it.’ ‘He tried to make his client’s position relevant both in the eyes of the law and at the human level.’*

Communication

Positive – Body language and appropriate language matters. It shows respect to the client. Done correctly it gives the client confidence to explain their story in full.

Contact

Negative – *‘Because I will always make the phone calls, do everything, it gave me a sense that these people don’t feel concerned... and this is what most asylum seekers pass through.’*

This research provides useful support for the hypothesis that the relationship is important. In terms of the contribution to quality, perhaps the clearest and most significant factor introduced here is the contribution the relationship makes to taking instructions. Gathering good evidence is crucial to the conduct of the case and a speedy conclusion.

These interim findings will be expanded on in RMJ’s final report, due later in 2009.

Law Centres Federation research

A piece of primary research was carried out for this report by LCF. Eight law centres (Bury, Surrey, Avon and Bristol, Brent Community, Plumstead Community, Islington, Saltley and Nechells, and Streetwise Community) were asked to provide written responses to the question: What is the role of the one-to-one relationship between advisor and client in generating a quality outcome?

Good one-to-one relationships between advisors and clients were universally seen as important. They lead to the ‘best possible communication’.

It is important for clients to know that they are being 'heard', that 'someone will voice their concerns'.

A good relationship also contributes to the 'process of empowerment' for a client, increasing skills and confidence to deal with problems without the need for external help.

Good one-to-one relationships between advisors and clients were universally seen as important. They lead to the 'best possible communication' and the development of 'trust and confidence' between advisors and clients. This is important for clients to know that they are being 'heard', that 'someone will voice their concerns' and to establish that 'the advisor's sole aim is to help them secure the right legal outcome'. This is particularly important for some clients that have previously been let down by other services providers or who need to be convinced that the advisor is 'independent' and 'entirely on their side'. In turn, for advisors, having trust and confidence in their clients is important for knowing that the client is 'giving honest, accurate information' and helps to 'ensure a greater understanding of needs.' Some responses focused on the importance of being able to 'comfort' and 'reassure' clients who are 'upset and (who) desperately need to talk.' This helps to create the environment in which clients feel safe to talk and commit to sorting out problems.

All of the responses talk about the role of a good relationship in gathering 'good information' from clients and how important this is for the efficient and effective 'progress of the case'. A range of circumstances can make this more difficult; if the client is 'not articulate' or 'does not know what information is relevant' or if a client is 'mistrustful'. It requires skills on the part of the advisor to draw information out, as well as time. A good relationship also contributes to the 'process of empowerment' for a client, increasing skills and confidence to deal with problems without the need for external help, so that 'even if the legal outcome is not what the client wanted', there has still been some benefit. This focus on empowerment makes a particular contribution to 'prevention of future problems'. Finally, advisors talked about a good relationship leading to helping to uncover underlying problems both that are 'personal to the client and of a system nature' giving 'greater scope for broader outcomes.'

Review of Law Centre client feedback forms

In a further piece of primary research for this project carried out by Allen & Overy, all the client feedback forms (a total of 283) sent to five Law Centres (Brent Community, Croydon and Sutton, Sheffield, South West London and Wandsworth and Merton) during the period April 2007 – March 2008 were reviewed.

Most forms use a tick box format but some clients added additional comments. The research found that 26% of respondents specifically mentioned the relationship with their advisor. The characteristics clients mentioned when discussing the relationship with the advisor fell into two categories:

Advisor attitudes that clients specifically recorded as being highly valued – accessible, diplomatic, conscientious, polite, helpful, friendly, supportive, sympathetic, kind, understanding, caring, hard working, believed in me, didn't give up on my situation, patient, courteous, honest, built my confidence, gentle.

Advisor competencies specifically recorded as being highly valued – professional, efficient, kept me informed.

Many of the forms record how grateful clients were and reflect what good relationships had been established between the advisor and the client, which was clearly highly valued:

'I do appreciate all the trouble you have taken for our case. We never forget your help and you are always our friend here.'

(Wandsworth and Merton)

'I felt like I made a new friend.'

(Sheffield)

'You worked hard and tirelessly as my solicitor. You are a hero to me.'

(Brent Community)

'It was like someone taking a great weight off my shoulders.'

(Sheffield)

'As helpful as humanly possible... even though the outcome did not go in my favour.'

(Sheffield)

'Without (my advisor's) help and support I would have had a breakdown and my family torn apart. I will always (be) truly grateful to her.'

(South West London)

Where negative comments have been made on forms, they often relate to the quality of the interaction. For example, one client said that on first contact they were dealt with in a very abrupt manner by the receptionist. This experience shaped their entire experience.

