

It's the System, Stupid!

Radically Rethinking Advice

Report of AdviceUK's RADICAL Advice Project 2007-2008

*Supported by
The Baring Foundation*

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The voice of independent advice

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Executive summary

The project that has led to this report arose out of our concern that current government plans for improving legal and advice services will actually lead to worse services more focused on serving the 'top-down' interests of government than the 'bottom-up' interests of people seeking advice.

The aim of the project was to explore the possibility of a different approach to improving advice services - a bottom-up approach that groups of advice agencies and their funders across the country could adopt as an alternative to the government's untested prescription of a network of Community Legal Advice Centres (CLACs) in urban areas and Community Legal Advice Networks (CLANs) in more rural areas.

In May 2006 we submitted a proposal to the Baring Foundation, requesting financial support for a project under its 'Strengthening the Voluntary Sector' programme. We indicated that we wanted to undertake the project using a particular technical consultancy, Vanguard Consulting, because we wished to use their unique 'systems thinking' approach to studying demand and re-designing service delivery to meet it. The Baring trustees supported the proposal and preparatory work on the project began in the first quarter of 2007.

In the course of applying the systems thinking approach in two study areas, the city of Oxford and the county of Powys, between December 2007 and June 2008, the project team made a number of findings, came to see the local and national advice sectors from a different systems perspective and reached a number of conclusions.

In summary, the conclusions reached were as follows:

- Most advice organisations struggle to cope with demand on fixed resources but much of that

demand is 'failure demand' - work that should not need doing - caused by failings further back in the system of public service administration. These failings are creating unnecessary work and costs within public services as well as in advice organisations.

- Advice organisations could make a huge contribution to improving public service delivery (and cutting costs) but the increasing practice of funding them solely for advice transactions means that opportunities for learning, for joint work to tackle waste and for service improvement are being missed. For these opportunities to be grasped, advice organisations need to be freed up financially to feed back on systemic failure in public services. This work would be similar in nature to what they call 'social policy work' but while social policy work seeks to inform and influence Government policy based on user evidence, work on system failures would help to improve Government practice to the benefit of public services, advice services and their users.
- Demand for advice is highly localised. Advice agencies already have a relatively high capability for absorbing and addressing this variety in demand but there will be more they can do to develop that capability by understanding separate advice services as part of one system and working more closely together.
- There is not much scope for individual advice agencies to improve their services by altering their internal systems - they already have relatively lean and simple systems that contain relatively little self-generated waste. However, funders' requirements and new contract conditions are actually introducing waste into advice agency systems.



- Advice agencies are hampered in trying to improve what they offer by two key things (there are others):
 - lack of capacity for change in terms of both management and adviser time (which do not match the combined requirements of fundraising, compliance and user demand).
 - lack of an improvement method.
- These obstacles could be addressed by using a systems thinking approach. Reducing 'failure demand' caused by poor public service procedures would free up capacity in advice agencies for change and improvement. However, this would require Government and funders to agree a suspension of existing funding requirements and other contractual conditions. Realistically, this might only be agreed within one or more pilots.



Based on these conclusions this report makes a number of recommendations including the following:

Advice agencies should:

- Consider adopting a systems thinking approach
- Consider participation in a full systems thinking pilot

National advice networks should:

- Encourage greater co-operation at local level between agencies
- Consider supporting a full systems thinking pilot

Local authorities should:

- Consider hosting a systems thinking pilot in relation to advice during which suspension of funding and compliance conditions would be accompanied by direct access to departmental management authorised to change procedures

The Legal Services Commission should:

- Allow suspension of fixed fee and CLAC & CLAN commissioning plans in one or more pilot areas in order to allow a systems thinking pilot or pilots to follow-on from this project

The Department of Work & Pensions (DWP) should:

- Authorise participation by relevant DWP offices in any pilots agreed between local authorities and advice agencies allowing discretion within those offices to change procedures with a view to eliminating waste

In coming months AdviceUK will be making approaches to all of these parties with a view to securing participation in a pilot or pilots. The difficulties for some of the parties in relaxing current targets and contractual requirements in order to allow for change are not underestimated. To address this AdviceUK will be producing further information on the implementation of a full pilot and how standards and monitoring would be maintained for its duration.

1. Introduction

“The Government’s efficiency drive is undermining the pursuit of effective public services... based on... assumptions or myths about how to create efficient public services.”

New Economics Foundation,
Unintended Consequences (2007)



The project that has led to this report arose out of our concern that current government plans for improving legal and advice services will achieve nothing of the sort. We share the desire for improved services but, in our view, plans for advice to be provided by fewer larger contractors selected through competition, using funds that currently support many smaller outlets, will actually lead to worse services more focused on

servicing the 'top-down' interests of government than the 'bottom-up' interests of people seeking advice.

The aim of our project was to explore the possibility of a different approach to improving advice services - a bottom-up approach that groups of advice agencies and their funders across the country could adopt as an alternative to the

government's untested top-down prescription of a network of Community Legal Advice Centres (CLACs) in urban areas and Community Legal Advice Networks (CLANs) in more rural areas.

Advice services in the UK could certainly be improved. They have developed bottom-up over more than 100 years but with the biggest growth coming since the 1970s in difficult economic circumstances after the emergence of the 'consumer society'. As society has become more complex due to developments in the legal framework, the welfare state, consumer choice and personal finance etc., so the need for information and advice to help navigate the developing labyrinth has become greater; especially amongst the poor and most vulnerable. Advice services have developed in response to this need, largely in the voluntary sector.



Most started as small community or self-help initiatives responding to the needs of particular localities or groups. They filled yawning gaps by offering assistance on subjects rarely dealt with by solicitors and by helping people not eligible for legal aid or not confident in their dealings with more formal sources of help. Gradually, many began to receive support from the local

public purse. Today, they continue to help people challenge the powerful organs of commerce and, most often, the state when things go wrong.

It is a great achievement of UK civil society that there are now thousands of free advice outlets across the country helping millions of people every year. Crucially, they exist just outside of the state in civil space from where they have been able to act independently on behalf of their users. But all this is changing. In the name of public service improvement, Government is creating new quasi markets in all areas of public spending and through the process of commissioning is bringing about a situation nationally and locally wherein many 'third sector' activities will henceforth be performed according to strict Government or local government specification. The underlying belief is that the market imperative to cut costs will result in a search for efficiency leading to improved services. But we ask "by what method"? We can see that there will be downward pressure on costs but cutting costs is not the same as improving services. In relation to advice, which has never been sufficiently funded to meet presenting demand (and in some parts of the country is not funded at all), there is as much need as anywhere to find savings that can be redirected to improving service but by what method will waste be identified and services improved? Through this project we have sought to identify a suitable method by which advice organisations can independently set their own improvement agenda.

2. About the project

Application to the Baring Foundation

In May 2006 AdviceUK submitted a proposal to the Baring Foundation, requesting support for a project under its programme for 'Strengthening the Voluntary Sector'. We explained our growing concern that strategies and trends in the funding and commissioning of legal advice services for the public were posing a major threat to the independence and sustainability of many advice organisations.

We argued that:

"It is the smaller, community-based advice agencies that face the biggest challenge, but most advice agencies lack the means and know-how to meet this threat."

Over the past two years we have seen this threat materialise. Joint Legal Services Commission (LSC) / local authority commissioning by competitive tender in Leicester and Hull has seen CLAC contracts awarded to a multinational private sector bidder, with long established local advice organisations losing funding and closing as a result.

Our interest was (and still is) in improving access to independent advice - not simply in protecting voluntary sector organisations. We expressed our view that the commissioning and funding methods being adopted by central and local Government would not achieve better advice services:

"In our view, the top-down approach to achieving the objective of improved access to integrated advice and legal services is fundamentally flawed. We expect it will lead to unnecessary disruption, waste and... a poorer service to the public. In our view, service design should be "front-to-back" and it must involve the people who are providing the service - in our case independent advice

practitioners and legal professionals."

