

# The Constitutional Affairs Committee Legal Aid Inquiry

Written Evidence from  
The Advice Services Alliance

## Introduction

1. The Advice Services Alliance (ASA) welcomes the opportunity to provide evidence to the Constitutional Affairs Committee enquiry into legal aid.
2. ASA is the umbrella organisation for national independent advice networks in the U.K. Current full members are:
  - Advice UK
  - Age Concern England
  - Citizens Advice
  - Citizens Advice Scotland
  - DIAL UK (the disability information and advice service)
  - Law Centres Federation
  - Scottish Association of Law Centres
  - Shelter
  - Shelter Cymru
  - Youth Access
3. Our members represent over 2,000 organisations, which provide a range of services to diverse groups working mainly on a local level throughout the U.K.
4. ASA convenes meetings of our members to discuss issues of access to legal and advice services. Our aim in this submission is to broadly reflect the views expressed at those meetings. However, due to the pressure of time, it has not been possible to consult our membership about the detail of this submission. Therefore, it is important that the Select Committee is aware that our members do not necessarily agree with everything said in this document. Further, we expect that at least some of our members will be submitting evidence independently of ASA.
5. We set out below our comments in relation to the Committee's terms of reference. Our comments relate only to civil legal aid, and more specifically to the 'social welfare law' areas within civil legal aid.

## What evidence is there of the emergence of 'advice deserts'?

6. In order to attempt to answer this question, we need to be as clear as possible about what we mean by 'advice deserts'.
7. Firstly, we need to be clear about what is meant by 'advice.'
8. There are different kinds of advice that are important to our members. Some of our members give advice and support to particular sections of society on a wide range of issues, much of which would not generally be seen as legal advice. This is particularly the case for the work of agencies that are affiliated to DIAL UK, Youth Access and Age Concern. One of our network members, Shelter, is concerned with giving legal advice in housing matters. Other network members give legal advice across a range of categories.
9. The question of 'advice deserts' is clearly concerned with important issues to do with access to advice and access to justice. However, there are many other important issues to do with access. These include
  - People not knowing that they have rights that they can try to enforce
  - People not knowing where to go to get advice about their rights
  - Access issues that affect particular groups in society, such as members of Black and Minority Ethnic communities, people whose first language is not English,

disabled people, people living in rural areas or who are otherwise geographically isolated, young people, older people, refugees and asylum seekers, prisoners and ex-offenders, and others.

10. In relation to legal advice there are clearly different levels of advice, although the distinction between them is not always easy to draw. Perhaps the most widely used distinction is that between 'generalist' and 'specialist' advice.
11. In terms of the legal aid system, 'Specialist help' is the level of advice which is funded by the Legal Services Commission [LSC] by means of contracts with solicitors in private practice and advice agencies.
12. Since the Committee is conducting an inquiry into legal aid, we assume that it is primarily concerned with advice at this level – the ability of people with legal problems to obtain advice from a solicitor in private practice or an advice agency with a contract from the LSC – rather than from an advice [or other] agency which is funded in some other way.<sup>1</sup>
13. This is a very important issue. It is also the one about which there is most evidence. There is relatively little hard evidence about the extent to which other advice is provided.
14. There is one complication in that both solicitors and advice agencies with LSC contracts are able to do up to 10% of their advice work in areas of law for which they do not have a specific contract, under the system known as tolerances. These provide some flexibility within the system to enable advice to be given, albeit by solicitors and advisers who are not funded as specialists in that particular field. This can therefore alleviate the extent to which a 'desert' creates a problem. We understand that research has been conducted for the LSC into the quality of work done under tolerance, but this has yet to be published.
15. In considering this problem, the issue of capacity is very important. It can seem obvious that 'advice deserts' exist where there is no supply at all. We would argue that there are also however 'deserts' where there is insufficient supply to meet the demand for advice. This is an issue which has been recognised within the Community Legal Service.<sup>2</sup> We have seen an advance copy of the Citizens Advice report 'The Geography of Advice', which highlights the difficulties which CABx have had in referring clients to solicitors, even where there are contracts locally. This is a complicated matter. It is our view that more research is needed in order to understand issues of need, demand and supply.
16. A further consideration is time. On one level there is a variation over time as contracts are taken up and terminated for various reasons. A more specific problem is the time of year. Solicitors firms are awarded a number of 'new matter starts' to cover the financial year. Advice agencies contract to provide a certain number of hours work per year. Towards the end of the year firms, in particular, may be unable to take on new cases because they have used up their case allocation, and are unable to obtain additional matter starts from the LSC.
17. There is also an issue about distance and the extent to which people can be expected to travel in order to obtain the advice they need. Many rural areas, for instance, contain

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<sup>1</sup> The distinction is not always clear in practice however. Most advice agencies which have LSC contracts also have other funding. Since LSC contracts are only awarded in relation to specific categories of law [such as housing, debt, welfare benefits etc], many agencies have contracts in some areas of law, but also give advice in other areas of law, often at a specialist level.

<sup>2</sup> See for instance, the Capacity Pilot project carried out jointly by Kensington & Chelsea and Camden Community Legal Service Partnerships

no legal aid suppliers, but people are used to travelling significant distances [maybe 20 or 30 miles] to access various services, or indeed to do their shopping. If the appropriate advice is available in the nearest large town, to which they usually travel, then this may not be seen as a significant problem.<sup>3</sup> It appears however that there is also a converse problem, and that many people in large cities are unable or unwilling to travel a few miles to obtain the advice they need. For them, there is a problem if the service in question is not available in the vicinity of where they live [and/or work].

