Local Legal Need

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Executive Summary

1. The creation of a Legal Services Commission (LSC) for England and Wales, and with it a Community Legal Service (CLS), is intended to realise the Government's aim to provide every community with access to a local network of quality assured legal service providers. Through a network of geographically defined CLS partnerships it is hoped that the efforts of funders and suppliers of legal services can be co-ordinated to best meet the legal needs of local populations.

2. The LSC is under a statutory duty to inform itself about the need for, and provision of, services that can be provided through CLS Funding and CLS partnerships. It is also under a duty to facilitate the planning, by other authorities, bodies, and persons, of what can be done to meet that need.

3. The Legal Services Research Centre (LSRC) was asked in December 1999 to contribute its expertise to the complex area of needs assessment. In particular, the LSRC was asked to provide guidelines for the conduct of local need surveys and explore the efficacy of predictive need models developed by the Legal Aid Board and LSC over recent years.

4. The LSRC conducted a number of research exercises to meet its brief, combining both qualitative and quantitative methods. These included literature reviews, a programme of in-depth interviews with CLS partnership representatives, and quantitative and qualitative analysis of the CLS predictive needs models.

5. This report brings together the findings from all these research exercises. The first chapter sets out the research objectives. The second chapter details the development of empirical legal need studies and discusses the methodologies used to date by CLS partnerships. The third chapter provides an overview of needs-related formula funding and predictive need modelling, critically examines the CLS small area legal need models, and explores consumer behaviour in the context of three case study areas. The fourth chapter sets out a summary of our findings and sets out our principal recommendations. A series of appendices provide detailed guidance for the use, design and conduct of empirical research in the context of CLS partnerships.

6. The issue of legal need has generated a considerable literature, spanning almost 70 years. From the 1930s to the 1970s the approach adopted to empirical studies of legal need changed very little. Survey respondents were presented with a series of problems with potential legal solutions. If they were found to have experienced a problem, but not to have obtained the help of a lawyer in resolving it, they were deemed to have had an unmet legal need.
However, in the 1970s it became appreciated that the mere potential of a legal resolution to a problem could not on its own warrant a finding of legal need. Today, arguments over what constitutes legal need are relatively sophisticated. For example, it is now generally appreciated that need is essentially functional. It does not exist independently of an associated end. People do not need legal services, they need the ends which legal services can bring about – even if the end is one of a sense of fairness. Out of this, two things can immediately be seen. First, the nature of these ends must be clearly understood – and they may not always be clearly connected to the law even in the context of legal services. Second, the extent to which legal services can be needed as a means to an independent end may vary greatly from case to case. What type and level of legal service is required is as important a question as whether legal services are required at all.

As a consequence of the developing understanding of the complexities of the concept of 'legal need', recent empirical studies of legal need have been less cavalier in their aims. They have mostly sought only to identify persons who have experienced problems which could potentially and legitimately involve legal process, and then to characterise the problems and explore the reasons for people having gone to law or not.

A number of CLS partnerships have undertaken consumer surveys as a way of investigating local levels of legal need. Most of the surveys have covered similar topics – such as categories of problems experienced, sources of advice sought, and experiences of the advice process – although no standard methodology or form of questionnaire has been adopted. Sensibly, many of the surveys have adopted variants of earlier surveys, such as the Paths to Justice survey conducted by Genn for the Nuffield Foundation. In the future, CLS partnerships will also have the benefit of the guidance contained in the appendices of this report, as well as the benefit of the tools and findings of the LSRC survey described in chapter 4.

CLS partnerships, as well as conducting their own needs related research, are provided with a series of small area predictive legal need models developed by the Legal Aid Board and LSC over recent years. The development of such models has not always been possible. Until recently there was little available, reliable and nationally consistent small area demographic and social data. Also, until recently there were few computers with sufficient memory or processing power to allow the manipulation of large scale data sets. However, the increasing availability of small area data and advances in computer power now make small area predictive modelling feasible. So, for example, three different general deprivation indexes have been developed by the Department of Employment, Transport and the Regions over just the last 10 years – in 1991, 1998 and 1999.
Indexes such as the DETR general deprivation indexes are now routinely being used to facilitate the targeting of public funds to the most needy areas. In some areas of public expenditure (e.g. health and education) predictive need models are used as the basis for defined funding formulae - the aim of which are to distribute resources fairly, efficiently and effectively across the country. So, the development of CLS predictive legal need models raises the hope of more effective policy and funding decisions within the context of public funded legal service provision. A relatively advanced example of a formula funding approach in the context of public funded legal services delivery can be found in Australia.

The accuracy and efficacy of predictive need models depends on a number of factors. The most important ones are the availability of reliable and up-to-date proxy data and the modelling methodology adopted. Even with the availability of reliable and up-to-date proxy data, however, predictive models will have limitations. First, they measure proxies and not need itself. Second, scale effects can affect the nature of model outputs. For example, models cannot always effectively deal with closely proximate needy and non-needy populations. Third, the geographical scales used in predictive models do not always reflect underlying social patterns and local identifications. Fourth, rapid social and economic changes can take place, rendering model outputs out-of-date. This is a particular problem where models make use of infrequently updated data, such as that derived from the national census. Fifth, the same need indicators may not be appropriate for rural and urban areas. Sixth, patterns of need on their own do not provide a means of identifying the optimum form of service provision to meet need. Consumer behaviour patterns vary dramatically around the country – as is illustrated in section 3.3.

For the reasons set out above, small area predictive need models can never provide the last word in policy and funding decision making. Local knowledge and understanding should therefore always be allowed to feed into the needs assessment process. In the case of funding formulae, this local flexibility is particularly important where it is policy that funding decisions should be delegated to the local level.

