

Making Justice Work

Enabling Access to Justice Project -

**Landscape review of publicly funded
legal assistance**

April 2014

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Foreword

Civil problems and disputes can have adverse consequences for people, affecting their confidence, well-being, financial situation and health. We include in our definition all civil matters which raise a legal issue or which, if not resolved earlier, could ultimately result in legal proceedings. For example, issues with welfare benefits, debt, housing, employment, family disputes and consumer rights. Problems and disputes can escalate from simple, minor issues into major, complex challenges. The early resolution or avoidance of these problems can improve people's lives.

This report focuses on publicly funded legal assistance, the advice and representation services that help people to resolve these kinds of problems. The aim of this strand of the Enabling Access to Justice Project is to help people to resolve problems earlier, with the right advice at the right time, outwith the formal court and tribunal structures where possible, but with effective access to representation where that is needed.

As a first step towards this aim, this report aims to help funders and planners of advice and representation services to better understand the complex planning and funding environment, recommending further work to improve how the current arrangements operate. This need for improvement has already been recognised in the field of money advice and we have been working closely with colleagues in the Improvement Service to identify common themes.

We hope this report and the recommendations can provide the basis for collective improvement: developing a robust set of outcomes for advice, avoiding duplication of funding and provision, spreading learning and good practice, and promoting understanding of the roles of different funders and planners.

Already we are putting some recommendations into practice by working together and with other funders and planners to help achieve improved co-ordination and impact of funds made available for advice provision in Scotland. In 2013, the Scottish Government, the Money Advice Service, and the Scottish Legal Aid Board worked together on the development of national joint funding initiatives related to welfare reform and debt in pursuit of improved outcomes for people facing problems. They also worked with other funders and planners, most notably with local authorities and the BIG Lottery Fund Scotland, in order to avoid duplication and to add value locally.

The Scottish Government and the Scottish Legal Aid Board have been working together, with input from key stakeholders across civil justice including local government and the Scottish Court Service, on the Enabling Access to Justice Project, which forms part of the Making Justice Work Programme. We now plan to work more directly with those involved in planning, funding and delivering publicly funded advice and representation services to identify how best to take priority recommendations forward.

Jan Marshall, Deputy Director, Civil Law and Legal System Division, Scottish Government

Lindsay Montgomery, Chief Executive, Scottish Legal Aid Board

Executive summary

- i. This report sets out the findings and recommendations from work on approaches to funding and planning of advice provision with a view to support strategic planning and co-ordination of publicly funded legal assistance (PFLA). This forms part of the Enabling Access to Justice project within the Making Justice Work programme.
- ii. The purpose of the initial work was to improve our understanding of current arrangements for publicly funding legal assistance; provide information relating to funding streams aimed at areas of law or geography; establish a baseline against which to measure change; and, raise awareness and identify key contacts across public funders for the project.
- iii. The Scottish Legal Aid Board (SLAB), on behalf of the Enabling Access to Justice project, undertook interviews with key personnel in local and central government and in SLAB who have responsibility for external funding processes and/or management of internal services.
- iv. Overall we estimate that in 2012/13 **at least £90 million** was invested by the Scottish Government, local authorities and the SLAB in advice and representation services to tackle civil problems and disputes. As well as quantifying the overall scale of public funding being allocated towards advice and representation services, across local and national public bodies, we sought views on approaches being used for allocation and monitoring of funding and why it was being allocated. We found a range of approaches to the funding and planning of advice provision, which reflects the varying responsibilities and strategic priorities of funders.
- v. The findings in the body of this report are grouped by type of public funder, setting out a baseline position against which change can be measured, but the overall key findings are that:
 - there is a mixed economy providing publicly funded advice and representation, covering the public sector, the third sector and the private sector. The workforce is comprised of volunteers, paid advisers and solicitors.
 - different funders and policy interests have divergent reasons for supporting advice and representation services.
 - there are few established operational or policy links between local and national funders/planners, with the exception of some areas such as housing and consumer advice.
 - all funders were interested in measuring and monitoring outcomes of advice and representation, with progress made by specific funders in some policy areas.
- vi. Based on the information we gathered and taking account of the overall planning framework for public services, we developed a number of recommendations for improvement that reflect the Christie Commission priorities, with a focus on developing and codifying good practice, enhancing integration between different

fundes and providers of advice, and setting a shared understanding of how advice services relate to outcomes and the preventative agenda.

vii. We recommend that:

- the Scottish Government, local government and SLAB continue to work together to improve how funds can be directed to best effect, including through directing funds for direct delivery of PFLA at the resolution and avoidance of types of problems, rather than types of providers,
- the Scottish Government, local government and SLAB develop common guidance aimed at all central funders of advice and representation services by way of grant or contract.
- stakeholders, including those outwith the justice system, are brought together for an identified priority area of law, to look at what a preventative approach would look like and how the drivers for justice-related problems could be managed. This would encompass better linking of centrally funded advice and representation with local services through community planning partnership structures. We recommend that this should begin with family law issues, as the largest single item of expenditure on PFLA.
- SLAB and stakeholders seek to develop a suite of case-level outcomes appropriate to each substantive area of law, but including common justice outcomes, that could be used by funders and organisations to measure success across different advice and representation services.
- through its role in quality standards, the Scottish Government continues to support the uptake of the Scottish National Standards for Information and Advice Providers and explores whether the Consumer Quality Mark should be centrally supported.
- quality assurance arrangements for services provided by solicitors under legal aid should also be examined to explore how they might further assist with referral, planning and co-ordination.
- research is undertaken to develop our understanding of the full range of issues around referral between organisations working in the same area of law, in order to overcome issues posed by the fragmentation of the workforce across numerous bodies with different organisational cultures.
- opportunities for joint training are explored that focus on building trust between sectors and developing a referral culture, including non-advice services alongside different sectors involved in delivering PFLA.
- the Scottish Government takes into account local authorities' interest in developing online advice, information and signposting or referral tools as part of the development of the Justice Digital Strategy.

Purpose

1. The purpose of this initial work, undertaken by the Scottish Legal Aid Board (SLAB), has been to aid planning for prioritisation and taking forward Making Justice Work sub-project 3.1, with a scope focussed on improving the planning and co-ordination of public funding of legal assistance. We were asked to consider the extent to which the current arrangements for PFLA helped to contribute to achievement of strategic outcomes for the Making Justice Work programme, and specifically for the Enabling Access to Justice Project within that programme. The work has improved our understanding of publicly funded legal assistance; provided information relating to funding streams aimed at areas of law or geography; established a baseline against which to measure change; and, raised awareness and identified key contacts across public funders for the project.