18. A central issue concerns the relative importance of advice in different categories of law. Linked to other issues to do with supply<sup>4</sup>, this issue determines the extent to which supply should be available either locally, sub-regionally, regionally or possibly nationally.
19. The Lord Chancellor's direction for the CLS Fund and the Guidance and Information for Community Legal Service Partnerships [CLSPs] issued by the LSC<sup>5</sup> prioritise the following categories of law:
  - Family
  - Housing
  - Employment
  - Debt
  - Welfare benefits
  - Immigration
20. In general terms, we would suggest that, in order to avoid the creation of 'advice deserts', there should be access to legally aided advice services
  - At a 'local' level in relation to family, housing, debt, benefits, employment and immigration law [although we accept that the demand and need for immigration law varies between areas depending on the nature of the local population]
  - At a 'sub-regional' or 'regional' level in relation to the other main categories of contracted supply – community care, education, public law, actions against the police, mental health, and clinical negligence.
21. There is no simple definition of what should constitute a 'locality' for these purposes. We would suggest that the starting point should be the 'bid zones' used by the LSC, although in some cases it may be more appropriate to consider the areas covered by Community Legal Service Partnerships [CLSPs]. In some areas it may also be necessary to take account of the normal traveling patterns of the population of the area concerned.
22. In relation to mental health law there is a specific geographical issue in that most of the work relates to people who have been detained in mental hospitals and/or are appealing to a mental health review tribunal in relation to their detention. Since most clients by definition cannot travel to obtain legal advice, the issue is whether there are enough contracted suppliers within reasonable traveling distance of the hospitals in

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<sup>3</sup> See for instance the 'hub and spoke' model proposed in the East Midlands Regional Report 2003, p.16-17

<sup>4</sup> Such as the distribution of suppliers, the extent of demand from eligible clients and the economic viability of contracts

<sup>5</sup> In the Guidance and Information for CLSPs issued by the LSC in December 2000, CLSPs were asked to consider needs in five areas in particular – housing, debt, benefits, employment and immigration. Consideration of needs in these areas was described as a 'baseline requirement'

which people are detained.<sup>6</sup> If that is not the case, then the hospital in question would arguably amount to an ‘advice desert’.

23. We would suggest therefore that an ‘advice desert’ exists if, at any time, there is not a sufficient number and spread of legal aid contracts to enable an eligible client to obtain access to a specialist supplier within a reasonable timescale:
  - ‘locally’ in relation to family, housing, debt, benefits, employment and [where appropriate] immigration law
  - within a reasonable traveling distance in relation to the other categories of law.
24. In order to ascertain whether an ‘advice desert’ exists, at least three factors need to be considered
  - Whether contracts actually exist ‘on the ground’ in the particular subject category
  - Whether the supply is sufficient to meet the demand
  - Whether a lack of supply is mitigated by the use of tolerances
25. Detailed evidence as to the existence of contracts can be provided by the LSC. Some evidence is contained in the regional reports prepared by the Regional Legal Services Committees [RLSCs] and the contracting strategies prepared by the LSC’s regional directors.
26. Whether the supply is sufficient to meet the demand is more difficult to answer. Some evidence on this can be obtained from the strategic plans published by the CLSPs, and the consideration of these, and other material, in the regional reports. Each RLSC has made recommendations about the gaps which they think are the most important ones in their region which need to be filled. The LSC will presumably have records of the requests they receive from contractors for additional matter starts or contract hours, which will provide some evidence of the experience of firms and agencies on the ground. Some evidence from agencies on the ground is contained in the Citizens Advice report ‘The Geography of Advice’, which details the problems experienced by CABx in referring clients to solicitors for legal advice.
27. The use of tolerances is very hard to monitor, at least from outside the LSC. Some of the regional reports and strategies give figures for the use of tolerances but it is not generally possible to deduce from these figures the extent to which such use is occurring in particular categories of law or geographical areas, and therefore whether it is having any effect on ‘advice deserts’. The LSC may however be able to provide some evidence of this.
28. At this stage we can only comment on the first issue, the actual distribution of contracts ‘on the ground’, by considering the information published in the regional reports and contracting strategies. Our comments on this are attached as an Appendix to this evidence.

### **What action is being taken to ensure that there is access to legally aided advice in all legal specialisms?**

29. One of the aims of the Community Legal Service is clearly to increase access to legally aided advice. At the local level, action is taken by CLSPs. However, the evidence which we have suggests that CLSPs have generally been unsuccessful in levering in additional funds<sup>7</sup> so as to increase access to legally aided advice either

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<sup>6</sup> See the consideration of this issue, in geographical terms, in the North East Contracting Strategy 2003, Appendix 5

<sup>7</sup> Other than through the Partnership Innovation/Initiative Budget

generally, or in relation to the areas of priority need identified by the CLSPs. This is one of the key issues being considered by the Review of the CLS which is presently being conducted by consultants for the Department of Constitutional Affairs.

30. Action is being taken by the LSC in a number of ways in order to increase access to legally aided advice, although we doubt if they would claim to be taking action to ensure that there is access to legally aided advice in *all* legal specialisms. This action includes
- A planning process involving CLSPs and RLSCs which aims to ensure that access to advice is available appropriately at local, sub-regional or regional levels
  - National policy initiatives, especially ‘methods of delivery’ pilots, which aim to ‘plug the gaps’ and support existing services by way of specialist support, generalist support, training contracts, possession schemes, telephone advice and other methods
  - The LSC’s recent proposal to institute a national system of telephone advice in relation to welfare benefits, debt and education advice in England, and welfare benefits, debt and housing advice in Wales.
31. We have considerable reservations about the extent to which this action will ensure access to legally aided advice in most categories of law. We also have reservations about the extent to which telephone advice can be a substitute for face-to-face advice, which we set out in more detail below in response to the Committee’s fifth question.
32. However, we must give credit to the LSC for the action that it is taking, which is clearly aimed at achieving as much access as possible within the funding constraints within which it is operating.
33. The Committee’s terms of reference refer explicitly to *all* legal specialisms. These are presently described by the LSC in terms of 14 categories of law. There are particular problems in relation to what are sometimes described as the ‘minor’ or ‘emerging’ areas of law – Actions against the police, Education, Community Care and Public Law. The regional reports show significant discrepancies in terms of contracts outside London. Some regions have no contracts in some of these categories. The latest information that we have seen suggests that the distribution of contracts in these areas between the LSC regions<sup>8</sup> is approximately as follows:

	<b>Actions against the police</b>	<b>Education</b>	<b>Community Care</b>	<b>Public Law</b>
London	25	20	41	18
North West	15	6	6	2
Eastern	0	4	0	3
South Eastern	3	5	0	0
South Western	1	5	6	1
Yorks & Humberside	7	6	3	5
North East	3	2	0	0
East Midlands	10	2	2	1
West Midlands	5	3	2	5
Merseyside	6	3	2	2

<sup>8</sup> We are unable to ascertain the numbers of contracts in these categories in Wales

34. We are also particularly concerned about the position in relation to legally aided advice in employment law. This is clearly a vital area of social welfare law, and one that can play a major role in combating social exclusion. There are particular problems affecting this area of law however. Representation at employment tribunals is not included within the legal aid scheme – which places a limit on the extent to which LSC funded advisers can provide a full service to their clients. Perhaps of even greater importance however is the eligibility issue. Many persons seeking employment advice are not financially eligible either because they are still in work or because they have a partner who is in work. This means that many people who are having trouble at work, and facing disciplinary or other action or the threat of dismissal, are unable to obtain advice that might enable them to save their jobs [unless they happen to be members of trade unions].
35. There are serious problems in the number and geographical distribution of employment contracts, as discussed in the Appendix to this evidence. Telephone advice in employment was piloted by the LSC in some areas but employment law is not included in the LSC's proposals for a national telephone service, for reasons that are not clear to us. This may be partly to do with eligibility issues. However, even if this is the case, it appears to us that there is a case to be made for changing the eligibility rules in relation to employment advice,<sup>9</sup> or at the very least providing access to proper telephone advice irrespective of eligibility.
36. There is also clear evidence from a study carried out in Wales that there are particular problems in accessing specialist advice in employment cases that involve discrimination.<sup>10</sup>

**How can the Department for Constitutional Affairs and the Legal Services Commission provide incentives for legal aid practitioners to continue legally aided work?**

37. Although there are some issues raised by advice agencies and our member networks about the not for profit contract operated by the LSC, it seems to us that this question is primarily concerned with incentives to legal aid practitioners in private practice.
38. A number of suggestions have been made by bodies representing legal aid practitioners. The Law Society has recently published its proposals for the future delivery of legal aid services in a document entitled 'Protecting Rights and Tackling Social Exclusion.'
39. It appears to us that incentives could include
- Increasing remuneration rates across the board – both generally, and in terms of annual cost of living or RPI increases
  - Alternative models of remuneration – such as those suggested by the Law Society
  - Greater use of incentives, to encourage firms to carry out work in particular subject and/or geographical areas, as the LSC did in relation to the expansion of immigration advice, and as it is presently proposing in relation to the Criminal Defence Service<sup>11</sup>

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<sup>9</sup> One possibility might be to ignore the client's income from employment up to a specified limit, when this is under threat, in the same way that a partner's income is ignored in family disputes, and the subject matter of a dispute is ignored in considering a client's capital

<sup>10</sup> C. Williams and others 'Snakes and Ladders: Advice and Support for Discrimination Cases in Wales', February 2003, available at [http://www.cre.gov.uk/pdfs/snakes\\_report.pdf](http://www.cre.gov.uk/pdfs/snakes_report.pdf)

<sup>11</sup> Incentives could include grants, soft loans, and guaranteed income – see Independent Lawyer 16, p.4

- Greater diversity of remuneration rates and systems which, for example, could take account of firm size and geography<sup>12</sup>
- Increasing remuneration rates for the best suppliers – by reference to Law Society Panel membership or other criteria
- Increasing the rates for doing particular tasks – e.g. the diagnostic and management role in the Family Advice and Information Service [FAInS] presently being piloted by the LSC
- Encouraging particular ways of working – e.g. the ‘holistic’ approach in FAInS
- Reducing the extent of administration, routine recording of work, reporting and general bureaucracy associated with running a legal aid contract<sup>13</sup> [the LSC is presently beginning to work in this direction in its ‘preferred supplier’ pilot]
- Alternative contractual regimes, including some based on the not for profit contract, or possibly block funding arrangements
- A wider definition of the type of work which can be claimed under LSC contracts, to allow, for instance, more preventative work
- Subject to a check as to quality by peer review, a change in the ‘tolerance’ rules to enable firms to do more for clients in subject areas which are related to those in which they hold contracts
- Assistance in relation to recruitment problems

### **Is the perception that legal practitioners are moving out of legally aided work correct?**

40. LSC statistics show clearly that there has been a reduction in the number of solicitors firms with contracts for legal help. The most recent figures, which we have seen, show that there were
- 4543 in March 2002
  - 4383 in March 2003 [a reduction of 3.5%]
  - 4098 in June 2003 [a further reduction of 6.5%]<sup>14</sup>
41. The change in the number of contracts varies as between different categories of law. Between March 2002 and March 2003 the number of contracts increased in the smaller categories of law [actions against the police, community care, education and public law], increased slightly in mental health, and increased by 9% in immigration. The number of contracts decreased in family [-4%], consumer [-17%], debt [-8%], employment [-9%], housing [-6%], and welfare benefits [-5%].<sup>15</sup>
42. During the first quarter of 2003/04, the number of specific categories of law covered by contracts fell by 6%, which included reductions in family [-7%], housing [-7%], welfare benefits [-8%], debt [-8%] and mental health [-7%].<sup>16</sup>
43. Details of the decline in the number of solicitors’ contracts in one region is provided in the LSC’s Eastern region’s Regional Report 2004. This sets out<sup>17</sup> details of the changes in contracts between the end of 2002 and July 2003. In family law, 32 contracts were withdrawn or terminated, while only two new contracts were awarded. In housing there was a loss of ten housing contracts, with only one new contract awarded. There were also smaller reductions in the numbers of contracts in debt, welfare benefits and immigration.