The CLS small area predictive legal need models have been developed to provide a starting point for local legal needs analysis. The basic approach in designing the CLS models has been to identify the constituent elements of the problems faced by people who may require particular types of legal service and then adopt measures of those elements (or functions thereof) as proxies, or partial proxies, for the need for such services. So, for example, the employment model utilises data relating to the numbers of persons employed in different industry sectors, along with unemployment numbers.
15. The CLS models have been very differently received in different CLS partnership areas. In most they have been accepted as being reasonably accurate. However, unsurprisingly — given the nature of small area predictive models — reservations have been expressed in some areas, stemming from a perceived failure of the models to accurately reflect particular local conditions.

16. In terms of the practical use of the CLS models, five important points arose from the study. First, the manner in which the models and their outputs are presented to partner organisations is of great importance. Second, as suggested above, it is entirely legitimate for partnerships to move away from them if local knowledge or understanding demands. Third, local efforts to 'improve' upon the CLS models should generally be restricted to adjusting their outputs in the light of local knowledge and understanding. Attempts to 'improve' the models by introducing new components should be avoided unless guided by specialists. Fourth, the models do not provide any insight into relative need between legal subject areas, only geographical areas. Fifth, there is no straightforward manner in which 'absolute' need models (or models indicating 'case starts') can be developed. Each of these points is dealt with in section 3.2.

17. Many elements of the CLS models and deprivation indexes correlate strongly. However, this is not always the case, as there are important distinctions between them in purpose and method. The basic approach adopted in developing the CLS models is an appropriate one, given the non-availability of detailed empirical data relating to legal need. It is not yet possible to quantify the degree of additional functionality provided by the CLS models, above that provided by a general deprivation proxy or index. However, the fact that the model outputs differ both from each other and from general deprivation indices suggests that they are reflecting different underlying circumstances. Furthermore, in the near future, the data collected through the LSRC survey described in section 4.2.11 will provide the opportunity for a first quantitative estimation of their accuracy. The LSRC survey data will also provide the opportunity to develop the CLS models on an empirical basis. Where this is not possible, the CLS models should continue to be developed on current lines.

18. As noted above, a review of our findings and recommendations are set out in Chapter 4. However, for ease of reference, below we set out our broad recommendations.

- When deciding upon the need for, or embarking upon, local research exercises, it is most appropriate to proceed by (a) determining the precise nature of any information sought and the benefit of acquiring it, then (b) formulating a series of necessary and sufficient research questions, the answers to which will provide the information, and finally (c) designing an appropriate research methodology, always taking into account the net benefit
of the research exercise. Certainty and reliability must be balanced with utility and accountability.

- If a research exercise is to be costly, complex, or of critical importance, it is sensible to obtain expert advice. Poorly designed operation research can be more of a hindrance than a help to sensible operational development. For less complex research exercises, the general guidance set out in the appendices to this report can be followed. This guidance also provides a useful background to research methodologies.

- The basic approach adopted in developing the CLS models is an appropriate one, given the non-availability of detailed empirical data relating to legal need.

- The model designs should not be locally ‘improved’ upon without expert guidance. In particular, there is no methodological justification for them being combined with general deprivation indexes.

- As a matter of priority, the CLS models should lessen their reliance on 1991 census data. They should also utilise shrinkage estimation methods to improve their accuracy in wards with small data values. The Employment Model should use an average unemployment claimant number over several months. The Welfare Benefits Model should use a maximum benefit take-up rate over several months. As regards the Housing Model, we recommend that serious consideration should be given to removing the overcrowding component. Furthermore, we recommend that CLS partnership suppliers be required to record the home location of their clients. Not only would this provide invaluable information to CLS partnerships regarding local consumer behaviour, it would also allow for the potential development of behaviour components within the CLS models.

- The CLS small area predictive need models have been designed to be, and are being used as, a starting point for local needs assessment. Given the inherent limitation of small area models, we suggest that this is the only role that they can usefully be expected to play. The CLS models were not designed to indicate absolute levels of demand or supply, or potential or ‘appropriate’ number of case starts. Models derived from supplier data would be more suitable for these tasks. In the case of the last measure, models would, at a minimum, need to reference data relating to actual numbers of enquiries and case starts in areas with ‘appropriate’ supply levels, along with indicative data already used within the CLS models. There are only two sensible routes to estimating appropriate case start numbers. The first is to reference national supply data alongside relative need models. The second is to identify geographical areas with appropriate
supply and defined population types and use local supply levels as benchmarks. Essentially the former method would ‘upgrade’ or ‘downgrade’ areas that experience actual supply levels below or above normal as compared to similar areas, as defined by models of the current type. The latter would do the same, but appropriate supply levels would be defined independently of models of the current type.
1. Introduction

1.1 Background

1.1.1 The creation of a Legal Services Commission (LSC) for England and Wales, and with it a Community Legal Service (CLS),¹ is intended to realise the Government’s aim to provide every community with access to a local network of quality assured² legal service providers. To this end the LSC will oversee the development of up to 250 local Community Legal Service partnerships (CLS partnerships), to ultimately cover its entire jurisdiction.³

1.1.2 The aim of CLS partnerships is to bring together those who fund legal services and those who supply them, and in this way promote co-ordination of effort so as to best meet the legal needs of local populations. The Lord Chancellor’s Department’s 1999 consultation paper on the CLS summarised the risks of a lack of co-ordination.⁴

“... The funders risk spending money ineffectively, working from too little knowledge, or simply reacting to bids from providers. Even where they target the most needed services, they may fail to achieve the synergistic benefits which complementary funding might give, and they ‘reinvent the wheel’ by developing separate methods of needs assessment. The providers suffer where isolated funders place them in competition for funds; where a lack of a strategic view means that money is provided short term, ad hoc, or with too narrow a focus.”