Methodology

2. Our findings are based on interviews with key personnel in local and central government and in SLAB who have responsibility for external funding processes and/or management of internal services with directly employed staff providing independent information, advice and representation. Our findings therefore reflect their perspective and are subject to the caveats which apply to single source information. The local government sections are based on interviews with representatives from 23 local authorities. Whilst we contacted all councils, not all areas were able to take up our offer of interview.
3. The review identifies the range of planning and funding practices for “core” advice and representation services across Scotland (those providing Type II or Type III services¹). These services are complemented by a huge number of people and organisations delivering active information and signposting to “core” services. The latter represent a range of funding, activity and outcomes that cannot be disaggregated and identified within the scope of this work.
4. The information collected has been analysed in line with the objectives and research questions set out in Appendix 1. Further analysis of the findings was carried out to develop recommendations in the context of the findings of the Commission on the Future Delivery of Public Services² (the Christie Commission) and the Scottish Government’s response³, along with the purpose and objectives of the Enabling Access to Justice Project (set out in Appendix 2).

¹ Type II encompassing advice and casework, Type III focussing on representation – as defined in the Scottish National Standards for Information and Advice Providers

(<http://www.scotland.gov.uk/Topics/Justice/legal/17822/nationalstandards/standardsforadvisers>)

² Commission on the Future Delivery of Public Services

(<http://www.scotland.gov.uk/About/Review/publicservicescommission>)

³ Renewing Scotland’s Public Services - Priorities for reform in response to the Christie Commission (<http://www.scotland.gov.uk/Publications/2011/09/21104740/0>)

Overview of need and advice seeking behaviour

5. Previous research based on population surveys shows that whether and how people seek advice is determined most by the area of law that their problem relates to. This interview-based research found that funding for advice and representation provision is also considered on an area of law basis.
6. The civil module of the Scottish Crime and Justice Survey gives some information on the prevalence of different types of problem and the way in which people sought to resolve them.

Civil justiciable problem prevalence and paths to resolution – Scottish Crime and Justice Survey: civil module results 2010/11⁴

	Prevalence	Resolved or trying to resolve	Tried and gave up, or didn't try to resolve	With help/ advice	Top ranked advice provider (%)	Satisfied with resolution	Dissatisfied with resolution
Neighbours	11%	82%	18%	60%	Council (47%)	83%	11%
Consumer	6%	73%	27%	67%	Family (64%)	87%	7%
Money/debt	5%	97%	3%	57%	CAB (35%)	89%	11%
Housing or homelessness	4%	97%	3%	76%	Council (47%)	78%	17%
Family	3%	91%	9%	72%	Solicitor (69%)	90%	8%
Benefits	3%	90%	10%	66%	Council (38%)	76%	22%
Employment	3%	80%	20%	70%	Union (40%)	87%	13%
Mental health	3%	95%	4%	91%	Health (24%)	90%	10%
Unfair treatment by police	2%	58%	41%	47%	Solicitor (52%)	40%	57%
Injury	2%	90%	10%	80%	Solicitor (56%)	63%	33%
Discrimination	2%	83%	17%	40%	CAB (31%)	86%	9%
Medical Negligence	1%	74%	26%	76%	Solicitor (38%)	83%	5%
Immigration	0%	100%	0%	49%	Solicitor (68%)	83%	9%
Overall - any problem	27%	86%	15%	63%	Family (31%) Council (26%)	82%	13%

7. These measures of need for advice are included here to help provide additional context in which to consider the patterns of funding allocation set out below. We might expect to see shifts in pattern of experience of problems or in successful resolution of problems over time in the future, and while there is no easy mapping of funds and delivery to patterns of experience of problems alone, it does help provide a further background to consider the current balance and focus of public funds in the context of the full range of problems experienced by people in Scotland.

Overview of findings in respect of funding

8. This section pulls together the main findings from our research. Readers should note again that our findings only reflect the perspective of interviewees and are subject to the caveats which apply to single source information.

⁴ Respondents could choose from the following options: Local authority; Citizen's Advice Bureau; Friends and Family; An MP, MSP, MEP or local councillor; A solicitor; Trade union or professional association; Other. Scottish Crime and Justice Survey, Scottish Government.

(<http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/crime-and-justice-survey/publications>)

9. As an overview, the following information is provided at a high level across the 3 main funders and planners included.

10. The Scottish Government invested just under £4 million in advice and representation services by way of grants in 2012/13 across a broad range of problem types and policy areas including welfare benefits and income maximisation, housing law, specialist immigration advice, education law especially around additional support needs, children's rights and some general legal advice to particular communities.

11. Local government collectively invested around £30 million in advice and representation by way of grants, contracts and through directly providing services primarily aimed at problems to do with money/benefits and with a main focus on income maximisation⁵ in 2012/13. Other areas of law covered by local authority investment in advice for individuals include consumer, housing and homelessness and mental health law.

12. The SLAB's gross expenditure on advice and representation services was £56 million in 2012/13, covering all areas of civil law. This funding was largely through case-by-case payment for mainly private practice solicitor services, known as judicare (£52.6 million), with a far smaller proportion allocated by way of grant (£2.2 million) and to support directly employed solicitors (£1.2 million). Almost half of expenditure was on family law cases, at £25 million in 2012/13.

13. The key findings in respect of how that funding is allocated, and key areas in which there was commonly reported room for improvement are:

- there is a mixed economy providing publicly funded advice and representation, covering the public sector, the third sector and the private sector. The workforce is comprised of volunteers, paid advisers and solicitors.

Strengths and weaknesses of different funding models in meeting advice needs

Judicare

The strengths are that it provides a very wide range of access points across the country, covering the whole range of civil areas of law and it is able to respond quickly to shifts in need. The weakness of the system is that it is not consistently available at any unit level: firms or individual solicitors may, for whatever reason, decide not to take on a particular case or class of cases.

Grant or contract

The main strengths of this model are that it provides consistency of access to help for a defined set of problem types and maintains independence from the public funder. A key weakness is that it can be difficult to adjust service provision to the changing needs of the population.

Internal or direct provision

Strengths of this model are that it provides consistency of access to help for a defined set of problem types and can be reconfigured to changing needs or policy interests. The key weakness is that, depending on the function, it may not be seen as wholly independent of the public funder.

⁵ We use this grouping to describe welfare rights, money advice, advice on housing debt and other debt advice.

- different funders and policy interests have divergent reasons for supporting advice and representation services.
- there are few established operational or policy links between local and national levels, with the exception of some areas such as housing and consumer advice.
- all funders were interested in measuring and monitoring outcomes of advice and representation, with progress made by specific funders in some policy areas.

