

# Carolyn Regan – ASA Conference

Friday 23 March

Draft Speaking Notes

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**Theme: The way ahead for civil advice**

## Introduction

- Thank you for inviting me to speak at today's conference, understand this conference today has sold out
- In last 6 months, has been an interesting time, met Ann Lewis before started
- Believe today is a timely opportunity for us to come together and speak about the current reforms and what they mean for ASA members
- Aware these are major changes and appreciate there has been, and continues to be, a lot of debate and discussion around the proposals and we will we continue to build on these
- I hope that we can take these discussions forward today with a view to focusing on how we can work together over the coming months and make the most of the opportunities that the changes will bring

## First impressions

- Being new to legal aid, I have been visiting providers – both for profit and not-for-profit – wherever possible to discuss the reform programme
- Initial impressions of legal aid providers:
  - Everyone is so committed to their clients – haven't met anyone who is there just for a job
  - You have a very special role and a lot of very good quality work being done
  - Have also been speaking to clients, who have a lot of interesting perspectives and don't know anything about funding arrangements
  - But there is too much focus on the relationship between LSC and lawyers/advisers – we all need to focus on clients and their needs
  - Legal aid services are fragmented and not sufficiently client focused
- I have been similarly impressed with the commitment of staff within the LSC although I can see that there is much room for improvement in that relationship, particularly in the way we work with you
- We all need to make sure we put clients at heart of services

## **NfP productivity**

- Before go further, would like to say a thank you
- Much talk of legal aid in crisis
- Let's look at some facts. Legal Help expenditure has risen by nearly £30m in last 3 years from £170m to £197m next year (2007/8) – almost £200m on legal help
- Within that the amount going to NfPs has grown. Ten years ago it was close to nothing. Now its £52m plus another £30m on immigration and asylum
- Because of growing productivity – much of it from the people in this room – this leads to more people being helped – this financial year we believe we will have funded more than 750,000 new Legal Help cases, a figure that continues to rise year on year - and I expect more next year
- I appreciate that the last year has been difficult for the sector as the Commission has taken a much harder line on contract performance
- However the credibility of the sector - and the Commission - was being damaged by underperformance
- The cost of this underperformance has historically run into millions of pounds each year and that is money that could have been spent providing advice to more people
- I am delighted to see that this issue has virtually been eradicated this year, without any consequential increase in average case times, and I would like to thank you for the efforts you have made to achieve this
- You took on 40,000 more cases this year than last year and overall NfP sector productivity has risen by 20% so after 10 months you had done the same amount of work that you had done in 12 months the previous year
- Some of you have played a bigger part in that than others, and we have taken more than £5m from poorly performing NfPs and given it to those who are meeting their hours
- There are rewards in this – additional reserves and surplus, opportunities to expand and grow
- As we move into the competitive arena it will mean bidding for work, potentially at lower prices
- The LSC and ministers are committed to increasing social welfare law expenditure - but this will only be possible on any significant scale once we have shown the reforms are working to control total expenditure and improve value for money
- The Commission purchases services on behalf of clients. If you sign a contract to deliver 5,000 hours we expect you to deliver 5,000 hours. If under the new regime you sign a contract to deliver 300 debt matters, we expect 300 debt matters, not some variation.

## **Helping the greatest number of people**

- We make no apologies for this because our objective is to help the greatest number of eligible people possible within our fixed budget – as is the case for all public services

- We aim to do this through:
  1. Re-allocating funds
  2. Integrated social welfare and family services through centres and networks
  3. Finding more cost-effective ways to deliver services – eg. expansion of CLS Direct
- Helping more people is absolutely key to our priorities, plans and proposals for the future, across every aspect of legal aid

### **Priorities and moving to a market**

- We now have a clear framework for legal aid funding, based on an empirical view of client need and driven by government priorities
- These place the greatest priority on asylum, mental health and public law - children; followed by access to courts where appropriate; and then advice around social exclusion.
- You will have heard us say many times already that the legal aid budget is not a bottomless pit – we have no choice but to manage within a limited, fixed budget
- Our long-term solution is to move to a market-based approach. The price will be right because you offered it and we accepted it and quality will be at the heart of how legal aid is provided
- This is the only way we can make a case to the Treasury that we have secured the best possible value for money
- Value for money not only about rates – about proving we are helping the greatest number of eligible people possible