<sup>12</sup> R. Moorhead ‘Legal aid and the decline of private practice: blue murder or toxic job?’ – International Journal of the Legal Profession, forthcoming

<sup>13</sup> Ibid

<sup>14</sup> LSC Annual Report 2002/03 and Quarterly Report on Civil Contracting [July 2003]

<sup>15</sup> LSC Annual Report 2002/03

<sup>16</sup> LSC Quarterly report on Civil Contracting [July 2003]

<sup>17</sup> Appendix 2, p.25-26

44. The LSC will have the most up-to-date information on this topic.

**Can the requirement for legal aid be reduced by the resolution of some legal issues on a more informal basis, through the Citizens' Advice Bureaux, long distance services or otherwise?**

45. We do not believe that the requirement for legal aid can be reduced to any significant extent in any of these ways.

46. We assume that the reference to 'Citizens Advice Bureaux' is meant to refer generally to the proposition that some of the work done by specialists under legal aid can instead be done by generalists [including volunteers] working in advice centres. [It should be noted of course that many advice centres, including CABx, do specialist work already under contracts with the LSC].

47. The nature and extent of work which can be done under legal aid contracts is already controlled by the terms of the LSC contract and the Funding Code. There is no evidence to suggest that any significant amount of work is presently being carried out under legal aid contracts which could be done by generalist advisers. There are also concerns about the quality of advice provided by non-specialists, which are borne out by a significant body of research.<sup>18</sup>

48. We assume that 'long distance services' refers to telephone advice, information obtainable over the Internet, e-mail advice, and advice accessed by other modern forms of technology such as video links and video conferencing.

49. We have considerable reservations about the extent to which telephone advice can be a substitute for face-to-face advice. There are a number of circumstances when telephone advice will not be appropriate. In its Evaluation Report of the telephone advice pilot, the LSC suggests that telephone advice is not appropriate in the following circumstances:

- Clients with learning difficulties, severe language issues and mental health problems are likely to need a level of support and assistance that cannot be given over the telephone
- Complex cases or cases where there is a large amount of paperwork should be dealt with face-to-face
- In certain circumstances advisers may need to see a client in order to assess whether they are telling them the full and true facts of the case.<sup>19</sup>

50. We believe that services such as these have a role to play, and a particularly important role in increasing access for people who are geographically isolated from legal aid services, or are otherwise unable to access them. However, our view is that the role of such services is supplementary to mainstream legal aid services, and that such services cannot replace mainstream legal aid services to any significant extent.

51. We assume that the reference to 'a more informal basis' is also meant to encompass the role of alternative dispute resolution, or ADR.

52. ADR covers a wide range of options for resolving disputes outside the more formal process of litigation. The most common are arbitration, conciliation, mediation and ombudsman schemes.

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<sup>18</sup> The most recent being 'An Anatomy of Access' by R. Moorhead and A. Sherr, available at <http://www.lsrc.org.uk/publications/modelclientpaper.pdf>

<sup>19</sup> Telephone Advice Pilot Evaluation Report, p.20-21, available at [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

53. In June 2003 we published a consultation paper on the use of Alternative Dispute Resolution (ADR) in resolving disputes, and in September 2003 we hosted a national forum to debate the issues raised in the paper. As a result of responses to the consultation and discussion at the forum, we have identified a number of key issues relating to the use of ADR.
54. The culture change towards using mediation in family disputes, and the potential for culture change in other contexts such as employment and medical negligence, following the Woolf report, are to be welcomed. However, we believe that independent legal advice must always support a client's decision about which process to use, and must be available to the client during ADR processes, as it is during litigation. Where clients are eligible, this advice should be publicly funded. However, we have concerns about the possible promotion of ADR as an alternative to expenditure on Legal Aid. Clients should be able to choose the most appropriate process for resolving a particular dispute. Access to justice should not be undermined by restricting funding for legal advice, representation or litigation.

**Would a salaried service or the provision of law centres be a viable solution to lack of provision, either in areas without sufficient practitioners or elsewhere?**

55. ASA considers that salaried services, whether or not on a law centre model, can provide a viable solution to the lack of provision.
56. Such developments have already taken place. Over the past 3 years, new Law Centres have been established in Devon, Surrey and in the Greater Manchester area. Other not-for-profit organisations have also been awarded LSC contracts explicitly in order to meet gaps in provision.
57. We are aware that some of these projects have been able to meet the terms of their contracts with the LSC, whilst others have struggled. There is a growing view within our membership that LSC contract funding alone is insufficient for the development of new services in advice deserts. Research is needed into the support and financial needs of such projects.
58. Finally, and importantly, it should be a requirement that all new salaried services are properly independent and able to work in the interests of their clients without improper influence from funders or other bodies.

**What would be the comparative funding costs of a salaried service?**

59. The short answer is that there is insufficient evidence at present. We are aware of studies in other jurisdictions which attempt to compare the costs of salaried services with private practice. It seems that the evidence is not clear cut, with some studies suggesting that salaried services are cheaper and others suggesting that the costs are similar<sup>20</sup>.
60. The issue of comparative costs can be approached in two ways.