14. The report now considers the information provided under each main funder group in more detail and the information provided under a set of common themes:

- a. An overview of the scale of funding (using 2012/13 as baseline) for advice and casework, and the range of problem types for which funding was focussed on advice delivery
- b. An overview of the way funds have been allocated, any changes over time, and the strategic context for funding decisions and allocation
- c. How assistance which is funded (either for external project work or for directly employed delivery of help) is monitored and how quality is assured
- d. How funding currently takes into account other existing provision to add value and avoid duplication, how funding is focussed on tackling need rather than solely focussing on demand, and how joint working/referral is supported operationally and by way of funding requirements

Scottish Government

Overview of funding and direct provision of advice

15. The areas of law in respect of which PFLA is funded by the Scottish Government by way of grants include welfare benefits and income maximisation, housing law, specialist immigration advice, education law especially around additional support needs, children's rights and some general legal advice to particular communities such as the Roma community.

16. Funding supports a mix of lay and solicitor services, phone lines and infrastructure projects such as funding to Child Poverty Action Group to provide second tier advice⁶ to frontline providers.

⁶ advice given by one advice service to another for a particular case

17. The following funds were identified by interviewees.

Scottish Government expenditure on advice and representation services in 2012/13

	Total estimated funding
SG welfare division	£1,937,274
SG housing	£226,000
SG equalities	£544,436
SG education	£451,000
SG children's rights	£135,000
SG international	£500,000
Total	£3,793,710

18. Funding is directed at pan-Scotland projects and a few local projects. Local projects were often considered to have some national access or significance as demonstration projects. We found only one example of direct service provision, with all other services provided by the third sector.

Allocation of funding and links to strategic frameworks

19. Funds are provided by way of grants; some annual and some with a three year budget but subject to change if spending constraints require. Some funds are distributed by way of an open call grant application or tendering exercise but others are continued year on year. Where expenditure levels or patterns had been fundamentally altered, this had come about either as part of a Spending Review exercise or through another strategic review (such as the Review Of Unified Voluntary Sector Fund And Community Learning And Development Headquarters Funds⁷). In many instances, the overall funding programme supported non-advice services alongside advice and representation, in order to achieve the objectives of the fund.

20. Scottish Government funding for advice services is variously linked to strategies which seek to tackle specific issues (e.g. Violence against Women) or barriers for particular groups (e.g. equalities characteristics) or in furtherance of a legislative duty (support relating to the Additional Support Needs Tribunal) or a specific policy objective such as the immigration advice available until recently within relocation services linked to the former national purpose indicator of growing Scotland's population⁸.

21. The latter service is the only example we found of an internal Scottish Government service (i.e. where the advice is provided directly by employees of

⁷ Review Of Unified Voluntary Sector Fund And Community Learning And Development Headquarters Funds 2012 (<http://www.scotland.gov.uk/Publications/2012/06/4904>)

⁸ To match average European (EU15) population growth over the period from 2007 to 2017 (<http://www.scotland.gov.uk/About/Performance/scotPerforms/purposes/population>)

the Scottish Government), which has now been transferred to Scottish Enterprise.

22. In some areas, officers reflected that there was room for improvement in terms of clarity of criteria for funding decisions and that historical funding patterns tended to be repeated. It was perceived to be politically difficult to shift focus of funding at the end of funding periods to reflect changing priorities/needs help if it would be likely to result in some historically supported organisations not being funded.

Monitoring and quality standards

23. Funding officers we spoke to had developed specialist knowledge about the policy area but not about the role of professional standards in place for advice services (including solicitor-provided help). They have expressed minimal awareness of the Scottish National Standards for Information and Advice Providers⁹ (SNSIAP), or the role of legal aid, or the availability of other services.
24. In the absence of a consistently recognised means of assessing the nature and quality of advice providers, funding officers rely on the information provided by applicants about both the need for services and the role played by other providers of legal advice.
25. Monitoring practice varied. Some officers described a more proactive role in reviewing appropriate targets and indicators, but thus far projects are monitored against the targets and indicators set by the projects themselves. Beyond formal monitoring systems, some officers also met with funded organisations in visits to projects and informally by participating in seminars and conferences in the policy area. Indeed the informal flow of information, over and above monitoring returns, was viewed positively and was suggested by one officer as the main reason to continue the funding role: the feedback from projects provides a policy insight which is invaluable in the wider policy role. A number of national services and projects had also been evaluated.
26. Officers were keen to find out more about how one might measure and monitor advice outcomes, subject to a proviso from one that the focus on outcomes should not detract from the funding role as a source of information on policy implementation.

Partnership, referral and the advice landscape

27. The connection between national and local advice funding appears weak, except for consumer advice where a dedicated link has been made between the national phone line and local trading standards teams (although there is evidence from

⁹ More information can be found at <http://www.scotland.gov.uk/Topics/Built-environment/Housing/access/nationalstandards>

our interviews and elsewhere¹⁰ that some local authorities are pulling out of consumer advice altogether and that the new arrangements are taking time to bed in).

28. Funding processes for solicitor services do not take into account availability or otherwise of legal aid for similar provision. Projects are not subject to any controls around the use of legal aid and are left to choose whether to access the legal aid fund or not. Some projects do include projected legal aid income in their submitted budgets, thus reducing the grant sought, but there is no requirement on them to do this.
29. In the Scottish Government, there is an appetite to find out more about legal aid and the general shape of judicare which is used to deliver services which do link to their policy area. This could help inform funding decisions. Some judicare information would be easily accessible and is linked to legal subject area. Other information would have to be capable of being disaggregated to the equalities characteristics of the applicants to be of use in some policy areas. For example, is the Romany population able to access legal services or do they require specific targeted services funded by grant?

¹⁰ Protecting Consumers – Report by Audit Scotland (<http://www.audit-scotland.gov.uk/media/article.php?id=227>)

Local government

Overview of funding and direct provision of advice

30. Local government-funded PFLA focussed mainly on income maximisation, cutting across welfare rights, money advice, advice on housing debt and other debt advice. Funding tends to be linked to either Financial Inclusion Strategies or Tackling Poverty Strategies. These income maximisation advice services are mainly provided by lay advisers working in a mix of external and internal services. Solicitor services are provided by law centres, where they exist. The balance between internal and external services is subject to considerable variation between councils, although the overall picture is one of a balance between internal and external services.

