Department for Constitutional Affairs

The Independent Review of the Community Legal Service

April 2004
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Preface

David Lammy MP
Minister with responsibility for the Community Legal Service

In the three years following its introduction the Community Legal Service (CLS) has done much to change the landscape of publicly funded advice. I am therefore very pleased that this review recognises the progress that has already been made.

There are many significant achievements to celebrate. These include the success of the CLS Partnerships in bringing together funders and providers of legal and advice services for the first time, and the innovative way in which the CLS Quality Mark has established a benchmark standard across the sector.

This report, prepared independently by Matrix Research and Consultancy, offers an important opportunity to make the CLS even better by enabling us to build on the strong foundations that are currently in place. The Department for Constitutional Affairs is fully committed to considering all the findings and recommendations of the review with its partners, before deciding how best to take the CLS forward over the next few years.

I would like to thank everyone who assisted in the production of this report and in particular, the members of the steering group who helped to guide the process.
Acknowledgements

The review team wishes to thank all those who participated and assisted with the Review. We are very grateful to the individuals who made themselves available for interview or to attend a focus group, the Review’s steering group and all those that enabled the facilitation of the Review. In particularly we wish to acknowledge the assistance of the staff at the LSC regional offices, Robert Gill and Peter Scudamore from the Department for Constitutional Affairs and the members of the steering group who provided additional support, these being: Richard Jenner, Ann Lewis and Adam Griffith from the Advice Services Alliance; Gary Barker from the Law Society; Teresa Perchard from the National Association of Citizens’ Advice Bureaux; and Martin South and Roger Hamilton from the Legal Services Commission.
1.0 Executive summary

The Independent Review of the Community Legal Service (CLS) has been undertaken by Matrix Research and Consultancy, in consortium with Sheffield University and advised by Richard Moorhead of Cardiff Law School, Cardiff University.

1.1 The Community Legal Service (CLS)

The Community Legal Service was established under the Access to Justice Act 1999 and was launched in April 2000 to improve access to legal and advice services in England and Wales. The CLS built on previous legal aid legislation by introducing a tougher approach to supplier – funder relationships, aimed at controlling expenditure, prioritising services and refining quality assurance approaches through the introduction of the Quality Mark. The establishment of the CLS also heralded the creation of Community Legal Service Partnerships (CLSPs) to develop co-ordination between funders and suppliers at a local level to encourage a more seamless provision of advice and information. Other innovative mechanisms developed to increase access to information and advice include the development of a national directory of service providers, which is hosted by the Just Ask! website, and can be accessed via a telephone helpline. The piloting of alternative and innovative approaches to improve the delivery of publicly funded legal and advice services, in terms of both public access and quality, has been undertaken through the methods of delivery pilots scheme, and the Partnership Initiative Budget (PIB) also funds a range of innovative initiatives to improve access to information and advice.

The overall aim of the CLS is “improving justice and access to justice and promoting people’s rights … through ensuring that legal advice is readily available for those that most need it”. The focus of the CLS is on meeting the type of legal needs that most affect people’s lives, in particular providing advice and help on problems in social welfare categories of law. The key aim of the CLS thus focuses on delivery of appropriate legal services to disadvantaged individuals and groups. Our yardstick by which to evaluate the CLS is hence whether each of its structures and activities facilitate and support that delivery.

1.2 The Review methodology

The Review commenced in September 2003 and took place over seven months. There were several strands to the Review, including:

- the collation of baseline data on all CLSPs;
- a detailed questionnaire sent to a range of members of a sample of CLSPs;
- in depth interviews with members from 12 case study CLSPs;
- a questionnaire to all providers within the 12 case study CLSPs;
- focus groups with users within the case study CLSPs; and
- interviews held with a range of national and regional stakeholders.

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1 From here on referred to as ‘the Review’.
2 Lord Falconer’s speech to the City of London Citizens’ Advice Bureau Annual Public Meeting 2004.
In the process of undertaking this review we have been impressed with the progress made in establishing and developing the CLS over the last three years. Many of the challenges that we have identified as facing the CLS are already known to different stakeholders and there is much work already underway to address them. We believe that the recommendations set out in this Review will aid the process.

1.3 Recommendations

In order to drive forward the agenda for the CLS, the Review identified five key overarching areas for development. Set out below are a summary of the research evidence, the identification of an overarching area for development that the evidence highlighted, and recommendations to enable the CLS to address the issues raised.

1.3.1 Clarifying the aims and functions of the CLS

The research evidence suggests that there is currently a lack of overall accountability for the CLS and no clear dedicated leader driving change within the CLS. This has meant that the agenda for the CLS is not sufficiently clear. The Review has illustrated that there is a need to define the role and strategy for the CLS, clarifying its role in tackling social exclusion and establishing performance management systems to enable delivery. This prioritisation needs to take place within the Department for Constitutional Affairs (DCA) and the LSC, as well as with other stakeholders, especially local authorities. We recommend that measures should be taken to:

| Clarify and make more transparent the aims and function of the CLS, both internally and to external service providers and stakeholders. |

Within this broad aim we have set out recommendations covering three areas:

- Establishing structures to make the aims and functioning of the CLS more transparent;
- Establishing processes to make the aims and functioning of the CLS more transparent; and
- Developing a more robust system to performance manage the new regime.

Specific recommendations to establish structures and processes to make the aims and functioning of the CLS more transparent are set out below:

- Create an Executive Director of the CLS.
- Create an independent CLS Programme Board.
- Create a three-year strategy for the CLS.
- As part of developing a strategy for the CLS, develop a clearer ‘mission statement’ for the CLS.
- Consolidate and develop existing performance management by building upon the methodology used in this review.
- Establish clear linkages between national outcome targets (such as Public Service Agreement (PSA) 6) and the provision of local services.
1.3.2 Establishing the evidence base for the CLS

The Review has highlighted the need to establish a clear evidence base to demonstrate that the CLS delivers effective and cost-effective advice provision. What is specifically lacking is evidence identifying the extent to which advice and legal services contribute to the reduction of social exclusion as well as its contribution to other social policy objectives. Such an evidence base should make a conclusive case for the CLS’s role in tackling the social exclusion agenda, enable the prioritisation of funding and encourage the future development of evidence based advice interventions. Hence we recommend that measures are undertaken to:

Create a means by which different forms of service provision can be evaluated effectively, with minimal imposition on service providers, and best practice be disseminated.

Recommendations made by the review team to develop this are:

- The DCA and/or LSC to commission a number of properly evaluated demonstration projects to show the impact of different types of general and specialist advice and the most effective and cost-effective methods of provision.
- The DCA and/or the LSC to commission a research programme to clarify the links between advice and social exclusion and the protection of fundamental rights.

1.3.3 Developing funding streams and procedures

The Review has identified a number of problems with the way in which services within the CLS are funded and managed. At national level, the CLS budget appears vulnerable to policy changes, particularly those made by other government departments, with the civil legal budget being eroded by the increasing demands of the criminal legal services agenda in particular. At delivery level, both the contracting and the quality assurance systems that the providers have to negotiate are seemingly overly complex, burdensome, costly and bureaucratic. The Review has identified the need to develop ways in which the impact of legislative change can be managed more effectively and that there is scope to simplify the contracting arrangements and develop a more distinct focus on the quality of services provided. The review team therefore recommends that measures are undertaken to:

Ensure that national funding streams and procedures are relevant to need and are both sufficient and flexible to meet changing demand.

Recommendations made by the review team to develop this are:

- Protect the CLS budget.
- The LSC to undertake a regular and comprehensive supply and demand modelling exercise to inform the provision of services at a regional and subregional level.
- The DCA to undertake more robust legislative impact analysis and seek an undertaking from either the Treasury or other government departments that the DCA’s budget will increase by the amount necessary to meet increased demand due to new legislation.
Change the contractual basis of for profit and not for profit contracting to achieve a better focus between outputs and outcomes by the contracted basis for both being based on a Service Level Agreement.

The LSC to pilot the commissioning of consortia of local providers to provide a ‘one stop shop’ for the provision of all early prevention, advice and publicly funded legal provision in a subregional area.

1.3.4 Ensuring Quality

At delivery level, the research evidence suggests that, although the Quality Mark is generally understood to be useful for providers of advice and information, there is scope to simplify the Quality Mark and develop quality assurance processes which place greater emphasis on the quality of advice provided. We therefore recommend that measures should be undertaken to:

Create means by which different forms of service provision can be monitored for quality, with minimal imposition for providers.

Recommendations made by the review team to develop this are:

- Simplify the Quality Mark.
- ‘Slim down’ inspection process for both the Quality Mark and contract cost compliance with a ‘light touch’ for good providers.
- Continue with the introduction of alternative means of monitoring the quality of services delivered using methods such as peer review and ‘mystery shoppers’.

1.3.5 Translating the CLS aims into local provision

The CLS needs to develop means through which the aims of the CLS are reflected in local provision of information and advice. The Review identified that, currently, there is a dislocation between needs analysis and its translation into funding. CLSPs have been charged with identifying need and developing strategies to address need, but have not been able to access any significant new funding for unmet or unprioritised need. The initial enthusiasm for the new CLSPs has diminished and CLSP members are leaving the partnerships. The Review has highlighted the need to reconsider the means by which the aims of the CLS and the concerns regarding unmet need and oversupply are addressed at a local level. Hence, recommendations are made to:

Develop the most effective means by which the aims of the CLS can be translated into good service provision at the local level, taking into account local needs. This implies that needs analysis, development of service provision, and funding streams should be interrelated.

Within this broad aim we have set out recommendations covering three areas:

- reform of CLSPs;
- new approaches to the commissioning of local services; and
- ways to improve access and referral.
Specific recommendations to address in these areas are:

- Undertake a two stage programme to refocus the activity of CLSPs in the short term and place them on a statutory footing in the longer term.
- The LSC to undertake a pilot for the introduction of a salaried element into the CLS.
- The LSC to create a ‘development fund’ specifically targeted at pump-priming new or innovative services to address unevenness in provision of advice and information services (either geographical or thematic).
- Development of more ‘front-line’ triage-style services to act as an initial access point for eligibility and signposting.
- Pilot a case management system, with an experienced practitioner assessing the client’s multiple needs and then helping the client to achieve a holistic solution via access to different relevant services.

The remainder of this report presents the detailed analyses that led to the development of these recommendations, as well as more detailed descriptions of the recommendations themselves. Appendices setting out in further detail the supporting evidence have also been produced and are available from the Department for Constitutional Affairs.
2.0 Introduction

A ministerial commitment was made to commission an Independent Review of the Community Legal Service (CLS) following three years of active operation to ascertain whether the CLS is achieving its stated aims. Matrix Research and Consultancy, in consortium with Sheffield University and advised by Richard Moorhead of Cardiff Law School, Cardiff University was appointed by the Department for Constitutional Affairs (DCA) in September 2003 to undertake this Review.

The broad aims of the Review were:

- to assess the impact of the CLS in meeting legal need in its delivery of legal advice and guidance; and
- to ascertain whether the processes and structures in place enable the delivery of effective and appropriate high quality and timely legal advice and guidance which is accessible to all those who need it.

The Review commenced in September 2003 and took place over seven months, allowing a sufficient period of time during which evidence for the Review could be gathered. There were several strands to the Review, including the collation of baseline data on all CLSPs, a detailed questionnaire sent to a range of members from 50 CLSPs, in depth interviews with members from 12 case study CLSPs, a questionnaire to all providers within the 12 case study CLSPs, and focus groups and telephone interviews with users who reside within the case study CLSP areas. Interviews were also held with a range of national and regional stakeholders. The methodological approach is summarised in more detail in section 4.0, and a detailed description of the methodology can be found in Appendix E.

This report outlines and summarises the key findings from the Review and identifies recommendations to inform the future development of the Community Legal Service and the provision of publicly funded legal advice and information. The following section (section 3) of this report summarises the background to the Review, section 4 provides details of the methods used in undertaking the Review, section 5 outlines the findings from the Review and section 6 outlines the recommendations that have been drawn out of the Review. To illustrate the Review findings we have included interview quotes as well as case study and focus group vignettes. These illustrations form only part of the evidence on which the findings are based and we do not hold the assertions made to be accurate; rather they are indicative of the perceptions and views held by participants in the Review.

This document is accompanied by five appendices which provide more detailed accounts of the methods and findings from key phases of the Review. These are:

- Appendix A: analysis of information drawn from the CLSP case studies;

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3 The Independent Review of the Community Legal Service is part of a wider review of legal services that the DCA is undertaking to inform the future development of legal services. The Review of Demand, Supply and Purchasing Arrangements for Legal Services was undertaken by Frontier Economics and reported to the DCA in December 2003.
Appendix B: analysis of the National Baseline Questionnaire;
Appendix C: analysis of the questionnaire to members of 50 CLSPs;
Appendix D: analysis of the national, regional, case study and focus group interviews;
Appendix E: methods paper; and
Appendix F: research evidence against the research questions.
3.0 Background to the review

The Community Legal Service (CLS) was launched in April 2000 to improve access to legal and advice services in England and Wales. The overall aim of the CLS is “improving justice and access to justice and promoting people’s rights … through ensuring that legal advice is readily available for those that most need it.”\(^4\) The focus of the CLS is on meeting the type of legal needs that most affect people’s lives, in particular providing advice and help on problems in social welfare categories of law. The key aim of the CLS thus focuses on delivery of appropriate legal services to disadvantaged individuals and groups. Our yardstick by which to evaluate the CLS was hence whether each of its structures and activities facilitate and support the delivery of this aim.

The Community Legal Service was designed to overcome the problems of fragmentation and inconsistency within legal service provision, which had previously made it difficult for the public to access the information, advice and help they need when they have a legal problem. In launching the CLS the then Lord Chancellor’s Department (LCD) aimed to achieve the objectives of the Public Service Agreement (PSA), which had been identified as being relevant to it. The targets most relevant to this review are:

**PSA Target 3:** “Reduce the proportion of disputes which are resolved by resort to the courts.”

**PSA Target 4:** “To increase year on year the level of satisfaction of users by taking speedy, high quality decisions and reducing unnecessary delay and cost, and by ensuring that outcomes are enforced effectively.”

**PSA Target 6:** “Increase year on year the number of people receiving suitable assistance in priority areas of law involving fundamental rights or social exclusion.” This is very much seen by the DCA as the core PSA as it is the one most attributable to the success of the CLS.

The CLS established Community Legal Service Partnerships (CLSPs) to provide the framework for local networks of legal and advice services to be developed. CLSPs bring together the Legal Services Commission, local authorities, local solicitors’ firms, Citizens’ Advice Bureaux (CABx), law centres and other independent advice centres, and a range of other organisations and agencies. The CLSPs were given four primary tasks:

- to assess the extent of need in their local area for legal and advice services;
- to identify how well the current service provision meets the need in priority categories;
- to plan together how best to organise funding to meet priority needs more effectively; and
- to support the local networks and develop active referral systems between individual providers.