¹ The Legal Services Commission replaced the English and Welsh Legal Aid Board on 3 April 2000. It has an expanded jurisdiction, extending beyond the management and payment of civil and criminal legal aid service suppliers. The Commission is required under Section 4(1) of the Access to Justice Act 1999 to “establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set ...) that individuals have access to services that effectively meet their needs.” Subsection (2) defines the services as “(a) the provision of general information about the law and legal system and the availability of legal services, (b) the provision of help by the giving of advice as to how the law applies in particular circumstances, (c) the provision of help in preventing, or settling, or otherwise resolving, disputes about legal rights and duties, (d) the provision of help in enforcing decisions by which disputes are resolved, and (e) the provision of help in relation to legal proceedings not relating to disputes.”

² The Legal Aid Board/Legal Services Commission has been developing a system of franchising, through auditing specialist legal service providers against a franchise quality standard (LAFQAS), since 1990. LAFQAS, with some additions agreed by the Quality Task Force, will form the basis of specialist accreditation under the CLS. Standards derived from LAFQAS will also be used for assuring quality of service at more general levels of help.

³ Originally, 6 Pioneer Partnerships (Cornwall, Kirklees, Liverpool, Norwich, Nottinghamshire and Southwark) and 40 Associate Pioneer Partnerships were launched to help identify best practice and guidance on setting up and running CLS partnerships. New partnerships are now being introduced on an on-going basis. It is hoped that 90% of the population will be covered by the end of 2001. For an analysis of the pilot partnership programme, see Moorhead, R. (2000) Pioneers in Practice, London: Lord Chancellor’s Department.

So, the Legal Services Commission is under a statutory duty to inform itself about the need for, and provision of, services that can be provided through CLS Funding and CLS partnerships. It is also under a duty to facilitate the planning, by other authorities, bodies, and persons, of what can be done to meet that need. At the local level CLS partnerships are charged with assessing local need and supply and developing strategies to most effectively match them.

1.1.3 In determining local legal needs CLS partnerships are assisted by the central functions of the LSC. The central functions have, amongst other things, developed a number of small area legal need models, the outputs of which are provided to individual partnerships as a starting point for their local needs assessment exercises. Work on the predictive need models commenced in the early 1990’s. They have recently been expanded and updated. In parallel with this, CLS partnerships have begun devising community consultation methodologies aimed at determining local need and demand patterns. A number of these have involved consumer surveys, although no standard form of questionnaire has been adopted.

1.1.4 In addition to the small area legal needs models, CLS partnerships are also able to draw upon general deprivation indicators - such as the Index of Local Conditions, Index of Multiple Deprivation and Jarman Index - partner organisations’ data and analyses, local knowledge held by CLS partnership staff, and the results of local, regional and national consultation exercises and operational research projects. At the regional level 12 LSC Regional Legal Services Committees (RLSCs), one for each LSC administrative region, formally advise on local needs, priorities and supply. Each RLSC is made up of the regional LSC manager, an LSC board member and four independent members. The committees are assisted and guided in their business by Regional Planning and Partnership Managers. LSC contracts are to be let on the basis of RLSC advice. Allocation of funding between regions is the responsibility of the central functions of the LSC.

1.2 Research Objectives and Questions

1.2.1 The Legal Services Research Centre (LSRC) was asked in December 1999 to contribute their expertise to the complex area of needs assessment. In particular, the LSRC was asked to provide guidelines for the conduct of local need surveys and to explore the

5 Access to Justice Act 1999, Section 4(6)
6 Access to Justice Act 1999, Section 4(6)(b)
7 DOE (1991) Index of Local Conditions, London: DOE
efficacy of the models developed over the past decade. Any new work on needs assessment had to be capable of application both to the services funded through the CLS Fund and to the full range of other services that form part of the CLS. An internal interim report, with provisional guidelines for the conduct of local need surveys, was produced in April 2000.

1.2.2 The Local Legal Need Project had at its core a series of research questions. These questions can be neatly divided into those concerning needs surveys, predictive need models, and the relationship between surveys and models.

(i) Legal Need Surveys

- Are surveys effective tools for gauging levels of legal need?
- How has legal need survey methodology developed over time?
- How have CLS partnerships so far made use of legal need survey methods?
- How might CLS partnerships most effectively use legal need survey methods in the future?
- How might legal need surveys be used at the national level to measure progress against targets and inform policy and operational development?
- What is the minimum survey data requirement for measuring progress against targets at the CLS partnership and national levels?

(ii) Predictive Need Models

- How do the outputs of the current CLS predictive need models compare to LSC historical demand data at the small area level?
- How do the outputs of the current CLS predictive need models compare to the outputs of other available models and key social indicators?
- How have small area modelling methods developed over time?
- How far are small area models appropriate for formula funding and local strategic planning purposes?
- What is the relationship between the modelling of need, demand and supply?
- How might the LSC best develop predictive models for the CLS to meet the requirements of future operational use?