Local authority expenditure¹¹ on welfare rights, money and debt advice in 2012/13

	Welfare rights, money and debt advice		
	in-house	external	total
Local authorities estimate (32 councils)	£15 million	£15 million	£30 million

31. Regardless of the department responsible for allocation of external funding, the range of type of providers rarely varies. Citizens Advice Bureaux, a few independent advice agencies and law centres, where they exist, are the organisations funded externally by local authorities. Although funds are rarely explicitly restricted to the third sector, officers reported that in practice local funding is entirely directed at third sector services.

32. Local authorities also provide consumer advice services as part of their role in trading standards. This is all provided by local authority officials. The resource directed towards consumer advice is much lower than that provided for income maximisation advice and tends to be part of an individual officer's wider role, meaning that advice activity cannot be disaggregated. Consumer advice is given mainly as a way of collecting intelligence for enforcement activities. Trading standards teams and the consumer advice area have been the subject of many recent reviews.

33. A number of local authorities in the central belt also contribute funding towards advice and representation provided by solicitors in law centres for those who become subject to the terms of the Mental Health (Care and Treatment) Act 2003. This is a small proportion of the overall funding directed towards advice.

¹¹ These figures are necessarily partial and include only funding that is most directly related to advice and representation. There will be elements of other funding streams not identified or included which have an advice element. The estimate includes an average investment per FTE worker, where resource was expressed in those terms. This estimate includes desk based research alongside notes from interviews.

34. A fourth area of advice provided or funded by local government was on housing and homelessness. Most services at the councils we interviewed were in-house. Many had undergone, or were soon to go through, change to a housing options approach in the context of the target that, by the end of 2012, all unintentionally homeless households have a right to settled accommodation. There were links between central and local government here in supporting the approach and in submission of monitoring data through the HL1 form. The housing options approach provides some learning opportunities for other areas of law, notably in the tie up between the preventative approach and outcomes data. Services were able to monitor the success of their work by checking whether someone who had received advice subsequently presented as homeless. As this area has been evaluated elsewhere¹², this section will focus on income maximisation and touch on consumer advice.
35. Nearly all those responsible for advice services reported that most work, regardless of sector, was done on a face-to-face basis, whether by appointment or drop-in at an office. Phone lines tended to be used as a point of first contact with individuals, to give simple advice and as a way of providing second tier advice. Exceptions included one council which provided most debt advice over the phone, whilst another had found that home visits were cost effective in debt cases as all the required paperwork would be at hand. Where there was a mix of provision for income maximisation services, interviewees reported that the in-house service tended to deal with the more complex cases and representation. Consumer advice services were more likely than income maximisation services to report focussing intensive help (such as representation) on vulnerable people and providing less assistance to those they considered capable of taking on a case themselves.
36. All income maximisation services were considering how online delivery might help to reduce demand, but few had gone beyond this stage. Whilst local government contacts see the benefit of online advice/information for some people, they considered that more vulnerable clients would not be best placed to use this.

Allocation of funding and links to strategic frameworks

37. Resourcing decisions at councils are made as part of the annual budget setting process. From our interviews, officers indicated that consumer advice provision has been significantly reduced in the past few years, whilst other services reported that they were under some pressure to find efficiencies. Across local government, external services are largely grant funded on a year-to-year basis, sometimes within a multiple-year funding envelope. Internal services are included in annual budget setting.

¹² See evaluation reports on the Scottish Government's housing options hubs webpage (<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/homeless/HomelessnessPrevention/hubs>)

38. A few councils have developed contracting arrangements. The shift to contracting has been influenced in part by a desire to rationalise the complexity of managing a large number of grants. Contracting can shift resources away from monitoring a larger number of small organisations into managing a few key relationships. Contracting has also afforded some councils an opportunity for greater specification of services and delivery of services. Thus in contracting, councils have specified service standards such as waiting times, which are not dealt with in grant agreements.
39. A handful of councils have smaller contracts with a law centre to pay the law centre a fixed fee per case for each case referred on by the local authority. The arrangements of which we are aware exist for housing repossession cases only.
40. In terms of the rationale for allocation of funds, some councils had started to tackle or had tackled a local assessment of need as part of reviews of income maximisation advice services, or in response to welfare reform. Where assessments had been carried out or planned on a geographic or targeted basis, Scottish Index of Multiple Deprivation (SIMD) data and locally sourced data such as housing benefit recipients, was central to planning together with local consultation and the monitoring data received from advice services.
41. Although local authorities look to SIMD to help gauge the population in need of income maximisation services, one local authority interviewee noted that political influences had resulted in provision of services in each local area, including those with no wards in the 15% most deprived areas. However, in the current financial climate, services in such wards had actually required a greater resource than others. This is precisely because these were areas of traditional high homeownership and high employment rates which were now feeling the impact of unemployment or reduction of hours and debt flowing from that.

Monitoring and quality standards

42. There was a high level of take up and recognition of the SNSIAP. Local authorities, in the main, see the value of the national standards and accreditation, and voiced concerns over the uncertainty caused by the hiatus in the audit contract. Where the national standards were not in place, some authorities were minded to pursue implementation and accreditation for both internal and external services. Some barriers to take up of the national standards were however identified by interviewees, including the cost of the audit to the organisation, the focus on inputs in the standards rather than outcomes and that some in-house services locally do not think the management standards can easily be applied to councils. Case file reviews are undertaken by managers for in-house services and a couple of councils do file review of external services.
43. The consumer advice side has a different set of standards – the Consumer Quality Mark – which used to be centrally funded, but are now run on a peer review basis, there is limited reported take up of these standards.

44. Of the councils we interviewed, 16 were reviewing, had recently reviewed or were implementing the results of a review of their income maximisation advice services. Officers reported that variations in monitoring processes and frameworks make value for money comparisons between services difficult. Local authority in-house services monitor using cases and people as the basic units of analysis. This contrasts with CABx use of issues as the main reporting unit.
45. There was little recording of case-level outcomes mentioned for monitoring, apart from measures of income gained for welfare benefits cases and debt written off, or under management, for debt-related cases. A variety of means of directing external resource are used – from target setting to performance reviews to specification of inputs (e.g. when and where to provide services).