In addition to the primary research carried out for this project, we have reviewed a range of work currently underway in the advice sector to see whether our hypothesis is supported elsewhere and, if so, what particular contribution good one-to-one relationships can make to achieving quality outcomes.

Early Advice “Solihull” Pilot

The Early Advice “Solihull” Pilot, a joint UK Border Agency (UKBA) and Legal Services Commission (LSC) initiative, looked at the benefits for asylum seekers of “front loading” legal advice and services early in the asylum process. The pilot took place in Solihull from November 2006 to December 2007 and the process is now going to be rolled out to a whole UKBA region from April 2010.

This pilot is interesting for our work because, as the independent evaluation notes, ‘a stated aim (of the pilot) was a much closer working relationship between all parties.’ (Aspden 2009: p.25) This relates not just to the importance of the relationship between clients (called ‘applicants’ in the pilot) and advisors (called ‘legal representatives’ in the pilot), but also between legal representatives and caseowners (the representative of the Home Office in charge of the case).

The main proposition being tested in the pilot was whether more investment in legal advice and discussion at the initial stage would shorten the time taken for decision-making in asylum cases and lead to greater justice and lower costs. Around 73% of claims for asylum are

More investment in legal advice and discussion at the initial stage would shorten the time taken for decision-making in asylum cases and lead to greater justice and lower costs.

rejected at “first instance” i.e. the decision made by the Home Office; 23% of appeals to the Independent Asylum and Immigration Tribunal (AIT) go on to be successful with this process taking many months and incurring a range of additional costs to the public purse.

In the pilot, all asylum seekers under the New Asylum Model were given access to independent accredited legal representatives before the initial decision-making interview with the Home Office caseowner. In contrast to current standard practice, these legal representatives were then able to:

- take a witness statement prior to the Home Office interview in all cases;
- liaise with the Home Office caseowner to try and clear up disputes before and after the initial interview;
- identify issues disputed by the Home Office and acquire evidence for the client as soon as possible in the process; and
- accompany the client to the Interactive Home Office Interview.

In the pilot evaluation, a ‘control group’ (Leeds) was used to compare findings across three measures:

- (i) *Case conclusion targets (where “case conclusion” means the applicant is either integrated or removed within six months).* Case conclusion rates in Solihull went from 29% in the first quarter of the pilot to 58% in the final two quarters (Leeds 32% to 33%). The evaluation concluded that the pilot led to significant and sustained improvement leading to this indicator being met and exceeded.
- (ii) *Faster, higher quality, more sustainable asylum decisions.* Seven elements were identified to measure this indicator and all were met. For example, under ‘faster recognition and integration of refugees’ the pilot produced a higher grant rate of 58% (Leeds 34%) meaning cases did not proceed through to expensive appeal. Correspondingly, Allowed Appeal rates in the pilot were 10% (Leeds 20%). On the measure ‘effective conclusion of negative decisions’, there was improvement in the pilot area from 10% to 16% (Leeds 5% to 6%) and the report notes ‘a strong impression that negative decisions were better received by asylum claimants.’ (*ibid.*: para 344).
- (iii) *Overall cost savings with any rise in the Legal Aid Budget offset by savings elsewhere.* Although the Solihull Early Advice process was initially more expensive than standard practice, the evaluation concluded that ‘considerable potential savings in National Asylum Support Service, AIT and LSC costs have been identified in direct relation to the lower allowed appeal rate.’ (*ibid.*: para XXIV)

The pilot was testing a range of new arrangements but, focusing on the potential impact of one-to-one relationships, the evaluation notes that:

‘the greater emphasis on interaction (between caseowners and legal representatives) led to the development of a culture of mutual professional respect and trust... that had not existed prior to (the pilot) when relationships were characterised by mutual suspicion.’

(*ibid.*: p. 53)

The evaluation also identified increased empathy towards applicants on the part of caseowners. (*ibid.*)

In terms of applicants relationships with their legal representatives the evaluation noted that applicants ‘seemed to have a better understanding of what was happening at each stage (of the claim).’ (*ibid.*: p.17) One of the main aims of the pilot was to ensure all relevant information and evidence was identified and put in front of the caseowner for consideration prior to the decision. This puts great importance on the ability of the legal representative to gather this information from applicants who are vulnerable and often traumatised. Caseowners noted ‘the support that legal representatives can provide at interview is important in... identifying relevant evidence’ (*ibid.*: p.43) The LSC’s Quality Review of the pilot also noted that:

‘the best features of the Early Advice Pilot files... (were the) quality of detailed statements, with some firms preparing statements of excellent quality.’