The Baring Foundation Trustees shared our enthusiasm for trying out an approach to improvement that would focus on the service user, engage service providers and involve a method through which advice organisations might re-assert their independence to decide the structures and methods by which they do their work.

Choice of consultants

In our application to the Baring Foundation we indicated that we wanted to undertake the project using a particular technical consultancy, Vanguard Consulting, because we wished to use their unique approach to studying demand and re-designing service delivery to meet it. We had encountered Vanguard a year before in searching for a methodical approach to performance management and quality assurance and we had seen evidence of improvements in a range of service organisations using their approach. As a result of this contact we had become aware of their developing critique of public service design and delivery and the relevance of their methodology to the kind of project we proposed.

Vanguard was founded in 1985 by Professor John Seddon, an occupational psychologist. An interest in why intelligent, rational people did unintelligent and irrational things when placed in organisations led him to the work of Dr W Edwards Deming (1900-1993), the American statistician, consultant and academic often called the father of the Japanese miracle for his work with Japanese industry in the 1950s and 60s.¹ Deming observed that systems govern performance, not the people who work in the system. He showed that up to 95% of organisational performance was governed

¹ See www.Deming.org : The New Economics and Out of the Crisis; the 14 points of management - a basis for transformation of American industry.

in this way so in order for any organisation to improve its performance it needed to understand and improve its system rather than focus on managing people, as most organisations did, through devices such as inspections, targets, incentives and penalties. His approach was widely adopted in Japan leading to huge productivity improvements. At Toyota, Taiichi Ohno built on Deming's teachings to develop the famous Toyota Production System wherein their whole operation, from end to end, is continuously, methodically, under review by the people who work within it. The result is that Toyota has gradually become the most efficient, profitable and biggest car producer in the world. While fully appreciating the systems approach, John Seddon saw that its application in manufacturing cannot be directly transferred to services, where there is greater variation in demand because the service user is more involved in the process. So Vanguard have since pioneered the translation of systems thinking for the service sectors. They work with many commercial and public service organisations including financial institutions, utilities, local authorities, police forces and health authorities. John Seddon is the author of several books including, most recently, *Systems Thinking in the Public Sector*. Further information can be found at www.systemsthinking.co.uk.

The study areas

Our resulting project, which we called 'RADICAL', set out to examine advice and legal services from a systems thinking perspective in two contrasting locations. After some deliberation we chose the city of Oxford - a possible CLAC location, and the county of Powys - a possible CLAN location as the two study areas. They were chosen because of

their applicability to the CLAC and CLAN proposals, because a representative range of advice organisations existed in both areas and because we had good links with several of these.

Project aims

The project aim was to investigate and demonstrate how social welfare advice and legal services delivered by a range of organisations might be improved for the people who use them, or who wish to use them, by critically examining the service delivery design 'front to back' from the user's perspective.

The desired outcomes from the project were:

- Firm customer-focused proposals and an implementation action plan for improving advice and legal help and strengthening independence in the project areas
- To return initiative to local providers, providing a basis for negotiation with local funders and the Legal Services Commission
- To return initiative to national Project Partners and provide the basis for negotiation with the LSC, the Department for Constitutional Affairs [now Ministry of Justice] and other funders and regulators about the future of the Community Legal Service and advice services in general
- To provide a pattern for using a similar approach in other areas
- To provide local project participants with free Systems Thinking training
- To create closer links between local providers and other project participants

3. An introduction to systems thinking

“The performance of anyone is largely governed by the system that he works in.”

Deming

It is only possible here to provide a brief introduction to the systems thinking approach - but one which is necessary to an understanding of the methodology employed in the project. Vanguard Consulting offer a range of publications and training courses that provide an in-depth explanation.²

Systems thinking, much of it derived directly from Deming, fundamentally challenges the management attitudes that he regarded as outdated in the 1950s yet which still underpin the prevailing wisdom that targets, incentives and managing the performance of people are the main levers of improvement.

Systems thinking challenges the notion that thinking can be separated from doing; that good ideas about re-designing for improvement can be arrived at remotely by superior brains and that improvement can then be delivered by using 'carrots and sticks' to make people do what is required.

Systems thinking embodies a number of key concepts, including:

- Improvement has to start with understanding what the individual customer/user wants - in their terms
- There will be variety in what customers/users want - especially in relation to services
- An effective production or service delivery system must be capable of absorbing variety and changes in what customers/users value
- What the customer/user wants constitutes what is of value to them - they must be the arbiter of value
- An efficient and successful production or service organisation must focus on delivering only individual customer/user value
- To deliver only customer/user value, a production or service organisation must be able to view and understand its own system "end to end" - from the customer/user's perspective
- The system can, and often does, extend beyond the immediate organisation
- Only those activities and parts of the system that are essential to delivering customer/user value constitute "value work" - everything else is waste
- Any failure to do things right first time tends to create waste in the form of "failure demand" e.g. repeat user contacts or repeated processes that consume available capacity
- Simple is best - complexity tends to create waste
- The people working inside the system, especially the people working closest to the customer/user, are best placed to identify waste and potential improvements

² See www.systemsthinking.co.uk

- The job of management is to act on the system
- Targets do not work; in fact they make matters worse - they are based on guesswork, they divert focus away from customer/user value, they encourage cheating, they demoralise staff and they always sub-optimize performance
- Measurement and analysis - but only of the right things - are vital as a basis for knowledge and improvement
- Fixed procedures, standards, specifications and contractual terms hamper responsiveness to variety and changes in customer/user demand

- You cannot inspect-in quality - it must be built into the product or service in the first place

There is a sharp contrast between the systems thinking approach and the hierarchical management approach which Deming regarded as outdated and which John Seddon calls 'Command and Control Thinking'. This contrast is summarised in the table below:

Systems Thinking		Command & Control Thinking
Outside in	Perspective	Top down
Demand, value, flow	Design	Functional specialisation
Integrated with work	Decision - making	Separated from work
Related to purpose, variation, demonstrating capability	Measures	Related to budget, activity, productivity, standards
Intrinsic (pride)	Motivation	Extrinsic (incentives)
Act on the system	Management ethic	Manage budgets & people
What matters	Attitude to clients	Contractual
Partnering	Attitude to suppliers	Contractual

'Command & Control' is the approach that has traditionally been employed in the private sector and is now being applied as a 'cure' to an underperforming public sector. Sir David Varney's 2006 report for the government on transforming public services is just the latest to make top-down re-structuring recommendations while relying on the introduction of market forces to affect people's behaviours and supposedly drive improvement.³ Even as Varney's recommendations are being implemented across government, including now in the area of legal advice, doubts about the effectiveness of this approach (and the quasi markets, commissioning, targets and inspection regimes it has introduced) have become widespread.⁴ Whether in education, health or policing, people can see that top-down targets can be seriously distorting. As Deming famously observed, if we set targets and make people's jobs depend on meeting them, "they will likely meet the targets - even if they have to destroy the enterprise to do it".

Most importantly, what the Systems Thinking approach offers is not just a critique of prevailing prescriptions but a proven method by which services can check their focus, measure their performance, identify and remove waste and thereby liberate capacity which becomes available for re-direction and further improvement.

Vanguard's systems thinking method for improvement in service organisations has three stages:

Check

The first stage is to understand what is currently happening and why - by creating a robust, accurate, data driven, picture of the following:

- Purpose
what is the purpose of this system from the customer's viewpoint? This immediately challenges the traditional organisational and functional boundaries we accept by assessing the client experience and assessing the true cost to us (the organisation) of clients negotiating these boundaries.
- Demand
what is the nature of client demand? Are clients contacting us to access what we offer or because we (or others) have got something wrong?
- Capability
what is the system predictably delivering from the client's viewpoint and how do we measure it?
- Flow
how does the work travel through our system?
- System conditions
what policies, procedures, targets, etc. are in place that make the system behave this way?
- Thinking
what are the underlying assumptions that govern the way managers think about the management and design of work?