Underpinning the CLS is the Quality Mark, which demonstrates that the supplier of legal services can meet a certain standard for the type of service required. There are three Quality Mark standards: Information; General Help (and General Help with Casework); and Specialist

\(^4\) Lord Falconer’s speech to the City of London Citizens’ Advice Bureau Annual Public Meeting 2004.
Help\(^5\). Those organisations achieving Quality Marks are placed on the CLS directory and Just Ask! website\(^6\).

Importantly, the CLS reflects the belief that knowledge held by individuals regarding their rights, and the ability to exercise their rights, promotes confidence in the wider rule of law. The CLS is a mechanism by which existing rights can be clarified and new rights can be developed.

### 3.1 What was new about the Community Legal Service?

The Community Legal Service, a Labour Party 1997 manifesto commitment, was established under the Access to Justice Act 1999. The Act consisted of four related strands. Two aspects were essentially developments of existing policy.

The first of these was a tougher approach to supplier – funder relationships, aimed at controlling expenditure and prioritising services. Legal aid contracting was introduced to provide mechanisms for controlling the areas of law in which suppliers could work and the number of cases (matter starts) for which suppliers could secure public funding. This introduced, for the first time, a more sensitive means by which the LSC could direct funding at particular parts of the country and for particular types of law, assuming a supplier base willing to take on such contracts. Alongside this control mechanism the Legal Aid Board had begun, and the LSC continued, to develop a system of planning and prioritisation mechanisms, particularly statistical needs assessment models and Regional Legal Services Committees, through which strategies for planned delivery of legal aid services could be developed.

Contracting in the civil sphere has been accompanied by a marked shift in expenditure patterns away from civil representation (ie court cases) and towards legal help (advice and assistance).\(^7\) This is due, in part at least, to the removal of personal injury cases from the scheme, but it may also be evidence of a shift towards greater funding for areas of social welfare law more strongly associated with the fight against social exclusion. There have been increases in the number of contracts let in certain categories (public law; community care; actions against the police etc.; education; immigration; clinical negligence; and mental health)\(^8\) but reductions in others: family; welfare benefits; housing; debt; employment; personal injury; and consumer.\(^9\) As welfare benefits, debt and housing are numerically the most significant and are more closely associated with social exclusion, the overall picture does not support the view that contracting has refocused LSC funding by directing it towards social exclusion.

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\(^5\) Formerly LAFQAS (Legal Aid Franchise Quality Assurance Standard)

\(^6\) www.justask.org.uk


\(^8\) Source: LSC Annual reports. Percentage drop since March 2000, n= number of contracts in March 2003. public law 434%, n= 39; community care 231%, n= 62; actions against the police etc. 203%, n= 75; education 174%, n= 61; immigration 131%, n= 644; clinical negligence 118%, n= 295; mental health 106%, n= 355.

\(^9\) Source: LSC Annual reports. Percentage drop since March 2000, n= number of contracts in March 2003. family 85%, n= 3,566; welfare benefits 83%, n= 556; housing 80%, n= 662; debt 77%, n= 475; employment 72%, n= 288; personal injury 59%, n= 1,368; consumer 49%, n= 94.
However, there is some evidence from the LSC that the outcomes for clients have improved and so legal help expenditure may be achieving more by way of improving the client’s situation (and thereby reducing social exclusion). Furthermore, the shift in expenditure towards the not for profit (NFP) sector, whilst a small part of the whole legal aid spend, is nevertheless a significant development.

The second aspect was the Quality Mark. For specialist suppliers, this was a refinement of existing quality assurance approaches (franchising and Legal Aid Franchise Quality Assurance Standard (LAFQAS)) although the introduction of specialist supervisors was a more significant development in the approach. Most critically, the Quality Mark marked a shift from a voluntary to a compulsory requirement of receiving legal aid funding under contracts. Voluntary compliance had led to about 38 per cent of all legal aid suppliers (delivering about 68 per cent of funded work) submitting to franchising quality requirements in return for better payment rates and other incentives.\(^\text{10}\) Compulsion removed large numbers (about 6,000)\(^\text{11}\) of (probably) smaller legal aid providers and ensured that legal aid provision was, for the first time, guaranteed to be provided through a quality assurance provider.

A particular innovation of the CLS was to extend the Quality Mark ethos and approach to a wider set of providers and funders, enabling non-specialist provision to be ‘kitemarked’ at lower levels. This also encouraged other funders of services to adopt the Quality Mark as their standard of service. The Quality Mark has led successfully to improvement in the quality of management within suppliers and to some improvement in the quality of service provided to clients, though there are complaints about bureaucratic cost.

The first two elements of the CLS can be seen as rooted in existing policy on legal aid, albeit with some innovative development. The third element of the CLS was newer still: Community Legal Service Partnerships. Although the CLS was formally created in April 2000, policy work began before. Six pioneer partnerships started working in December 1998 and a large number of associate pioneers began working throughout 1999. The LSC’s Annual Report 2002/3 states that by March 2003 it had achieved over 99 per cent coverage of the population of England and Wales by CLSPs and was on course to meet the target of 100 per cent by March 2004.\(^\text{12}\)

Prior to the creation of CLSPs, the funding of advice services grew in a largely ad hoc fashion. Funders operating within a geographical area (local authorities, the Legal Services Commission, charities and private sector funders) typically operated without any detailed awareness of each other. There was a suspicion that this led to overlaps, duplication and lack of provision through the absence of co-ordination. Co-ordination between suppliers was also either non-existent or ad hoc, and this led to doubts about the ability of suppliers to signpost and refer clients they could not help to the most appropriate source of service. Put simply, the CLSPs were the first nationally co-ordinated attempt to develop a more seamless service.

\(^\text{10}\) LSC Annual Report 2002/3 p42.
The fourth development of the CLS was the introduction of a website (which includes a national directory of service providers) and a helpline, which can be used to access the directory of service providers and locate appropriate sources of help. Initially, this was managed by the LCD, but it is now managed by the LSC. There are, of course, other developments, for instance: the LSC has developed a set of CLS information leaflets; the PIB was developed as an incentive for CLSPs to innovate and develop services; and, there has been the development of telephone advice and helplines which the LSC have recently signalled an intention to develop further.

Since the establishment of the CLS, there has been a considerable amount of activity focused on developing systems and processes to deliver the CLS. Two hundred and eight CLSPs have been established, engaging partners from a wide range of organisations. There has been a considerable amount of enthusiasm and support generated for the development of the CLS, and new innovative initiatives aimed at developing access to information and advice have led to an expansion of the sector.
4.0 Review methodology

In October 2003 Matrix submitted a methods paper to the DCA and the Review’s steering group outlining our proposed methodology. In developing the methods for the Review, the review team undertook a scoping phase, during which a long list of research questions, which incorporated the original research questions provided in the Invitation to Tender for the Review and additional questions identified during the scoping phase, was developed. The list of questions developed can be found in the methods paper (Appendix E). Once the questions were developed, the various strands of the methodology were developed to ensure that the Review would be able to address each question.

A summary of the different strands undertaken for the Review and their function is provided in figure 4.1.

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<th>Function</th>
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<td>National and regional interviews</td>
<td>National and regional interviews were held with key stakeholders from the DCA, LSC and stakeholder organisations (a full list of organisations interviewed can be found in Appendix D). Interviews predominantly focused on the development of ‘theories of change’ that explain why and how things work, as well as the strategic direction of the CLS and its partner organisations and the delivery of the CLS’s objectives. Information drawn from the interviews has informed the findings and recommendations within the report. However, a more detailed analysis is provided in Appendix D.</td>
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<td>National baseline questionnaire for all CLSPs</td>
<td>The national baseline questionnaire was sent to all LSC regional offices to be completed by regional partnership and planning teams (RPPTs) on all CLSPs. The questionnaire was designed to provide context and benchmarks against which in depth information gathered during case studies could be compared and contrasted, including the range and scope of the different partnerships operational throughout England and Wales. Information drawn out of the national baseline questionnaire has informed the findings and recommendations. A more detailed summary of the questionnaire design and analysis of the data drawn from it is provided in Appendix B.</td>
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<td>Questionnaire to members of 50 CLSPs</td>
<td>An electronic questionnaire was sent to a range of members of a sample of CLSPs to establish more detailed information on the partnerships and to verify and qualify the responses from the national baseline questionnaire. Information drawn out of the questionnaire has informed the reported findings and recommendations. A more detailed summary of the questionnaire design, sampling process and results is provided in Appendix C.</td>
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<td>CLSP case studies</td>
<td>Twelve CLSP case studies were undertaken to provide a qualitative context through which the Review’s questions could be tested. Information drawn from the CLSP case studies has informed the findings and recommendations. A detailed summary of the findings from each case study area can be found in Appendix A, and a description of the sampling process and method can be found in Appendix E.</td>
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<td>Pre-case study analysis</td>
<td>Pre-case study analysis of key data and documents from case study CLSPs, including distribution of a questionnaire to providers, was undertaken to provide initial insight into the characteristics, strengths and weaknesses of each case study CLSP to ensure focused use of fieldwork time.</td>
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<td>Interviews with case study CLSPs’ key stakeholders</td>
<td>Forty-eight face to face and telephone interviews were held with partners, providers and regional LSC consultants. Information drawn out of the interviews has informed the findings and recommendations. A more detailed analysis is provided in Appendix D.</td>
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<td>Focus groups with service users</td>
<td>Focus groups with potential service users were held in seven case study areas. Where there were issues relating to access to and attendance of the organised focus groups, telephone interviews were held instead. Information drawn out of the focus groups has informed the findings and recommendations. A more detailed analysis is provided in Appendix D.</td>
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Figure 4.1: A summary of the different strands undertaken for the Review and their function

Underpinning each of the elements was an analytical framework based on a ‘balanced scorecard’ methodology. The balanced scorecard\(^\text{13}\) for the Review was developed during the scoping phase of the review. Four perspectives were identified: process, outcomes, users and innovation and change. Critical success factors were then identified which it was thought would impact on perspectives. Figure 4.2 maps the critical success factors to each perspective.

\(^{13}\) The balanced scorecard is a concept originally developed by Norton and Kaplan (1992) to assist organisations build an overall picture of their performance. The balanced scorecard is based on different perspectives of business or organisational effectiveness.
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**Figure 4.2: The Review’s balanced scorecard framework**

One of the objectives in designing this balanced scorecard was to provide a framework by which, if it was felt appropriate, ongoing performance review of the Community Legal Service could be monitored.
5.0 Findings

The findings presented in this section are drawn from the range of information and data gathered from the various stages of the Review. The findings are presented under five broad headings:

- clarifying the aims and functions of the CLS;
- establishing the evidence base for the CLS;
- developing national funding streams and procedures;
- ensuring quality; and
- translating CLS aims into service provision.

Where appropriate, quotes drawn from the interviews with national and regional stakeholders, case study CLSP members and the focus groups with users have been used to illustrate findings.

5.1 Clarifying the aims and functions of the CLS

The research evidence suggests that there is currently a lack of overall accountability for the CLS and no clear dedicated leader driving change within the CLS. This has meant that the agenda for the CLS is not sufficiently clear. The Review has illustrated that there is a need to define the role and agenda for the CLS, clarifying its role in tackling social exclusion and establishing performance management systems to enable delivery. This prioritisation needs to take place within the DCA and the LSC as well as with other stakeholders, especially local authorities.

5.1.1 The agenda for the CLS

Evidence drawn from stakeholders at national, regional and local levels identified that there is a lack of clarity about the agenda for the delivery of the CLS. Two key issues emerged:

- the aims of the CLS have changed over time, but this is not universally recognised or understood; and
- the wider scope of the CLS has drawn less attention than the traditional elements of managing legal aid.

A number of interviewees understand the aims of the CLS to have changed over time. The most cited example of this was reducing social exclusion, which was initially introduced as an aim without a clear definition of how the provision of legal services should subsequently be related to the reduction of social exclusion. The evidence indicated that there was a belief that reducing social exclusion was not part of the strategy for the CLS, or had only recently become an aim of the CLS. The lack of understanding of the links between the CLS and tackling social exclusion was most visible amongst service providers and their representatives, as well as members of the CLSPs. They appear to understand the aims of the CLS as being less about the outcomes of improving access to information and advice, and more concerned with outputs surrounding
CLSPs and the Quality Mark. This was considered by the LSC to be a result of the dominant focus of the LSC’s activities at regional and local levels, such as establishing CLSPs and supporting the various measures through which the CLSPs could consider the development of local service provision (eg strategy development and mapping provision). The LSC identified that the regional LSC offices have been working together to refocus their activities, aligning their work more closely with the aims of the CLS. However, this was understood by some to have led to a lack of clarity at local level about the role of the CLSPs and the role of the LSC in supporting and developing CLSP activities. The following quotes illustrate some of the issues with understandings of the aims and targets of the CLS.

"If you ask me what are the targets for CLS I don't know if I could answer that. I presume it's getting 100 per cent of advice providers involved in getting the Quality Mark and involved in CLSPs but that would be a longer-term goal. I don't know what the intermediate steps along that would be" (Not for profit (NFP) provider representative).

"I don't think there's even clarity as to what the CLS is, or means, and I think it means different things to different people. And it tends to be defined more in terms of its aims, than what it's trying to achieve, to which has been tacked on the social exclusion agenda which wasn't there originally" (NFP provider representative).

"I don’t think the aims and the targets have changed. I think the focus of the activity has changed in order to meet the aims and the targets more effectively" (LSC).

The aims of the CLS give the impression that the wider scope of the CLS (eg information provision, signposting services and general help) is as important as the more traditional elements of the CLS associated with the previous civil legal aid fund (eg specialist advice and representation). However, the reality for many people involved in the CLS is that this has not been the case, and there is evidence to suggest that the delivering of the wider scope of the CLS has been seen as peripheral to the LSC’s role. The majority of resources and time are still spent, and are still seen to be spent, on planning, managing and delivering those more traditional roles associated with the previous civil legal aid fund. This has led to the belief that understandings of need do not translate into the allocating of resources and funds, because historical spend still dominates how the resources and funds are allocated. There are indications that the LSC at national and regional level is beginning to establish a stronger focus on the wider scope of the CLS; however, the evidence suggests that this realignment of its activities is not widely recognised outside of the DCA and the LSC. The following quotes are indicative of the views expressed.