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<sup>20</sup> Future of Publicly Funded Legal Services – A Consultation Paper by the Law Society, February 2003 [ pages 53 & 58]

61. The first approach has been to look at cost per case. Research<sup>21</sup> published in 2001 concluded that 'NFP agencies took between two and two and a half times as long as solicitors to carry out their work' but that 'Not for profit agencies participating in the pilot performed significantly better in terms of quality than the solicitor participants; although the proportion of poor quality organisations is the same in both sectors'. The report also acknowledges that in some subjects, most notably debt, NFP agencies and solicitors tended to approach cases differently. This, of course, makes it more difficult to make a true comparison.
62. It should be emphasised that the data for the above report was collected in the late 1990s, before the new NFP contract was introduced. ASA has recently conducted its own survey of NfP contract holders and found some encouraging evidence that average case times on closed cases are coming down. This is against a background of LSC concern about the general upward drift in costs per case.
63. The second approach to comparing costs is to look at the cost of delivering a service. We understand that the DCA commissioned study 'review of supply, demand and purchasing arrangements'<sup>22</sup> in the private practice sector is near completion. A similar study into the 'Cost of Contracting in the NfP Sector' is being conducted by the LSC itself. Questionnaires were sent to all 414 NfP contractors in mid-November 2003 and we understand that 185 have been returned. The LSC is currently verifying the data that they have gathered. We hope that this work will produce useful evidence which will inform the debate about the future of publicly funded legal services.

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<sup>21</sup> Quality and Cost – final report on the contracting of civil, non-family advice and assistance pilot: Moorhead, Sherr et al, 2001

<sup>22</sup> Review conducted on behalf of DCA by Frontier Economics and Otterburn Legal Consulting

## 1 Appendix – Evidence on ‘advice deserts’

In this appendix we outline some of the evidence which can be obtained from the regional reports and contracting strategies for the 11 LSC regions in England and Wales. We concentrate in particular on the number and distribution of contracts in the areas of family, housing, debt, employment, benefits and immigration law.

Details of the contracts in the ‘minor’ or ‘emerging’ areas of actions against the police, education, community care and public law are set out in a table in the main part of our evidence.

There are generally very few contracts in the consumer and general contract category, and several regions have no contracts in this category.

We do not feel able to comment on contracts in mental health, as we do not have any evidence as to the distribution of mental hospitals, to which the distribution of contracts would need to be referred.

The number of contracts in personal injury is declining rapidly as this work moves over from legal aid funding to funding under conditional fees.

We do not comment on contracts in clinical negligence, as we do not have any evidence as to how the present system is working. This area of work is highly specialised, and we do not know the extent to which clients or their families are able and willing to travel to see a specialist.

For contract purposes the LSC has divided the country into bid zones, which usually correspond to local authority areas. There is however a separate division into Community Legal Service Partnership [CLSP] areas, which often cover larger areas. Some of the information referred to below relates to bid zones, some to CLSP areas, and some to both.

## 2 London

The London region covers the 33 London Boroughs, each of which is also the area of a CLSP. The Regional Report 2003 notes recommendations from CLSPs for increased specialist contracts

In 16 boroughs in debt

In 14 boroughs in welfare benefits

In 13 boroughs in community care

In 9 boroughs in employment

In 9 boroughs areas in education

In 7 boroughs in consumer

In 5 boroughs in housing

In 4 boroughs in immigration

In 4 boroughs in mental health <sup>1</sup>

The Regional Report and Update gives the number of solicitor and Nfp contracts in each category of law in each borough in August 2003.<sup>2</sup> The lowest total figures are

Merton – 7

Richmond – 8

Bexley – 9

Barking & Dagenham – 10

Havering –13

Kingston –13

Sutton – 14

Hillingdon – 19

Enfield – 20

Of these areas

Merton has no contracts in debt, housing, benefits or employment

Richmond has no contracts in debt, benefits, or employment

Bexley has no contracts in debt, benefits, immigration or employment

Barking & Dagenham has no contracts in debt

Havering has no contracts in debt, benefits, immigration or employment

Kingston has no contracts in employment

Sutton has no contracts in employment or immigration

Hillingdon has no contracts in debt

Enfield has no contracts in employment or benefits

In addition to these areas:

Hounslow has no contracts in debt or employment

Waltham Forest has no contracts in debt or employment

Harrow has no contracts in employment or benefits

It should be noted also that several boroughs only have one contract in each of these categories of law. It is very likely that one contract will be insufficient to meet the demand in these categories. The same is also likely to be true where there is more than one contract.

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<sup>1</sup> London Regional Report 2003 p.34-35

<sup>2</sup> London Regional Report & Update 2003-04 p.16-19

### 3 North Western Region

The North Western region includes Cheshire, Cumbria, Greater Manchester and Lancashire.

The regional reports provide information on the number of contracts in each of the 19 CLSP areas within the region. However no details are given as to the size or population of these areas, or the size of the contracts, which makes it difficult to assess the extent to which the supply is likely to meet demand. According to the latest Regional Report,<sup>3</sup> the total number of contracts varies between 14 in Halton and 129 in Manchester. The CLSP areas with the lowest total numbers of contracts are

Halton –14

Warrington – 22

Blackburn with Darwen – 24

Trafford – 27

The most notable gaps are

There are no immigration contacts in the following CLSP areas: Blackpool, Cheshire, Cumbria, Halton, North West Lancashire, Warrington and Wigan.

There are no welfare benefits contracts in Stockport.

There is only one housing contract in Halton.

There is only one debt contract in each of: Blackburn with Darwen, Tameside and Trafford.

There is only one benefits contract in Trafford.

There is only one employment contract in 8 of the 19 areas

There is only one immigration contract in each of: Bolton, Stockport, Tameside and Trafford.

In its latest Regional Report<sup>4</sup>, the RLSC identifies the new priorities for new contracts as follows:

Community Care in Cheshire

Housing in Tameside and in Manchester

Debt in Blackburn with Darwen, Bury, Halton

Employment in Blackburn with Darwen, Wigan, Salford

Welfare benefits in Stockport and in Bury.