(iii) The Relationship Between Survey and Modelling Approaches to Need Prediction

- What are the differences between the functioning, accuracy and cost of survey and modelling need assessment methodologies?
- What would constitute a balanced approach to small area and national needs assessment in the future?
1.2.3 A number of research exercises were undertaken to answer the above questions, combining both qualitative and quantitative methods. Data and documentation generated by the LSC, RLSCs and CLS partnerships was reviewed. National and international needs related research and practice was reviewed. Local, national and international legal need survey instruments were collected, and their best elements drawn out to produce a model set of survey questions and definitions. A series of in-depth interviews with the 12 LSC Regional Planning and Partnership Managers and 7 local authority representatives was undertaken. The outputs of the CLS predictive needs models were analysed, in conjunction with other needs indices, general social indicators, and LSC supply data. Finally, an illustrative analysis of the legal need, demand and supply patterns in 3 specific geographical areas was conducted.

1.3 Structure of Report

1.3.1 This report of the Local Legal Need Project comprises four main chapters and a series of appendices. In chapter 2 we trace the development of empirical legal need studies, review five recent major surveys conducted within the common law world, and comment upon the survey methods so far adopted within the context of CLS partnerships.

1.3.2 In chapter 3 we discuss the extent to which modelling at the small-scale level is becoming increasingly sophisticated. We then provide an overview of needs-related formula funding, as it is used across a range of services, and predictive need modelling. We then turn to the basis, methods and use of the CLS's *small area predictive legal need models*. Finally, we examine consumer behaviour and illustrate the particular importance of considering advice-seeking behaviour when developing a targeted legal service supply strategy. Three case studies are included to demonstrate the range and complexity of local advice-seeking behaviour patterns.

1.3.3 In Chapter 4 we draw together the main themes and findings. We also set out a series of recommendations relating to local and national legal need, demand and supply assessment methods and strategies. We then set out the details of the recently commenced LSRC Measuring and Evaluating Legal Need Research Project. We explain how it will be used to measure progress against the Lord Chancellor's Department's strategic targets for the CLS, enable the development of a new generation of empirically grounded small area predictive legal need models, facilitate the development of research tools for use within CLS partnerships, and provide further analysis of advice-seeking behaviour.
1.3.4 Appendix 1 provides guidance on the use, design and conduct of empirical research in the context of CLS partnerships. Appendix 2 sets out a series of recommended terms and questions for use in locally conducted surveys. Appendix 3 sets out a short-questionnaire, designed for incorporation in citizens' panel type surveys, for CLS partnership evaluation. Appendix 4 contains a technical supplement.
2. Research in Legal Needs

In the first section of this chapter we trace the development of empirical legal need studies. In the second section we turn to consider the methods of 5 recent and major legal need studies conducted within the common law world. In the third section we detail the methods so far adopted within the context of CLS partnerships.

2.1 A Historical Review

Overview

2.1.1 Legal need studies originated in the USA during the 1930s. However, interest did not really develop until the 1960s, when the US Office of Economic Opportunity established a Legal Services Program. By the early 1970s interest had spread to other Western countries, including Britain. This was a period of optimism. Researchers believed that lawyers were good for people. When people failed to use lawyers to deal with their problems, this demonstrated 'unmet need'. It was believed that governments not only should but would produce funding to meet it. Before long, however, criticism had set in. Critics suggested that researchers used the language of need to masquerade their own value judgments as empirical findings.

2.1.2 The late 1970s and early 1980s can be considered as a period of reappraisal. Researchers still conducted needs studies, but they concentrated on better, more robust surveys. They were more cautious in their use of the language of needs. Some tried to avoid the word 'need' altogether, preferring instead to talk about 'use' and 'opportunities for access'. Those who did talk about 'need' were more careful to offer definitions, and to distinguish between different types of need.

2.1.3 In the changing political climate of the mid-1980s, in which western governments turned from concerns of expanding legal aid schemes to worries over escalating expenditure, it was no longer assumed that all services actually supplied were really 'needed'. Economists introduced the concept of 'supplier-induced demand' which suggested that some services might be unnecessary. The emphasis of empirical work shifted towards studies that would enable the reallocation of existing resources to better use. Surveys that simply produced long lists of instances where people failed to use lawyers ceased to be considered 'actionable'.

2.1.4 In recent years, however, there has been something of a renaissance in legal need studies. As common law jurisdictions attempt to review and modernise their civil justice systems, it becomes as important as
ever to understand how and why people do (or frequently do not) use them. The best recent legal need studies do not necessarily provide policy-makers with a ready-made list of recommendations. Instead they provide essential background information to the many different policy debates concerning civil justice. Ideally this information is both quantitative and qualitative in form, providing both 'the big picture' and the detailed insight that allows change to genuinely impact on people's lives.

**The Starting Point**

2.1.5 Legal needs research, as with other empirical research into the social dimensions of law, originated in the USA. The idea can be traced to work at Yale University in the 1930s. The initial prompt seems to have been a recession at the Bar. When the Association of American Law Schools discussed the apparent lack of work for future law graduates it was pointed out that many sectors of society did not use lawyers. Charles Clark, Dean of Yale Law School worked with a sociologist, Emma Corstvet, to investigate further. Their aim was to develop a robust methodology that could be used around the country to 'show how the needs of the community for legal service were being met'. 10

2.1.6 Clark and Corstvet said that they were 'interested in developing techniques and methods and testing them by actual experience'. 11 In the end they developed four surveys; of lawyers, of business people, of legal clients and of the public. It was their study of members of the public, however, that proved the most innovative. Curran describes it in the following terms:

'The questionnaire presented 38 problems, and respondents were asked for each problem whether a lawyer or other advisor had been consulted, whether the matter went to court and if so, its disposition and whether the disposition was satisfactory. If no lawyer was consulted, the respondent was asked why. If a lawyer or other advisor was consulted, the interviewer ascertained the profession or business of the advisor, who in the family had communicated with the advisor, reasons for the choice of resource, advice or service received, fees charged, satisfaction with outcome, and a general statement of the problem and its disposition.