“To some extent our planning and partnership work and our CLS development work has been seen as peripheral. There is a phrase that has taken hold, and we use it jokingly, but it's rooted in people's true feelings, about this is the 'pink and fluffy work'. So, it's not been seen as critical to what we do” (LSC).
There is a sense that this kind of analysis [of] need that they do is powerful but I don't think … that that message translates through to how the money is spent. They do quite a good job in local areas in finding out what the gaps are … but I don't think they see that the money necessarily follows it. The money often gets spent on obviously old-style legal aid stuff, … which is important, but doesn't always necessarily relate to the balance the need in the area” (Social exclusion representative).

“Because of the budgetary problems that have been faced, it's meant that the Commission hasn't necessarily had the resources to look wider, that they might otherwise liked to have done” (For profit (FP) provider representative).

“I'd say it's coming together more now because we've worked quite hard at trying to engender a joint working between the planning and partnership side of this and the contracting side of things” (LSC).

5.1.2 Leadership and accountability

Leadership at a national and strategic level
The CLS is a ‘virtual organisation’ or a ‘network’. Partly because of this, there is a lack of clarity about where national leadership for the CLS lies. The Chief Executive of the LSC is the closest that the CLS has to a national leader but, if this is the case, then the leadership of the CLS is only a part of the Chief Executive’s role.

The lack of a clear dedicated leader for the CLS has two important implications:

1. It is not clear where ultimate accountability for the CLS lies at a national level. The gradual devolution of responsibility for the CLS from the DCA to the LSC, and the lack of accountability of local partnerships¹⁴ seem to leave accountability shared between the LSC and the DCA, with more resting with the LSC. This lack of clarity regarding the roles and responsibilities of the DCA and the LSC has been acknowledged by interviewees from the both the DCA and LSC.

2. If the CLS is to develop and change over time, then all the standard literature on change management suggests that change (whether it is top-down or bottom-up) requires change leaders and champions of change to manage the process of change, give it direction and provide support to the range of people who will be at the forefront of change.

¹⁴ As suggested below, their accountability seems to be limited in accordance with their limited role and limited influence on resourcing decisions that they have been given.
moment. … I think the problem is that, it's partly a legislation led problem. The Access to Justice Act effectively says that the Legal Services Commission is responsible for creating, developing and maintaining [the] Community Legal Service. We see that as being both a policy function and an operational implementation function” (LSC).

The LSC regional structure
Different interpretations of the remit of regional LSC offices have led to differing approaches to the regional offices’ role in delivering and developing the CLS. This is illustrated through:

1. their differing levels of success in securing additional funding from external sources;
2. the varying amount of resources put into the CLSP secretariat role, with some regional offices chairing most of their steering groups and with others encouraging the role to be undertaken by other partners; and
3. some regions focusing on processes and managing contracts, whilst others focus on building relationships with other local or regional organisations and looking at alternative methods of delivery of information and advice.

“Some of them [LSC regional offices] will be, for example, very process focused. They’ll be very much about looking at managing contracts, managing the cash … and we’ll see quite often some of the fluffier issues around forming relationships with other local players as being something they don’t want to focus a lot of time and energy on. Others will be far more political and they’ll be far more interested in getting out and doing that stuff” (LSC).

Although it is important to recognise that a generic approach would not allow the LSC to fully recognise the potential of the CLS, the differing levels of flexibility the regional offices are willing to offer, particularly around managing contracts, have been problematic for national provider organisations. Furthermore, the different approaches to securing additional funding may result in the regional offices managing very different budgets, which may result in some regional offices developing elements of the CLS in their area to a greater extent than others. The following quotations illustrate some of the issues raised.

“Some of the regions are fairly ambitious about what they do and some of them are fairly sort of staid in the kind of services that they want the contracts with” (NFP provider representative).

“I think it’s partly been difficult because [the LSC is] losing consistency in all the regions… and I think it’s often been difficult when guidance has gone out from the centre to the region, … some of the regions actually just carry on regardless and do whatever they want, but others will look at what the centre are doing” (NFP provider representative).
5.2 Establishing the evidence base for the CLS

The DCA and the LSC see closer liaison and partnership working with other parts of government as a priority and there is evidence of this work taking place. Examples include working with the Department for Work and Pensions, particularly in developing joint activities with Jobcentre Plus, and the work with the Department for Trade and Industry in the consideration and development of a single national telephone gateway to debt advice services. However, some interviewees identified difficulties in working in partnership with key government departments, which is perceived to have impacted on their ability to establish a joined up collaborative approach to the delivery of the aims of the CLS. This is most evident in establishing a recognised role for the CLS in delivering the Government’s social exclusion agenda.

Engaging with local authorities was recognised to have been problematic. Although local authorities are key stakeholders in the funding of advice and information, the DCA reports that it has been difficult to establish the extent of local authorities funded advice and information services. This is understood to be due to the variety of definitions of advice and information services used across the large number of local authorities. Difficulties are understood to lie with the lack of uniformity in the planning and funding of such services across this disparate group of stakeholders and the influence of historical spend on their funding decision making. To address this, the DCA has established links with the Association of London Government within the last year. The DCA has also recently made a new appointment to increase liaison between local authorities and the CLS, recognising that CLSPs’ strategic plans and the development of the Quality Mark will enable local authorities to plan their funding of advice and information services more strategically.

The Review has highlighted a need to establish a clear evidence base to demonstrate that the CLS delivers effective and cost-effective advice provision which contributes to the delivery of the social exclusion agenda. Legal aid costs need to be considered in the context of potential savings in other areas of public expenditure. There is evidence that the DCA and LSC have begun to clarify the CLS’s contribution to the target outcomes of other government departments. It is not clear, however, whether other government departments have considered their potential contribution to the DCA’s targets that relate to the CLS.

5.2.1 Measuring outcomes

It was clear from the evidence, and was widely recognised, that targets for the delivery of the CLS were output driven. In order to measure effectively the performance of the CLS, the outcomes of the CLS also need to be considered. It is important at this stage to determine what is meant by the term ‘outcome’ in relation to the CLS, as the term is used in a variety of contexts in relation to the CLS.

For many within the CLS, ‘outcomes’ refer to the outcomes of a specific case. Contracted providers are required by the LSC to record the outcomes of controlled work, defining the end status of a matter start. However, the outcomes of a case may be viewed in different ways depending on the type of case and whose perspective it is measured from, for example a client...
may be dissatisfied with an outcome, yet the solicitor may consider the same outcome to be very good in their professional view of the circumstances of the case. Funders may also have a differing view of case outcomes, for example the funding of a ‘cutting edge’ case may be as important as the fact that it was won, because it allowed important issues to be discussed in the public arena or a new area of law or practice to develop.

In this review, we have used a broader definition of ‘outcomes’, referring to the ability of the different components of the CLS, or the CLS as a whole, to achieve its key aims. The key aims of the CLS are access to justice for the most disadvantaged, and improving the quality of advice, indicating that outcomes do not necessarily lie within individual cases and matter starts, but more broadly within the process of accessing advice and information and with the impact that such access has on the society.

It was highlighted by review participants that measures such as the Quality Mark had been implemented, which would enable the CLS to improve and deliver outcomes, but there is a need to identify means to measure the impact of CLS activity. Although it was broadly agreed that the CLS should become more outcomes focused, a range of difficulties were identified. These can be assimilated into two broad issues:

1. although potential outcomes were identified, problems were highlighted with quantifying these; and
2. the intended outcomes for the CLS are shared across a range of public sector organisations, and lack of ownership of the whole process was understood to make such outcomes difficult to measure.

The following quotes are indicative of the issues raised concerning the identification and development of outcomes.

“...would find it much more difficult to have those [outcome targets] and I’m not at all clear what outcome measures we could have” (DCA).

“...is very difficult in a way that you can aggregate back to a national position, also quantifiable or attributable links...” (Social exclusion representative).

“Certainly this year the planning and partnership managers across the 11 regional offices defined objectives and targets, in a way that actually made a move towards, we’re not completely there, but made a move towards measuring impact and outcomes, as opposed to just ticking boxes to measure process” (LSC).
However, based on evidence identified during the review and examples from the wider public sector, the review team believes that these problems are not insurmountable. Outcomes that reflect the ability of the different components of the CLS, or the CLS as a whole, to achieve its key aims could include:

1. the extent to which services are delivered to different client groups, particularly hard to reach, socially excluded groups;
2. the ability of the CLS to address issues that contribute to social exclusion;
3. the benefits accrued by other parts of the public sector from early interventions by the CLS (e.g., the cost of housing repossessions defrayed by early advice on housing debt); and
4. the ability to retain people with justiciable problems within the system during the referral process.

The development of measurable outcome targets will undoubtedly enable the DCA and the LSC to establish more clearly the impact of preventative work and the implementation of new initiatives, as well as establishing a wider recognition for the role of the CLS in tackling social exclusion.

5.2.2 Delivering the social exclusion agenda

The role of the CLS in tackling social exclusion was viewed differently across the range of people we spoke to during the review. While some felt that an initial emphasis on social exclusion has dissipated, for others social exclusion has become an increasing priority for the CLS.

It is evident that within the DCA and the LSC the link between provision of good and accessible advice and information and social exclusion is understood.

“The role of legal aid in combating social exclusion, is one of our principal justifications. Also within government... it will be given as a justification [as to] why you want to maintain, and if possible increase, existing levels of CLS provision” (DCA).

We identified specific examples of attempts at national, regional and local level to tackle social exclusion, many of which involve partnerships with other government departments or local organisations which have not traditionally been seen as part of the CLS. Many of these are recent or are still at the development phase. Examples include:

1. ‘Methods of delivery’ pilots that are testing outreach specialist support, including case work via telephone, and which suggest that the socially excluded do utilise them. It is understood that the CLS intends to target the advertising of such services in areas where there are gaps in provision of face to face work;
2. The Partnership Initiative Budget (PIB) has helped fund a range of local initiatives to improve accessibility of services; and
In one case study, the local authority has allocated two days a week for the social inclusion manager to spend on local CLS work. The manager works very closely with the LSC regional partnership and planning consultant, with much of the work of the CLSP undertaken between them. This provides a direct connection with the other social exclusion initiatives run by the local authority, which is in addition to strong links with the local consumer support network run by the trading standards officers.

However, the following quotes indicate that important strategic partnerships have not been established fully, suggesting that the case for the role of CLS in tackling social exclusion has not been made forcibly enough by either the DCA or the LSC at a policy level. The following quotes are illustrative of the problems encountered.

- “The links and common understanding between the work of the CLS and those working to address social exclusion is not shared by all; the extent to which one can support the other is not well developed, for example, the links between the CLS and the social exclusion unit (SEU) appear to be weak” (SE representative).

- “Organisations particularly like the… social exclusion unit… are running all sorts of groups… and it’s taken us a long while to get them to invite us in the first place” (DCA).

- “The difficulty is that not many other organisations accept that or are aware of it and incorporating good advice and guidance into other ways of combating social exclusion is very difficult” (DCA).

Interviews with stakeholders and members of CLSPs also highlighted that providers of advice and information do not recognise fully the potential impact of the services they provide on social exclusion. This suggests therefore that the social exclusion agenda is not being considered at a local level and between national networks of providers. The following quotes illustrate this.

- “I don’t see how the CLSP is going to tackle the issue of social exclusion. And to me it’s not about that. It is about identifying where the needs are and trying to meet those needs. It’s about supply and demand and going from there. I don’t see social exclusion as something that the CLSP really should have at its forefront because it is something different. The CLSP is a community legal service partnership. It is a partnership to provide legal services to the community. That is what I see it as. I don’t see it as a forum to resolve social exclusion” (Local solicitor).

- “I think that social exclusion has got tacked on as just being the latest buzz phrase that the government’s supposed to like, and that in turn it seems that the government is committed to enlightening social exclusion and other policy. And I’m, I don’t, don’t actually accept those premises either. I think it’s just another way of talking about things, and not doing a lot to” (NFP provider representative).
The CLS could have a number of different impacts upon the so-called ‘wicked issues’ at the heart of social exclusion, but these potential impacts need to be clearly spelled out both internally and externally. There has also been little progress in developing social exclusion outcomes and associated performance indicators, both at national and local level, which dilutes the focus on social exclusion. There is a need to establish a clear evidence base to demonstrate that the CLS delivers effective and cost-effective advice provision which contributes to the delivery of the social exclusion agenda. Such an evidence base would conclusively make the case for the CLS’s role in tackling the social exclusion agenda, enable the prioritisation of funding and encourage the future development of evidence based advice interventions.

5.2.3 Preventative strategies and evidence based interventions

The DCA and the LSC have increasingly focused on the development of preventative strategies and the promotion of early intervention services since the establishment of the CLS. The Review highlighted a number of examples of interventions aimed at diverting problems from litigation, however the Review also highlights that research is required to demonstrate the economic benefits of early advice and early intervention to identify potential savings for both the CLS and other areas of public expenditure.

The Review identified a number of examples of preventative strategies operating or being developed at national, regional and local levels. For example, the Family Advice and Information Service (FAInS) is being piloted, encouraging interdisciplinary working and local partnerships between the legal and advice sectors to deliver a holistic, seamless service to families. FAInS recognises the multiple advice and information needs associated with family disputes (such as debt counselling, welfare benefits advice, financial advice and specialist support services for parents and children) and promotes interdisciplinary working amongst partners through establishing signposting and referral mechanisms.

Early and informal means of dispute resolution, such as mediation, are being developed to divert disputes away from litigation. Family mediation services are already a core part of funded services; however, the benefits of developing mediation for non-family cases have been recognised. Evidence given to the Constitutional Affairs Committee inquiry into access to legal aid highlights plans to establish independent complaints schemes to address clinical negligence cases and claims against the police, and to facilitate early resolution, as well as plans to pilot, through FAInS suppliers, a restructured Funding Code with incentives to settle private law disputes without the need for proceedings.

At local level, the review team found that currently there are few drivers or incentives to encourage CLSPs to undertake preventative work. Four potential obstacles to undertaking such work are:

1. Scepticism about the value of preventative work, partly because, to date, there are relatively few well evaluated examples demonstrating that such strategies work and provide value for money.

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15 The ‘wicked issues’ are identified as including social inclusion, lifelong learning, sustainability and community safety.
2. CLSPs are the CLS’s mechanism for developing partnerships at the local level. However, preventative work at a local level might be critical of, or challenge existing local authority policy and practice. With local authorities being a key member of many CLSPs, it is unclear how resulting tensions might be managed.

3. Contracting arrangements with both for profit and not for profit organisations are generally not sufficiently flexible to allow service providers to take on such a role using CLS funding, thereby leaving such work reliant upon any other sources of income to which such organisations might have access.

4. Partnerships often have limited resources to undertake such preventative work within the partnership, other than on an ad hoc basis via the channels that partnership networks allow.