(*ibid.*: p.78)

Better statements also helped to shorten interview times. The skill and ability of the advisor to draw out these statements is therefore an important part of the process. It is worth noting that this task is even more delicate when the asylum applicant is a child. Maurice Wren, Director of Asylum Aid, who conducted a series of evaluation workshops with voluntary sector providers involved in the pilot, believes that:

‘the relationship between applicant and advisor is a means by which a good decision is reached... it is critical to getting the necessary evidence and information in front of the decision maker.’

(Wren 2009)

The independent evaluation also noted the value of applicants having the same legal representative throughout the process. This:

‘underpins the end-to-end case management and seamless case ownership which improves the engagement and understanding of caseowner, legal representative and applicant at all stages of the claim’

(Aspden 2009: p.51)

One interesting consequence of this approach was that as well as noting that negative decisions were better received by applicants, the pilot resulted in fewer absconders. The evaluation concludes that this was because applicants had been involved throughout the whole process and appreciated that they had been able to put their case fully.

In conclusion, the evidence of the successful Solihull pilot suggests that closer and more productive relationships between caseowners, legal representatives and applicants were a significant element of a successful pilot.

The relationship between applicant and advisor is a means by which a good decision is reached.

Closer and more productive relationships between caseowners, legal representatives and applicants were a significant element of a successful pilot.

Rights within Reach research by Youth Access

It has not been within the scope of CoSA’s research to examine how the needs of different demographic groups may have an impact on the role of the relationship between client and advisor. However, Youth Access and LCF have carried out recent research looking at the advice needs of young

A strong one-to-one relationship between advisor and young person is vital to improving the young person's chances in the long-term.

people. (Verma and Wilkins 2009) Young people are more likely to have civil legal problems than the rest of the population concerning issues such as homelessness, unemployment and debt.

The research puts forward a blueprint for effective legal advice services. Particularly relevant to our question are two conclusions, that young people primarily want and need advice face-to-face, rather than by mobile telephone or on-line and that a strong one-to-one relationship between advisor and young person is vital to improving the young person's chances in the long-term.

One young woman helped by an outreach legal advice service for young people testifies to the empowering impact of advice delivered in this way:

'Within five years of being kicked out of home I graduated with a law degree; this would have never been possible were it not for the advice, representation and guidance from my legal advisor who got me housed and then kept in touch'

(Youth Access 2009)

The research argues that the importance of young people getting a positive experience of seeking advice right from the first contact. Once successfully established, an advisor-young person relationship is far more likely to continue to allow effective follow up work. A key factor in creating young-person centred advice services is building face to face relationships of trust and confidence with young people. As well as supporting findings elsewhere about the contribution to gathering good information, this research interestingly adds that good relationships reduce the risk of subsequent no-shows at later appointments. This is important for the future successful progress of the case, as well the efficient running of the advice service.

As with other findings, the report concludes that advisors need to have both sound legal knowledge of young people's rights and entitlements **plus** the ability to engage young people.

Other research

Research carried out by the LSE on access to justice in a London Law Centre involved a detailed examination of interactions between immigrant / asylum claimants and lawyer / caseworkers in the South West London Law Centres. It aimed to explore the effects of recent changes to the law and to legal aid funding. The research revealed how important the role of the caseworker is in helping claimants to navigate the complex bureaucracy created by immigration asylum law. Interviews with clients revealed how they experience immigration and asylum law as 'impenetrable' and unresponsive to individual circumstances. The study concluded that expert advice in a dehumanising bureaucracy requires sympathetic hearing as well as technical assistance. The research also documented how caseworkers were finding it increasingly difficult to work in this way. This is discussed further below. (James and Killick in preparation)

Advice Services Alliance has been developing approaches to measuring outcomes. In one pilot in Southwark, clients were asked what they particularly liked or disliked about the service. Comments about what clients valued in the staff included – helpful, quick, welcoming,

professional, friendly, sincere, very kind, supportive, informative, well trained, gave excellent advice, listened and treated client with respect, took time to explain what was going on at every stage due to English being their second language, they do everything they can for you, reception is lovely – always a smile, caring, warm people, expert help was given to me, they kept me up to date. Clients really trusted their solicitors. (Bhavnani 2008a)

Taking the time to listen and explain, to show empathy and sympathy and to show respect are seen as essential parts of a quality service.