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<sup>3</sup> North Western Regional Report & Update 2003-04 p. 18

<sup>4</sup> North Western Regional Report and Update 2003-04, p.16

## 4 Eastern Region

The Eastern region includes Norfolk, Suffolk, Essex, Herefordshire, Bedfordshire, and Cambridgeshire. Much of the region is rural. The area is covered by 30 CLSPs and 47 local authority areas. The contracting information provided by the regional reports covers the local authority areas, which are the bid zones for contracting purposes.

Details of existing contracts for these areas are set out in the 2003 and 2004 Contracting Strategies. It is worth noting however that the 2004 Regional Report also gives details of the changes in contracts over the period between the dates of the Contracting Strategies. The details given show a significant drop in the number of contracts in the region in family [from 346 to 315], debt [33 to 30], housing [44 to 35] benefits [34 to 31], and immigration (non-asylum) [19 to 14].

The Contracting Strategy 2004 gives details of the current contracts,<sup>5</sup> in relation to family, debt, benefits, housing and employment.<sup>6</sup>

In South Cambridgeshire and Broadland there are no contracts in any of these categories.

In several areas, there are contracts in family, but no contracts in debt, benefits, housing or employment. These areas are

South Bedfordshire

East Cambridgeshire

Brentwood

Chelmsford

Epping Forest

Maldon

Rochford

Uttlesford

Broxbourne

Dacorum

East Herts

North Herts

St Albans

Three Rivers

Breckland

North Norfolk

Babergh

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<sup>5</sup> Probably as at the end of July 2003

<sup>6</sup> Eastern Contracting Strategy 2004 p.14-16

Forest Heath

Mid Suffolk.

Details of immigration contracts are set out in the 2003 Contracting Strategy which appears to show a total of 18 contracts in 10 areas, with no coverage in the central areas of the region.<sup>7</sup>

The overall picture for the region is that there is very little non family supply in the central parts of the region, with specialist provision in some of the larger towns, particularly in the south western parts of the region.

## 5 South Eastern Region

The South Eastern region covers Berkshire, Bucks, Hampshire, Kent, Oxfordshire, Surrey and Sussex.

There is little easily accessible information in relation to LSC contracts. The 2003 Regional Report only provides information in relation to counties.<sup>8</sup> It would seem to us that these areas are too large for consideration in relation to the question of possible advice deserts. Some of the figures given do however suggest that there is a significant lack of supply in several categories of law in several counties:

County	Family	Debt	Housing	Employment	Benefits	Immigration
Berkshire	40	3	5	2	4	5
Bucks	28	4	3	1	3	2
Hampshire	132	9	13	7	9	6
Kent	116	8	11	8	9	7
Oxon	29	2	1	0	3	3
Surrey	51	1	3	0	1	2
E. Sussex	74	5	7	3	4	4
W. Sussex	65	4	8	3	4	3

The Regional Report & Update 2003-04 gives details of the numbers of cases started in the first three years of contracting in 11 categories of law [excluding family, clinical negligence and personal injury] for each of the 39 CLSP areas in the region. These figures appear to suggest that there are serious problems in the following CLSP areas:

Adur & Worthing

Basingstoke

Crawley and Mid Sussex

Eastleigh

Elmbridge [only 1 case started in year 3]

Fareham [very few cases]

Gosport [ditto]

<sup>7</sup> Eastern Contracting Strategy 2003, Appendix B

<sup>8</sup> South Eastern Regional Report 2003 p. 35-45

Guildford, Waverley and Mole Valley  
Hart [only 1 case started in year3]  
Maidstone [very few cases started]  
Medway  
New Forest  
Reigate, Banstead and Tandridge  
Runnymede and Spelthorne [only 2 cases started in year 3]  
South Oxfordshire [ditto]  
Surrey Heath [very few cases]  
Test Valley [ditto]  
Vale of White Horse [no cases started in year 3]  
West Oxfordshire [ditto]  
Woking [only 7 cases started in year 3 in areas other than immigration]

## **6 South Western Region**

The South Western region covers Cornwall, Devon, Dorset, Somerset, Gloucestershire and Wiltshire.

The only recent source of information about contracts is in the Regional Report 2003. Appendix A gives details of the number of contracts, and the contracted and projected new matter starts for year 3 [the year ending in March 2003] for each category of law [including projected new matter starts under tolerance].

As far as contracts are concerned, in the five main social welfare categories:

In *debt*:

There are 2 or more contracts in each CLSP area, but only 2 in each of the following areas: Bath and N E Somerset, Bournemouth & Poole, Dorset, and North Somerset

In *employment*:

There are no contracts in each of: North Somerset, Swindon, and Wiltshire

There is only 1 contract in each of: Bath and N E Somerset, Dorset, and South Gloucestershire

In *housing*:

There is only 1 contract in each of: Bath and N E Somerset, North Somerset, and Swindon.

There are only 2 contracts in each of: Somerset, and South Gloucestershire.

In *immigration*

There are no contracts in each of: Dorset, North Somerset, Somerset, and Wiltshire.

There is only 1 contract in each of: Bath & N E Somerset, Bournemouth & Poole, Cornwall, and Gloucestershire

In welfare benefits:

There is only 1 contract in each of: North Somerset, Plymouth, and South Gloucestershire.

There are only 2 contracts in each of: Bournemouth & Poole, Dorset, Somerset, and Wiltshire.

## **7 Yorkshire and Humberside**

The regional reports provide very little contracting information for this region. The Contracting Strategy 2003 gives the number of contracts in each category of law in the region, but no indication of where they are located.<sup>9</sup>

It is notable from the figures given that the Nfp sector has a significant proportion of the number of contracts in four categories of law: debt [17 out of 36]; employment [6 out of 41]; housing [10 out of 44] and welfare benefits [13 out of 32].

An indication of the extent of coverage of the main social welfare law categories is however given by a chart in the Regional Report 2003<sup>10</sup>, which gives details of the new matter starts allocated to solicitors at September 2002, as between categories of law. The figures for the main areas are:

Family 71%

Immigration 14%

Housing 5%

Welfare Benefits 4%

Employment 1%

Debt 1%

This would seem to suggest that there is little coverage of housing, welfare benefits, employment and debt, at least by solicitors.