Despite this, the Review highlighted some good examples of current and planned preventative work happening at a local level. These included:

- A bid for PIB money (by a CLSP) aimed at preventing the need for debt counselling. The bid proposes that estate managers are trained to meet with every tenant within the first two weeks of their tenancy to ascertain whether they have applied for the benefits for which they are entitled and how much housing benefit they will receive to ensure they start paying their rent as soon as possible;
- A CLSP developing 30 information points within a ward to provide preventative information for residents;
- A CLSP setting up a regular liaison meeting with benefits agencies and networks with housing services in their partnership area. Although the CLSP recognises this activity is currently more reactive than proactive, these meetings were however established, and will continue to be developed to focus on looking at preventative measures; and
- There were a number of examples of CLSPs developing leaflets, promotions and seminars and general publicity for the public.

Although the Review highlighted a number of examples of preventative strategies in operation or being planned, some stakeholders within the CLS did not recognise the role of the CLS in developing and undertaking preventative work, suggesting that it was not understood to be an explicit role of the CLS or the CLSPs. Amongst those that recognised the role of the CLS in developing and undertaking preventative strategies, it was widely agreed that the CLS would benefit from a stronger focus on preventative work, both in terms of delivering its targets and managing the funding of the CLS.

5.3 Developing national funding streams and procedures

The Review has identified a number of problems with the way in which services within the CLS are funded and managed, with particular issues being faced at national, regional and local levels:

- At national level, the CLS is vulnerable to policy changes made by other government departments, with the civil legal budget being eroded by the changing demands of the criminal legal services agenda in particular;
at regional level, there are reported discrepancies between regions in terms of funding allocations, with some regional areas receiving larger budgets than others; and

at local delivery level, both the contracting and the quality assurance systems that the providers have to negotiate are seemingly overly complex, burdensome, costly and bureaucratic.

The evidence also suggests that it is a widely held view that managing the legal assistance funding element of the CLS has distracted the DCA and the LSC from developing the wider scope of the CLS, such as improving access, referral processes and establishing links with other public sector bodies. This is believed to be demonstrated by the relative lack of emphasis on preventative work, the uncertainty about the role of CLSPs, and the lack of clarity about how the CLS can tackle the social exclusion agenda.

5.3.1 Managing and responding to the changing policy agenda

It was reported that the DCA has experienced difficulties in managing and responding to the consequences of changing wider policy agendas which impact on the civil legal aid budget. There was a broad recognition that the legal profession is vulnerable to social policy trends which can change quickly over time, and that the CLS would benefit from improved forecasting of the impact of new policy initiatives. It was highlighted that there is a danger that responding to changing policy diverts attention away from other aspects of development within the CLS. For instance, the impact of the increase in asylum seekers was considered to have distracted attention and funding from the CLS as a whole. But it was also recognised that problems associated with asylum and immigration legal need have started to be addressed, although it is not clear from the Review evidence whether the measures put in place to address the problems have been successful. Problems were also highlighted in regard to changes relating to mental health. The following quotes provide examples of the problems encountered.

“Negotiating additional funding for legal aid that arise from changes in social policy can be a protracted process” (DCA).

“It is very vulnerable …There’s been a whole series of things over the past few years, that have had an impact on the demand for legally aided services. If you look at [the] various … reforms in the criminal justice system, [such as] increases in sentencing … [and] anti-social behaviour orders, that straddle the boundaries between crime and civil. And then you’ve got developments in the mental health field, that are going to create another huge demand for legally aided services. And every step of the way, these additional demands haven’t been properly assessed as to their impact on legal aid, with the result that the demands are increasing, and the budget hasn’t been increasing to keep pace with it” (FP provider representative).

In particular the CLS and the legal aid budget are vulnerable to changes in criminal law expenditure, as the CLS budget shares the same financial source from the Treasury as the Criminal Defence Service (CDS). The problems arising from the CLS having to respond to the
unpredictable criminal budget and the pressure that created on those charged with delivering the CLS was recognised not only by the DCA and the LSC, but also by provider groups.

“The criminal expenditure … is driven by all sorts of things way outside our control. And therefore… we can’t control the volume. We would like to have a system where there wasn’t a financial link, they weren’t out of the same … pot of money. That’s a rather technical point of the treasury, but it’s what something we’d like to achieve” (DCA).

At national level the DCA works with other government departments to anticipate the impact of new legislation on demand for CLS services. However, our understanding is that this work is not entirely systematic, in the sense that:

- the DCA works on these types of issues with some government departments more systematically than with others;
- the discussions with other government departments are at a relatively high, conceptual level – for instance, they do not always involve detailed economic analysis of the financial implications of new legislation on demand for CLS provision and do not always follow through to delivery issues; and
- we are unclear of the scale of any transfer payments between departments and their impact specifically on CLS spending, in order to allow the CLS to respond to specific demands presented by new legislation.

The evidence suggests that greater awareness of the CLS’s aims should be established amongst the various government departments, with particular focus on clarifying how their strategies and policies impact on the work of the CLS.

5.3.2 Managing and quality assuring the delivery of information and advice

Interviewees reported that there are discrepancies between regions in terms of funding allocations, with some regional areas receiving larger budgets than others. The budgets that have been allocated are reported to be based on historical spend rather than being linked to identified levels of need, which was understood to impede the regional partnership and planning teams’ ability to respond to identified need. This situation was reported as being addressed on an incremental basis in an attempt to even out the resources being made available to each region; however discrepancies currently still exist. The influence of historical spend at local level in the contracting of providers was also widely recognised. The following quotations illustrate the perceived links and problems associated with need led contracted provision.

“Historical spend still seems to be influencing funding decisions” (NFP provider representative).

“One of the issues I go on about is how come there are a lot more welfare benefit specialist
contracts with solicitors in [neighbouring borough] and in [neighbouring borough] than there are in [case study area], and actually getting an answer to that is incredibly difficult. I mean, some of it’s historic but basically firms already there on the old green legal aid scheme became the ones that were contracted out” (Council officer for regeneration and community partnerships).

“When we moved into contracting, and wanted to become more needs led, as opposed to demand led, we wanted to align our budget to needs rather than to historic demand. That was a very big step to take in one go, and indeed we couldn’t do it, because it would have caused chaos in the system” (LSC).

I wouldn’t say we are at rational redistribution at the moment, because we are only beginning to tackle the whole range of expenditure that we have. … for the first time we’ve started taking money away from things as well as giving it to things” (LSC RPPM and LSC consultant).

At local level it was reported by interviewees that some local authorities have reduced, or even stopped, funding to some providers of advice and information as a result of the setting up of the CLS. Interviewees considered that the local authorities thought that the LSC would take responsibility for maintaining services from which they might choose to withdraw local authority funding. However, with the LSC’s policy, designed to discourage withdrawal by local authorities, not to core fund advice and information agencies (although their contract funding does include a contribution to core costs), some services would be lost as a result.

Delivery of services is a key aim of the CLS. There was a strong view, however, that coverage of some areas of law has reduced since the advent of the CLS, as solicitors have withdrawn from contracts and turned away from publicly funded work. The numbers of contracts awarded to solicitors’ offices and not for profit organisations reported in the LSC’s last four annual reports (Legal Aid Board 1999-2000) indicate an 18 per cent reduction in contracts in March 2003, compared to April 2000\(^\text{16}\).

Providers have highlighted that the advice and information supplier base has altered in its make-up since the establishment of the CLS. Remuneration not keeping pace with the rising costs of delivery, and therefore making working to a CLS contract less profitable, was often cited as one of the reasons for the change. We cannot judge how valid these views are, but the perceptions of providers will be influential in making their decisions to remain in or enter areas of work. The LSC Annual Report 2002/03 acknowledges the reduction in solicitor held contracts, and states that the LSC anticipates a continuation of the change in the supplier base through the reduction of solicitors’ offices with Controlled Work contracts. The report identified that issues of remuneration and profitability have primarily led to a reduction in solicitor contracts. Whilst it is not possible to identify the extent to which this reduction is a result of solicitors choosing to turn away from publicly funded contracted work rather than the result of resource reallocation, the evidence from the Review and elsewhere suggests that resources are the key

\(^{16}\) April 2000 = 10,478 (Legal Aid Board, Annual Report 1999-00); March 2001 = 9,746 Legal Services Commission, Annual Report 2000/01; March 2002 = 8,936 Legal Services Commission, Annual Report 2001/02; March 2003 = 8,569 Legal Services Commission, Annual Report 2002/03.
factor. However, in the evidence given by the LSC to the Constitutional Affairs Committee Inquiry into Access to Legal Aid (February 2004), the LSC claims that the solicitors’ offices that dropped out of legal aid were mostly those doing only very small amounts of publicly funded work or those who could not meet the quality standards.

The following quotes are indicative of the concerns expressed.

1. “The clear pattern over the last few years has been hundreds and hundreds of firms pulling out of the legal aid sector. There have been a number of not profit organisations coming in too, and it sort of balances out to a certain extent, but the numbers coming in are much, much smaller than the numbers leaving, so the position is undoubtedly significantly worse than it was three years ago” (FP provider representative).

2. “There is a very significant sense of crisis in this whole field, with people leaving. Whenever we have a regional meeting, we hear more and more about firms pulling out” (FP provider representative).

Many respondents in the Review have highlighted the lack of flexibility in contracting for both for profit and not for profit organisations. For for profit organisations, contracts based on matter starts and for not for profit organisations, contracts based on allocations of hours are relatively inflexible. Standard contracts are being awarded irrespective of the understandings of the extent of local need for the type of advice the contract has been awarded for. Some providers report being frustrated by the limitations of their contracts, as they are unable to provide funded advice to everyone that needs it because they have already used the allocations awarded to them. Other providers, however, fear losing their contracts (and the associated funding) in the following year because the demand for their services cannot fulfil the contract they have been awarded. The review team has though seen examples of more flexible approaches to contracting, with at least one regional office awarding regional contracts for categories of law to large providers who are then granted the autonomy to distribute the contracted hours for the region across localities to provide information and advice according to local needs.

Other concerns regarding contracting arrangements were focused around the impact of the withdrawal of contacts on providers’ ability to business plan. The LSC was believed to provide short notice to providers as to whether they will have their contract renewed for another year, which was understood to threaten the sustainability of for profit providers’ businesses. The perceived risks associated with such uncertainty were reported to have made for profit providers move away from LSC contracted work. The LSC, however, awards three-year contracts, which guarantee that the amount of work authorised by each annual schedule will be at least 80 per cent of that authorised by its predecessor to relieve uncertainty. However, concerns such as that expressed below are perhaps indicative of the lack of understanding of the contracting system amongst for profit providers.

17 Flexibility may be particularly important for social exclusion matters, as these can be suddenly affected by local or national events (eg closure of a major local employer or refugee flows due to conflicts abroad). It is not clear how the current contractual arrangements and budgets permit such fluctuations in delivery levels.
“The fact that the contract has a schedule for one year, and you don’t know whether it will be renewed the following year, and if so, on what basis. So firms now [November 2003], don’t actually know, even if they are going to have a contract in April 2004. Which means, if they don’t get the contract, and the deadline for bidding is 19th November, and then the Commission’s got to make its decisions, so firms are going to have perhaps three months notice, that, tough luck, you haven’t the business after April. So it’s an impossible situation, when, from one year to the next, you just do not know what you’re going to be allowed to do” (FP provider representative).

Monitoring
For both types of contracts, particularly around matter starts, compliance auditing was seen as problematic and overly onerous. The issue highlighted the most by those participating in the Review was the belief that the auditors undertaking compliance auditing do not fully understand the process of giving advice, which has led to inaccurate assessments of the work undertaken. Such concerns have led solicitors to view undertaking LSC contracted work as an overly bureaucratic process, as they have to spend time illustrating the process they have undertaken so that they cannot be misinterpreted by the auditors. There was a widely held belief that peer review would resolve many of the problems associated with compliance auditing and the LSC’s consideration of it is encouraged.

Performance management
The review found little evidence of a performance management culture within the CLS at national or regional or local level. Some performance management data are collected by the LSC via the administration of contracts, the monitoring of adherence to the Quality Mark and cost compliance audits. Legal needs surveys undertaken by the LSC provide a snapshot of legal need across the country. This indicates that performance management that is taking place at national, regional or local level is focused on the management process rather than the quality of outputs or outcomes. We believe that this has two key implications for the DCA and the LSC:

1. Accountability: The lack of performance management mechanisms limits the accountability of DCA and the LSC in relation to the performance of the CLS.
2. Delivery of PSA targets: At this stage of the review we are unclear how the DCA can be confident of meeting PSA targets to which the CLS is expected to contribute. This is particularly the case for PSA 6.

5.4 Ensuring quality
At delivery level the research evidence suggests that although the Quality Mark is generally understood to be a useful tool for providers of advice and information, there is scope to simplify

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18 The LSC has undertaken a retraining programme to address this problem, however we are not able to ascertain whether this has been successful.
19 Although these surveys do not allow for analysis of need at either regional or partnership level.
20 This issue is explored in more detail below.
5.4.1 The Quality Mark

The Quality Mark has been a key tool for seeking to increase the quality of advice. Most people we spoke to believed that the Quality Mark was a positive initiative which had improved and had a positive, if limited, impact upon the quality of advice. This limited impact was due to its focus on improving the quality of key management processes within organisations rather than focusing directly on the quality of advice delivered; however, the same criticism can be levelled at many other quality regimes.

Perceived value

It was a widely held belief that the improvements in management processes within service delivery organisations that had been brought about by the Quality Mark were overdue, were to be welcomed, and would now be sustained, even if the Quality Mark focused less upon these issues in the future. The following quotes are indicative of some of the comments made about the Quality Mark.

"those of our members that have achieved the Quality Mark have told us that it's had an extremely positive impact on the quality of their service" (NFP provider representative).

"I think the Quality Mark has been seen by agencies as helpful... that it made them do things that they probably knew they should have done long ago, which was to get some of these systems in place. And that's been a good thing. And we actually did a survey of what were then quite a small number of contracted agents a few years ago, that said that developing it was very painful, very hard work; but actually, once the systems had been in place a few months, and it’s all settled down, they felt the quality of service overall was probably better than it had been” (NFP provider representative).

"The solicitors feel that the Quality Mark is to do with administration rather than quality of advice and so it’s another layer of bureaucracy if you want to be cynical about it. Or it’s another mechanism to improve your back office work to make you more efficient and therefore to get more clients in or whatever. But certainly it is seen purely as an admin thing rather than quality of advice given” (FP provider representative).