In addition to specific problem-related matters, the survey also inquired briefly into each respondent's knowledge of lawyers in the community, whether respondents were aware of

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11 ibid, p.1275
specialisation among lawyers, and respondents' general opinion of lawyers.\textsuperscript{42}

2.1.7 When Clark and Corstvet tested this methodology on 412 Connecticut residents, the results caused a stir. Their main finding was that there was 'a large amount of legal business untapped by the legal profession' and a 'failure of the lawyer to meet the social needs which justify the existence of his profession'.\textsuperscript{13} They found that most people who faced legal problems did not use lawyers: under half used lawyers when faced with disputes, and under a third used them to cope with potential legal transactions (such as taking out a mortgage or lease). Yet where lawyers were used the matter was more likely to be concluded satisfactorily.

2.1.8 Clark and Corstvet hoped that their work would inspire bar associations and law schools to carry out their own surveys. In fact, they had to wait many years for this to happen. Between 1938 and 1960 only a couple of studies were conducted.\textsuperscript{14} However, when the idea of legal needs finally took off during the 1960s, most followed the basic Clark and Corstvet methodology, with only minor embellishments.\textsuperscript{15} Although the list of problems and percentages varied, the studies came to the same conclusions: many people faced with potentially legal problems did not use lawyers.

\textit{Development}

2.1.9 In 1965 the United States Office of Economic Opportunity established a Legal Services Program as part of President Johnson's 'War on Poverty'.\textsuperscript{16} The possibility of government funding stimulated considerable interest in finding unmet need, and by 1971 a literature review identified 1,172 references concerned with legal services.\textsuperscript{17} However, discussion and polemic far outweighed empirical research,
2.1.10 As the decade ended, interest in new ways of providing services to the poor spread from the USA to other parts of the world. In its wake came many attempts to measure unmet legal needs, with important studies in Australia, Canada, and the Netherlands. In Scandinavia, researchers added to the Clark and Corstvet methodology by providing respondents with help over any outstanding legal problems. This allowed a more direct assessment of the "added value" that legal assistance could provide.

2.1.11 In Britain, the 1968 pamphlet, Justice for All, highlighted the limitations of the traditional legal aid scheme (Society of Labour Lawyers 1968). It suggested a more American-style approach, with salaried neighbourhood law centres providing specialist help to poor communities. This sparked considerable interest in 'unmet legal need'. By 1973, Morris et al. drew attention to the 'tremendous growth of interest over the last four years'. Of all areas of socio-legal research, legal need produced 'more activity, most interest and most research money.' In fact, they said, some people defined 'the socio-legal field solely by reference to the debate concerning "unmet need for legal services" and "the provision of legal services". Again, discussion and polemic dwarfed empirical research.

2.1.12 The main needs study was that by Abel-Smith, Zander and Brooke. This started with the assumption that there was:


25 Ibid., p.7


What was lacking was ‘quantitative data covering a whole range of legal needs’. They therefore decided to carry out a study of three London boroughs. As well as looking at advice agencies, they interviewed just over 1,651 members of the public. Following a methodology similar to that of Clark and Corstvet, they drew up a list of 17 problems which were (in their opinion) ‘legal’, in that the law provided ‘a solution or framework of rules for solving them’. The problems ranged from taking a lease and eviction, through defective purchases and instalment arrears, to divorce and accidents. Respondents were asked whether they had experienced the problem during the last seven years, and if they had, whether they had taken advice and with what result. The lists were supplemented by more general questions about knowledge and use of legal advice and attitudes towards the legal system.

Unsurprisingly, Abel-Smith et al. found widespread ‘unmet need’. They calculated that ‘not much more than a quarter of the cases which in our view needed an independent lawyer’s attention received it’. Yet those who took advice fared better than those who did not, and were generally happy with the help they had been given. People did not use lawyers either because they did not know about them, or thought they would charge too much, or were generally distrustful of lawyers. Around one tenth of people said they would never use a lawyer - a figure that ranged from 3% among professional people to 17% of unskilled manual labourers.

‘Could’ Does Not Equal ‘Should’

The enthusiasm for empirical study in the late 1960s and early 1970s was accompanied by the idea that one could uncover factual ‘need’. Once identified, governments and the legal profession would then work towards meeting it. A background assumption was that people should use lawyers for their problems, and when they did not, it counted as ‘unmet need’. Little further justification for public funds was deemed necessary.

Before long, the enthusiasm had worn out and the criticism had set in. Some of the criticisms were methodological. Marks, for example, suggested that earlier studies had been too keen to suggest that lawyers were the answer – so much so, that someone who had failed to recognise the ‘legal aspect’ of a problem might not want to admit

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28 Ibid., p.2
29 Ibid., p.110
30 Ibid., p.219
31 Griffiths (1977), supra., n.21 and Morris et al. (1973), supra., n.24
they had experienced it.\textsuperscript{32} He suggested that one should ask much more open-ended questions about what people had done about their problems. He also pointed out that many studies were too small for further analysis, or lacked demographic information about (for example) income, education and attitudes to allow an understanding of the patterns behind the use and non-use of solicitors.