³ Service transformation: A better service for citizens and businesses, a better deal for the taxpayer, Sir David Varney, December 2006, made recommendations for improving public services to be taken forward via the 2007 Comprehensive Spending Review. Previous examples include the Gershon Efficiency Review across Government and, in relation to legal services, the Carter Review (2006)

⁴ See for example New Economics Foundation *Unintended consequences* (2007)

Plan

Once the system is fully understood, the second stage is to identify waste and experiment (until a new best way is found) with better ways of working to improve performance against purpose. This considers the system as a whole.



Do

The third stage rolls the new way of working into the organisation in a planned and methodical way. The planned actions are taken and the consequences measured against purpose. You then return to check as this is a process of constant re-evaluation.

Use of this three-stage approach in a wide range of settings has shown conclusively that as organisations learn to do just the work that is of value to clients, costs fall. Clients are satisfied as they get what they want quickly and correctly and they tell others of this experience. Service and efficiency improve. In commercial organisations revenue also improves. In addition, people like working for these organisations - they feel empowered and supported, the issues affecting their ability to do the work are dealt with and high levels of morale and motivation are maintained.

Benefits of systems thinking: 1

In the Addendum to *Systems Thinking in the Public Sector* John Seddon writes:

"People... wanted to know the quantifiable benefits that followed from the systems approach. They sought answers to questions like: 'How much do people save?' and 'What are the efficiencies achieved?'. My concern is that reporting efficiency improvements might lead people to systems thinking for the wrong reasons. Systems thinking is concerned with increasing capacity. Those who seek costs reductions will fail, yet, paradoxically, cost reductions are a by-product of the systems design.

Having said that, significant efficiency savings are achieved by those public service organisations that follow the systems approach. For example, trading standards services show between 5 and 9 per cent cost savings in the first year, 'simple' services like Blue Badges can realise 10 to 20 per cent savings and more complex services like planning and road repair have realised 20 to 40 per cent. Overall, housing-benefits improvements are in the order of 20 to 40 per cent. Care services also realise greater capacity (typically 30 to 40 per cent), enabling them to deliver better care to more people with the same resource. All of the above efficiency improvements make the [government's] efficiency targets look seriously lacking in ambition."

Benefits of systems thinking: 2

Example A:

Public sector - an ambulance service

All ambulance services are targeted to respond to calls within so many minutes. They are assessed according to performance against these targets. The targets are set nationally by reference to national statistics on cardiac arrest. One service decided to learn more about real local demand by adopting a systems approach involving their crews. They discovered more about the type, frequency and geographical distribution of calls than they had known before. They saw there were predictable geographical patterns but the locations of their ambulance stations did not reflect this. Management approved a partial re-design of the system which involved locating ambulances away from the stations, cutting response times beyond targets. Further improvements would come from continuing to study demand and responding accordingly, including changing staff training and crew distribution to reflect the real variety of calls.



Benefits of systems thinking: 3

Example B:

Private sector - a shipping service

A transport and delivery company engaged its staff in a systems approach to improving customer satisfaction. Listening to customers revealed they placed most value on speed. Studying company performance over time revealed a wide variation in times between receiving an order and delivery of goods. Some orders clearly became 'stuck' at various points in the company's system. Mapping the company's process 'end-to-end', from receiving an order to successful delivery, revealed a very complicated system involving several management checks and 'sign-offs' of pricing discounts. These were the main causes of delays and of unwanted work dealing with customer chase-ups and complaints. Management agreed to experiment with a new, much simpler, system involving fewer stages and devolved decision-making. Monitoring of performance continued. This showed that average speed of completion increased dramatically, capacity was increased enabling more work to be handled and costs per contract fell permitting higher profits for re-investment or lower prices to win more orders.



4. Methodology

'If you don't have a method you were goofing-off'

Deming

Invitations to participate in the project were confirmed in spring 2007 following selection of the two study areas. All social welfare law advice organisations in the two areas were invited to take part including independent advice centres, Citizens Advice Bureaux, student union advice centres and solicitor firms. A list of participating organisations appears at Appendix 1. All of the national advice networks were invited to be national Project Partners.

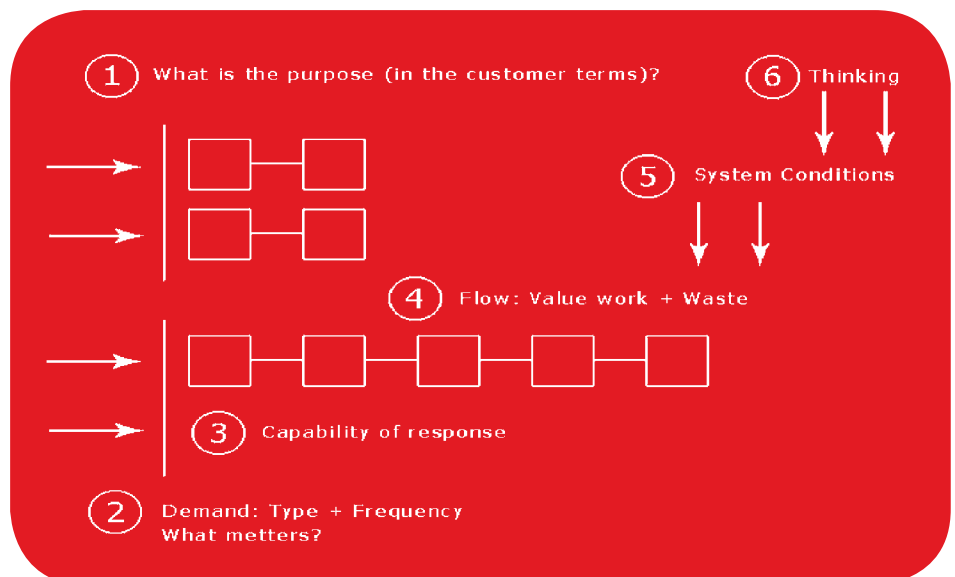
Briefing events for participating organisations and other stakeholders including the Legal Services Commission and local authorities took place in summer 2007. This was followed by systems thinking training events for participating organisations in December 2007.

The basis of participation in the project was negotiated incrementally with the invited organisations in the two study areas. Initially, we were hopeful that, following the usual Vanguard Consulting approach, staff in the individual participating organisations themselves would embark on the 'check', 'plan' and 'do' steps described in the previous section, leading directly - within a matter of weeks - to possible change in their systems. However, this would have required complete prior governance and management buy-in to

the process including re-direction of resources and it became clear that this was not realistic. Instead, the agreement reached with organisations in each area covered just the carrying out of the 'check' process supported by external resources. As anticipated, participation was on the basis that no findings would be attributed to any named organisation.

Between December 2007 and May 2008 Vanguard Consulting and AdviceUK staff worked with participating agencies to undertake the 'check' process (see Fig. 4.1 below) to study what was happening in their legal advice services and to identify the system conditions impacting on their work. This entailed observing a selection of client interviews (with client and adviser permission), gathering information from case files and interviewing advisers and managers.

Fig 4.1 The Vanguard model for 'check'



The aim of client interview observation was to record the nature of demand presented to different agencies for their advice services. Demand sheets were produced listing the types of enquiry observed by the researchers (see example at Appendix 2). The demand sheet illustrates variation in demand in terms of enquiry type. While it lists enquiries under subject category headings that advice providers might use, it attempts to also list types of enquiry in service users' own terms. It is important to note that these terms will not necessarily correspond with the way that service providers categorise and record enquiries. Users rarely present saying "I want help with a private landlord housing dispute" or "I have a consumer rights problem". Listing demand as users express it and then grouping similar expressions can reveal a very different analysis of user demand to that shown using provider case classification systems. A simple count was kept at all participating organisations of the types of enquiry presented. Where opportunities to listen directly to client demand were limited, additional data was gleaned from case files.

In the course of observing interviews and studying case files some client profile information was recorded due to the appearance of clearly emerging patterns but client profiling was not a planned part of the study process and was not conducted in all agencies.