In its regional reports, the RLSC has prioritised<sup>11</sup>

Housing in Barnsley

Debt in Rotherham

Welfare benefits in North Lincolnshire

Employment in North Yorkshire

And, in the second rank of priorities

Housing in Doncaster

Debt in North Lincolnshire

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<sup>9</sup> Yorkshire & Humberside Contracting Strategy 2003, Annex A

<sup>10</sup> Yorkshire & Humberside Regional Report 2003, Appendix 2

<sup>11</sup> Yorkshire & Humberside RLSC Regional Report Update p.5

Employment in North Lincolnshire

Debt in Hull

## 8 North East

The North East region is divided into 12 CLSP areas and 17 bid zones. The Contracting Strategy 2003<sup>12</sup> gives the number of contracts in each category of law in each CLSP area. In relation to the main social welfare law areas:

*In debt:*

There is only 1 contract in each of: Darlington, and Gateshead.

There are only 2 contracts in each of: Hartlepool, Newcastle, Redcar & Cleveland and Stockton.

*In employment:*

There is only 1 contract in each of: Darlington, Gateshead, and Stockton.

There are only 2 contracts in each of: Hartlepool, Northumberland, and Redcar & Cleveland.

*In housing:*

There are no contracts in each of: Darlington, Northumberland, and Redcar & Cleveland.

There is only 1 contract in each of: County Durham, and Gateshead.

There are only 2 contracts in each of: Hartlepool, South Tyneside, and Stockton.

*In immigration:*

There are no contracts in each of: County Durham, Gateshead, Northumberland, North Tyneside and South Tyneside.

There is only 1 contract in each of: Darlington, Hartlepool, Redcar & Cleveland, Stockton, and Sunderland.

*In welfare benefits:*

There is only 1 contract in Redcar & Cleveland.

There are only 2 contracts in each of: Darlington, Gateshead, Hartlepool, and Middlesbrough

The Contracting Strategy 2003 also contains maps<sup>13</sup> of existing suppliers in the region for welfare benefits, debt, employment and housing, which arguably give a better picture of the likely extent of advice deserts.

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<sup>12</sup> Appendix 1  
<sup>13</sup> Appendix 2

These maps show that supply in all four categories of law is concentrated in the major urban conurbations on the east side of the region, with very little supply in the inland areas. The areas in these maps are the bid zones [presumably based on local authority boundaries] rather than the CLSP areas, but the picture provided is very clear.

In Berwick-Upon-Tweed, there is one supplier in benefits, and one in debt [and none in the other categories]

In Alnwick, there is 1 debt supplier, but nothing else

In Tynedale, there is 1 benefit supplier, but nothing else

In Castle Morpeth there is 1 supplier in each category [all in the same place]

In Derwentside there are no suppliers in these categories

In Wear Valley there is 1 supplier in benefits and 1 in debt [both in the same place in the South East corner of the area]

In Teesdale there are no suppliers in any of the categories

In Durham there is 1 supplier in benefits, but nothing else.

In Easington there is 1 supplier in benefits, but nothing else.

In Sedgefield, there is 1 supplier in benefits and 1 in housing, but nothing else.

The latest regional report<sup>14</sup> gives two tiers of priorities for new contracts:

Tier 1 – areas and categories of major importance where there is no face-to-face supply:

Housing advice to cover Northumberland  
Health and Community Care within the Region  
Debt advice in Durham City / Chester-le-Street

Tier 2 – areas and categories where face-to-face supply is limited or where additional social welfare supply is considered necessary

This tier includes

Housing advice in Redcar and Cleveland  
Benefits advice in Northumberland and County Durham  
Employment advice in County Durham  
Debt in Newcastle, S. Tyneside and areas of Gateshead and Sunderland  
Housing in Newcastle, Longbenton, Whitley Bay and parts of Sunderland  
Benefits in Newcastle and areas of Gateshead and Sunderland  
Education in Newcastle

## **8. East Midlands**

The East Midlands region covers Derbyshire, Nottinghamshire, Leicestershire, Lincolnshire, Rutland and Northants. The distribution of contracts is hard to ascertain from the regional reports. The Contracting Strategy 2003 does however contain maps showing the distribution of contracts in debt, benefits and housing.<sup>15</sup> These maps

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<sup>14</sup> Regional Report & Update 2003-04 p.5-6

<sup>15</sup> East Midlands Contracting Strategy 2003, Appendices A to C

suggest that the contracts in these three categories are concentrated in the urban areas to the west of the region, including Chesterfield, Mansfield, Ashfield, Nottingham and Leicester. The only other significant concentration of contracts is in Lincoln.

By contrast there is a notable lack of contracts in the North West of the region, the Eastern half of the region and the south of the region, including Northampton [which has 1 contract in debt, 1 in benefits, and none in housing].

Of the local authority areas shown on these maps, several have no contracts in any of these categories [debt, benefits and housing]. These include

Derbyshire Dales  
Amber Valley  
North West Leicestershire  
Hinckley and Bosworth  
Oadby and Wigston  
Blaby  
Harborough  
Rutland  
East Northamptonshire  
Daventry  
South Northamptonshire

Several local authority areas only have a contract in one of these three categories

West Lindsey – benefits  
North Kesteven – benefits  
South Kesteven – debt  
Melton – debt  
Corby – debt  
Kettering – debt  
Wellingborough – debt

Other indications of the problems in this region are contained in the figures for cases started in the region, in the 9 CLSP areas, which are contained in the Regional Report & Update 2003-04.<sup>16</sup> These show that in year 3 of contracting [April 2002 – March 2003] less than 100 cases were started in the main areas of social welfare law [excluding immigration] in several CLSP areas:

In Derby 59 employment cases were started

In Leicester 92 employment cases were started

In Leicestershire

- 38 employment cases were started
- 18 benefits cases were started

In Northampton

- 83 debt cases were started
- 11 employment cases were started
- 27 housing cases were started

In Northamptonshire

- 68 debt cases were started
- 18 employment cases were started

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<sup>16</sup> Appendix 1 gives figures for 13 categories of law, excluding immigration.