Conclusions on the research

Altogether, this range of evidence points unequivocally to the fact that clients value a good relationship with their advisor. Taking the time to listen and explain, to show empathy and sympathy and to show respect are seen as essential parts of a quality service.

However, the importance of this goes further than just an understandable desire to be treated well. We have seen the different ways in which the relationship is instrumental to the quality of the work advisors do with their clients.

- Feeling respected and listened to creates trust and confidence between advisor and client and this is crucial to gathering accurate information. The contact that advisors have with their clients is the source of instruction, their opportunity to gather the circumstances of the case and the evidence needed to pursue it. Where the relationship is poor, information can be withheld, misunderstood or given incorrectly all leading either to the wrong advice being given, to the wrong outcome being achieved or to mistakes that have to be rectified later. Good information is therefore vital to the right decisions being taken at the earliest opportunity. Furthermore, as the rules and bureaucracy around benefits and rights becomes increasingly complex, advisors have an important role in helping clients to navigate this complexity.
- A good relationship is also important for the future progress of the case. Advisors will need clients to respond to further requests for information and attend future appointments. We have seen how, where this is done well, even if the eventual outcome of the advice is not what the client wanted, the good relationship and the resulting understanding that clients have of the case and the confidence that everything has been done to pursue the case rigorously helps clients to accept this outcome more readily.
- A good relationship helps to uncover underlying problems being faced by clients that may have contributed to the specific issue being addressed by the advice worker. Advice workers can play an important role in helping clients to access support for these other problems.
- Linked to this is that the one-to-one attention advisors give to clients is part of advice making a deeper contribution to the personal development of clients. This means that receiving advice goes beyond a one-off transaction to help clients potentially tackle their own problems differently in the future, perhaps seeking advice earlier and preventing problems from escalating, dealing with issues themselves or going on from this moment in their lives with renewed confidence.

One-to-one attention advisors give to clients is part of advice making a deeper contribution to the personal development of clients.

Building relationships takes time. Clients repeatedly talked about the importance of advisors taking or having the time to listen.

We have also seen what advisors need in order to establish good one-to-one relationships. These are, in the end, quite simple.

- They need the time – building relationships takes time. Clients repeatedly talked about the importance of advisors taking or having the time to listen.
- They need to begin building relationships at the earliest opportunity.
- They need to hold certain values – the relationship with clients needs to be based on respect from which grows the desire to show empathy. Advisors need to be proactive and show that they will not be put off by hurdles faced in the course of pursuing the issue. This helps to inspire confidence in the client that the advisor cares about their case.
- They need the skills – building relationships requires advisors to be good listeners and good communicators. It also requires an understanding of the impact of multiple disadvantage on people and how in these circumstances it is important for clients to feel valued and that the service is responsive to their needs. They need to be able to deal with clients as people not as cases. They need to operate within a system that recognises the value of the building a good relationship – rushed transactions in highly pressured environments, burdensome administrative procedures, excessive direction in how to manage the progress of a case all mitigate against creating the conditions needed to develop a productive relationship.

4. Increasing pressure on the capacity of advisors

The impact of reforms to legal advice services

In May 2004, the Department for Constitutional Affairs (DCA) established the Fundamental Legal Aid Review. This study was asked to look at the long-term future of the legal aid system and how it could:

- provide services which meet the needs of society;
- be best used to help people improve their lives and prevent social exclusion;
- help deliver innovative ways of delivering legal services to ensure best use of taxpayers' money. (Cabinet Office 2008).

It was felt by others at the time that the primary focus of the review was to try to cut the cost of legal aid. (Law Society 2004, Hynes and Robins 2009) Although a final report of the Review was not published, some of the results were contained in the DCA report *A Fairer Deal for Legal Aid* published in July 2005. This set out the Government's long term strategy for legal aid and highlighted a number of areas for reform, particularly of the criminal legal aid system. One of the most significant outcomes of that report was the announcement of an independent review of legal aid by Lord Carter of Coles which would promote 'an active and competitive legal services market' providing 'greater efficiency and value for money'. (DCA 2005: p.19)

When Lord Carter published his report in July 2006, its main recommendations for civil legal aid were:

- Fixed or graduated fees for all casework i.e. cases would be paid at a standard fixed rate, replacing a system based on funded posts delivering an agreed number of hours over the course of a year. Organisations would depend on a "swings and roundabout" effect where long cases costing more than the fixed fee would be balanced out by short cases where a profit could be made;
- A 'unified contract' for all civil work and limiting contracts to either £25,000 or £50,000; and
- Best Value Tendering (BVT) to be introduced for all civil contracts with suppliers bidding against criteria. BVT was seen as helping to deliver quality services where the price paid for those services reflects the cost of their provision.