Limitations

Generally, where there was a lack of confidence expressed by providers and those organisations that represent providers, this seemed to be related to the focus of the Quality Mark on management processes rather than quality of advice.
“The real problem with Quality Mark, that it actually doesn’t guarantee the quality of the advice given. That’s the key problem… It still doesn’t guarantee that the right advice is being given, and nothing in the way that the Commission audits the Quality Mark can actually measure that” (NFP provider representative).

This is of interest because the degree of confidence in the Quality Mark is likely to be linked to confidence in referral processes between providers. There was evidence that local service providers seemed to prefer to rely on local networks to make judgements about the quality of other providers rather than on the Quality Mark. However there was some evidence to the contrary:

“We know who gives the advice and we know the personalities so we're far less likely to touch someone if we don't know them but on the other hand if they've got some sort of Quality Mark then that shows a commitment so it's a good starting point and we're more likely to go to them as a first off. Even though we know that the LSC doesn't monitor the quality of advice we know that by doing that that's a step in the right direction” (Local solicitor).

Other criticisms of the Quality Mark were directed at its structure, suggesting that its various different levels are overly complex, and that it had not been made meaningful enough to service users. The review team believes that there is scope to simplify the Quality Mark and make it more accessible to service users. The following quotations are examples of some of the criticisms outlined.

“I think there was a frustration that there wasn’t more done nationally to make the logo and what it represents more meaningful to people” (Local authority (LA) representative).

“The structure of the Quality Mark is too complicated” (NFP provider representative).

“Some of the details are seen as too bureaucratic... Most people would say it reduces the quantity of advice you can deliver, because of the implications of all the requirements” (NFP provider representative).

**Peer review**

There was some support for peer reviewing (which is now starting to be used by the LSC) as a more appropriate means of monitoring the quality of outcomes, although the review team is aware of other approaches that are also being used on a research basis.²¹, such as 'mystery research and consultancy'.

shopper’ type approaches, which the LSC has adopted as the main audit tool for information points. It is likely that if the Quality Mark incorporated an increased emphasis on the quality of advice provided, rather than the quality of service delivered, providers would place greater confidence in the Quality Mark status of providers they may seek to refer to. This should then increase referrals between providers and impact on their appropriateness.

Peer review was seen by some of those interviewed as a significant, and welcome, move away from ‘90s style tick box exercises’ towards a more complex and sensitive system that monitors quality. The notion of peer review brings the legal profession back into the process of ensuring quality advice, which is again welcomed:

> “It was a philosophical issue in the 90s when the systems were developed – you could just have this tick-box approach. And if you trained someone up to a certain standard and then they could go in and make the assessment and I think that's been proved to be not the case, in my view. But … that's my own view, rather than perhaps reflecting my association’s view. But I think if you talk to most solicitors they would express a deep level of dissatisfaction with having non-legally qualified people checking their files. Because they do see a very high level of error” (FP provider representative).

Although the wider use of peer review was advocated by those interviewed, the cost of undertaking such activity was also acknowledged as a significant barrier to using peer review as a primary tool in assessing quality. Interview participants suggested a variety of means to develop a more sophisticated system to monitor quality:

> “I think we are looking to develop the Quality Mark into a more sophisticated system which does look at quality of advice. We’re doing that in two ways for our own providers. One is peer review, which is just getting other acknowledged experts to look at files and see what the quality work is like. That's part of the quality assurance mechanism. Of course that's too expensive to do for everyone all the time. Secondly to develop an audit file review process that identified not just whether the claim for costs is appropriate, but also other issues, about is there cause for concern about the quality of work demonstrated by the file which would be a trigger for leading into peer review? Those are the two directions we’re going in and I think both of them begin to look at quality much more directly. I think that is an important future direction for the CLS, quality of outcome rather than quality of process” (LSC).

The movement towards peer review is partly a response to the feeling amongst interviewees that the Quality Mark has ‘done its job’ and there is a need to move the quality agenda forward and to develop a new role for the Quality Mark:

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22 LSC Annual Report 2002/3 p39
“I think we’ve come to the conclusion that actually we would like to move away from auditing systems, towards using peer review. I almost think the Quality Mark may have done its job, because I don’t think people will stop using all these systems, because, or at least not the ones that they find helpful… there may be a role for some auditing systems, but our view is what you really want to look at, is quality of the [advice]” (NFP provider representative).

5.5 Translating CLS aims into local provision

It was widely recognised that there are some gaps and unevenness in provision of LSC funded legal and advice services, which suggests that in some parts of England and Wales the need for publicly funded legal services is not currently being met. It is clear that the LSC is aware of gaps in service provision and working to identify and address areas of unmet need was understood to be a key task for regional partnership and planning teams. Before the introduction of the CLS, the need for or supply of legal services was not monitored systematically. In working with CLSPs the LSC now has a framework through which unmet need can be identified. This was confirmed by CLSP members who considered the CLSP to be instrumental in highlighting areas of unmet demand of which they were previously unaware, as the following quotes illustrate.

“I think one of the surprises was when the partnership first started – it was about six months, twelve months in – was the lack of advice in certain areas in which we hadn’t realised there was a lack of advice” (Local solicitor).

“I didn’t realise until I actually physically started working here how the geography affects service provision” (Principal officer, welfare rights unit at local care trust).

The CLSPs were set up to address the aims of the CLS at a local level, supported by the regional LSC offices. Ultimately the CLSPs have been tasked with developing local provision so that it is targeted and responsive to local needs. Measures identified to enable them to achieve this include: undertaking a local needs analysis; mapping provision and identifying gaps; formulating a local strategy to address local need for information and advice services; and establishing a referral network to deliver a more seamless service. Evidence from the Review suggests that a large proportion of CLSPs have undertaken the development of these measures. However it was identified that the impact of these activities has been diminished for a variety of reasons. Significantly the evidence suggests that there is a dislocation between the needs analysis and its translation into responsive strategies.

The ability to translate the aims of the CLS into local provision is likely to be further reduced, as the Review has identified that the initial enthusiasm for the CLSPs has diminished and CLSP members are leaving the partnerships.
This section outlines the Review evidence regarding coverage of information and advice services as well as describing the CLSPs and their activities in translating the aims of the CLS at the local level.

5.5.1 Coverage

There was a near unanimous view that serious gaps in provision exist across the country. For some this was considered to be a direct result of solicitors choosing to withdraw from contracts with the LSC, whereas there was also the view that the gaps had always existed, and the activities of the CLSPs, such as mapping provision, had established a greater awareness of them.

As part of the Review a national baseline questionnaire was developed, requiring each LSC regional office to provide baseline information on all CLSPs. As part of this questionnaire regional offices were asked to provide information on the numbers of contracts for each category of civil law that were held by providers in each CLSP. It is important to note that the demand for certain categories of law, such as clinical negligence and actions against the police, does not necessitate a contracted provider to be available in every CLSP. However, it was considered reasonable by stakeholders that providers of information and advice in such categories of law should be accessible within each of the LSC regions. Detailed analysis of this data is available in Appendix B; however, the following is indicative of some of the issues associated with coverage:

- **Categories of law with the highest numbers of contracted providers nationally are debt (71 per cent of CLSPs have at least one provider), housing (72 per cent of CLSPs have at least one provider), welfare benefits (71 per cent of CLSPs have at least one provider), crime (74 per cent of CLSPs have at least one provider) and family (86 per cent of CLSPs have at least one provider). These categories of law are generally regarded to be ‘mainstream’ areas of legal advice, and as a result many stakeholders believed that coverage of these categories should be higher;**

- **Not all categories of law have contracted providers in each LSC region: for example there are three regions that do not have providers for consumer advice.**

- **There are also examples of unevenness of provision, with some regions not having any CLSPs with contracts in particular categories of law, whilst others hold a number of contracts for that area of law.**

The gaps and unevenness of coverage were not only described as problematic for individuals with legal need but were also highlighted as impacting on the ability of providers to make effective and appropriate referrals, and therefore offer a seamless service. The following quotations are illustrative of the problems raised concerning perceived gaps and unevenness of provision.

> I think where it affects us is that it’s limiting the amount of resources and places that you can refer on to so if you really wanted to find a solicitor… who specialised in debt and would take on your client then you wouldn’t be able to. Or you’d be much less likely to” (NFP provider).
5.5.2 CLSPs
Within the various methodological elements of the Review the perceived impact and evidence of CLSPs facilitating the delivery of the aims of the CLS was considered. This section provides contextual information regarding the CLSPs and their activity, highlights the issues facing CLSPs and examines their ability to enable the delivery of the CLS. It considers whether the CLSPs have been or will be an appropriate and fruitful vehicle through which the aims of the CLS can be translated at local level.

Context
The national baseline questionnaire undertaken as part of the Review indicated that there are 208 CLSPs, of which 73 per cent were established in 2000 or 2001. Further contextual information regarding CLSPs can be found in Appendix B.

Engagement in CLSPs
Across all CLSPs, the not for profit sector makes up 33 per cent of partnership members, other charity or voluntary organisations 18 per cent, legal professionals account for 25 per cent, local authorities 13 per cent, other public agencies 8 per cent and other members 3 per cent (other members include academics, LSC representatives, county and parish councillors, representatives of primary care trusts or health authorities and user groups). Further details regarding the make-up of the CLSPs can be found in Appendix B.

The detailed questionnaire sent to members of a sample of CLSPs indicated that:

- The majority of respondents stated that engagement with the CLSP has been either highly beneficial or quite beneficial for their own organisations (see figure 5.5.1 below): however, for profit providers were least likely to state that working with the CLSP had been beneficial for their organisation.
Representatives of different organisational groups have very different reasons for engaging with the CLSPs: statutory obligation was the most frequently cited reason for involvement in the CLSP amongst LSC and local authority representatives (although local authority representatives do not in fact have a statutory obligation). The most frequently cited reasons for involvement amongst both provider groups were: organisational interest; to inform their own organisation’s strategic direction; to facilitate their organisation’s role in achieving the aims of the CLS; and to develop own/organisational understandings of local needs.

(Further details regarding partners’ engagement and a greater breakdown of the information summarised above can be found in Appendix C.)

Amongst interviewees there was a commonly held view that members will have become involved in the partnerships initially as a route to accessing more funding; on finding that this is not necessarily the case some members have become less actively involved. Where partnerships have been able to work together successfully to bid for additional funding, this may strengthen participation in the partnership, although such bids are more likely to benefit the not for profit sector than the for profit sector, especially where there is local input into deciding how that money can be spent. Attracting additional funding has been particularly valuable where the local issues are complex and multifaceted.

“Obviously the little of funding we just recently got probably wouldn't have happened if we hadn't had that kind of partnership approach – we just got neighbourhood renewal funding for a big income maximisation project this year that was very much …the need was identified through the partnership by groups saying that we just desperately need people to do some work, particularly with housebound and hard-to-reach communities around income...
maximisation and welfare benefit entitlements” (Council officer for regeneration and community partnerships).

Issues faced by CLSPs with regard to their approach to partnership working fall into two categories, those which are common to many other local partnership groups such as local strategic partnerships, drug and alcohol action teams and crime and disorder reduction partnerships, and those which are specific to the Community Legal Service. In the first category, time commitment, staff turnover and the challenge of collaborating with members from a diverse range of working cultures are the main issues. In regards to membership issues specific to CLSPs, partnerships reported finding it difficult to maintain a balance of active membership among both the not for profit sector and the legal professional sector.

“‘The solicitors were very much involved in the beginning and then gradually they have pulled out and become less involved in the steering group’ (Council officer for regeneration and community partnerships).

“‘It’s always difficult because they (private practice solicitors) know down to the pounds and pence how much each hour they’re out of the office it’s costing their firm. And you’ve got to make the meetings worthwhile. … a few will probably do it for [free] because a lot of the issues will be sector wide rather than just [for] private practice” (LSC consultant).

While it is more common for partnerships to have difficulty engaging lawyers in private practice to join or attend steering groups, the project team has also found a partnership which was dominated by the for profit sector, with the not for profit sector somewhat alienated.

Case study no. 3
The partnership began work with strong engagement and participation from many different organisations and agencies offering advice and information, including the private sector, the local authority and voluntary sector organisations; however, voluntary sector organisations have increasingly become marginalised by the private sector members of the CLSP.

Partnerships may also be held back by the logistical and practical difficulties of requiring close collaboration between commissioners and providers, and between providers who may be competing for the same contracts or bids to lever in funding. Difficulties were also identified with the local authority not necessarily being represented by the appropriate individuals.

Case study no. 11
The partnership has strong representation from the local authority, private sector providers and the voluntary sector; however, there are a number of concerns around ensuring that the most appropriate people at the most appropriate level are engaged from the local authority. In addition, serious concerns were raised regarding the long-term viability of private sector providers at the specialist level, as they are increasingly withdrawing from public work, and this
would have a considerable impact upon the CLSP and service provision in the area. The LSC representative plays an important role in ensuring the CLSP maintains its activities.

**Organisational culture**

As detailed above, the involvement of representatives from all the different stakeholders inevitably brings as many different organisational cultures to the partnerships as there are members. There is evidence that the LSC has taken different approaches to developing a CLS organisational culture in different areas: some partnerships are chaired and driven by the LSC, while others are run much more autonomously with more arms’ length guidance and direction provided by the LSC. The local character has been shaped by the nature and extent of LSC involvement.

A commonly held view is that there is, rightly, no ‘one size fits all’ approach to the development of CLSPs as organisations, though this may mean that the CLS across the country is somewhat uneven in character.

> “What I would say is that we have put quite a lot of effort into letting partnerships develop in different ways, so we haven't imposed the same thing on them all. Which does mean we have encouraged each, locally, to pick out the issues that are important to them and work with them. So, I think there is some evidence that we have done that. But I've no doubt it will be perceived differently in different areas. And some areas will say we've been very, very helpful and some will probably say haven't and we've obstructed them” (LSC RPPM and LSC consultant).

### 5.5.3 Reflecting and responding to local need

CLSPs are widely understood to offer a mechanism through which the aims of the CLS can be translated at a local level. However, understandings and experiences of stakeholders suggest that the CLSPs’ efforts and abilities to respond to local legal needs are variable. This section describes CLSP activities in understanding and responding to legal need.

**Undertaking required activities**

CLSPs have been encouraged and assisted by the regional LSC offices to undertake a number of activities, most notably the development of a local strategy and a local referral system.

**Developing a strategy**

There is evidence from the national baseline questionnaire (completed by the LSC regional partnership and planning teams) that a significant proportion of CLSPs had undertaken a variety of activities to inform their development of a local strategy: 91 per cent of partnerships had undertaken a need assessment; 92 per cent had mapped provision; 89 per cent had undertaken a gap analysis; 82 per cent had undertaken a prioritisation exercise; and 79 per cent had undertaken some form of consultation. However, evidence from the more detailed research and consultancy I April 2004.