Partnership, referral and the advice landscape

46. Local authorities engage with other funders and external providers of advice services to different extents, depending on the complexity of the advice landscape. The partnerships vary in terms of formality and how wide or narrow the remit of any partnership is, although there are always links to external services beyond receipt of monitoring data, such as the provision of training, or support to gain SNSIAP accreditation. Some local authorities reported that income maximisation advice services were linked to Single Outcome Agreements and Community Planning, most commonly for anti-poverty strands. Whilst local authorities are engaged in strategic planning and co-ordination of the income maximisation advice services they fund and provide, consumer advice and trading standards tend to be outwith those structures.
47. Local authority funders reported little awareness of legal aid funded services in their area and saw little need to use or take account of the availability of legally aided private sector solicitor services, apart from as a resource in welfare benefits cases where medical evidence was needed. Authorities with law centres in their area did understand that law centres also have access to legal aid funding but did not routinely take that into account when setting budgets or targeting services.
48. There are various instances of good joint working within local authority areas both at provider level with services participating in joint forums and between funders, but only a few projects have covered more than one authority. However, there is little evidence of robust referral systems covering all areas of law and being used by all parties, despite local authorities encouraging referral to the most appropriate local service to deal with specific advice needs– with a few seeking referral arrangements and protocols as part of the grant or contracting process.
49. While there was evidence of support for improved referral within local authority areas, there was little appetite detected for the kind of needs-based planning and co-

ordination process trialled in 2003¹³, using population surveys and mapping of supply to inform the development of an action plan: partly this may have been due to the lack of a clear forward plan at the time of interview. For example, the interviewers being unable to commit that funding would be available to either support the process itself, or take forward any actions or service developments identified.

¹³ The pilot partnerships brought together funders and stakeholders in four council areas, along with a national thematic partnership. These partnerships used the results of population surveys to understand the legal advice needs of people in their area, comparing these results to their understanding of local advice services to develop an advice strategy. Evaluation of the Community Legal Service Pilot Partnerships (<http://www.scotland.gov.uk/Resource/Doc/47060/0029583.pdf>); Assessing Need for Legal Advice in Scotland - Overview Report (<http://www.scotland.gov.uk/Publications/2004/05/19407/37780>)

Scottish Legal Aid Board

Overview of funding and direct provision of advice

50. SLAB funds and provides advice and representation services in three main ways: through case-by-case judicare spending; by directly employing solicitors; and via grant funding.
51. SLAB's main expenditure is on demand-led, case-by-case provision that is not targeted by the funder either by problem type or by geography. Judicare is a system of funding cases whereby solicitors in private practice or law centres handle work funded by SLAB. In order to access advice and representation funded by judicare, a person experiencing a problem must find a solicitor willing to act under the legal assistance system and be eligible. Solicitors are paid on the basis of the work they have undertaken which was necessary to the case. The legal aid fund is the single largest investment in advice and representation, although the scale of expenditure varies by area of law.
52. At the national level there has been a general increase in civil legal assistance applications and intimations since the economic downturn in 2008/09, with a peak in 2009/10 followed by a levelling off in the years to 2012/13. The number of solicitor firms registered to provide civil legal assistance stood at 674 at the end of 2012/13, the highest number since 2007.
53. Judicare spend on types of legal problems is not subject to an annual budget but is dependent on solicitors providing legal advice to people who qualify for assistance. SLAB undertakes a fund forecast that models expenditure based on previous trends and known changes coming into effect over future years. This has been reviewed by Scottish Government economists and found to be robust. The provision for net fund expenditure overall, including criminal, civil and children's legal aid is due to fall from £150.2 in 2011/12 to £131 million by 2014/15. The table below excludes VAT to make it comparable in scale with other publicly funded services, where VAT is not paid.

Total civil legal assistance judicare expenditure (2012/13)

	Total gross expenditure (excluding VAT)	Proportion of spend
Benefits and tax credits	£1,438,000	3%
Compensation and damages	£5,386,000	10%
Complaints and claims against professions	£573,000	1%
Consumer problems	£311,000	1%
Death related matters	£144,000	0%
Debt, money and tax	£669,000	1%
Discrimination and human rights	£23,000	0%
Education	£26,000	0%
Employment	£459,000	1%
Family and relationship matters	£25,161,000	48%
Protective orders	£1,532,000	3%
Housing and homelessness	£1,116,000	2%
Immigration and nationality	£4,661,000	9%
Mental health welfare and adults with incapacity	£4,951,000	9%
Other	£6,159,000	12%
Total	£52,609,000	100%

54. Judicare spend does not greatly overlap with local authority spend. In 2012/13 6% of spend was on advice and representation for welfare benefits, debt, money and housing issues.

55. In addition SLAB funds directly employed solicitors (£1.2 million in 2012/13) and grant funding (£2.2 million in 2012/13) which again equates to around 6% of overall fund expenditure¹⁴. SLAB's targeted provision is mainly focussed on welfare benefits and housing debt, although parts of the Civil Legal Assistance Office (CLAO) network undertake a wider range of cases, including family law.

Allocation of funding and links to strategic frameworks

56. Judicare legal aid is in theory available across the full range of problem types and not targeted on any one issue, and we might therefore expect it to mirror patterns of problem experience more closely than targeted funders' allocation profile. However, the profile of spend overall as compared to the results of the 2010/11 civil module demonstrates that the untargeted case-by-case legal aid system does not map neatly onto the measures of need for advice that we have. In particular, the predominance of family matters is at odds with the patterns of need.

57. SLAB's on-going analysis of the data on levels of applications concludes that the pattern of demand is influenced by solicitor behaviour, focussing on different areas of work, as opposed to the pattern being a straight reflection of need for advice or representation. In other words, patterns of legal aid expenditure reflect the areas of need solicitors are best able or most willing to address, rather than the balance of

¹⁴ The [Making Advice Work grant funding programme](#) involves the allocation of an additional £7.73 million over the period from 7th May 2013 to 31st March 2015. This brings together funding from a range of Scottish Government directorates with an allocation from the Money Advice Service.

needs itself: many of the areas of need that appear under-represented in the judicare legal aid figures are those that either are not traditionally handled by most solicitors or in relation to which other sources of advice maybe more available or appropriate. An example is that, at the moment, legal aid for benefits work is overwhelmingly concentrated in Glasgow and Dundee and associated with the activity of a small number of law centres, whereas the expectation is that the need for this advice is widespread across the country. Furthermore, the biggest increase in applications over the period since 2007/08 has been in family and relationship matters rather than what might be the expected issues¹⁵. This probably both reflects an increase in need for family law assistance, but also effect of recession on solicitors' firms: as private fee work reduced, capacity was freed up to meet both pre-existing and emerging need under civil legal assistance.