The interviews with advisers and managers were unstructured and enabled researchers to get a clearer picture of whether the demand that was being observed or gleaned from case files was representative of typical demand. The interviews also focused on the factors that affected how the advice organisation was able to respond to client

demand, such as internal procedures or procedural requirements of third parties such as funders.

In selected agencies a capability chart was produced (see example at Appendix 3). The chart plots a selection of enquiries or cases and can illustrate variation in demand in terms of length/complexity and system performance in meeting it. Ideally, it should record the time taken to resolve an enquiry from the client's perspective. In advice agencies that are not subject to any external requirement to administer cases in a particular way, or where they do not receive funding on a per case basis, there tends to be no concept of case files becoming 'closed'. In these agencies resolution of a case was, indeed, taken to be the date on which work on the enquiry was completed. In agencies subject to a contractual requirement to 'close' cases after a period of inactivity or in order to claim payment, the date of resolution was taken to be the date on which the casefile was closed.

Vanguard Consultants collated and analysed the information gathered from the 'check' process in both of the study areas, producing an interim report in April 2008 and final findings in June 2008. An event was held at AdviceUK's London office on 9 May 2008 at which initial findings were shared with invited stakeholders. Events were held in Cardiff on 3 September and in London on 4 September to share and discuss the contents of a pre-publication version of this report with a wider audience.

5. Learning

Learning from this project falls into two categories which we have called 'Specific findings' and 'A systems overview of the advice sector'.

5.1 Specific findings

The findings of the 'check' process conducted at participating advice organisations in Powys and Oxford do not provide a body of scientific evidence but rather a snapshot of typical presented demand for advice, of agencies' existing systems and of the conditions that impinge on the way demand is responded to.

Presented demand for advice

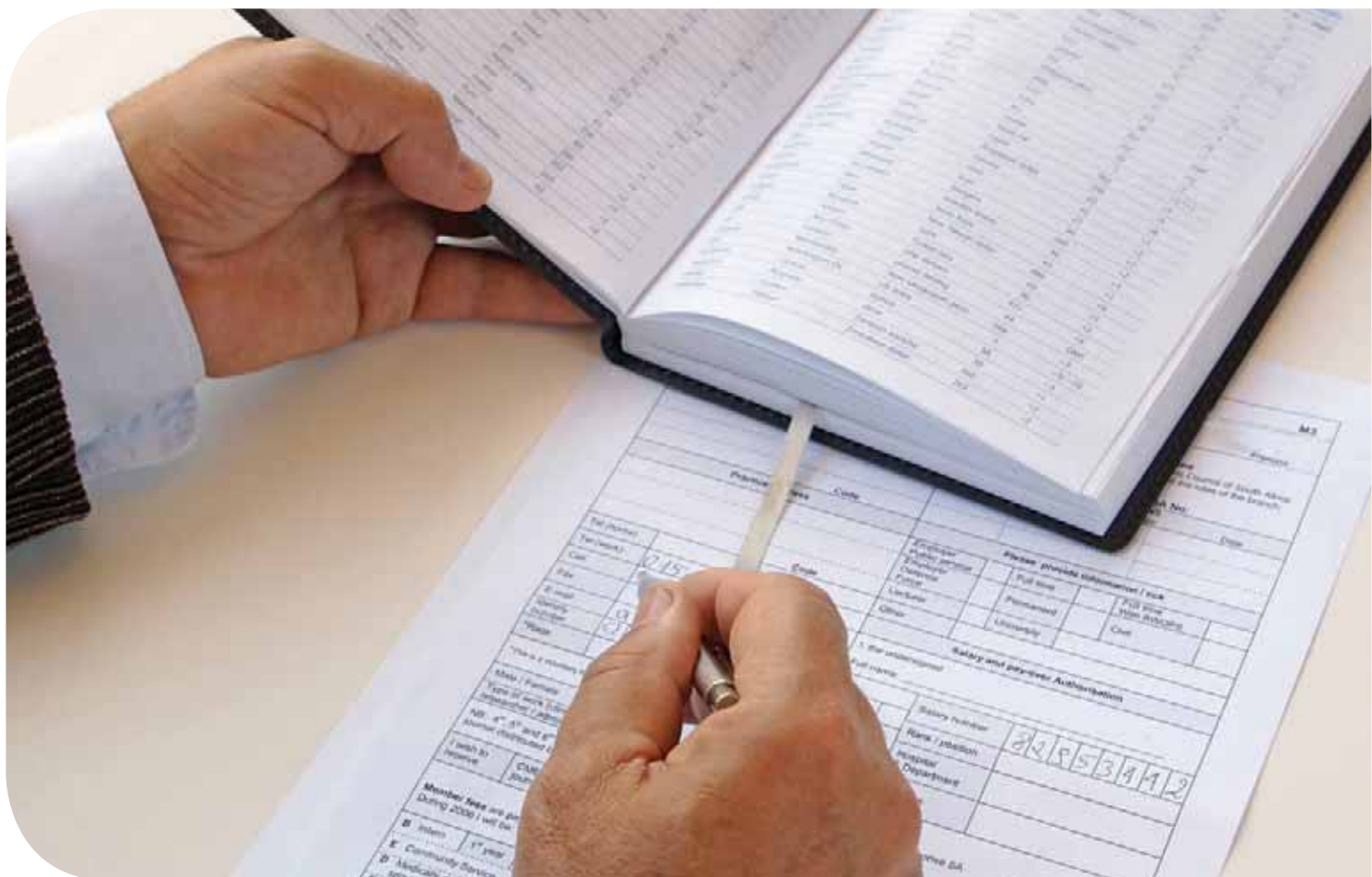
As expected, advice agencies, particularly generalist agencies, were found to deal with a great variety of enquiries/requests for help. In service users' own terms most enquiries could be grouped into the following types:

1. I need... information / to understand something now because something bad might / is about to happen to me
2. I need... information / to understand something now because I want to take action
3. I need... information / help because I'm in a new / confusing situation that I'm not sure how to cope with
4. I need... information / help now because I've made a mistake / am in a mess and don't know how to get out of it
5. I need... help to challenge something that's causing me problems / that I don't think is right

6. I need... help sorting out something the authorities / an institution have got wrong / failed to do which is causing me problems
7. I need... you to intervene for me now because the authorities / an institution are doing something bad to me and I can't stop it

The study found that an alarmingly high proportion of enquiries were of type 6 above i.e. 'failure demand' caused by service failings on the part of the authorities / an institution. Of these, the vast majority were caused by the failings of public services, particularly the Department for Work and Pensions (DWP). In one advice agency that serves mainly social housing clients fully 95% of all failure demand observed in the study was caused by the DWP.

In more familiar advice subject terms, the study found that, overall, a very high proportion of presented demand (50-60%) was from users with some form of debt problem(s). Of these, 30-40% had problems with welfare benefit claims. Advice services commonly took up these benefit problems with the DWP, Her Majesty's Revenue and Customs (HMRC) or local Housing Benefit (HB) offices and in 90% of cases in the study 'won' the case on procedural grounds.



Overall, complex application forms and welfare benefits packages, unclear letters, impenetrable call and customer service centres and unnecessarily bureaucratic procedures within central and local Government agencies were the cause of many clients seeking independent advice. It was clear from this study, consistent with other studies by Vanguard, that very few clients are able to supply a 'clean' set of information first time round and receive a 'one stop' service from administrative authorities.

For example, the study found examples of clients who had filled in an Incapacity Benefit application form themselves and had their claim rejected, only to have benefit granted or re-instated after an

advice agency appeal on their behalf. The sheer complexity of the application form caused this failure demand at DWP and advice agency level.

The study found substantial variation in client profiles and in types of demand presented at the participating agencies within the two areas. For example, some agencies received a high proportion of enquiries from physically disabled people, others from people with mental health problems. Some agencies received a very high proportion of enquiries regarding welfare benefits and debt. Demand in the study was found to be very localised.