- 5 benefits cases were started
- 83 housing cases were started

The regional reports classify the priorities for new contracts in three bands<sup>17</sup>

The First Band includes

Family and housing in Northampton / Northamptonshire

Debt in four 'county' areas:

- Derby / Derbyshire
- Greater Nottingham / North Nottingham
- Leicester / Leicestershire
- Lincolnshire / Rutland

The Second Band includes

Debt and welfare benefits in Northampton / Northamptonshire

Welfare benefits in four 'county' areas:

- Derby / Derbyshire
- Greater Nottingham / North Nottingham
- Leicester / Leicestershire
- Lincolnshire / Rutland

## 9. West Midlands

The regional reports do not provide any information about the distribution of contracts. The Contracting Strategy 2004 does however contain maps showing the distribution of contracts in 13 categories of law.<sup>18</sup> It also lists the total new matter starts in each category of law awarded in 2003/04.

In relation to the major categories of social welfare law:

The *immigration* contracts are all in the central urban area of the region [including Wolverhampton, Walsall, Sandwell, Birmingham, Solihull, Coventry and Nuneaton] with the exception of 2 contracts in Stoke-on-Trent in the north of the region. There is no other coverage.

The *housing* contracts are similarly concentrated, with only 3 contracts outside these areas.

There are only 9 *employment* contracts, all in the central urban area and Stoke. There are no contracts in the western half of the region, nor the south east or north west [except for one contract in Stoke]. It should be noted also that only 172 new matter starts were awarded for the whole region. This suggests that the vast majority of the region is an 'advice desert' so far as employment law is concerned.

The *debt* contracts are concentrated in a very similar fashion to the housing contracts.

The *benefits* contracts are also concentrated although there is some provision in other areas.

If you consider the distribution of contracts in housing, employment, debt, immigration and benefits together, it appears that

<sup>17</sup> Regional Report & Update 2003-04 p.11-12

<sup>18</sup> Appendix 2

The following areas have no such contracts:

North Shropshire  
South Shropshire  
Bridgnorth  
South Staffordshire  
Lichfield  
Tamworth  
North Warwickshire  
Wyre Forest  
Bromsgrove  
Warwick  
Wychavon  
Stratford-on-Avon

The following areas have one contract

Oswestry – benefits  
Cannock Case – debt  
Malvern Hills – debt

The following areas have two contracts

Staffordshire Moorlands – debt and benefits  
Stafford – debt and benefits  
Telford and Wrekin – debt and benefits  
Worcester – debt and benefits  
Redditch – debt and benefits

## 9 10. Merseyside

The Merseyside region is relatively small, and is divided into only 5 CLSP areas: Liverpool, Wirral, St Helens, Knowsley and Sefton.

The Regional Report 2003 and the Contracting Strategy 2003 list the number of contracts in each category of law in each CLSP. It would appear from this information that there are at least 2 contracts in each CLSP in each of the main categories of social welfare law [housing, debt, benefits, employment and immigration] save as follows:

In *employment*:

There is only 1 contract in Wirral  
There are no contracts in St Helens, Knowsley and Sefton.

There is a regional service provided by an agency in Liverpool. However a postcode analysis found that the clients of this service came from the following areas:

- Knowsley 4%
- Liverpool 66%
- Sefton – 12%
- St Helens – 6%
- Wirral – 6% <sup>19</sup>

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<sup>19</sup> Merseyside Regional Report 2003, p.42

It would appear therefore that there is a lack of supply in employment advice outside Liverpool and, to some extent, Wirral.

In *housing*, there is only 1 contract in St Helens and 1 in Knowsley

In *immigration*, there are no contracts outside Liverpool.

In its regional reports the RLSC has prioritised the need for new contracts in three bands.<sup>20</sup> The first band includes:

Housing in parts of Knowsley  
Welfare benefits in part of Liverpool  
Housing in Southport at the north end of Sefton  
Employment across St Helens and Knowsley  
Family in part of Knowsley

## 10 11. Wales

The reports do not provide details of the contracts in Wales, although they provide considerable detail of the priorities identified by the CLSPs in the country.

The reports also contain detailed classifications of need as between categories of law and CLSP areas, which are used in order to identify priorities for new contracts.

The Wales report for 2004 classifies need into 4 categories, the 'highest' of which, category C, is defined as identifying a gap or gaps which require a major solution, i.e. a new contract or the input of new money to the region or area within 12 months.<sup>21</sup> On the basis of this classification, the most significant gaps identified in the categories of family, benefits, debt, housing, consumer and general contract and family mediation are:

Caerphilly – housing  
Ceredigion – benefits  
Flintshire – benefits and debt  
Neath Port Talbot – benefits  
Newport – benefits and debt  
Pembrokeshire – benefits and debt.<sup>22</sup>

The Report for 2003 also highlighted the lack of employment advice in Wales, which it proposed be met by the letting of 4 sub-regional contracts.

The issue of advice on discrimination within employment law in Wales has also been highlighted by a recent report:

C. Williams and others 'Snakes and Ladders: Advice and Support for Discrimination Cases in Wales', February 2003, which is available at [http://www.cre.gov.uk/pdfs/snakes\\_report.pdf](http://www.cre.gov.uk/pdfs/snakes_report.pdf)

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<sup>20</sup> Regional Report & Update 2003-04 p.16-18

<sup>21</sup> Wales Report for 2004 p. 6

<sup>22</sup> *ibid*, p.8