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23 Data are from 206 of the 208 CLSPs’ progress on these activities.
questionnaire sent to members of a sample of partnerships indicated that 17 per cent of respondents considered the results of the needs mapping exercise to be not very accurate, with 14 per cent of respondents considering the results of the mapping of provision to be not accurate.

The detailed questionnaire distributed to a sample of CLSPs sought respondents' views on whether the strategic plan their CLSP had produced has been useful for their own organisation. Ninety-three per cent of respondents stated that their CLSP had produced a strategic plan, and the majority of respondents across all organisations believed that the strategic plan has been either quite useful or very useful. For profit providers were more likely than other groups to state that the strategic plan had been either not particularly useful or not at all useful. Evidence from the wider review suggested that there is a lack of consistency in the way in which the strategic plans of the partnerships are 'owned', with the LSC often, but not always, directing the production of the strategy and not relying on the CLSP. There was evidence to suggest that the bureaucratic nature of the exercise has led in some cases to the finished documents being neglected and not being used as 'live documents' to inform practice.

Referral systems

The national baseline questionnaire indicated that most CLSPs (71 per cent) have developed their referral process and are using them (but it cannot be ascertained as to what extent these processes are being utilised, or by whom). In addition to this, there are a further 10 per cent of partnerships which have also developed their referral process but are not currently using them. A total of 14 per cent of CLSPs are currently establishing their processes, but this includes six per cent which report that their development has been interrupted. Four per cent of CLSPs have done no work to date on developing referral processes.

Interviewees identified a number of problems with the referral systems in place: some regarded the system to be too complicated and overly bureaucratic; some identified problems with the time associated with complying with the systems; maintaining the database and information was cited as resource heavy; and others suggested that many providers were not keen or were unwilling to refer potential clients.

Case study no. 2

The much needed referral network which was developed is described as 'loosely still working', but the regional office, which initially funded a directory for each of the CLSPs, has not had the resources to keep these up to date.

These problems have led to many of the referral systems falling into disuse, with basic signposting likely to be a more common occurrence. Many interviewees identified that their ability to signpost clients had been improved through their engagement with the CLSP. This is reflected in the analysis of the detailed questionnaire sent to members of a sample of CLSPs, where 59 per cent of respondents believed that their CLSP had been quite effective, and 18 per cent thought their CLSP had been highly effective in increasing co-ordination between providers of advice (for a more detailed breakdown of results see Appendix C). However the evidence indicates that this means that those most likely to have clients signposted to them are likely to
be those most active within the partnerships, and not necessarily the most appropriate provider for clients’ needs. The following quotations are illustrative of the problems and issues with the referral systems which interviewees identified.

- “We adopted the sort of good practice referral system that was established about a year and a half ago in [the area], and the only people that used it funnily enough were the CAB. Apparently we were the only people that referred anybody anywhere. Nobody ever told them to come here. So basically the system didn’t work” (CAB district manager).

- “Most of them [CLSP provider members] get fed up. All the feedback that I’ve had on referral has been very, you know, ‘We’re not satisfied. We don’t like it. We don’t like the system’” (Local solicitor).

- “Our experience generally is that referral as a concept is almost so complicated for organisations to want to deal with that they are almost encouraged as soon as you introduce a process to actually stop referring at all and signposting only, because it’s much less complicated for them to deal with” (LSC consultant).

- “Signposting happens much more frequently than a formal referral” (LSC consultant).

**Addressing coverage**

The Review identified that there was not a general agreement regarding the role of the CLSPs in addressing local needs. The local needs analysis was understood by many to be indicative of the CLSPs' role in identifying local needs and gaps in provision; however, many interviewees expressed doubt that this exercise impacted on informing local provision of advice and information services.

- “At the moment it [the local CLSP] is little more than a talking shop … and ignored by the contracting team at the LSC” (quote from a CLSP member, taken from a detailed questionnaire respondent).

- “Certainly none of the people I’ve spoken to have got any knowledge of any link between what their local partnership have said, and changes in the contracted pattern” (FP provider representative).

Issues concerning the accuracy and comprehensiveness of the local needs analyses, highlighted above, and concern expressed by some interviewees regarding the quality and reliability of the needs analyses undertaken by some CLSPs, suggests that in some cases it is appropriate that funds are not following the needs identified by the CLSPs’ needs mapping exercises until there is confidence that the needs assessment was accurate.
“There is a feeling that the partnerships are … not fully equipped to do this job [needs analysis], and that therefore the results of the needs analysis may not be satisfactory, may not be accurate. And therefore, if funding was being changed on the basis of these analyses, then that might not be actually responding to the actual needs that are there” (FP provider representative).

However the Review did identify some examples of innovative work being undertaken to respond to local coverage issues. Examples include:

- the development of outreach services where providers are awarded contracts which authorise them to provide outreach sessions to cover areas where there is no current contractor. These are understood to be particularly useful in rural and remote areas where there is not enough demand to sustain a full time contract;
- the Just Ask! website and the CLS directory line, which are examples of new methods for delivering improved access to appropriate information and advice;
- innovative approaches such as telephone helplines dealing with specific areas of advice provide mechanisms to improve coverage and access. Such initiatives have been developed not only to help address gaps in provision of legal services, but also to help people in rural areas and people with disabilities obtain access to justice;
- regional LSC contracts given to providers to provide specialist support services offering telephone advice, mentoring and support to organisations working within the CLS to enable them to undertake cases which would otherwise be beyond their ability; and
- the Partnership Initiative Budget (PIB) which has enabled CLSPs to access funds to develop local initiatives to address problems associated with gaps in provision to enable people to gain access to the services they need.

Addressing the social exclusion agenda

While there are many organisations involved in the CLS which are very closely integrated in the social exclusion agenda, it is their view, as much as that of others, that the CLS (as a whole and as a system of local partnerships) has not focused on social exclusion and has been unable to ensure justice is provided to the most disadvantaged in society.

“I don’t see how the CLSP is going to tackle the issue of social exclusion. And to me it's not about that. It is about identifying where the needs are and trying to meet those needs. It's about supply and demand and going from there. I don’t see social exclusion as something that the CLSP really should have at its forefront because it is something different. The CLSP is a community legal service partnership. It is a partnership to provide legal services to the community. That is what I see it as. I don’t see it as a forum to resolve social exclusion” (Local solicitor).

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24 Although many of these are still in the process of being set up, and issues relating to the accessibility of telephone support by very disadvantaged groups will need to be monitored.
Establishing local links

There is limited evidence of partnerships making strong links with other local organisations operating in the public sphere.

“Some work has been done to sort of work with the people who are on the other side. We now have a regular liaison meeting with benefit agencies because a lot of the work is involved with them. We have a sort of regular network with the housing services within the borough or any relevant sort of rent area section, council tax section” (CLSP chair and manager, local NFP provider).

As this is an organic process that cannot easily be imposed from above it is inevitable that this will vary between partnerships. It is likely that where the link with local authorities is made with the officer responsible for social inclusion, these links across the community can be made more effectively than when the ‘legal’ in CLS has led to the local authority solicitor being charged with the link role. Borough and county solicitors interviewed as part of the case study fieldwork demonstrated a strong commitment to the partnership and its aims, but it was also clear that they felt they had been landed with the role without much consideration, and that the other pressures of their job meant that they were unable to spend as much time on it as they might wish.

Case study no. 4

The partnership comprises members who have a strong commitment to providing and improving advice services in the borough, particularly to the socially excluded, but the real activity seems to occur internal to providers despite rather than because of the existence of the partnership. There are some examples of friction and enmity between steering group members, and evidence of ‘partnership fatigue’ exacerbated by a flurry of activity at the start (producing the strategic plan, putting in a successful PIB bid) and by frequent changes in LSC personnel.

Attracting additional funding

There is some evidence that some CLSPs have been successful in attracting extra funding for their work via funds such as the New Deal for Communities and the Community Fund. For example, the LSC office in Cardiff secured match funding for the PIB from the Welsh Assembly and the Community Fund, increasing the CLS’s reach in Wales.

However, whilst we have been unable to quantify the amount of levered in funding that has been attracted, our understanding is that amounts are relatively modest compared to the funding provided by the CLS and traditionally provided by local authorities. It is also worth noting that some of the levered in funding that partnerships have described to us is actually PIB funding, which is in fact a LSC fund.

The PIB has been set up for organisations or CLSPs to make a bid against a national fund. It was reported that there have been two opportunities for bids, the first aimed at encouraging providers to develop innovative ways of delivering services or alternative ways of delivering research and consultancy.
services, raising awareness and educating people about legal rights and legal advice issues. The second round was focused on community legal education and promoting links between community groups and legal advice providers.

In Wales the regional LSC office managed to pre-match the fund through developing strategic links with the Welsh Assembly Government Communities Unit and the Community Fund in Wales, trebling their fund available to bidders in Wales.

PIB funding was viewed very positively by national stakeholders and local CLSP members alike, as the following quotations illustrate.

- “We managed to set up a new law centre with this money [PIB], and pulling in local authority money, and that worked very well” (NFP provider representative).
- “One thing I’m sure that’s been good about the partnership innovation project [PIB] … is that it has been quite useful for stimulating projects in that area so I’ve been very much behind a continuation of PIB” (NFP provider representative).

While some partnerships have been hampered by the competitive nature of funding opportunities, meaning members are pitted against one another, other partnerships have been able to reap the benefits of collaborating rather than competing on bids. However, there is some evidence that some local authorities have tried to take advantage of the extra funding levered in by their local CLSP by reducing their own contribution to local advice services such as the CABs and law centres. Such cuts can lead to core funding being replaced by non-recurrent or ‘soft’ funding for bid based grants, thus reducing the longer-term stability of services.

**Engaging users**

While all Quality Marked providers are required to seek users’ views, user involvement in services rarely seems to go beyond this. Evidence of CLSPs leading this initiative is not widespread. There was a common view amongst interviewees that user involvement in decision making is not happening in the CLS. It has been reported, and was evident from our analysis of the national baseline questionnaire, that the CLSPs have an under-representation of member organisations which can speak for users: only four per cent of partnerships always have users represented at meetings and 35 per cent never have users at meetings. Reasons for this could be linked to resources, differential spatial scales at which the partnerships and typical user organisations are structured and perceived irrelevance of CLSP activity to the concerns of consumers. The focus groups undertaken by the review team revealed very low awareness of the CLSP and other sources of direct help from the CLS through, for example, the Just Ask! website.

Encouragingly, analysis of the national baseline questionnaire suggests that 79 per cent of CLSPs have completed a consultation exercise, 62 per cent of which engaged users and 37

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25 Percentage of responses from the 160 CLSPs for which we have information regarding user representation.

26 Based on analysis of returns (206 out of 208 partnerships).
per cent engaged the general public. Wider Review evidence also suggested that user experience has been considered by members of some CLSPs, and examples of where this has taken place are outlined in the following quotations.

1. "We did a …[telephone] poll thing but it didn't work out very well. The other thing we did do was to do a mystery shopping thing. I think it's actually quite difficult… [but it] was quite good because… it's looking at that perspective. We probably will try and look at doing that again. I think it's quite a useful way of highlighting issues about who gives good advice and what kind of service you get" (Council officer for regeneration and community partnerships).

2. "We've done … a rapid appraisal, where we go out into the street and we have a series of posters and a series of questions with answers with pictorial representations of the answers, so if people can't speak English or if they can't read or write, they can still take part. And we … ask them things like, "Have you needed advice in the last three years? What area of law did you need advice in? Did you find it easy or difficult to get this advice?"” (LSC consultant).

3. "A lot of people wouldn't have heard of the Legal Services Commission, let alone the Community Legal Services Partnerships. So there has been minimal service user involvement" (Director, council debt advice service).

Innovation and change
Some participants in the case study interviews strongly felt that the CLSPs should be developing preventative strategies to help potential users avoid their need for legal services arising (eg through proactive housing or debt counselling or changes in practice of landlords etc), but there was little evidence that this was being implemented.

It was also felt strongly that the motivation for doing this should be to reduce people’s distress and, more generally, tackling social exclusion rather than saving money.

Case study no. 3
The primary role of the CLSP appears to be information sharing and educating, for example, through seminars on specific areas of law. Although these seminars are perceived to be very useful by partnership members and those agencies that have been marginalised, the activity of the CLSP appears to be focused on the issue of information and education, potentially at the expense of the other goals of the partnership. The LSC representative plays a key role in ensuring that the CLSP maintains its activities.

The focus groups undertaken by the review team revealed that users had ideas about how they would like to be able to access services and information about services.

1. “Maybe having easier access, rather like they have these NHS direct phone lines, or 24-hour surgeries and things like that; something where you could get a quick and easy answer
to a problem that's not going to break the bank” (Focus group 4).

“I think probably a lot of things can be sorted out in ten minutes over the phone, very often” (Focus group 2).

“Perhaps centralise the calls [at the CAB], rather than having a Citizens' Advice Bureau locally to you. Centralise the calls and then put you through to specific areas that you need to be put through to” (Focus group 1).

“As I say, it wouldn’t be too difficult to put something like an appendix into something like the *Thompsons Local Directory*, that could be partly sponsored by people like the Citizens’ Advice Bureau. Because it may well cut down on the number of calls that they get, where they all they have to do is refer somebody to somewhere else if they could have found out that information by having the booklet” (Focus group 4).

### 5.5.4 Impact of the CLSPs

Information drawn from the detailed questionnaire sent to members of a sample of CLSPs indicated that:

Over half of the providers who responded to the questionnaire stated that they did not believe their CLSP had been effective in improving access to justice for the public: over 60 per cent of both for profit and not for profit providers who returned the questionnaire stated that they believed their CLSP had either been not particularly effective or not at all effective in this key area for both CLSPs and the CLS as a whole. Figure 5.5.2 illustrates the responses from all the questionnaire respondents and responses from the for profit and not for profit providers.

![Figure 5.5.2: Responses to the question: how effective has the CLSP been in improving access to justice for the public?](image-url)
Over half of all respondents stated that the CLSP has been much or slightly less successful than they had envisaged in implementing the aims of the CLS. This trend was observed across all organisational groups.

![Figure 5.5.3: Responses to the question: has the CLSP been as successful in delivering the aims of the CLS as you envisaged?](image)

(Further details regarding members’ understandings of the CLSPs’ achievements and a greater breakdown of the information summarised above can be found in Appendix C.)

Interview data appear to provide insight into the reasons behind the belief that the CLSPs have had limited success, much of which was focused on the belief that the CLSPs’ understanding of local needs were not informing regional or local contracting strategies.