Advice agency operating systems

Beneath the effects of some of the system conditions reported in the next sub section below, the underlying systems employed by most of the agencies studied were found to be similar to the norms that have developed in the sector over the past 30 years.

Generalist agencies tend to offer a drop-in service for initial enquiries with a limited appointments system if subsequent visits on the same matter are necessary. For initial drop-in visitors a waiting room is provided with only very approximate indications of how long the wait will be because no fixed limit is put on the length of initial interviews. Advisers available to conduct initial interviews take the next waiting person from the queue. One adviser will often handle the whole enquiry through to conclusion, drawing on supervisory assistance or specialist expertise as necessary, over the course of several contacts with the enquirer if required. Case files are maintained per person not per matter i.e. new files are not created each time a person makes a new enquiry. The case may be taken over by another adviser internally or by external referral (where available) if it is especially complex, time-consuming or specialised. Where a person's enquiry has several components or they present a cluster of problems the adviser will usually deal with all of them subject to the exceptions above. Overall, there are relatively few 'hand-overs' in the system. Most advisers spend some of their time serving the waiting room queue and some of their time doing follow-up work. The split between the two will be flexible depending on the scale of follow-up work required. Where the amount of follow-up work required on existing cases substantially reduces the number of staff hours available to serve the queue, some agencies reduce their 'opening hours' for the drop-in service

to restrict new enquiries so they don't overwhelm available staff resources. Some agencies were offering very limited opening hours but without additional resources for more staff it is difficult to see what else they might do.

One generalist advice agency had recently adopted an initial filtering or 'triage' system in an attempt to improve its service to users. This move towards functional specialisation introduced a new 'hand-over' and opportunity for failure within their system and could be observed as a new hurdle from the user perspective.



Agencies offering more specialised services and receiving less variation in demand, tended not to offer a 'drop in and wait' facility and worked more to appointments. While initial appointments might be of a fixed duration, follow-up appointments might not be. The number of new appointments available would be to some extent governed by the amount of staff time consumed by follow-up work on existing cases. More often than in generalist agencies, one adviser will usually handle the enquiry through to conclusion.

Overall, the advice organisations in the study were found to have fairly lean, simple and user-focused systems capable of absorbing variation and containing very little self-generated waste.

System conditions

Advice services were found to be hampered not just by constant dealings with the failings of public administration but also by funding and contractual restrictions and conditions affecting how they carried out their work i.e. they were being required to do things that were not 'value work'.

For example, Legal Aid reforms were introduced in October 2007 by which block payments for hours of legal advice provided by not-for-profit advice organisations were replaced by fixed fee payments per 'matter' dealt with for eligible clients. The research found that the new payment arrangement had led to agencies having to provide services in different ways not driven by user value – dividing up client enquiries into several 'matters' and restricting the things they could do for the client to meet contractual targets and funding limits. File creation, time-recording and billing activities were also increased.

In debt cases, researchers found that advisers commonly sent letters to creditors and closed the case without waiting for replies (for 50% of clients). This was because advice organisations with Legal Aid contracts are under pressure to close cases quickly in order to claim their fixed fee. (See example capability chart at Appendix 3 - a reduction in case closure time occurs sharply at the time the new payment arrangement was introduced. The increased number of transactions with the LSC represents additional cost in the systems of both parties to the transaction.)

Without proof of eligibility for Legal Aid, some organisations are unable to offer assistance to clients. In some agencies, a quarter of clients were not assisted for 2-3 weeks pending proof of income. Advisers have to consider whether they will have their costs covered before taking action on a client's behalf.

Performance targets and measures often govern how advice organisations deliver services. One agency reported that while it could complete cases more quickly and see more clients, it would be penalised by its funder if it did so.

The precarious nature of funding for advice services may also have an impact on whether the organisation is able to act in the best interests of the client. One agency was told to drop a challenge to its funder (the local authority) or risk losing core funding. The agency's integrity and commitment to its clients meant that it continued the action regardless, but this 'system condition' is sometimes a factor affecting service delivery.



Contractual performance targets can also have a distorting effect on service monitoring. Advice organisations with Legal Aid contracts were required to have at least 40% 'positive' outcomes. Although 70% of case outcomes were recorded as positive, the reality was that advisers often did not know for certain that there had been a successful outcome for the client.

The way advice services are increasingly being funded, with an emphasis on delivering advice 'transactions', was seen to be adding to a longstanding 'revolving door' problem. Clients experienced regular, predictable problems with benefits and

pensions offices but advice organisations and solicitors did not have the resources to respond to their need in a proactive way. Crucially, not enough resource and attention was being applied to strategic action to learn from demand, identify and remove waste and improve services. Advice organisations in the study were seen to have no managerial links through which to act on the system further back in the benefits and pensions offices (for example) to prevent future problems. Indeed, from an income point of view, with funding tied to transactions, it increasingly makes no sense for advice organisations to seek to reduce future demand.

The findings of our research echo the issues raised recently in *Delivering benefits, tax credits and employment services: Problems for disadvantaged users and potential solutions* (Dan Finn, Danielle Mason, Nilufer Rahim and Jo Casebourne, Joseph Rowntree Foundation, 26 June 2008). This research found consistent problems with:

- "failure to meet agreed service standards that agencies set themselves (including lengthy waits for payments, appointments and telephone responses);
- barriers due to the design of the system (including complexity of forms, quality of written communications, lack of privacy, the need to repeat identical information and having to contact multiple agencies when a change of circumstances occurs);
- administrative errors (including payment delays, incorrect benefit suspensions and information being lost in the system)."



5.2 A systems overview of the advice sector

Experience of applying the systems thinking approach during the project enabled the project team to understand the entire advice sector from a different perspective. We were able to apply the systems critique not just to the current situation for frontline advice services, as observed in Oxford and Powys, but also to our understanding of their historical and strategic development. In order to contextualise a view of where advice organisations should sit in systems terms it is worth considering how and where they have developed and how Government policy may re-position them:

The development of independent advice

Independent advice services in the UK have developed in the voluntary and community sector mainly in response to the needs of relatively poor and vulnerable people. Most independent advice services operate as charities. This is because the state has never assumed responsibility for general advice as a public service and, for the most part, it is not a commercially viable activity either. One way of viewing advice services is as a civil society response to the failings of public services since a high proportion of the problems experienced by poor and vulnerable people emanate from the state. It is ironic, therefore, that advice services have found themselves, in recent years, to be regarded as a public service that the Government wishes to improve.





Independent advice services do receive a very significant subsidy from the public purse, but there is a difference between public subsidy and being a public service. An enlightened state funds its own opposition. For millions of poor, marginalised, vulnerable and desperate people in society, advice agencies act as a day-to-day opposition; a trusted source of practical help and advocacy that they can turn to when the big battalions of the state and the private sector let them down, fail in their duties or actively and incorrectly stand in their way.

An important source of the trust that people have in advice agencies stems from their perceived independence - even though many of them receive funding from the very sources they challenge on behalf of their clients. Local authorities, in particular, deserve praise for the relatively arms-length and strings-free funding they have tended to provide to advice agencies - now perhaps £200 million per annum in aggregate across the UK - which has allowed a high degree of operational independence. But the latest Government proposals from the Legal Services Commission, which itself only provides £50 million per annum in funding through Legal Aid contracts, involve joining local authority funding to its own through combined contracts to deliver advice according to a pre-determined specification.

The development of current Government policy

Twelve years ago the New Labour opposition announced its intention to create something called a 'Community Legal Service' (CLS) and in government, in early 2000, it launched the CLS at a series of low key events. This was billed as a service that would develop over time. The main promise of the new Service was that the many existing providers of information, advice and legal aid on social welfare law subjects would somehow be 'joined-up' so that people needing advice could be directed or passed through to the help they needed. All the providers would be inspected to achieve a 'Quality Mark' to ensure standards and a range of local partnerships would be formed to assess need, plan provision and co-ordinate services. However, in practice, all of this was to be achieved without any real additional investment since the new government was, at that time, committed to living within the previous government's spending plans.