Lord Carter made clear in the report that the development of a market for legal aid services would mean some organisations would have to merge or close. Also, that the move to fixed fees was a step to an eventual transition to a full market approach. It was part of the response to what Lord Carter saw as:

*‘scope for greater efficiency in the way that not for profit organisations deliver legal advice services. The funded post model that applies to not for profit agencies may encourage inefficiency, as by paying for hours worked rather than cases completed it **may encourage some caseworkers to spend more time on cases than is strictly necessary.**’*

(DCA 2006: p.45, emphasis added)

The change to fixed fees in October 2007 proved extremely controversial and prompted severe criticism from advice agencies (Advice Services Alliance 2007; AdviceUK 2008; James and Killick, in preparation), unions (Unite 2008) and the media (Bunting 2008). The House of Commons Constitutional Affairs Committee described the implementation of fixed fees as a ‘breathtaking risk’ (HCCAC 2007: para 129) which was being introduced at ‘breakneck speed,’ (HCCAC 2007: para 133).

Fixed fees create an economic disincentive to take the time to work with the most vulnerable people with the most complex problems.

The impact of fixed fees

We have seen that a major factor in establishing good one-to-one relationships is time. Fixed fees put immense pressure on this time.

- Fixed fees are set too low for the “swings and roundabouts” model to work. In order to remain viable and attempt to maintain levels of quality, organisations are subsidising legal aid advice services with unrestricted funding. The Law Centres Federation reports the astonishing figure that levels of unrestricted reserves amongst their members have dropped by 70% since the introduction of fixed fees. (NEF Consulting 2009) Four law centres have already closed.
- The pressure to claim a fee leads to organisations closing cases sooner than they would have done before. For example, rather than following a homeless case through from start to appeal, a ‘case’ will consist of brief advice and sending someone back to the Homeless Person’s Unit. It is said that some organisations “cherry pick” cases that are short term and simple, rather than longer term and more complex. The MoJ’s *Study of Legal Advice at the Local Level* noted that this practice was reported, but found little hard data to show its extent. The Study went on to call for the impact on services of the incentive to close cases sooner to be examined further (Ministry of Justice 2009). Although the scheme does make provision for providers to claim higher fees for “exceptional cases” this facility is administratively time consuming and not being used by organisations as much as expected. The gap between the fixed fee and qualifying as an exceptional case is too wide. This creates an economic disincentive to take the time to work with the most vulnerable people with the most complex problems.
- An average fee for the whole country does not account for various reasons why costs can differ geographically and depending on client groups. Research by the New Economics Foundation noted the additional costs of delivering advice in London (due to higher salaries, competitive recruitment and higher rents) (NEF Consulting 2009). Also, the LSC’s own Regulatory Impact Assessment on the legal aid changes found that client groups from Black, Minority, Ethnic and Refugee (BMER) communities are likely to have higher case costs: Mixed Asian (by 46%), Indian (by 34%), Mixed White/ Black African (by 27%), Pakistani (by 25%) and White Irish (by 23%).

(LSC 2006: p.34) At the same time, fixed fees do not make additional allowance for the costs of providing advice in a rural area where travel is necessary.

- The administration associated with fixed fees is excessive, particularly when claiming for a higher level of fee under the Exceptional Case provision (available when a case extends to three times the value of the fixed fee). The bureaucracy goes beyond reasonable requirements for demonstrating accountability.
- Work by AdviceUK and Vanguard Consulting found that fixed fees have led to agencies having to provide services in different ways, not driven by user value. This includes dividing client enquiries into several “matters” and restricting the things they could do for the client to meet contractual targets. Administrative activities have increased following legal aid reforms and agencies are under pressure to close cases quickly in order to claim the fixed fee. For example, the research found that advisors commonly sent letters to creditors in debt cases but closed cases without waiting for a reply. (AdviceUK 2009)

Fixed fees have led to agencies having to provide services in different ways, not driven by user value.

We also saw that a factor in establishing a good relationship requires advisors to treat clients as people not cases.

- Fixed fees have introduced a focus on New Matter Starts (NMS) as the principal unit of measurement with the number of NMS used as a way of measuring the impact of the scheme. In order to hit NMS targets, providers are finding it necessary to divide a client’s problems into different case categories so the number of NMS does not necessarily reflect numbers of people helped.