58. SLAB considers that the strengths of the judicare system are that it provides a very wide range of access points across the country, covering the whole range of civil areas of law and it is able to respond quickly to shifts in need. The weakness of the system is that it is not consistently available: solicitors may, for whatever reason, decide not to take on a particular case or class of cases and in some areas of law or geography this may result in an inconsistent or inadequate availability of solicitor services.
59. In the past, SLAB has identified potential gaps in the provision of legally aided solicitor services in Aberdeen, Aberdeenshire and the Lothians for specific areas of law through analysis of data on applications, in combination with other evidence on need for advice and the availability of other publicly funded provision. We consider that the need for legally aided solicitor services in these areas is now being substantially met, following the set up of CLAO services.
60. The legislation underpinning SLAB's grant funding role provides that priorities for SLAB's targeted services are defined by the Scottish Government, as is the upper limit on expenditure from the Legal Aid Fund for these purposes. These plans can be amended by Ministers at any point. The current grant funding programme includes funds from the Money Advice Service, which has also set out its priorities. The priorities for SLAB's directly employed solicitor services are also set by the Scottish Government.
61. The current allocation to projects is fixed over a three year period. Grants fund a mix of lay and solicitor services to provide services mainly around debt and housing repossession. The services funded include representation at court where appropriate. As part of the grant agreement, solicitor posts funded by the grant cannot access civil legal assistance for project clients. SLAB relies on information provided by applicants to demonstrate the need for a particular project.

¹⁵ The Consequences of Rights Problems that Characterise Recession. London: Legal Services Research Centre (2009)

62. Some funding decisions (including our grant funding programme) can *supplant* civil legal assistance provided by judicare and allow some people access to solicitor services where they might not otherwise be eligible to do so. This is considered appropriate as far as SLAB's own grant funded programme is concerned, as a clear policy underpinning has been established for the provision of these services to the public (not just those eligible for civil legal assistance) in relation to specific identified needs. In addition, the costs of grant funded provision are capped, unlike the judicare element of the legal aid fund.

Monitoring and quality standards

63. Grant funded projects are monitored on information related to casework matters and people helped, along with outcome measures at a project and programme level. For judicare, SLAB records some basic outcome data for civil legal aid cases – won, lost or “disposed”. There are issues around classifying whether a case has been won or lost where, for example, a negotiated settlement on child contact means that one overnight stay has been given up for contact at weekends. There is no tracking for outcomes for advice and assistance.
64. SLAB collects and analyses detailed information across both case-by-case legal aid and targeted funding in relation to trends in applications and expenditure, including monitoring of changes in the subject areas for which judicare is being used.
65. SLAB provides advice to the Scottish Government on the operation of the legal aid scheme, including on ways to reduce expenditure whilst safeguarding access to justice. For example, recent best value reviews of mental health (for those who become subject to the terms of the Mental Health (Care and Treatment) Act 2003) and immigration & asylum¹⁶ recommended that travel fees be reduced. In relation to mental health, this has resulted in a boost to local provision but no overall reduction in the level of access to services for individuals. SLAB monitors the impact of changes in regulations on access to judicare services. SLAB also has a statutory duty to monitor the accessibility and availability of legal services, which takes into account the wider advice landscape.
66. Solicitor services are quality assured on a different basis to lay advice, as it is the individual who is accredited, rather than the organisation. Case file review forms a part of the quality assurance process for legally aided work. The CLAO is subject to a bespoke internal quality regime. Grant funded services are encouraged to take up accreditation to the SNSIAP to an appropriate level as part of the application and award process.

¹⁶ More information on these, and other reviews, can be found at <http://www.slab.org.uk/providers/reforms/>

Partnership, referral and the advice landscape

67. Under SLAB's grant funding programmes, projects are monitored on the number of matters referred out and those referred into the project. Projects are encouraged to make links with other advice providers or other potential sources of referrals.
68. The CLAO network of directly employed solicitor services aims to enhance and complement existing legally aided judicare provision rather than compete with it. The CLAO network has adopted a triage approach, assessing whether people – who may contact the CLAO directly or on referral from solicitors or advice agencies - need the services of a solicitor or if an advice agency is more appropriate. Where possible, solicitor casework is routed to firms in private practice with the CLAO taking on casework where this is not possible.
69. Whilst interviewees at SLAB were interested in better planned and co-ordinated services, and they seek to integrate the CLAO and grant funded projects with other services, the bulk of SLAB's funding, by way of judicare, is not currently readily amenable to joining up in this way.

Overall issues and recommendations

70. We have grouped the issues and recommendations under four headings that reflect the priorities set out in the Scottish Government's response to the Christie Commission and take account of the purpose of the Strategic Planning and Co-ordination of PFLA sub-project, the Review of a Strategic Approach to Planning and Co-ordination of PFLA (Tripartite paper)¹⁷ and the Scottish Government's policy direction on legal aid.¹⁸

Greater integration of public services at a local level driven by better partnership, collaboration and effective local delivery

71. The aim of the sub-project to which this report is being made is to improve planning and co-ordination of PFLA, both the funding and delivery of services. A key aspect of this is transparent prioritisation of resources that focus on resolving the problems experienced by people, playing to the strengths of different delivery partners, whether they are in the third, public or private sector.

72. The mix of funding from local and central government is currently unplanned. The overview of expenditure on different areas of law raises some issues, in terms of how the investment in advice and representation fits with the measures of need that we have from the civil module of the Scottish Crime and Justice Survey and how central and local funding complement each other. In line with the Tripartite paper, we therefore recommend that the Scottish Government, local government and SLAB continue to work together to improve how funds can be directed to best effect.

73. This would be informed by the drafting of guidance which we recommend developing as part of the drive towards greater integration of public services. Guidance would be aimed at central funders of advice and representation services by way of grant or contract (judicare is covered in paragraph 75). This would include what issues to consider in terms of: sources of evidence to identify unmet need for advice; which funder(s) to consult on different areas of law; not duplicating current provision, but adding value; avoiding double funding of services; how to encourage partnership working; being aligned with local and national plans; and the role of legal aid alongside grant funding for solicitor projects. This guidance would complement the work of the Improvement Service, who are planning to develop a framework for local authority funders¹⁹.

74. Central government grant funding can have a role where advice is seen as an effective response to a national concern. Grant funding can promote partnership working by encouraging advice providers to collaborate on applications that focus on the needs of the people experiencing specific types of problems. Where a specific group of providers is the recipient of funding to the exclusion of others, whether in the

¹⁷ Review of a Strategic Approach to Planning and Co-ordination of PFLA (2010), COSLA / Scottish Government / SLAB, unpublished

¹⁸ A Sustainable Future for Legal Aid (<http://www.scotland.gov.uk/Publications/2011/10/04161029/0>)

¹⁹ Improving Outcomes in Money Advice Project, run by the Improvement Service with funding from the Money Advice Service (<http://www.improvementservice.org.uk/improving-outcomes-in-money-advice/>)

public, private or third sector, there is no imperative for different sectors to work together. In order to facilitate integration of PFLA, we recommend that all new rounds of centrally distributed grant funding for direct delivery of advice should focus on the resolution and avoidance of specific types of problems and not be directed at a particular provider group.