Responsibility for implementing the CLS was passed, by statute, to the Legal Services Commission⁵, the executive arm of the Lord Chancellor's Department (now the Department for Justice) responsible for the Legal Aid system. However, well beyond that point, there remained no firm design or blueprint for the new Service. At various times the Legal Services Commission envisaged it as encompassing anything from just existing legal aid and advice providers through to all libraries and even post offices as well. From the user's perspective very little changed apart from the appearance of some additional logos. Behind the scenes, bureaucratic expense spiralled while, without resources, most of the local CLS partnerships folded and momentum was lost.

⁵ The Access to Justice Act 1999 abolished the Legal Aid Board and established the Legal Services Commission (LSC). The LSC is an independent government agency under what is now the Ministry of Justice. The Act gave the LSC the power to regulate Legal Aid and to reshape legal services.



In March 2006 the LSC published a new strategy document *Making Legal Rights a Reality*. It described a future CLS as consisting of new delivery units called Community Legal Advice Centres (CLACs) in urban areas and Community Legal Advice Networks (CLANs) in more rural areas. The idea for these CLACs and CLANs had been developed within the LSC without reference to existing providers or their users and without trials, tests or supporting evidence. Once again, there was to be no significant investment to effect change. The new CLAC or CLAN units were to be put out to tender in local authority areas by means of new contracts that would ideally encompass all LSC and local authority funding in a single, large contract. Beyond these references to CLACs & CLANs little was known about them. There was no provision for piloting these new delivery structures.

By the time our project started the Legal Services Commission had begun implementing its CLACs and CLANs strategy with a handful of local authorities. It had also begun to implement changes in the way that it pays legal aid providers for their work. The system of fixed fees was introduced in October 2007, whereby providers are paid a fixed fee per case based on estimated average hours taken nationally to resolve cases in a particular subject category. If a case takes more than three times the average, the provider can apply for additional payment.

The five CLAC tenders let to date, in Gateshead, Leicester, Derby, Portsmouth and Hull, have roughly embodied these payment arrangements for legally aided work, while the local authority's contribution to the funding (for helping people

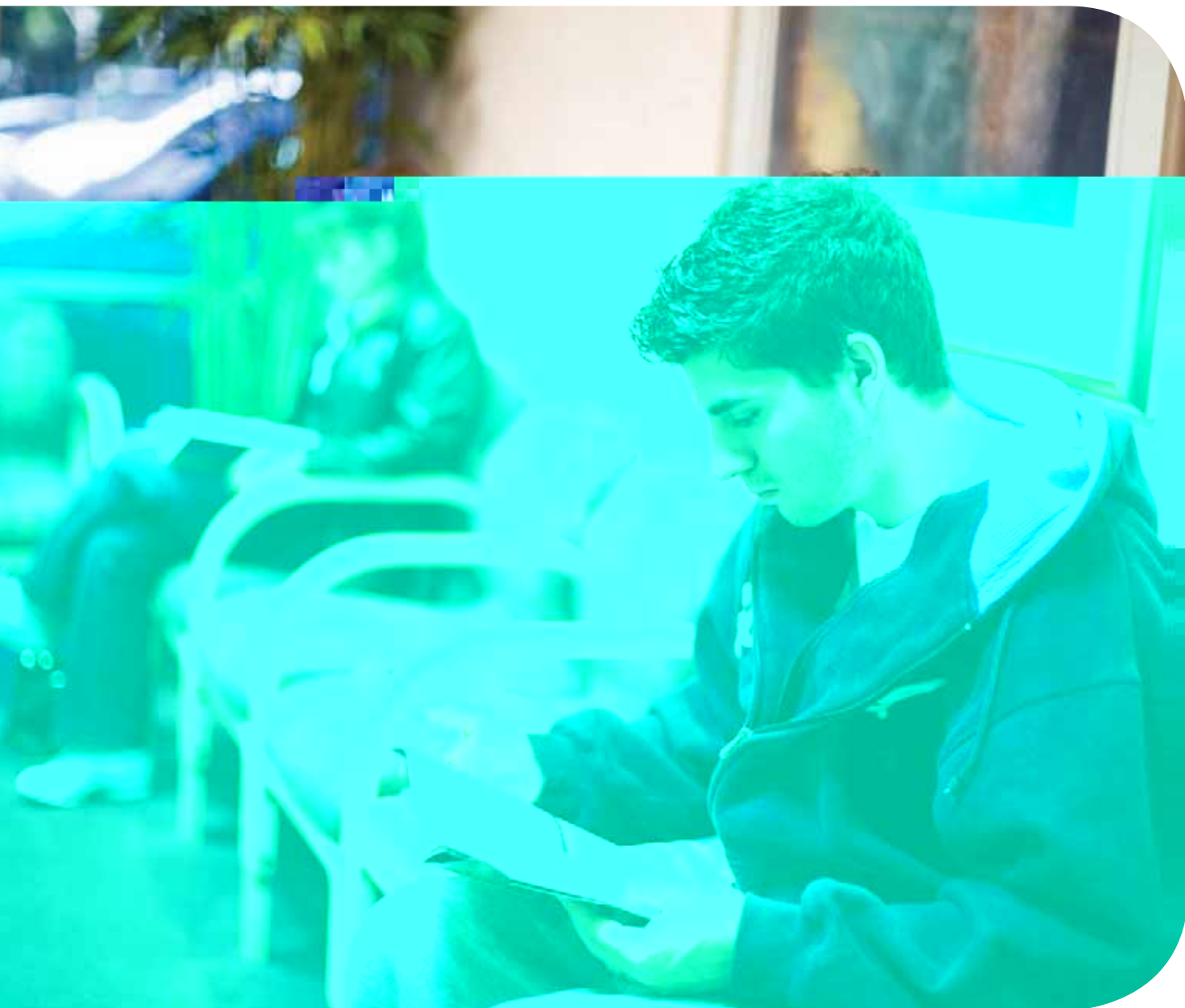
where legal aid does not apply) has been a block grant but based on workload targets.

The rolling together of LSC and local authority funding into one large contract to be let to a single legal entity reflects Sir David Varney's strategy for streamlining services while reducing administration costs. The strategy is one of fewer and larger contracts within a competitive market. Fewer contracts are intended to reduce the LSC's administration costs and larger contract values to bring in competition from larger corporate bodies that previously wouldn't have been interested.

In Leicester, at the second attempt, the tender went to a large multinational corporation in partnership with a national solicitors firm. The two local advice charities that had previously been doing the work - with high levels of satisfaction - lost all of their legal aid and local authority funding, resulting in the closure of one of them.

In Hull, the same multinational partnership won again resulting in the local Citizens Advice Bureau and other smaller organisations losing their funding. The CAB will be drastically reduced in size and an AdviceUK organisation lost its advice funding and will cease providing advice.

In Gateshead, Derby and Portsmouth, CLAC contracts were awarded to existing advice providers although the successful organisations had to merge and/or enter into sub-contracting arrangements with one lead supplier in order to satisfy the tender specification.



The repositioning of advice

If the LSC's plans for legal and advice services are fully implemented it will result in there being fewer than 150 contracts being let across the whole of England and Wales. The number of organisations holding those contracts may be substantially fewer still. In the process, legal and advice services receiving a public subsidy

will have been repositioned as public service providers, delivering to a state specification, in whose interest it will be to deliver as many pieces of advice as possible in order to earn fees. There are no proposals to involve these providers in questioning whether any of the work they do is of real value.

Where advice should sit in the 'system'

A systems view of independent advice services indicates that both from a user-value perspective and from a cost-savings perspective, they need to be seen as part of a much wider system that does include public services. Advice services can be viewed as one of the 'front-ends' of public service and in order to deliver most value they need to be plugged-in to public service management so they can help to identify and remove the causes of waste that create unnecessary costs within public services and appear as 'failure demand' for advice. Paradoxically, however, advice organisations must also be seen as separate from public services. They need not to be constrained by the specification and contract regime; otherwise they will be denied the scope to respond flexibly and inventively to changing user need and to challenge independently. Only from this position can they perform most effectively and deliver strategic benefit to both public services and their own clients.