The impact of system failure

The work by AdviceUK and Vanguard Consulting is also highlighting the high level of demand for advice services that is caused by failings further back in public sector administration, for example, complex benefit application forms or letters to claimants that are unclear and that cause the claimant to seek advice. These failings create extra unnecessary work and costs. (AdviceUK 2008) Rather than focus on reducing the unit cost of advice, a more effective approach (but certainly more complicated for government) would be to focus on reducing public sector failure. This would free up advisors to undertake more valuable work, which ought to include capturing evidence of public sector failure and feeding this back into the system. However, the way in which advice services are increasingly funded to deliver advice ‘transactions’ or outputs tends to lock this failure and waste in: there is no capacity or even incentive for advice providers to act on system failure before it generates advice enquiries.

AdviceUK has argued that gaining a better understanding of the demand for advice services and how funding, regulatory and monitoring systems impact on the way in which advisors meet that demand is the key to designing services that are free to be client focused and that continually improve. One of the areas in which they are taking this work forward is Nottingham, with some important early results:

Reducing public sector failure would free up advisors to undertake more valuable work.

Time well-spent: The importance of the one-to-one relationship between advice workers and their clients

- Of 484 client enquiries witnessed by the Nottingham advice team, 58% were 'value demands' and 42% 'failure demands'. Failure demand can be caused by internal or external failings: For example, "I have received this letter from the Department for Work and Pensions and I don't understand it" or "My Housing Benefit has been stopped for no reason." An example of 'value demand' would be a client who comes to the advice agency for help dealing with creditors when they are in debt
- The Nottingham team noted that if they were able to concentrate on value work, they would be able to do more things for more clients.
- The team also noted the 'system conditions' – the causes of waste and the things that influence the way work-flow is designed. These include processes and procedures required not by the client but by quality standards such as the CLS Quality Mark, the Legal Services Commission or service contracts that set targets and geographical boundaries. Funding arrangements can also lead to fragmentation of services. Such systemic requirements lead to advisors doing work that adds no value to the service provided to the client and does not improve outcomes. The team noted in particular the range of time records that an advisor must keep under LSC contracts: routine letters/emails, telephone calls, attendance on client, preparation, travel, waiting and legal research.

The Nottingham team will be using the knowledge they are gaining to redesign advice services that are truly client focused and achieve their purpose, which the team agreed is "to provide advice and support to help clients to resolve their problems."

The impact of commissioning

As common with other areas of funding for the third sector, there is increasing use being made by government of commissioning. This is a controversial debate with some parts of the sector welcoming the opportunity provided by commissioning to attract more income for their work alongside the potential to establish a closer more influential relationship with government. Others feel they have little choice but to engage in commissioning as a potential source of funding. Others see commissioning as causing irrevocable damage to the voluntary sector.

In terms of the concerns, the trend to commissioning means that whilst there is reduced public sector provision of services, there is an increase in central control over the incoming providers of those services. Commissioning is duly criticised by organisations for reducing flexibility, the ability to meet needs, the capacity to dissent, the ability to collaborate, the freedom of organisations to set their own priorities and to provide all the wider benefits of services beyond the tightly defined contract outputs. Of particular concern to advice agencies has been that the level of quality being sought in contracts is too low. It should also be noted that contracts in the legal aid sphere actually contain "perverse incentives" to maintain need and demand because payment is by unit / case rather than successful outcome.

The impact of the recession

Whilst the issues reported above have become increasingly significant over recent years. A further new circumstance is providing additional pressure. There has been a significant increase in demand for advice services since the start of the recession. For example since April 2008, Citizens Advice Bureaux in England and Wales have seen daily enquiries relating to redundancy increase by 125%. By October 2008, CABx had seen 35% more people with mortgage and secured loan arrears problems, compared with the previous 12 months, with 77,324 new enquiries since October 2007. (Ministry of Justice 2009) The sheer volume of cases that advice agencies deal with puts pressure on the time advisors can spend with clients.

There has been a significant increase in demand for advice services since the start of the recession.

5. Measures to improve advisor and client relationships

The time advisors spend with clients building a relationship, is time well-spent. It is not a luxury.

Government has an understandable desire to ensure funding for advice work secures value for money. In so doing, it is pursuing approaches for controlling and reducing costs and improving efficiency. One belief in this work within government is that advice workers, in Lord Carter's own words, may spend 'more time than is strictly necessary' on cases. A more efficient system would, therefore, be one where matters are dealt with more quickly. We believe that the evidence gathered in this report shows that the time advisors spend with clients building a relationship, is time well-spent. It is not a luxury. Rather, it is instrumental to achieving a quality outcome and value for money. Research, such as the evaluation of the Solihull Early Advice Pilot and NEF's work on the socio economic value of law centres exists that quantifies the savings accrued or the value added of working in this way.