### **Fixed fees**

- Fixed fees are an interim solution only, and transitions are always difficult
- Aware of level of concern raised about the legal aid reforms, and in particular their impact on providers
- We have consulted extensively, and listened to providers' concerns. We have consequently amended the detail and timing of the proposals to reflect these comments
- But the principles around legal aid reform are right, and we are implementing these, as outlined in the paper 'Legal Aid: the Way Ahead' (November 2006)
- In social welfare law, providers will be paid a fixed fee for the cases they undertake
- I want to stress that not one penny is being cut from the budget for these cases. All that is happening is that the fees are being structured in a different way
- But those fees include appropriate amounts to accommodate the particularly vulnerable clients and complex cases you are dealing with
- I understand many of the clients you see are in very difficult situations but you also need to understand that every single solicitor and NfP adviser I have spoken to since joining the LSC has told me that their cases are more complex than everyone

else's, their clients are more deprived and therefore they should receive special treatment and be considered niche providers

- There will still be provision to account for particularly difficult cases and there will be full support, particularly for not-for-profit agencies, as providers make the transition to the new scheme

### **Equality between NfPs and firms**

- The Commission remains committed to the NfP sector, however we cannot continue to have a situation where we had different funding regimes for solicitors and NfPs
- Fixed fees have worked for solicitors (TFF) – they have not led, as feared, to changes in case mixes – i.e. no cherry picking and no dumbing down. Let's be very clear – if you cherry pick and compromise on quality you will end up losing your contract to the many firms and agencies that don't
- Believe that your value and quality is equal to that of law firms. This now reflected in the unified contract, which will become reality in just over a week
- Historically speaking, the arrival of new signed contracts has rather tended to go down to the wire as regards the deadline. However, I'm pleased to report that we have already received many hundreds back.
- Also believe it is important that you spend some time on a level playing field with firms before competition is introduced – we want all providers to be in the best possible position to compete when a market introduced
- I would welcome your views on the support needed, best practice, other guidance so we can work with you on this programme over the next 18 months

### **1. Re-allocating funds**

- There are other things we are doing to ensure the greatest number of eligible people are being helped within our fixed budget
- Until now, we have allocated LSC funding on the basis of where providers are willing to do legal aid work
- We have spent a lot of time researching demographics – including population, welfare benefits and legal aid eligibility statistics – and this shows that there is little current correlation between allocation of spend and client need
- There are disproportionate resources going to cities and a lack of funding directed at less populated areas of the country – where some of most needy client groups are based
- Given we don't have access to more funds, we have to re-allocate what is available
- Don't expect this to be popular, particularly with the urban firms and agencies working in the areas most affected, but we need to address this openly and make resources available where they are needed
- It is vital that we both improve access and achieve a much more consistent level of access

## **The case for integrated services**

- With the introduction of first franchising and then contracting, the Commission has rightly pushed providers into being specialists and not “jack of all trades, master of none”.
- I think that this was the right approach, however we all know that we now have a very fragmented service for clients.
- Generally speaking, high street firms offer family and crime, CABx and Law Centres do the bulk of social welfare law and specialist agencies and firms carry out immigration and mental health
- This has resulted in a lack of co-ordinated services in some places and a situation where referrals are not working
- At the moment, a woman fleeing domestic violence has to go to three agencies to get the advice she needs. A family lawyer for an injunction, a law centre for housing advice and a CAB for debt advice. That is not a service we should be proud of
- We know from the Legal Services Research Centre’s ‘Causes of Action’ research that people have clusters of problems they need help with – and that needing to go to a different place for each problem leads to increased likelihood they won’t seek help
- One of the two research reports the LSRC is publishing today raises further concerns. More than half the people surveyed who had a CAB within two miles didn’t know it was there. In addition, people who were financially excluded were the least likely to know where to find local mainstream advice.
- We now also have conclusive evidence from the second research report that advice makes a difference to outcomes. You can hear more about this ‘hot off the press’ research in Pascoe Pleasence’s workshop session this afternoon.
- More generally, we are particularly worried about the inequitable level of access to legal help for most people – only 28% of local authority areas provide access to all five social welfare categories of law. This means most of the population miss out when they need help with community care or education problems
- This is obviously exacerbated by the fact that only one law centre in the country – and no CABx – provides services across the full range of social welfare law categories
- The nature of our current provider base therefore does not support clients in helping them to resolve their problems – and this is a particularly worrying issue for cases relating to family law
- At present clients choose where to go, but as we have seen, this is not a real choice in social welfare law because so few providers offer all of the services that clients need and least of all in an integrated way
- A client with a problem is often not in a position to know there is a legal remedy to that problem, or that it is in a particular category of law, or who is best placed to provide advice. There is little or no signposting around the system
- But for clients to receive the help that really meets their needs, they must have access to services which are shaped around these needs, and a voice in how these services are delivered