Credit: Philip Newton www.philipnewton.co.uk

6. Conclusions

“What matters is what works”

Tony Blair

On the evidence of findings during the course of the project we conclude that:

- Most advice agencies struggle to cope with demand on fixed resources but much of that demand is ‘failure demand’ - work that should not need doing - caused by failings ‘further back’ in the systems of public administration.
- Advice organisations could make a huge contribution to improving public service delivery (and cutting costs) but the increasing practice of funding them solely for advice transactions means that opportunities for learning and improvement are being missed. For these opportunities to be realised, funding needs not to be tied to transactions and advice management needs to be ‘plugged-in’ to public service management to enable them to act together to tackle failures and waste in the extended ‘end-to-end’ system.
- Demand for advice is highly localised - different advice agencies have very different client groups and the demand they present can vary greatly even in relatively small geographical areas. User satisfaction rests on absorbing this variety. The diversity of advice agencies and the way they have tended to work means they have a relatively high capability for absorbing variety in demand - generalist agencies offer to receive all types of enquiries and “pull” more specialist expertise (if available) as required, either internally or by referral to other agencies. However, there will be more that advice agencies within geographical boundaries can do to develop their individual and collective “pull” capability by understanding their separate services as part of one system and working more closely together.
- There is not much scope for individual advice agencies to improve their services by altering their internal systems - they already have relatively lean and simple systems that contain relatively little self-generated waste. However, funder requirements and contract conditions are actually introducing waste (non-value work) into advice agency systems.
- Advice agencies are hampered in trying to improve what they offer by two key things (there are others):
 - lack of capacity for change in terms of both management and adviser time (which do not match the combined requirements of fundraising, compliance and user demand).
 - lack of an improvement method.
- These obstacles could be addressed by using a systems thinking approach - but only if relevant public service offices could also be engaged in the improvement effort. If the ‘failure demand’ created by public services that is presented in advice agencies could be reduced, spare capacity would be created in advice agencies that could be re-directed both to extending access and further system improvements (including re-organisation if shown to be appropriate). The systems thinking approach provides a clear method which would be suitable to improving advice services. However, to see the full benefit, even in a pilot, would require Government and funders to agree a suspension of existing funding requirements and other contractual conditions. Realistically, this might only be agreed within one or more pilots.

7. Recommendations

To advice agencies:

- Resist complexity - existing underlying systems are relatively waste-free
- Consider adopting a systems thinking approach internally and in working with other advice agencies - rethinking operational boundaries and procedures
- Consider participation in a full systems thinking pilot

To national advice networks:

- Adopt a systems thinking approach in support of member agencies
- Encourage greater co-operation at local level between agencies
- Consider supporting a full systems thinking pilot

To local authorities:

- Consider hosting a systems thinking pilot in relation to advice wherein the following conditions would apply for the pilot period:
 - suspension of targets and funding conditions
 - suspension of compliance requirements
 - direct access to departmental management authorised to eliminate causes of failure

demand and other forms of waste revealed by enquiries to advice agencies

To the Legal Services Commission:

- Allow suspension of fixed fee and CLAC & CLAN commissioning plans in one or more pilot areas in order to allow a systems thinking pilot or pilots to follow on from this project
- Consider suspending the CLACs & CLANs implementation programme pending completion of such pilot(s)

To the Department of Work & Pensions (DWP):

- Authorise participation by relevant DWP offices in any pilots agreed between local authorities and advice agencies allowing discretion to those offices to change procedures with a view to eliminating waste

We don't underestimate the obstacles to the above named parties in responding positively to these recommendations but we make them anyway.

We appreciate that local authorities are under a great deal of pressure to administer housing benefits and other services according to government requirements. We understand that the LSC has a published plan for legal advice and for cutting its own administration costs which accords with cross-government plans. We understand that the DWP will be similarly constrained and that National Audit Office waivers may even be required in order for some of these organisations to be able to participate in and exercise operational discretion within a pilot. However, we consider that further exploration of a systems thinking approach to improving advice services would provide evidence of benefit to both the public and to the public purse sufficient to justify the effort of testing 'another way'.



8. What we will do next

In coming months AdviceUK will be circulating this report widely and be seeking to make the case for an alternative, systems thinking, approach to the improvement of advice services. We will do this through representations, meetings and presentations.

We will be engaging with our colleagues in the other national advice networks and in the Advice Services Alliance to gain their commitment and support for securing a pilot or pilots as recommended. This may entail relaxation of

network requirements by some of them in order to allow for local re-designing of services.

We will be taking the message about systems thinking out to advice agencies and seeking to explain, with the benefits of more time and space than are permitted in a document like this, the method, the benefits and potential consequences of the approach. We understand that it is counterintuitive and difficult to grasp. We will be seeking to over turn this.



In Wales, specifically, we will be approaching local authorities, the Legal Services Commission Regional Office and the Welsh Assembly Government with a view to gaining their support for a systems thinking pilot on the terms recommended. We appreciate that Wales is different: that the Assembly Government is keen to chart its own course to destinations that may be determined in Whitehall and that, in particular, there is a commitment to retaining Welsh third sector social capital. We will seek to work closely and supportively with them in this regard.

We will also be stepping up our communication with advice providers of all types and groupings in Wales with a view to securing a collective commitment in a geographical area to participation in a full pilot.

In England, we will be approaching local authorities, especially in areas that are candidates for a CLAC or CLAN, with a view to gaining their support for a systems thinking pilot in preference to participation in a CLAC or CLAN.

We will be approaching the Ministry of Justice, through both Ministers and officials, and making representations to the Legal Services Commission and the Commissioners to argue the case for permitting and supporting a follow-on pilot or pilots at the earliest opportunity. To add weight to these approaches we will be developing detailed descriptions relating to methodology, to evaluation and to arrangements for accounting, monitoring and accountability during a pilot in the necessary absence of targets and other requirements.

We will be approaching the Department for Work and Pensions and the Department for Communities and Local Government with a view to gaining their approval for a pilot or pilots, their agreement to a temporary relaxation of Departmental monitoring requirements and their assistance in identifying specific local offices to be involved in a pilot.

We will be seeking funding to facilitate the management of a pilot or pilots, including funding for thorough evaluation in order to make the case (should it be proven) for a full roll-out.

Finally, we will be engaging with politicians of all parties, especially those with an interest in or responsibility for legal and advice services, benefits and pensions and the third sector, to enlist their support and influence both nationally and locally.



Acknowledgements and Appendix

We are grateful to the Baring Foundation for supporting this important piece of work. Thanks are also due to the advice organisations and solicitors that participated in the project in Oxford and Powys and to the Legal Services Commission, Powys County Council, Oxford City Council and the Welsh Assembly Government for their interest and involvement in the project. We are indebted to Richard and Sue Davis and Simon Pickthall from Vanguard Consulting for their long and painstaking work on the project.

Appendix 1

Participating organisations in the two study areas

Powys

- Bro Ddyfi Advice Centre
- Disability Powys
- Powys Welfare Rights Forum
- Morgans Solicitors
- Age Concern Montgomeryshire
- Shelter Cymru
- Powys Citizens Advice Bureau
- Age Concern Powys
- Care & Repair Powys

Oxford

- Oxfordshire Community Work Agency
- Oxford Citizens Advice Bureau
- Agnes Smith Advice Centre
- Oxford Brookes Student Union
- Turpin Miller Solicitors



Appendix 2

Demand Sheet (example)

BENEFITS

Can you help me complete this form / write this letter/tell me what this letter means?

Give me advice on what I'm entitled to / would I be better off working / what if someone moves in / out?

I'm being investigated / prosecuted for benefit fraud. Can you help?

I've had my application for benefits / allowances / tax credits refused and...