We think that the research here reveals fault lines between the government and the advice sector over the purpose of legal aid, the outcomes legal aid should seek to achieve and the quality of advice provision. The mismatch between these definitions results in administrative and financial processes led by government that fail to create the best environment for advice to achieve the best outcomes and the best value for money.

One option would be to advocate tinkering with the system by, for example, increasing the fixed fee for certain types of cases, or paying an hourly rate. We do not believe however that this will necessarily result in a better process of planning, funding and delivering legal advice. The Solihull Early Advice Pilot provides some potential, demonstrating that a more thoughtful approach is possible.

We make the following recommendations:

- The advice sector should review current training programmes to ensure that advice workers are developing skills in building one-to-one relationships with their clients. Group 8 Education will be running a one-day workshop for advice workers to pilot some new approaches to achieving this.
- The Ministry of Justice and the Legal Services Commission need to work with the advice sector to agree a shared definition of (i) the purpose of legal aid, (ii) the outcomes legal aid is seeking to achieve and (iii) the level of quality of advice provision that therefore needs to be in place. Underpinning the debate about the merits of the reforms to legal services is a disagreement about the answer to these questions.
- The Ministry of Justice and the Legal Services Commission should expand successful approaches, such as those adopted in the Solihull Early Advice Pilot.

- Following the *Study of Legal Advice at the Local Level*, the Ministry of Justice is carrying out work to examine the impact of fixed fees on issues such as closing cases early and “cherry picking.” This work needs to pay particular attention to the impact of fixed fees on the quality of the relationship between advisors and their clients.
- The Ministry of Justice and the Legal Services Commission should closely examine the findings of Refugee and Migrant Justice’s research on what is quality immigration advice, due later in 2009.
- The Ministry of Justice and the Legal Services Commission should be closely involved in examining the findings of AdviceUK and Vanguard Consulting’s work on a systems thinking approach to local advice services and supporting the development of pilots in other parts of the country.
- The research begun here into the role of the relationship between advisor and client in generating a good outcome should be expanded to explore how this relates to different types of clients and different categories of advice. One option may be to use the Crime and Social Justice Survey carried out by the Legal Services Research Centre.
- Further research should be carried out into the savings to the public purse generated by advice work.

6. The implications of these findings for the delivery of other public services

If someone is facing a set of complex and difficult circumstances which requires long term support, a deeper relationship becomes crucial.

The public service reform agenda is a vast one, generating a huge amount of policy and practice. We think the findings here have a contribution to make to this agenda:

Spending time building productive relationships with people using services is time well-spent. These relationships are instrumental to achieving quality and value for money. Measures such as fixed fees, inappropriate targets and burdensome administration all get in the way of this effort. By focusing on driving down costs, services end up struggling to provide value.

It is important to apply to apply this approach where it makes most sense. We have seen that there are some areas of advice work that can be dealt with quickly and without the need for a long term relationship. If, however, someone is facing a set of complex and difficult circumstances which requires long term support, a deeper relationship becomes crucial to that person getting what they need from public services. Part of this, certainly, is expert help, but it is also someone to talk to who treats you with dignity and in whom you have trust and confidence and whose guiding aim is to increase your control over the issue being faced.

Investing in this relationship at the earliest opportunity helps someone to move away from a set of circumstances that may result in a worse crisis later down the line.

Failure demand (mistakes in the wider system of public administration that cause people to seek help) creates a significant additional burden on services. Tackling the causes of these failures frees up time and energy to focus on what really needs doing. The systems thinking approach being developed by AdviceUK and Vanguard Consulting offers huge potential here for tackling waste across public service delivery and increasing the value of services to clients.

The planning, funding and administration of public services needs to focus on the quality of the human relationship at the point of delivery.

The planning, funding and administration of public services needs to focus on the quality of the human relationship at the point of delivery. Rather than personalisation, and the risk that this set of practices goes no further than making services more “consumer friendly,” we should be pursuing the humanisation of public services. In order to organise and administer public services accordingly, a set of values, attitudes and behaviours are required, backed up by systems and resources that give primacy to the moment when two people work together to generate the best outcome. This is about achieving the deeper quality of relationships that have the power to transform.