2.1.16 The dominant line of criticism, however, was that discussion of needs allowed researchers to masquerade their own value judgements as empirical findings. Thus, Lewis pointed out that calling a problem 'a legal problem' is not to make a simple statement of fact about a situation, but is to suggest that the problem \textit{should} be solved legally.\textsuperscript{33}

\textit{..if certain problems are spoken of as legal ones, and official support is given to legal methods of solving them, that is to take a particular attitude to problems of that kind, problems which may be capable of solution in some other way, and which may be seen by those most closely involved as best solved in that other way.}'

For example, he asked, does a tenant with a leaking roof really need a lawyer, or would he be better off with a ladder? Lewis argued that it did not follow that the poor should use lawyers simply because the middle classes did: 'so long as there are different incomes in society there will always be things that some can afford and others cannot'.\textsuperscript{34} Lewis insisted that those who wished to persuade governments to put money into legal services should put their arguments differently. They should be much more open about the values lying behind such discussion, and the benefits legal assistance would produce.

2.1.17 Griffiths agreed with Lewis that so-called 'legal problems' were simply problematic situations in which going to law was one of many available solutions. The list of problems said more about the researchers than about the public. Abel-Smith, Zander and Brooke, he suggested, had simply used a lawyer's idealisation of middle class expenditure patterns. In Norway, Johnsen had offered those with problems free advice - but, Griffiths argued, the fact that people would use a service if it were free did not necessarily justify the cost of providing it: one did not 'need' £100 worth of goods simply because one would receive £10 worth of satisfaction from them.\textsuperscript{35}

2.1.18 To give an up to date example, Pearce, Davis and Barron have recently observed that, in the context of Children's Act applications, the courts will often become involved in circumstances "which need

\textsuperscript{33} Lewis, P. (1973) 'Unmet Legal Needs', in Morris \textit{et al.} (1973), supra., n.24
\textsuperscript{34} \textit{Ibid.}, p.94
not be at all extreme, and the risk to [a] child's welfare no greater than that faced by literally millions of children who either live in intact families or whose parents have separated without benefit of legislation.\textsuperscript{36}

\textbf{Reappraisal}

2.1.19 These criticisms did not stop the attempt to measure legal needs. It did, though, mean that during the late 1970s and early 1980s, the term was used more carefully. There were fewer minor surveys. Instead, researchers concentrated on larger, more robust surveys and tended to subject their findings to greater levels of analysis. Meanwhile, policy-makers were more careful to define what they meant by a 'need'.

2.1.20 In the USA, the American Bar Association and American Bar Foundation joined together to produce a better study of how the public used lawyers: large enough to produce statistically significant results, national to the whole of the US, including most conceivable legal problems. Started in 1971, it took six years to complete.\textsuperscript{37} Although called \textit{The Legal Needs of the Public}, the study did not attempt to measure need as such. Instead it confined itself to 'the researchable task', which was 'to determine the circumstances under which the public seeks the advice or help of lawyers and to identify factors which appeared to influence decisions to consult or not to consult lawyers'.\textsuperscript{38}

2.1.21 The massive questionnaire covered views on hypothetical issues, attitude statements, actual use of lawyers and demographic information. The most important questions asked whether respondents had experienced any of 32 different problems and, if so, what they had done about them. Mindful that previous studies had appeared to suggest that using lawyers was the 'right' answer and had tended to ignore other 'wrong' answers, the survey made heavy use of open-ended questions to which answers were recorded verbatim.

2.1.22 The result was a long and detailed report, which eschewed 'simple' answers to why people did and did not use lawyers. One of the main findings was that people's likelihood of using lawyers depended crucially on what the problem was about. So, 85% of people who made wills used lawyers, but just 1% of those who had experienced discrimination consulted a lawyer about it.\textsuperscript{39} The report suggested that people used lawyers in a relatively sophisticated way, weighing the costs against the benefits. It was not always the case that those


\textsuperscript{37} \textit{Supra.}, n.12

\textsuperscript{38} \textit{Ibid.}, p.9

\textsuperscript{39} \textit{Ibid.}
at the bottom of the heap were less likely to use the law. Black people, for example, were much more likely than white people to use lawyers to dispute evictions, reflecting their greater difficulty in finding new accommodation. It argued that Americans were generally realistic and perceptive about what lawyers could do, and that their perceptions were often confirmed in practice.  

2.1.23 Several other studies carried out during the late 1970s and 1980s also eschewed the term 'legal needs'. Thus the study of legal needs in rural Britain, conducted in the mid-1980s by Blacksell et al., comments that the term legal needs 'presupposes that legal solutions are superior to any other in the resolution of conflict':

'Instead we prefer to think in the terms “territorial justice” and “legal contact” ... and the opportunities of access – rather than imputing a priori values as to their use, or non use, by potential clients.  

2.1.24 Johnsen comments that, despite Blacksell et al.'s attempts to avoid the words, they have not avoided the concept of legal need. Blacksell et al.'s policy conclusion that rural areas should have more specialist social welfare advice is based on the idea that such services are needed.

Choice, Preference, and Need

2.1.25 One of the most sophisticated official analyses of how well legal services meet public needs was produced by the Royal Commission on Legal Services in Scotland (the Hughes Commission) in 1980. The Commission accepted that 'there was more to legal need than simply people having a legal problem and not being able to secure the services of an adviser' (para 2.7). Many people were able to find satisfactory non-legal solutions to their problems. Instead, legal needs fell into two parts: first, citizens had a need for information to enable them to choose a way to resolve the problem; secondly, if they chose a legal path, they needed the means to pursue it:

'In assessing the need for legal services, we must therefore think in terms of two stages - firstly enabling the client to identify and, if he judges it appropriate, to choose a legal solution; and secondly, enabling the client to pursue a chosen legal solution' (para 2.9)


When we speak of 'unmet need' we are concerned about instances where a citizen is unaware that he has a legal right, or where he would prefer to assert or defend a right but fails to do so for want of legal services of adequate quality or supply' (para 2.10)

2.1.26 The Hughes Commission placed a major emphasis on legal information. It believed that everyone has the right to know about legal solutions: without such information they cannot make a fully informed choice. This is a vital point. However need is defined, the provision of services to alleviate it can only succeed if those services become known to the needy. The second part of the definition attempts to meet some of Lewis's criticisms, by accepting that some people may prefer non-legal solutions. However, there is generally regarded as being an important distinction between what is wanted (which may amount to only a preference) and what is needed (which is generally taken to involve a necessity). By introducing the concept of preference to that of unmet legal need a subjective element is introduced. It is, though, a subjective element that is open to empirical observation, although its value remains a matter of politics.