I don't know why...

I want to appeal...

I've had my benefit / allowance / tax credit stopped / cut and...

I want to appeal

I've been asked to repay an overpayment because...

They kept on paying me a benefit / allowance/ tax credit after telling me it had been cut

They cut my benefit / allowance / tax credit but not other interconnected ones (eg IS, HB,CTB)

They said I hadn't told them about a change in my circumstances / sent them the right information, but I did.

I didn't give them the right information / didn't give it on time.

There's been an official error

I haven't received my benefits / allowance / tax credit

I've claimed a benefit / allowance / tax credit but haven't heard anything / it hasn't been processed

Reasons not known

CONSUMER

This product is faulty. What are my rights?

This service was not up to scratch. What are my rights?

A utilities company has got my bill wrong / hasn't cancelled my account when I switched / hasn't repaid me / hasn't responded to my query...

My bank / building society has overcharged me / hasn't responded to my query/ hasn't processed a payment

I've got problems with my mobile phone contract

DEBT

I've got into debt / have all these bills and...

Can you help me sort things out before they get too bad. (i.e. up to stage of receiving letter from debt agency)

I've got a CCJ / eviction notice / the bailiffs have arrived etc. Can you stop them?

AND I'm in debt because:

I got sick / divorced / unemployed (Major life change)

My benefits / allowances / tax credits have been cut / clawed back

My ex / a relatives has left me with liabilities

I've overspent on consumer goods etc.

Other

I want information on:

What debts I'm liable for

How to go bankrupt

My debt payment plan isn't working / I made my creditors an offer but haven't had a reply

EMPLOYMENT

What are my employment rights?

I don't have a contract of employment.

I'm not being paid enough / on time

I have been made redundant / sacked / I need help

I've been discriminated against

HOUSING (Note if local authority / housing assoc. or private landlord)

My landlord:-

Won't return my deposit

Has left the property in a bad state of repair

I'm about to lose my home because:-

I'm in arrears on my rent / council tax

I'm in arrears on my mortgage / have got a mortgage repossession notice.

My landlord is in arrears on his / her mortgage

Other

I'm not happy with my present accommodation / I need a different type of property and want to be moved.

How do I get on the housing list / I've been on it a long time.

I'm homeless, but the local authority says I'm not a priority for re - housing.

IMMIGRATION / NATIONALITY

I am about to be deported

I want to bring my spouse / other relative in to the country

I am having problems getting a visa / leave to remain

I'm an asylum seeker / failed asylum seeker. What help am I entitled to?

I've been stopped / arrested for violation of UK law

RELATIONSHIPS

My relationship with my partner / spouse has broken down. Can you tell me:-

What will happen to the house / bank account etc.

What will happen to the children

How I can stop my ex seeing more of the children

How I can see more of my children

How I can get maintenance

How much maintenance I'll have to pay

What are my rights as an unmarried parent

RESIDENTIAL CARE

How much do I have to pay towards the cost of my care?

What happens when my savings get low?

What happens to my house if I go into care?

I'm not happy with the standard of care / conditions in the home.

I'm being mistreated in the home.

NEIGHBOURS

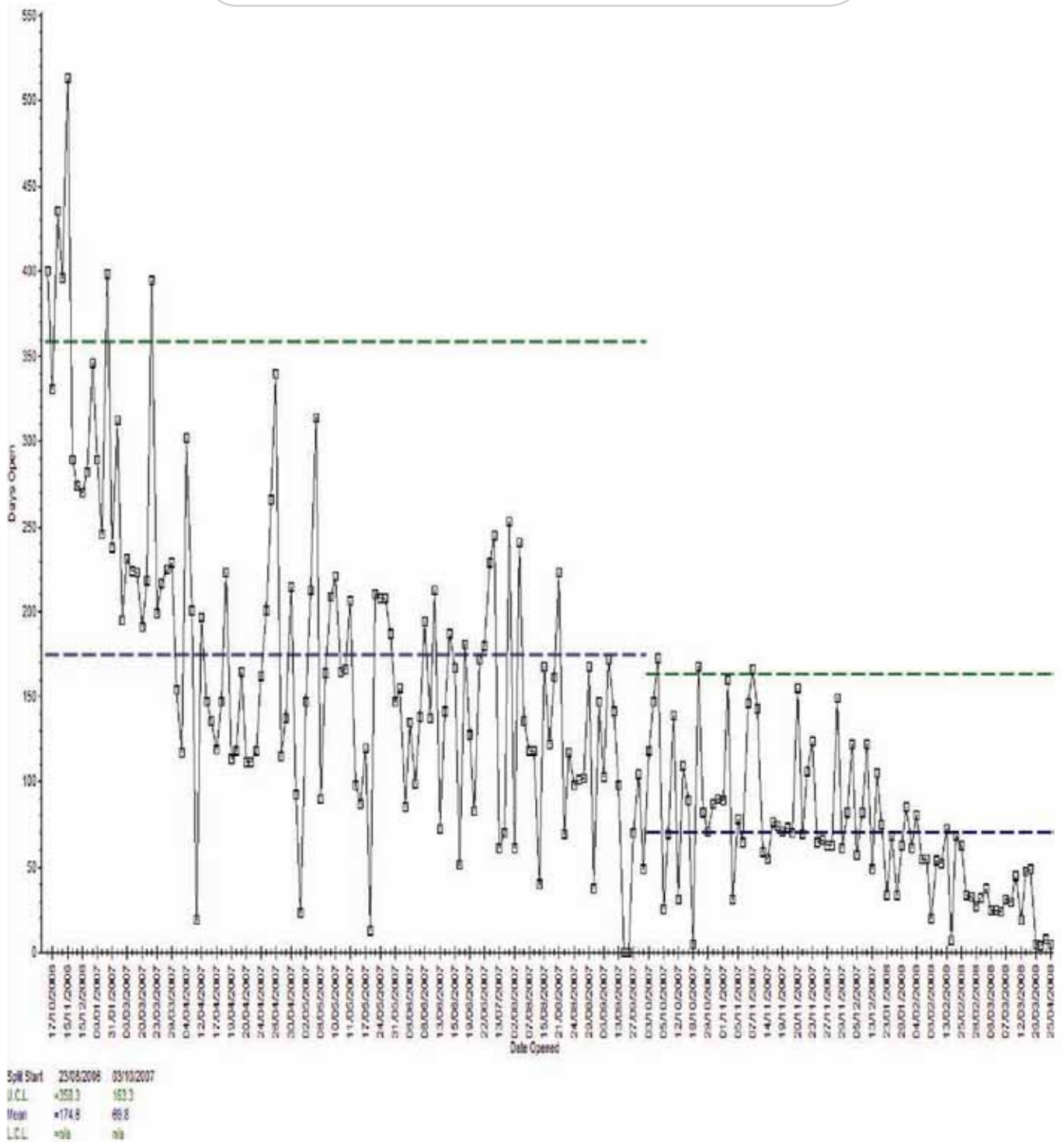
I want to stop my neighbour doing xxx...

Who owns the boundary - we are in dispute

Appendix 3

Capability / Control Chart (example)

LSC Contracted Provider - Time a Debt Case Remains Open



About AdviceUK

AdviceUK is a charity supporting community organisations that give free advice to members of the public. Established in 1979, AdviceUK is the largest network of independent advice agencies in the country. Our members work in some of the poorest parts of the UK, helping people to solve legal and social welfare problems. Together, they provide access to advice for over 2 million people a year. We support our members in improving what they do and providing a national voice. Our vision is of a society wherein every individual, regardless of means, is able to get the help and advice they may need to in order to deal with problems they face and to protect and exercise their rights.

AdviceUK
12th Floor, New London Bridge House
25 London Bridge Street
London
SE1 9SG

Telephone: 020 7407 4070
Facsimile: 020 7407 4071
E-mail: policy@adviceuk.org.uk
Website: www.adviceuk.org.uk

Registered charity number 299342
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The voice of independent advice

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