References

- Advice Services Alliance (2007) *Fixed fees, equality and diversity*. London: Advice Services Alliance
- AdviceUK (2008) *It's the System, Stupid! Radically Rethinking Advice*. London: AdviceUK.
- AdviceUK (2009) *Interim findings from the Nottingham BOLD project*. Personal communication, September 2009.
- Aspden J (2008) *Evaluation of the Solihull Pilot for the UKBA and the LSC*.
- Bhavnani S (2008a) *Measuring the outcomes of housing advice: Findings from the Southwark Law Centre pilot*. London: Advice Services Alliance.
- Bhavnani S (2008b) *Measuring the outcomes of employment advice: Initial findings from the Islington Law Centre pilot*. London: Advice Services Alliance.
- Brown G (2007) *Britain's Everyday Heroes; the making of the good society*. Edinburgh; Mainstream Publishing.
- Callaghan B (2009) *Where would we be without legal aid?* Available at <http://www.legalaid60.org.uk/why/where.jsp>
- Lord Carter (2006) *Legal Aid: a market-based approach to reform*. London: Department for Constitutional Affairs.
- Cabinet Office (2008) *Legal Aid* available at http://www.cabinetoffice.gov.uk/strategy/work_areas/legal_aid.aspx
- CoSA (2008a) *Side by Side; a report setting out CoSA's work on one-to-one*. London: CoSA.
- CoSA (2008b) *Side by Side and the Implications for Public Services*. London: CoSA.
- Corrigan J (2008) *21st Century Education; Leadership – developing the Blue Zone, reducing the Red Zone*. Sydney: Group 8 Education.
- DCA (2005) *A fairer deal for legal aid: CM6591*. London: The Stationery Office.
- House of Commons Constitutional Affairs Committee (2007) *Implementation of the Carter Review of Legal Aid*. Third Report of Session 2006-07. House of Commons Papers 223I 2006/07
- James D and Killick E (in preparation) 'Afraid of the form': lawyer/client interactions in the context of immigration law in a London Law Centre. *Anthropology Today*.
- Law Society (2004) *Fundamental Review of Legal Aid: Law Society briefing*. Available at <http://www.lawsociety.org.uk/secure/file/147715/d:/teamsite-deployed/documents/templatedata/Internet%20Documents/Government%20proposals/Documents/fundreviewlegalaidbriefing.pdf>
- Ministry of Justice (2009) *Study of Legal Advice at Local Level*. London: Ministry of Justice.
- Park G and Ward S (2009) *Through The Gates- improving the effectiveness of prison discharge: first half-year evaluation, August 2008 to January 2009*. London: St Giles Trust
- Pleasence P, Buck A, Balmer N and Williams K (2007) *A Helping Hand: The Impact of Debt Advice on People's Lives*. London: Legal Services Research Centre.
- Pleasence P and Balmer N (2007) *Mental health and the experience of housing problems involving rights*. People, Place & Policy Online
- Smerdon M (2009) *Making Rights Real*. STVS Working Paper No 4. London: Baring Foundation.
- NEF Consulting (2009) *Review of the Impact of the Unified Contract on Law Centres*. London: NEF
- Unite (2008) *Legal Aid Changes Hit Mental Health, Disability, and Asylum Groups*. Unite press release 18 September 2008.
- Wren M (2009) *Interview with Maurice Wren, Director, Asylum Aid*, 24th April 2009.
- Youth Access (2009) *New technology is wrong way to reach recession-hit young people*. Press release.

Council on Social Action Papers

The Council on Social Action has produced a series of papers setting out the CoSA programme.

CoSA Paper No. 1 Willing Citizens

CoSA Paper No. 2 Side by side: a report setting out the Council on Social Action's work on one-to-one

CoSA Paper No. 3 Side by side and the implications for public services

CoSA Paper No. 4 Collaborative Commitments

CoSA Paper No. 5 Council on Social Action: Commentary on Year One

CoSA Paper No.6 Heart of the City: Building stronger communities through business collaboration

CoSA Paper No.7 Introducing the National Talent Bank

CoSA Paper No. 8 Social Impact Bond

CoSA Paper No. 9 People of Influence: A progress report on the Council on Social Action's work on one-to-one

CoSA Paper No. 10 Time Well-Spent: The importance of the one-to-one relationship between advice workers and their clients.

CoSA Paper No.11 Council on Social Action: Commentary on Year Two

All the CoSA papers are available for download from the CoSA website:
www.cabinetoffice.gov.uk/social_action.aspx



Published by Community Links www.community-links.org

For more information contact David Robinson
Community Links
105 Barking Road
Canning Town
London, E16 4HQ

t: 020 7473 2270

e: socialaction@cabinet-office.x.gsi.gov.uk

w: www.cabinetoffice.gov.uk/social_action.aspx