75. Judicare provision has many strengths, but is difficult to include in planning of PFLA as firms can choose, for whatever reason, not to take on a particular case. We recommend that SLAB and Scottish Government explore the possibility of better linking centrally funded advice and representation with local services through community planning partnership (CPP) structures, promoting how justice services can contribute to CPP objectives. This would be in respect of all areas of law, with a view to linking up funding and promoting the integration and co-ordination of services, especially where there may be links to non-advice services.²⁰

Focus on improving performance, through greater transparency, innovation and use of digital technology

76. There are a number of ways in which PFLA services are measured and valued. A key gap recognised by participants in the research was in the ability to define and gather data on outcomes at the service level, or to fully relate them to the Scottish Government's national outcomes. Consistent and comparable information on PFLA activity was similarly difficult to gather. These are important gaps. Funders find it difficult to compare the value for money of different service providers as they generally do not have consistent measures of outcomes or activity that encompass all relevant aspects of a service against which to compare different levels of resource input.
77. We recommend developing case-level outcomes, with an initial focus on welfare benefits and family law disputes. These should include both hard outcomes and soft outcomes, including the justice outcomes noted above. Examples from the housing options approach that we encountered included: as a hard outcome, whether a client presented as homeless within 6 months of advice being given; as a soft outcome, a client reporting that they felt more able to manage their housing situation. SLAB's Making Advice Work grant funding programme²¹ gives an opportunity to trial the use of case-level outcome measures for welfare benefits.
78. In relation to activity data, we recommend developing a shared monitoring framework as part of the guidance recommended in paragraph 73 that defines and consistently collects information, including on areas of law, volumes of cases, repeat clients and measures of service capacity, such as waiting times for appointments.

²⁰ A recent example is the Start the Conversation: Power of Attorney campaign which aims to reduce delayed discharge from hospital by encouraging the public to put arrangements for a power of attorney in place. (<http://www.poastarttheconversation.org.uk/>)

²¹ Details can be found here (<http://www.slab.org.uk/providers/advice/grant-funding/>)

79. Local authorities are interested in, and seeking to develop, online advice, information and signposting or referral tools. We recommend that the Scottish Government takes this into account as part of the development of the Justice Digital Strategy.²²

Shift towards prevention

80. In the context of PFLA, where a problem has already occurred, the focus of prevention is on: early intervention to stop a problem escalating; resolving a problem 'informally' (i.e. without court or tribunal action), and; preventing problems recurring. All of these are consistent with the benefits set out for the Making Justice Work programme²³ and should result in better outcomes for people and lower demand and costs for services. However, the ability to shift towards prevention for PFLA will vary by area of law, and by specific problem type within areas of law.

81. Prevention should improve outcomes for individuals, but a focus on early and informal resolution may lead to people being dissuaded from pursuing a legitimate claim. In the field of law-related issues it is appropriate to focus on just process and outcomes, with people recognising and being able to uphold their rights, as reflected by the Scottish Government's national outcome for communities²⁴. We recommend that SLAB, along with stakeholders, seek to develop justice outcomes, as part of a suite of outcomes that could be used by funders and organisations, which can be applied as a measure of success across all advice and representation services. This would help to retain a focus on the specific justice aspect of problem resolution, for example around participating effectively and viewing the process as fair and achieving a fair result.

82. Investment in advice by way of grant or contract is based on a fixed resource being allocated to meet demand or need. Under that structure, there should be an incentive to prevent problems escalating and to resolve them informally – as more complex problems demand more intensive interventions. We recommend that stakeholders are brought together, including those outwith the justice system, for an identified priority area of law, to look at what a preventative approach would look like and how the drivers for justice-related problems could be managed. This should begin with family law issues, as the largest single item of expenditure on PFLA.

83. Under judicare, the payment system is based on a combination of inputs and outputs and is higher for court work. SLAB and Scottish Government have successfully put in place a number of measures to control costs whilst safeguarding access to justice, but we recommend that they further review the

²² The strategy should also take account of the findings and recommendations of "Facing Up to Legal Problems", 2012, Consumer Focus Scotland

(<http://www.consumerfocus.org.uk/scotland/publications/facing-up-to-legal-problems-towards-a-preventative-approach-to-addressing-disputes-and-their-impact-on-individuals-and-society>)

²³ Making Justice Work programme webpage <http://www.scotland.gov.uk/Topics/Justice/legal/mjw>

²⁴ We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others

(<http://www.scotland.gov.uk/About/Performance/scotPerforms/outcomes/communities>)

structure of civil legal assistance to encourage informal and early resolution of problems and disputes. This should begin with family law issues, as the largest single item of expenditure on PFLA.

Greater investment in the people who deliver services through enhanced workforce development and effective leadership

84. As this landscape review shows, the PFLA workforce is fragmented across a number of sectors and organisations. This leads to a number of different cultures in relation to service delivery and varying skill sets that are subject to their own quality regimes. Whilst all sectors aim to resolve people's problems, they do so in different ways.
85. Few concerns were expressed by interviewees over quality of services and the training that could be accessed to provide staff with the necessary skills. Interviewees did suggest that there were challenges in better co-ordinating services, including where there was a drive to improve this through competitive grants or contracting arrangements, whether at national or local level.
86. The SNSIAP had a high degree of recognition amongst interviewees. Alongside assuring the quality of casework, they can help to build trust and effective referrals by providing a common basis for understanding what types of problems, in which areas of law, can be dealt with by different bodies. We recommend that the Scottish Government continues to support the uptake of the SNSIAP.
87. Those working in the consumer advice field adhered to a different set of standards, the Consumer Quality Mark. We recommend that the Scottish Government explores whether and how the Consumer Quality Mark could be centrally supported, for example through ensuring comparability to the SNSIAP.
88. Referral arrangements were considered to be difficult to operate due to a lack of trust between sectors or organisations that operate in the same area of law. This can be exacerbated where organisations can be keen to demonstrate to funders that they are busy and that they can deal with all types of problems. We recommend undertaking research to develop our understanding of the full range of issues around referral between organisations working in the same area of law, in order to better formulate a response.
89. Services that are free to the user are concerned about referral to judicare services, due to concerns over both cost and the way in which solicitors approach cases. The Christie Commission recommended a focus on workforce development and especially training across sectors to break down silos and to build a common ethos. We recommend that opportunities for joint training are explored that focus on building trust between sectors and developing a referral

culture, including non-advice services alongside different sectors involved in delivering PFLA²⁵.

