

## **Response to Call for Evidence by the Commission on Justice in Wales**

The Speakeasy is an independent advice centre that has provided free legal advice in Cardiff and sometimes further afield for 25 years. We have always employed solicitors and have very often provided training contracts to train solicitors.

We provide free legal advice on the issues of debt, housing and welfare benefits, while also providing a fuel debt and energy efficiency advice service.

We currently have three practicing solicitors and two trainee solicitors as well as other, experienced advisers. We are a member of Advice UK.

Our response will therefore concentrate on the advice sector, in particular relating to social welfare law, and legal and vocational education and training, addressing Questions 1 and 2 in detail.

### **RESPONSE OF THE SPEAKEASY TO THE CALL FOR EVIDENCE**

#### **1. What is working well in the justice system in Wales?**

In Cardiff there is a good partnership between the local authority, Citizens Advice and the Speakeasy. Citizens Advice, Cardiff & Vale and the Speakeasy provide a comprehensive social welfare service with Citizens Advice as the main contractor and the Speakeasy as a sub-contractor for specialist advice in the areas of debt, welfare benefits and housing (although Citizens Advice also provide specialist advice in welfare benefits).

This model allows for the strengths of the different organisations, including, for our part, representation at Tribunal for complex social security cases, such as right to reside issues involving European Law. The Speakeasy employs solicitors as well as experienced advisers to give free advice for Debt, Housing and Welfare Benefits problems.

There is a good working relationship with the local authority with a degree of trust and confidence between the parties. This is in contrast to the environment within Cardiff for many years, which was characterised by distrust and sometimes acrimony between advice agencies and the local authority.

While it is not uncommon for there to be a close tie between local authorities and Citizens Advice, it is more uncommon for a smaller, independent advice agency to be involved so closely, working with both the local authority and Citizens Advice. In other areas, where we have been invited to work by the Legal Services Commission (as it then was), local community groups or churches, we have found both local authorities and the local Citizens Advice Bureaux to be wary rather than welcoming.

The current Cardiff model includes much advice from the council's Information and Advice Hubs, in libraries and public buildings in the City Centre and around the City. But the model also allows for additional advice from our own main office in Roath, ensuring that there is an alternative venue, independent of the council. This is important for a number of clients:

- clients with mental health problems, who are unable or fearful of going into the centre of the city;
- those who do not have the bus fare or money to pay for parking in the city centre;
- others may be banned from council buildings as a result of something unrelated to their need for advice;
- others will distrust or at least question the independence of advice delivered by a council building.

Working from our own building also allows us to provide services in a way that is responsive to client need and to provide facilities for other services such as the Cardiff Pro Bono Employment Clinic, where a rota of 30 or more local employment solicitors provide their services free of charge on a rota. This clinic was rewarded with The Law Works Cymru Pro Bono Award in 2015 and 2016.

## **2. What are the barriers to improvement and how could these be overcome?**

There are and have been a number of bureaucratic obstacles to improvement. These tend to show an emphasis on structures and procedures, while often losing sight of outcomes and impact.

These include targets, benchmarking and top-down imposed solutions to questions that have not been asked. Added to these, there is a tendency to rely on one or two large organisations to provide all the answers and the fact that there has been a "brain-drain" following LASPO.

### **Targets**

An excessive focus on targets is probably the biggest obstacle to delivering quality advice. In spite of a wider acceptance of the importance of outcomes and impact, many funders still show a continued focus on numbers of people seen and hours worked. Under some contracts, the pressure to see the required number of people means that follow-up work is very difficult and that short, easy cases are seen as desirable.

At the Speakeasy we have always tried to do whatever is necessary for the client, but this is only possible with both additional funding and a culture where this is encouraged. Solicitors and advisers within the Speakeasy are not given targets and where they are working on projects where funders have included a target, they are not told what these targets are. It is our policy that targets are a matter for management but that a culture of responding to client need and providing quality advice is more important.

## Benchmarking and Quality Marks

Benchmarking has been adopted by the National Advice Network, local authorities and others, even though reservations were expressed during the consultation period. Advice UK has long pointed out that these are no guarantee of quality advice because they do not look at the quality of advice. Rather, they look at procedures and processes that, it is hoped, might ensure an environment from which quality advice might be given.

Therefore, checklists of policies, office manuals, management charts and other bureaucratic measures are audited regularly. This is a laborious and time consuming process, and often expensive. It may ensure that the environment has a minimum standard to give advice but there are very obvious drawbacks and limitations to such an approach.