- So I want to challenge you – just as we are challenging ourselves, within the LSC and across government – to put clients at the centre of the design and delivery of services
- We need to commission services much more effectively around client experience and deliver more personalised legal advice services – which means joined up services across social welfare law and family
- We know that debt, welfare and education problems are linked with family breakdown but we insist that clients go to law firms to sort out family issues and too few NfP have capacity to litigate. Linking up local authority funded general advice, our legal help and litigation is a priority for us
- The providers who can deliver this will be the ones we will be working with in the future, and we want to work with you to make this happen

## **2. Integrated services through centres and networks – a model for local service design**

- Putting clients at the heart of services is the driving factor in our introduction of Community Legal Advice Centres and Networks
- The centres and networks are not about buildings – but services centred around people
- We will commission jointly with local authorities and on our own, the full range of services – including all categories of law in social welfare and family and levels of service from general help to representation at court
- Ways of organising will vary from place to place, for example, a single contract with a consortium/lead provider/merged organisation.
- In Gateshead a centre will open in April this year with £2.6m in funding - £1.6m from LSC and £1m from the Gateshead Council
- The contract has been awarded to a consortium including a law centre, a Citizens Advice Bureau and three firms of solicitors
- They have been given some targets but also allowed the flexibility to remain responsive to local needs. We have high expectations but do not want to be too prescriptive because you know your local areas and communities' needs best and we believe you are best-placed to work out how to meet them
- There are many upsides to this new arrangement – not least for the people of Gateshead who will have access to mental health and community care services for the first time
- To allow the centre to get off the ground and establish a client base, both the LSC and the local authority have committed funding for three years and that is the minimum commitment we will be expecting from the local authorities we partner with – which gives you and your clients added security
- Eventually, we aim to have around 125 centres or networks across the country and all social welfare work done this way and a percentage (not yet decided) of family work

- We have learned from setting up Gateshead that we need to be more consultative – this has informed the ongoing roll-out. Already in discussions with various other areas – looking to talk to you about what your area needs and how best we can deliver it
- Looking forward to receiving your proposals – do give us your ideas and views on how best to do this

### **3. Expansion of CLS Direct – using technology effectively**

- Our responsibility to deliver value for money means we have to find more cost-effective methods of delivering services if we want to keep increasing the numbers of people helped within our fixed budget
- Community Legal Service Direct a great success story – telephone cases cost 2/3 the price of face-to-face help, and this enables us to help a third more people for the same money
- A lot of people sceptical that anyone would want advice over the phone in the beginning but less than 3 years on, more than 100,000 cases dealt with by phone advisers this year and more than 330,000 people contact us, via the helpline or the website, every month
- CLS Direct will expand into family advice this July as part of a pilot scheme to see if family/public law children advice can also work via the telephone
- I hope that the not-for-profit sector will see the continued expansion of CLS Direct as an opportunity – some not-for-profits are already delivering telephone advice – we would like to see more involved

### **Conclusion**

- Would like to finish by re-iterating earlier thanks for the excellent work that you continue to do on behalf of legal aid clients
- But anyone working in this area knows that we can always improve this service for clients. They do not fit into the existing structures for delivering services and our challenge together is to provide a better, more joined up service for them
- The Commission wants to combine this with ensuring we are helping the greatest number of eligible people possible – know you will support this too
- From where you are sitting you may interpret what the Commission is doing as a direct threat to the sector - it is not. Please do not doubt our commitment to social welfare law and to a diverse provider base including NfPs
- Change is always a challenge but should be seen as an opportunity rather than a threat. The changes that we will be making to the provider base will happen over a period of years not overnight
- NfP has proud tradition of evolution and revolution in services – get on board with this and be at the heart of civil legal aid – we look forward to continuing to work with you and continuing the constructive relationship we have with ASA
- Available for questions now – please take opportunity to speak to the LSC staff here today