90. Furthermore, solicitor services in receipt of public funds are quality assured on a different basis to other PFLA. The current peer review audit arrangements provide for assurance on standards of casework, but do not cover other areas such as whether a particular provider can help with a specific type of problem. Enhancing understanding and recognition of quality assurance arrangements can assist in promoting planning, co-ordination and referral. We recommend that quality assurance arrangements for services provided by solicitors under legal aid should be examined.

²⁵ For example, the CLAO have been involved in organising events that bring together various stakeholders in the field of mental health and the law; “CLAO training days: Mental health & the law - the system, stigma and jargon” (<http://www.slab.org.uk/about-us/what-we-do/research/stakeholder/>)

Appendix 1: Research objectives and questions

Aim and objectives

The aim of the work is to aid planning for taking forward Making Justice Work sub-project 3.1, with a scope focussed on public funding of legal assistance.

The objectives are to:

- improve our understanding of public funding of legal assistance
- provide information relating to multiple funding streams or lack of funding streams aimed at areas of law or geography
- establish a baseline position against which to measure change
- raise awareness and identify key contacts across public funders for the sub-project.

Objectives and themes

The objectives and thematic questions set out below were proposed to the MJW 3 project board in May 2012 to form the basis for the semi-structured meetings with contacts. These will contribute directly to the planning and delivery of the next phase of activity for MJW Project 3.1.

Improve understanding of public funding

These questions seek to develop our knowledge on the current shape of funding PFLA across Scotland. This will aid project planning for longer term timescales where we are seeking to influence how public funds are allocated.

How much funding is allocated?²⁶

Which organisations receive funding?

What is the funding aiming to achieve?

What broad kind of activity is being funded?

- direct advice provision to the public by solicitors or lay advisers
- second tier advice for advisers or solicitors
- advice-related infrastructure such as
 - training for advisers or solicitors
 - information resources for the public or for advisers
 - data collection, referral or case management systems
 - quality standards

What is the total resource, including in-house where appropriate?

Which departments are responsible for which services?

How is funding currently allocated?

- For example, via grant, case-by-case, contracting...
- Are the current funding mechanisms felt to work well?

Timing for planning and length of funding arrangements currently in place?

- What are the planning and budget cycles for advice provision?
 - How long do funding packages last?
 - When are overall spending levels reassessed?
 - How often are funding arrangements reviewed?
 - What are the future plans for funding- continuing? To be stopped?

How sustainable is the funding felt to be?

Is any evaluation conducted to assess the impact/ outcome of funding?

²⁶ See “Risks, challenges and limitations” section below for discussion of this issue

Provide information relating to multiple funding streams or lack of funding streams aimed at areas of law or geography

These questions will provide some high level information on the way in which different funding streams provide coverage across areas of law and geography. Responses to these questions could shape both short and long term project planning decisions on priority areas for action.

What Type of service is being funded? (Using Scottish National Standards for Information and Advice Provision Type I, II, III breakdown)

Fully probe on areas of law for which funding is provided

Fully probe on geographic area covered by service funded / funding

Establish a baseline position against which to measure change

These questions will help to plan the next steps in development of capacity for change and improvement, as well as provide a baseline against which to measure the extent that MJW sub-project 3.1 has improved that capacity.

What does the organisation expect in return for funding?

- Are referrals or other co-operative activities part of contract requirements?
- Does the organisation require providers to meet certain quality standards?

Is a partnership of advice organisations extant?

- Remit and organisations involved?

[For councils only: Is there one point of contact for advice seekers at the local authority?]

How are funded organisations or the council providing services (e.g. online, phone, face-to-face)?

What links do they have with other funders or a group involving them as funder with providers?

What examples of innovation or good practice are there?

- How is good practice shared?

What monitoring and evaluation processes are in place? (Are these consistent across departments within a funding organisation?)

Raise awareness of the drive for a more strategic approach to funding and identify key contacts across public funders for MJW Project 3

As we envisage that there will be multiple contacts across most funding organisations, these kinds of questions will help to both gauge and stimulate interest in the strategic approach to be developed and implemented via MJW sub-project 3.1 and provide key contacts for ongoing development and implementation of such a planned and coordinated approach to funding.

Needs based planning – knowledge / understanding of this kind of work?

- Is need assessed to aid planning?
 - What form has this needs assessment taken?
 - Has there been a best value review?
 - Would they be interested in being involved in planning work?
 - What support would they need?
- How does the local authority / department plan advice provision?
 - If not need, are patterns of demand or other data sources used?

- What information would help them to make better decisions?
 - What are the key drivers for allocation of resource?
 - How do they cope with changes in demand?
- What is the view of any areas of law over-represented in funding provision?
- What impression is there of any gaps?
- What impression is there of any geographical over/ under provision?

Appendix 2: Enabling Access to Justice Project purpose and objectives

Civil problems and disputes have adverse consequences for people, affecting their confidence, financial situation and health. The resolution or avoidance of these problems improves people's lives.

We know that a substantial minority of people do not attempt to resolve their problem. We also know that those who try to seek advice and fail are more likely to give up trying to resolve their problem than those who successfully obtain advice.

Research consistently shows that area of law is the most important factor in whether and how people try to resolve their civil problems and disputes.

Whilst demographic or socio-economic factors impact on the prevalence and clustering of civil problems, they are far less significant than area of law in explaining the ways in which people react to the problems they experience.

The focus on resolution or avoidance of civil problems, based on this understanding of the research evidence, underpins the approach taken in this project.

The Project purpose is:

To develop a sustainable system for access to justice focused on early intervention which will support and empower people to avoid or resolve informally disputes and problems wherever possible and enable access to appropriate and proportionate assistance and to a range of methods of dispute resolution, including courts, tribunals and appropriate alternatives.

The Project seeks to deliver the following objectives:

- Develop a co-ordinated, high quality and sustainable system of access to justice focussed on early intervention where public resources are transparently prioritised to maximise the delivery of the programme benefits.
- To review and, where necessary, improve, develop or put in place arrangements for indirect assistance that support and empower people to *avoid* disputes/problems without the need for direct assistance
- To review and, where necessary, improve, develop or put in place arrangements for indirect assistance that support and empower people to *resolve* disputes/problems early and informally without the need for direct assistance
- To review and, where necessary, improve, develop or put in place arrangements that enable people to access direct assistance with a view to achieving early, informal resolution of problems, where possible, and avoiding future problems
- To review and, where necessary, improve, develop or put in place arrangements that support and empower people to use a range of formal dispute resolution mechanisms, with direct or indirect assistance where appropriate and proportionate
- To enable access to alternative forms of dispute resolution where appropriate and proportionate.