The CLSPs were viewed as having a limited role in addressing issues around coverage, with interviewees identifying the regional LSC partnership and planning teams as solely responsible for addressing problems associated with coverage at a local level, and their decision making was not considered to be based on the CLSP needs analysis. However the Review highlighted a limited number of examples of CLSPs developing understandings of local needs which have been acted upon and reflected by the LSC in their local decision making. The following are illustrative of the comments made regarding the CLSPs’ role in influencing contracting decisions.

"We had very high up meetings with the contract team at a very early stage because it seemed to be that we had identified all this need but yet there was nothing, there wasn’t the investment, and they agreed in this borough to do a pilot contract on debt advice. But that took quite a bit of pushing to achieve that" (Council officer for regeneration and community partnerships).
“[There is an] example … where the partnership had clearly identified a need for benefits and debt advice on the coastal strip, which we’ve now taken the decision to fill. It won’t be filled until next April, but that gap will be filled. Now, that doesn’t mean there’s no gaps, but it does mean that the highest priority that the local partnership has identified is being dealt with” (LSC RPPM and LSC consultant).

“I’ve seen some improvement in terms of provision of information for young people and I think it’s made a difference to where there’s effective community legal service in a rural area” (LA representative).

5.5.5 The future for CLSPs
Despite a number of wide ranging concerns expressed by a range of interviewees regarding the effectiveness and impact of CLSPs, most respondents to the detailed questionnaire sent to members of a sample of CLSPs showed enthusiasm for continuing to work with their CLSP, with 90 per cent stating that they would probably continue work with the CLSP, or were keen, or very keen, to continue. This figure includes 75 per cent of for profit respondents stating that they would probably continue working with their CLSP, or were keen to do so.

![Figure 5.5.4: Responses to: How keen is your organisation to continue with the work of the CLSP?](image)

Further indication of positive views concerning individuals' and organisations' engagement in CLSPs are provided in the following indicative quotations.
“The sense I kind of feel it has built on things and helps to build on things. There is an ability to look at ownership things and for people to say, ‘I think we do need to be focusing on this,’ and there is a kind of debate around those issues” (Council officer for regeneration and community partnerships).

“From my point of view, I think it’s mostly been very positive actually, because I guess in some ways we were, when we started a fairly isolated organisation, from the point of view of other advice providers. You know, there were a few people who knew we were here but the whole raft of other providers who didn’t know we were here” (Borough trading standards officer).

The questionnaire also asked respondents to identify ways in which their CLSP could be made more effective by selecting up to five options from a list. Four answers were selected by more than a third of respondents. These were: greater integration of CLSP aims and objectives within wider community and strategic plans; increased availability of funding from the LSC; greater collaboration between funders to secure funding; and increased availability of funding from non-LSC funders.

There is a perceived risk that many CLSPs will cease functioning, as members are questioning whether they should continue to engage with the CLSPs. Evidence from different strands of the Review has led the review team to be concerned for the future of the CLSPs and believe that the status quo is both ineffective and unsustainable. There does not appear to be a clearly understood rationale for the CLSPs. The strategy for CLSPs has been output focused and their role in enabling the delivery of the intended outcomes of CLS is not widely understood. In particular, they have been asked to develop an extensive planning mechanism with few, if any, funding decisions to be taken or influenced. This has led to members of the partnerships not understanding their wider role and therefore feeling that their partnership is seemingly stagnating following completion of the needs analysis, gap analysis and referral systems work, although there are some examples of the LSC regional offices helping CLSPs plan and prioritise further activities.

“Generally I’d say [there is] not as much [clarity of aims and objectives] as there was at the outset. When they were set up they had a good, clear, initial aim, which was to do the mapping exercises needs, and to put together the various plans and reports. Once that was done, I think there was less idea as to what they were supposed to do after that. There’s only a certain amount of work that could be done reviewing the needs analysis. So they have, I think, been left [after] that initial task, with a lot less clear focus as to what they are supposed to be doing” (FP provider representative).

“I don’t get a sense … that there’s a national strategy for what the partnerships are doing. There doesn’t seem to be any national drawing together of that work” (NFP provider representative).
“It has to be able to move forward and be seen to be doing something, to have a clear goal and purpose. That was the whole danger that doing all the assessment of needs and advice and a very clear focus and then we think what happens then? … I think they’ve [the LSC regional office] been helping move that agenda forward and sort of saying, ‘Let’s have a work plan and have our priorities for this year.’ So in that sense they have sort of helped to give a kind of focus and leadership role probably in relation to the partnership” (Council officer for regeneration and community partnerships).

The Review established a lack of clarity about the intended outcomes of the CLSPs, as well as no consistently used method of measuring outcomes. Little evidence has emerged that the system of partnerships, as currently set up, can guarantee success in achieving the intended outcomes of the Community Legal Service. The unevenness in provision of advice and information services (both geographical and thematic) mitigates against partnerships being able to guarantee the provision of effective and appropriate high quality and timely information and help.

5.6 Meeting the needs of service users

The stated focus of the CLS is on meeting the type of legal needs that most affect people’s lives, in particular providing advice and help on problems in social welfare categories of law. The key aim of the CLS thus focuses on delivery of appropriate legal services to disadvantaged individuals and groups. To meet these objectives the CLS has to put the service user at the centre of all activities.

To understand user perspectives the review team undertook a series of focus groups. The focus groups discussed how participants would resolve hypothetical problems and participants were encouraged to discuss their experience of seeking advice and information to resolve problems.

Our focus group work demonstrated that:

- the range of problems people need help and advice to resolve is very broad;
- people seek help and advice from a wide variety of sources;
- the help and advice that people seek includes some CLS services, however, few service users identify with the name and function of the CLS;
- people have different ‘thresholds’ for the point at which they seek external help and advice;
- different types of help and advice are valued in different ways and are used for different purposes (eg low level information and support are often sought from voluntary sector agencies, whilst solicitors are understood to have the ‘clout’ to resolve complex problems); and
- people are often reluctant to seek the help of solicitors because the costs associated with accessing professional help are not clear at the outset.

Eight focus groups were undertaken in seven out of the 12 case study areas. Further detail regarding the methods and approach undertaken can be found in Appendix D.
These issues are reflected in the findings from the first Legal Services Research Centre’s survey of justiciable problems.\(^2\)

Of all the personal experiences that were discussed during the focus groups the most poignant was the feeling of being alone and having nowhere to turn when problems arose. If the CLS is to achieve its aims it must understand the complexity of the needs of users and potential users (however the ‘user’ is defined) and reorient itself to become a service that (either through direct service provision, or through supporting other service providers) can ensure people know where to turn when problems arise.

\(^2\) Pleasence (et al) 2004 *Causes of Action: Civil law and social justice* Norwich: TSO
6.0 Recommendations

In this section we make five broad recommendations relating to:

- clarifying the aims and function of the CLS;
- establishing the evidence base for the CLS;
- developing national funding streams and procedures;
- ensuring quality; and
- translating CLS aims into service provision.

Under each of the broad recommendations we have made specific recommendations that would assist with their implementation.

6.1 Clarifying the aims and function of the CLS

The first broad aim relates to the aims and function of the CLS.

1. Clarify and make more transparent the aims and function of the CLS, both internally and to external service providers and stakeholders.

Within this broad aim we have set out recommendations covering three areas:

- establishing structures to make the aims and functioning of the CLS more transparent;
- establishing processes to make the aims and functioning of the CLS more transparent; and
- developing a more robust performance management system to manage the new regime.

Specific recommendations to establish structures and processes to make the aims and functioning of the CLS more transparent are set out below.

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<tr>
<th>1.1</th>
<th>Create an Executive Director of the CLS.</th>
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<td>1.2</td>
<td>Create an independent CLS Programme Board.</td>
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These recommendations address both the lack of overall accountability within the CLS and the lack of a dedicated leader for the CLS, particularly one able to take forward the change agenda recommended in this review.

When developing these recommendations we considered a wide range of options. One of these was restructuring the LSC in order to create one organisation with a focus exclusively on the CLS and one or more organisations with a focus on other areas of criminal and asylum work. This option was rejected because of the additional cost and bureaucracy associated with splitting up the LSC. Other options considered included the creation of a CLS Chief Executive sitting in either the DCA or a new body independent of either the DCA or LSC. We do not believe that these options would be effective. This is partly because of the danger that a Chief Executive of the CLS sitting outside the LSC would have insufficient influence over CLS funding and would therefore have limited accountability, and partly because the role of this person as a...
leader of change requires them to be closely associated with key elements of the CLS that currently sit within the LSC. We would therefore recommend that the post of Executive Director of the CLS be located in the LSC and believe that this should be achieved within a relatively short timescale and for only a modest cost. We believe that in order to have sufficient authority and ‘weight’ within the LSC, the Executive Director for the CLS should sit on the LSC’s executive board. The Executive Director of the CLS’s main responsibility would be the provision of policy advice and policy development.

A Programme Board would have a governance role over the CLS, signing off the CLS strategy (see below) and holding to account the Executive Director responsible for the CLS. We would recommend that such a board be located within the LSC, but with a membership drawn from beyond the LSC, possibly including bodies representing the interests of suppliers (eg the Law Society and the Advice Services Alliance) as well as other government departments with a stake in the wider CLS to ensure independence. We also recommend that the Programme Board be independently chaired. One key issue to resolve would be the precise relationship between the Programme Board and the Legal Services Commissioners.

Specific recommendations to establish processes to make the aims and functioning of the CLS more transparent are set out below.

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<tr>
<td>1.3</td>
<td>Create a three-year strategy for the CLS.</td>
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<td>1.4</td>
<td>As part of developing a strategy for the CLS, develop a clearer ‘mission statement’ for the CLS.</td>
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These recommendations address the lack of clarity about the aims and scope of the CLS, particularly in the area of social exclusion, where the case for tackling social exclusion has not been made conclusively, either in terms of its potential impact or the methods of delivery most likely to be effective and cost-effective. A clear mission for the CLS is particularly important in a climate where there is pressure on departmental budgets.

We believe that these recommendations could be implemented in the relatively short term and with minimal cost implications. A strategy for the CLS should be drawn up by the Executive Director (see above) and widely consulted upon. It should be signed off by the CLS Programme Board (see above). A ‘mission statement’ should restate the CLS’s original ‘access to justice’ remit, but also clarify its role in tackling social exclusion, making clear what is meant by social exclusion and how this fits into the CLS’s broader mission. The danger that providing a clear definition of what the CLS means by social exclusion will inadvertently narrow the focus of the CLS, or reduce its flexibility, is outweighed by the current lack of clarity in this important area.

Specific recommendations for developing a more robust performance management system to manage the new regime are set out below.

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<td>1.5</td>
<td>Consolidate and develop existing performance management by building upon the methodology used in this review.</td>
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<td>1.6</td>
<td>Establish clear linkages between national outcome targets (such as PSA 6) and the provision of local services.</td>
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These recommendations address findings that current performance management systems make it difficult to guarantee delivery of key national targets, have insufficient focus on outcomes and make insufficient links between different elements of the CLS and the relationships between these elements.

We believe that the performance management framework envisaged in these recommendations could be established over the next six to 12 months, with results starting to become available within the next 18 months. The balanced scorecard constructed for this review could be turned into a comprehensive performance management framework for the CLS that makes clear links between inputs, outputs and outcomes via key processes and structures that constitute the CLS. The balanced scorecard has a number of advantages. It encourages analysis of:

- critical success factors for the further development of an effective organisation or partnership;
- a small number of key perspectives;
- the relationships between perspectives; and
- non-financial factors that contribute to the success of an organisation or partnership, such as knowledge, experience and motivation\(^{29}\).

Balanced scorecard based management tools have been developed for other public sector organisations, including the Environment Agency and the Department of Health.

Coupled with the development of a performance management framework there is a need to make clear linkages between national outcome targets and the provision of local services. This could be achieved through improving upon the performance management information on outcomes that is currently gathered from local service providers, either as part of the existing commissioning regime or as part of the development of one of the new commissioning regimes set out in these recommendations (see below). National targets could then be disaggregated and devolved on either a regional or thematic basis.

### 6.2 Establishing the evidence base for the CLS

The second broad aim arising from this review relates to the evaluation and dissemination of effective practice.

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29 A description of the balanced scorecard used for the Review can be found in section 4 of this report.
Specific recommendations are set out below:

| 2.1 | The DCA and/or LSC to commission a number of properly evaluated demonstration projects that show the impact of different types of general and specialist advice and the most effective and cost-effective methods of provision. |
| 2.2 | The DCA and/or the LSC to commission a research programme to clarify the links between advice and the reduction or prevention of social exclusion and the protection of fundamental rights. |

These recommendations are a response to our findings that the case is yet to be made for different types of general and specialist advice being an effective response to the issues that the CLS was established to tackle. Furthermore, these recommendations are a response to our finding that the case for the CLS tackling social exclusion has not been made conclusively, either in terms of its potential impact or the methods of delivery that are most effective and cost-effective. Both of these issues are increasingly important at a time when departmental budgets are under pressure.

We believe that both of these recommendations could be initiated in the relatively short term (three – six months), although the timescale over which results would become available would be a minimum of 18 months. We believe that for both recommendations the quality of project design, and in particular the quality of evaluation design, will be crucial. Building upon work being undertaken currently across central government on the standards of evidence required to support the formulation of policy and the allocation of departmental budgets, we would strongly recommend that such studies should utilise a randomised controlled trial methodology\textsuperscript{30}, but that at a minimum they should use a strong quasi-experimental methodology that meets the minimum standards for a robust social policy evaluation as set out in the Maryland Scale\textsuperscript{31}. Both streams of work would build upon existing research undertaken by the DCA and the LSC. So, for instance, projects examining advice would build upon research on the links between legal need and CLS provision recently published by the LSC as *Causes of Action: Civil Law and Social Justice* (Pleasence et al., 2004), and projects examining social exclusion would build upon the work undertaken jointly by the LCD and the Law Centres Federation (LCF) and published in 2001 as *Legal and Advice Services: A Pathway out of Social Exclusion*\textsuperscript{32}. The research programme should also include a number of properly evaluated demonstration projects that show the impact the CLS can have on social exclusion and the most effective and cost-effective methods for doing so.

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\textsuperscript{30} A Randomised Control Trial (RCT) is a ‘true experimental’ approach based on random assignation of the intervention in question between the experimental and control group, with the random element of the design ensuring that any impact observed must be the result of the intervention studies rather than any differences in the characteristics of the two groups.


\textsuperscript{32} LCD and LCF (November 2001) *Legal and Advice Services: A Pathway out of Social Exclusion*
6.3 Developing funding streams and procedures

The third broad aim focuses on national funding streams and procedures.

| 3. Ensure that national funding streams and procedures are relevant to need and are both sufficient and flexible to meet changing demand. |

Within this broad aim we have set out recommendations covering three areas:

- hypothecate the CLS funding;
- increase emphasis on needs analysis and the impact of legislative change; and
- change the nature of contracts with local suppliers.