- a benchmark can easily be mistaken for a guarantee of quality advice, rather than a checklist of proxy measures;
- it is an inefficient and expensive measure for the limited value that it achieves;
- it can easily be an obstacle to smaller, grass-roots organisations and also new entrants into the market.

It is understood that the National Advice Network has chosen an approach of adopting existing quality marks, which the larger advice agencies will already have, while requiring additional features relevant to Wales. While, in the short-term, it makes sense to use existing Quality Marks to “passport” those organisations that hold them to the new Welsh Quality Mark, ***in the longer run this approach is arguably wrong-headed and liable to achieve the most laborious, time-consuming and expensive quality mark on the market.***

For Wales to show the way forward in ***creating a Quality Mark that is flexible, lean and likely to encourage and inspire quality advice***, it is submitted that it should follow the approach advocated by Advice UK and create a Quality Mark that requires the following:

- Professional indemnity insurance;
- Registration with FCA (if giving debt advice);
- Proper management and governance structures;
- A complaints procedure.

In addition, it should draw up a set of principles that encourage and inspire quality advice, following the examples of the Solicitors Regulation Authority with its Code of Conduct, or the Charity Commission’s Governance Code which has 7 Principles for charities to follow.

## Top-down imposed solutions

Legal Aid and the advice sector have seen a history of failure of top-down imposed solutions to questions that have not been asked. The Legal Services Commission (now the Legal Aid Agency) was guilty of this on a number of occasions but the same tendency can often be

seen elsewhere. The most obvious example was the attempt to establish a CLAN (Community Legal Aid Network) or CLAC (Community Legal Aid Centre) to cover Cardiff and Vale, but other examples are seen in the 2010 Legal Aid tender round and other, earlier measures to do with franchising.

In these measures, it can be seen that the Legal Services Commission tried to exert a great deal of control over the advice sector, forcing collaboration at times, or the imposition of benchmarking and other franchise requirements, or attempting to regionalise provision. The CLAC and CLAN process was also an example of an attempt to engineer large, one stop shops that sometimes led to commercial contracts at the expense of established advice agencies and the disruption of local services. DG Legal produced a report for the Welsh Government on the proposed Community Legal Aid Network for Cardiff and Vale and this project was finally not pursued.

Once more, Advice UK has long pointed out that bigger does not necessarily mean more efficient or cheaper, but increases layers of management, control by target, inefficiencies and lower quality advice. Top-down imposed solutions, as can be seen by the failures of the LSC, tend to waste great deals of money and time.

#### **Avoid a reliance on one or two large organisations with national scope**

It is submitted that funding for advice should be responsive to local need and involve the independent sector as well as Citizens Advice Cymru, Shelter Cymru and other national organisations.

A great deal of value is added by the smaller, independent advice agencies (i.e. outside of the large bodies with national scope such as Citizens Advice Cymru and Shelter Cymru) but public funding, through local authorities and Welsh Government, has often been inaccessible for such organisations. Not only is this a problem for smaller organisations that are vital to their own communities, barriers to public funding can also impede the growth of new organisations.

***Times of austerity or recession have traditionally seen new organisations started by community groups, churches and others who are responding to a need within their local area and who, therefore, are very well placed to meet it. With an increase in demand expected, it should be ensured that such organisations are encouraged and assisted to grow.***

Obstacles to public funding, even small amounts, and onerous regulations such as the new Welsh Quality Mark impede rather than encourage the creation and growth of new organisations.

### **“Brain-drain” following LASPO**

It has proved difficult over the last few years to recruit specialist advisers with experience and expertise in debt, housing and welfare benefits. This appears to be the result of the loss of a number of such positions following LASPO and the removal of legal aid from these areas of law in all but a very few cases. Finding suitable and sufficient advisers to meet demand has therefore been a challenge.

The Speakeasy has always provided training for its advisers and solicitors and has therefore opted to provide a number of solicitor training contracts over recent years where it has had a need for further advisers. For some trainee solicitors, we have been assisted by the Legal Education Foundation and its Justice First Fellowship scheme.

However, this is not practicable or possible for everyone and other options and support for training advisers would be very helpful. In particular, changes to the rules regarding apprenticeships within Wales would be beneficial. The decision not to follow the approach adopted in England to use the levy to pay for 90% of salary and training means that legal apprenticeships have not got off the ground in Wales. It also means that it is far less practicable to use apprenticeships to train up school leavers and young people as advisers. A review of apprenticeships and other support for training is likely to be an important factor in ensuring that the advice sector can provide access to employment to those who cannot afford to volunteer first for some weeks or months, as well as ensuring that advice agencies can recruit and train sufficient numbers of advisers to meet the increasing demand.

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