Defining Supply 'Needs' on the Basis of Usage Levels of Existing Supply

2.1.27 One recently developed approach to estimating the amount of legal advice required in a given area is by reference to the actual use of advice suppliers in areas with relatively good levels of supply. This approach takes demand, or expressed need, as the starting point. The National Consumer Council (NCC) adopted this approach in Good Advice for All. They first identified relatively well provided for advice agencies that were acknowledged as examples of good practice. They looked at the use of such centres and discovered that over half of clients lived within half a mile of the centre. They then counted the actual use made of the centre by the population living within the half-mile radius. On this basis, they estimated, for example, that there should be one generalist advice worker for every 4,000 people, one specialist money adviser for every 12,500 people and one specialist housing advisor for every 30,000 people. They did not look in detail at the socio-economic nature of the population in question, or address the complexities of advice-seeking behaviour, but simply suggested (somewhat crudely) that there might be an uplift of 25% for poor areas.

2.1.28 The NCC approach is in no way intended to determine absolute levels of need. It simply gauges a standard, perhaps reasonable, level of demand. Unfortunately, of course, levels of demand undergo huge shifts over time, as is illustrated by the Law Society's attempt at a similar exercise before the Legal Advice Scheme was introduced in

1959. Their consultations with the voluntary sector suggested that a thousand people would require only 1.55 advice cases per year, of whom 80% would meet the means test.\textsuperscript{44} This produced an estimate that the legal advice scheme would generate 55,000 bills per year.\textsuperscript{45} The initial number of actual bills was lower than this (12,800) but grew rapidly, so that by 1998-9 it exceeded 1.5 million.

'Supplier Induced' Demand

2.1.29 As the Legal Action Group observed, since 1986, when legal aid eligibility was first cut in money terms, the pre-eminent governmental concern has been to control the growth of legal aid expenditure.\textsuperscript{46} The British government has not been alone in this. Increasing concern about cost has been a world-wide phenomenon. Goriely and Paterson have described the many attempts to control and cut legal aid expenditure in Australia, Canada, the USA, the Netherlands and Sweden in the decade between 1985 and 1995.\textsuperscript{47}

2.1.30 One of the early assumptions surrounding the concept of 'unmet legal need' was that many people who needed services did not obtain them. It was also assumed that those who actually received services did need them. Thus 'need' exceeded 'demand'. In the new climate this assumption started to be challenged through the concept of 'supplier-induced demand'.

2.1.31 The main justification for this view was a report produced by the Social Market Foundation in 1994.\textsuperscript{48} This applied an economic analysis to the increase in legal aid expenditure. It assumed that lawyers, like others, behave as economically rational individuals who seek to maximise their income. They do this by exploiting the information asymmetry between themselves and those paying for their services, by supplying services that funders would not consider to be 'needed' were they in possession of the full facts. It was also argued that the problem of information asymmetry was compounded, in the legal aid context, by a 'moral hazard', whereby clients do not care that they are being over-supplied because someone else is paying. It was then shown that the increase in legal aid expenditure is made up partly of increases in the number of cases undertaken and partly of real increases in the price of individual cases. A picture claimed to be 'consistent with the hypothesis of supplier-induced demand. However, as Gray points out, the theory is not proved: these

\textsuperscript{44} In fact, several good advice centres (Cambridge House, Salford Poor Man's Lawyers) showed much greater rates of use (up to 3.5 per 1,000 people) but the Law Society discounted these as atypical.
\textsuperscript{46} LAG (1992) A Strategy for Justice, London: Legal Action Group
\textsuperscript{47} Supra., n.45, p.18
trends are also consistent with many other trends, including changes in social attitude, legislation, and regulation.49

2.1.32 Since 1994, much has been written about supplier-induced demand.50 The theory can be stated in both strong and weak forms. In its strong form, it has clear moral overtones. It suggests that ‘greedy’ lawyers have been deliberately undertaking work that is not needed so as to gain an unfair share of public funds. Such moral overtones step outside the limits of economic debate. Economics does not understand concepts of ‘need’ or (in its pejorative form) ‘greed’. There is nothing in the evidence to support such moralistic judgements. Lawyers have not been shown to be greedier or more altruistic that other members of society. Nor has it proved possible to compare supply with any normative standard of what might or might not be ‘needed’.

2.1.33 In its ‘weak’ form the theory can be stated more neutrally. It hypothesises that one of the main determinants of whether legal aid is supplied lies in the behaviour of lawyers (and thus, for example, expenditure will rise when lawyers are under competitive pressure to generate demand for their services). Stated like this, the theory is consistent with earlier views that there is significant ‘unmet’ need. It is perfectly possible to argue that additional services lawyers supply are in fact ‘needed’. To say that the process by which this need is turned into demand is ‘supplier-induced’ is merely to state that to an extent it is lawyers rather than policy-makers who make decisions about how much and what need will be met.