Our specific recommendation on the CLS budget is set out below.

**3.1 Protect the CLS budget.**

This recommendation addresses findings suggesting that a lack of stability in the CLS budget and the unpredictability that this results in has an adverse impact upon long-term planning within the CLS. In particular, there was a strong feeling among many participants in the review that civil justice issues can become ‘crowded out’ by criminal issues.

There are a number of ways in which this recommendation could be achieved either directly (by ring-fencing the civil legal aid budget) or indirectly (eg ring-fencing the criminal legal aid budget). Another alternative would be to fix the budget for elements of civil law where increases in legal and advice costs associated with them are driven by factors outside of the CLS (eg family law and mental health). This has already been undertaken to protect the civil legal aid budget from the rising immigration and asylum expenditure. However, because many of these solutions come from outside the CLS, it has been beyond the scope of this Review to come to a firm conclusion as to the best way forward. However, we are clear that the CLS budget needs to be based more directly upon need (see recommendation 4.2 below) and to be subject to a separate Treasury submission during Comprehensive Spending Reviews.

Specific recommendations on needs analysis and the impact of legislative change are set out below.

| 3.2 The LSC to undertake a regular and comprehensive supply and demand modelling exercise to inform the provision of services at a regional and subregional level. |
| 3.3 The DCA to undertake more robust legislative impact analysis and seek an undertaking from either the Treasury or other government departments that the DCA’s budget will increase by the amount necessary to meet increased demand due to new legislation. |

These recommendations are a response to evidence from the Review suggesting that the civil legal aid budget is, on occasions, eroded by the demands of the criminal budget. The Review...
also suggested that the CLS, as a service that seeks to address a wide range of legal needs, is sometimes vulnerable to unexpected consequences of the legislative programme emanating from other government departments. Furthermore, current uncertainties about the extent and nature of unmet need make budget setting difficult.

Accurate modelling of supply and demand at national, regional and subregional level would have a major impact upon both negotiations between the DCA and the Treasury during Comprehensive Spending Reviews and the allocation of resources to regional and subregional areas to secure the most appropriate mix of provision. Research undertaken by the LSC, including the Periodic Review of Legal Need, as well as local needs analysis undertaken by regional LSC offices and local CLSPs is a useful starting point, but does not provide sufficient detail to develop a supply and demand model of the CLS at regional and subregional level. Such work could draw upon the extensive experience that exists around health planning across local health communities and would probably best be taken forward by regional LSC offices to an agreed national model, with input from local CLSPs. In particular, it is important that any model takes account of potential users who do not currently access services. A key driver of demand for CLS provision is the consequences of the legislative programmes of other government departments. The DCA already undertakes some work to identify and predict the impact of such legislative changes. However, further work is required, both on the identification of such impacts and upon ensuring that the case is then made successfully to either the Treasury or those government departments responsible for increases to the DCA’s budget to cover such impacts.

Specific recommendations on changing the nature of contracts with local providers are set out below.

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<td>3.4</td>
<td>Change the contractual basis of for profit and not for profit contracting to achieve a better focus between outputs and outcomes by the contracted basis for both being based on a Service Level Agreement.</td>
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<td>3.5</td>
<td>The LSC to pilot the commissioning of consortia of local providers to provide a ‘one stop shop’ for the provision of all early prevention, advice and publicly funded legal provision in a subregional area.</td>
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Both of these recommendations are based on findings pointing to the complexity of current contracting arrangements and referral networks posing unnecessary administrative burdens on both for profit and not for profit providers and current quality assurance systems proving unnecessarily complex and burdensome. Underpinning these findings is a concern that the current system does not encourage flexibility or innovation. The latter recommendation also addresses evidence from the Review on unresolved issues around access and coverage, with regional variation and some unevenness of provision of advice and information services (both geographical and thematic) being identified, as well as referral systems being found to be generally ineffectual.
Other options considered when developing this recommendation included combining a move towards Service Level Agreements (SLAs) with the introduction of competitive tendering by individual service providers for such contracts. However, we have not found clear evidence of the likely benefits of a competitive approach.

Currently, contracting with both the for profit sector and the not for profit sector is based primarily on the achievement of internal management standards, rather than the delivery of key outcomes. We recommend that for profit and not for profit contractors are moved away from current matter starts and ‘block funding’ based on outputs, to SLAs based on delivery of a balance between outputs and outcomes. This should be combined with a simplification of current quality assurance mechanisms, with the negotiation of SLAs and performance monitoring against SLAs becoming key mechanisms for monitoring quality.

Commissioning local consortia to provide a ‘one stop shop’ for the provision of all early prevention, advice and publicly funded legal provision in subregional areas (including certificated work) would be a more radical approach to some of the issues for which moving towards the use of SLAs might be a solution. Regional offices of the LSC would use the output of supply and demand mapping exercises (see recommendation 4.2) to commission consortia of local providers. Commissioning agreements would be made on the basis of achieving a range of outputs and outcomes. Levered in funding from local authorities could be a requirement of contract award to ensure continued local authority input. It may be possible to protect the role of smaller not for profit providers by asking consortia to deliver on a range of outcomes that would require a range of service providers to participate. A ‘one stop shop’ approach would potentially enable users to access a joined up, holistic service and providers would be given flexibility in developing and managing service delivery. Such an option would have to be piloted prior to wider roll-out. We would recommend piloting both competitive and non-competitive approaches to local commissioning. Potential advantages of a competitive process might be to encourage new providers into the market place, promote innovation and deliver better value for money. A potential disadvantage might be that a monopoly would arise after a first round of bidding. Pilots of different models could explore the benefits and disadvantages of competition, as well as the optimum size for a contract that attracted new providers into the market place.

6.4 Ensuring quality

The fourth broad aim focuses on ensuring quality within the CLS.

| 4. Create means by which different forms of service provision can be monitored for quality, with minimal imposition for providers. |

Specific recommendations to support this broad aim are set out below.

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33 A SLA is a device that would commit contracted providers of information and advice services to the achievement of specific and measurable outcomes targets that will contribute to the overall aims of the CLS.
| 4.1 | Simplify the Quality Mark. |
| 4.2 | ‘Slim down’ inspection process for both the Quality Mark and contract cost compliance with a ‘light touch’ for good providers. |
| 4.3 | Continue with the introduction of alternative means of monitoring the quality of services delivered, using methods such as peer review and ‘mystery shoppers’. |

These recommendations have been developed in response to a number of findings from the review including: the complexity of the current Quality Mark and the lack of understanding of its different levels by service providers; the burdensome and bureaucratic nature of both cost compliance auditing and maintaining the Quality Mark; and the overemphasis that quality auditing places on internal management processes and outputs, rather than outcomes and quality.

We recognise that the LSC is already working to achieve the above recommendations and believe that all of them are achievable within the next 12 months. Simplification of the Quality Mark should include both a reduction in number and simplification of the of different classes of Quality Mark, to make it more accessible to service users and less daunting for those applying for it. Accelerating the process of ‘slimming down’ inspection processes for both the Quality Mark and contract cost compliance with a ‘light touch’ for proven providers would build upon the work the LSC is currently undertaking (eg preferred supplier pilot). The LSC should continue with the introduction of peer review as a means of monitoring the quality of services delivered. Other means such as ‘mystery shoppers’ should also be further developed and all should be subject to robust evaluation at the pilot stage.

6.5 Translating CLS aims into local provision

The fifth broad aim arising from this review focuses on translating CLS aims into local provision.

5. Develop the most effective means by which the aims of the CLS can be translated into good service provision at the local level, taking into account local needs. This implies that needs analysis, development of service provision, and funding streams should be interrelated.

Within this broad aim we have set out recommendations covering three areas:

- reform of CLSPs;
- new approaches to the commissioning of local services; and
- ways to improve access and referral.

5.1 Undertake a two-stage programme to refocus the activity of CLSPs in the short term and place them on a statutory footing in the longer term.

The evidence that this recommendation has been drafted as a response to include the following:
the role of CLSPs is unclear;

- the influence of CLSPs and their strategic plans on funding or other decisions is unclear;
- initial enthusiasm for the new CLSPs has diminished as their initial role has been fulfilled and their future role is unclear;
- membership of CLSPs is variable and limited, particularly among private sector providers;
- there is relatively little emphasis on preventative policy work within the CLS;
- there are relatively few ‘levers’ for encouraging active participation in CLSPs;
- there is some (largely anecdotal) evidence to suggest that local authorities are seeking ways to reduce their input into CLS services; and

- the apparent keenness amongst CLSP members to continue their engagement with the CLSPs.

A number of options were considered when drafting this recommendation. One option considered was abolition of CLSPs. This was rejected because it would leave the CLS without a local strategic presence and would fail to capitalise on the useful work already undertaken by partnerships. Another option was to refocus CLSP activity without going on to place them on a statutory footing. However, it was felt that even if the role and membership of CLSPs were refocused, the lack of ‘levers’ for encouraging sustained involvement would lead to CLSPs failing to thrive in the long term. A third option was to take advice responsibilities off local authorities, reducing local authority funding accordingly and redirecting this to the LSC for devolution to CLSPs. This devolution of funding responsibilities would be accompanied by removal of local authorities from CLSPs, but with attendance in an advisory capacity retained. This option was rejected as being likely to lead to a withdrawal of local authorities from the CLS.

The first stage of CLSP reform could be undertaken in the short term (three – six months). It would start with making CLSPs coterminous with upper tier and unitary authority boundaries, leading to a small reduction in the number of partnerships (it will be necessary to make the CLSPs coterminous with upper tier and unitary authorities to enable the second stage of reform outlined below). The focus of partnership activity would then be directed towards:

- strategic, preventative work, with the CLSPs facilitating the development of preventative strategies with organisations whose policies contribute to the causes of problems;
- the development of a more joined up system through the development and promotion of ‘care pathways’ through the CLS;
- networking and relationship building, to encourage referral activities to be based on better understandings of providers and the services they provide; and
- contributing to, but not leading, supply and demand mapping (including analysis of need) undertaken at regional level (see recommendation 4.2).

For the short term, partnership work would need to continue to be supported by the LSC regional offices. However, while the first stage of CLSP reform might rejuvenate partnerships in the short term, we are clear from the evidence contained within this Review that this will not be sufficient to secure their long-term success. Therefore, a second stage of reform would place CLSPs on a statutory footing and require all unitary and upper tier local authorities to establish and support a CLSP, a triennial audit of supply and demand (which LSC regional offices would use for making commissioning decisions), a triennial consultation exercise and a triennial
Placing CLSPs on a statutory footing was considered during the development of the Access to Justice Act (1999); however, voluntarism was chosen to root the CLSPs’ establishment and membership in enthusiasm. Whilst it is recognised that this approach has served the establishment of the CLSPs well, the evidence now suggests that in order to maintain and develop the CLSPs a statutory footing is now required. Legislation could include a requirement for the local authority to consider the impact upon the Community Legal Service in all its decisions and be accompanied by a more extensive range of best value performance indicators that focused on key local outcomes. This model would be similar to that established by the Crime and Disorder Act 1998 for the establishment of Crime and Disorder Reduction Partnerships and the mainstreaming of crime and disorder reduction within local authorities. If this second stage of reform was not undertaken we believe that abolition of partnerships (whether undertaken explicitly, or allowed to happen over time) would be the only option.

5.2 The LSC to undertake a pilot for the introduction of a salaried element into the CLS.

This recommendation responds to a range of findings from the Review, including obstacles to access, variable levels of coverage with regional variation and some unevenness of service provision, and the complexity of current contracting arrangements with both the for profit and not for profit sectors. Underpinning these findings were concerns about the extent to which the current system encourages flexibility or innovation, and difficulties in controlling the cost base of the CLS.

Options considered but not taken forward included placing a statutory requirement on all local authorities to fund advice centres that focus primarily on initial assessment and signposting. However, there was no evidence that local authorities would be able to find the necessary resources to meet this obligation.

Salaried positions could be located within organisations that currently provide services within the CLS. This could take a form similar to the new General Practitioner model of contracting that will be introduced within the NHS in 2004. Key elements of this model include a salary for named practitioners with budgets for premises, general services, enhanced services, pension arrangements and a minimum practice income guarantee. Those who enter into such contracts are prohibited from taking on private work other than as set out in the contract. Potentially such a model could be used to fund practitioners in both the for profit and not for profit sectors and might be of particular use in areas that are currently affected by the unevenness of provision of advice and information services. A second option could take a form similar to the Public Defender Service that exists in the criminal justice sector. With salaried positions located in an organisation created specifically for the purpose. Potentially such a model could be used in areas where there are currently problems with coverage of some areas of advice and information and, if ultimately found to be more cost-effective as a means of delivering CLS services, could be ‘rolled out’ more widely.

5.3 The LSC to create a ‘development fund’ specifically targeted at pump-priming new or innovative services to address unevenness in provision of advice and information services (either geographical or thematic).

5.4 Development of more ‘front-line’ triage-style services to act as an initial access point for eligibility and signposting.
5.5 Pilot a case management system, with an experienced practitioner assessing the client’s multiple needs and then helping the client achieve a holistic solution via access to different relevant services.

These recommendations respond to a number of issues raised in the Review.

- currently, there are unresolved issues around access and coverage with regional variation and some advice deserts;
- while there has been a change of emphasis over the last three years in terms of the types of services funded by the CLS, a large proportion of CLS funding is still focused on ‘traditional’ elements of civil justice service provision; and
- referral systems are generally ineffective.

The creation of a ‘development fund’ specifically targeted at pump-priming new or innovative services in current advice ‘deserts’ (either geographical or thematic) would build upon the Partnership Initiative Budget. However, key differences would be that the requirement for innovation would not be prioritised over filling gaps in provision, and funding would be targeted directly towards providers. Built in to the fund should be a strategy to mainstream successful new or innovative services. The development of more ‘front-line’ triage-style services to act as an initial access point for eligibility and signposting could continue moves within the CLS to utilise new technology. For instance the LSC could continue to expand its work in developing ‘front-line’ telephony services to develop the CLS equivalent of NHS Direct. Service would provide both information and signposting. ‘Virtual’ or ‘fragmented’ call centres would see initial assessment resulting in callers being transferred to specialist advisors, who would contract to provide a set number of hours per month and would work from their own office or home. Piloting an effective case management system (along the lines of FAInS) would involve an experienced practitioner assessing the client’s multiple needs and then helping them achieve a holistic solution by helping the client to access relevant services and move along coherent ‘care pathways’, acting as a client manager for as long as the client remains within the CLS.