Priorities and Comparative Need

2.1.34 In response to both the complexity of legal need, demand and supply patterns, and the political imperative to control legal aid expenditure, by the late 1990s legal aid administrators increasingly looked to the development of tools that would enable a rational planning of priorities and services.

2.1.35 One method of planning centres around the concept of ‘comparative need’. The overall level of resources is taken as a given. The question therefore becomes how to allocate resources between geographical and legal areas. So, the Legal Services Commission

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has developed predictive legal need models. The Australian commonwealth government commissioned work on how to rationally allocate funding between the eight Australian states and territories. Also, throughout New Zealand local initiatives were set up to map and address the need for and supply of legal aid services. CLS partnerships now have a similar function in England and Wales.

2.1.36 The concept of 'comparative need' allows the most needy to be targeted in preference to the less needy. It does not, on its own, suggest any means to fully meet legal needs. Thus, in England and Wales in recent years, civil justice and legal aid administrators have turned to alternative legal service funding arrangements (e.g. conditional fees) and methods to control individual legal aid case costs (e.g. standard fees). The latter of these addresses individual case-level supplier-induced demand by limiting the resources that can be directed to particular cases. This is distinct from prioritisation, which addresses supplier-induced demand in broad terms, by preventing certain types of case from qualifying for public funding.

2.1.37 Of course, if it accepted that there is significantly more legal need than legal services meet, then unless there is gross inefficiency within a service delivery system, the methods outlined above cannot be hoped to meet legal need. Furthermore, once prioritisation is reasonably defined, there can be little flexibility to shift resources to most effectively meet it. Consequently, in the current day there is little likelihood of general findings of large measures of unmet legal need being actionable.

Naming, Blaming and Claiming

2.1.38 It is clear that not all people who experience a problem with a potential legal dimension recognise the legal dimension. The American Civil Litigation Research Project explored this process of problems becoming legal disputes and its consequences. Felstiner, Abel and Sarat set out a five-part aetiology of how 'injurious experiences' may become lawsuits. The first step is that an injurious experience must be recognised as such: it must be 'named'. Secondly, it must become a source of grievance: another party must be 'blamed'. Thirdly, the injured person must decide to confront the

51 Rush Social Research and John Walker Consulting Services (1996) Legal Assistance Needs: Phase 1: Estimation of a Basic Needs-Based Planning Model, Attorney-General's Department, Canberra. Available at http://law.gov.au/aghome/commaff/fplad/legal-aid/home.html. In Canada, Bogart et al. (1997) report that some commentators have recommend that legal aid plans should develop social indicators of need. However, the idea has 'not enjoyed widespread acceptance', mainly because work has been dominated by criminal law, in which private solicitors simply respond to what comes to their door.

52 See Moorhead (2000), supra., n.3.


possible wrongdoer with the problem, to ‘claim’. Many people at this stage may well decide to ‘lump it’ or to practice avoidance (leaving the job, changing to another lender). If the other side denies the claim, then it turns into a dispute, at which point the disputants may (or may not) decide to call in a third party, such as a lawyer. Finally, they may or may not decide to proceed with the case through the courts.

2.1.39 At each of the stages set out above, many potential legal disputes will be ‘lost’ from the legal arena. Felstiner et al. stress that looking at the whole sequence of transformations between injury and court renders problematic ‘one of the most fundamental political judgments about disputing - that there is too much of it’. By looking at how many cases are not taken up, one might conversely conclude that too few people are prepared to pursue their disputes.

2.1.40 Felstiner et al. stress that these stages are not neat categories - far from it. Rather the five stages are ‘subjective, unstable, reactive, complicated and incomplete’. People may have ambivalent attitudes towards the wrongdoer; they may blame one person one day, another the next. When they visit a lawyer, for instance, the way in which they perceive the problem and allocate blame may be transformed. As Lloyd-Bostock points out, the link between blaming and claiming works in both directions. Attributions of fault may be influenced by the existence of a possible claim. Thus victims may only start to blame someone after they have seen a lawyer and discovered that establishing fault is necessary in order to gain compensation. They may even blame someone because that is what the law expects them to do: ‘existing compensation systems, as an integral part of the rule systems we live with, in a more general way structure the way people attribute fault and liability’.55 As Pearce, Davis and Barron point out, all that is required in order to legalise a dispute over children, “is the assertion of an issue in terms corresponding to one of the categories (the ‘menu’) identified in the Children Act 1989”.56

2.1.41 Felstiner et al. assume, but do not prove, that a sense of grievance is a necessary precursor to legal action. There are other motives. As Kidder states, ‘when IBM and Xerox square off against each other in court’ this may be a cold-blooded struggle over limited resources rather than a reflection of a sense of injustice.57 It is possible that individuals also use the law simply to get money rather than to vindicate a wrong.

56 Supra., n.36, p.22
2.2 Recent Major Studies of Legal Need

**Australia**

2.2.1 In Australia, each State or Territory has its own Legal Aid Commission, which provides legal aid both through in-house staff and through private practitioners. Funding is provided through a mix of State and Commonwealth money. Traditionally, the Commonwealth's contribution was based on historical expenditure patterns. Each year, the sum was updated by a combination of the consumer price index and average weekly earnings, and the costs split on the basis of an agreed ratio. This generally involved the Commonwealth bearing either 55% or 60% of the costs. The allocation process took no account of demographic or social change. It therefore became increasingly inappropriate, as the population of some states declined while others increased. In 1996 the Commonwealth asked researchers to devise a more rational method for allocating funds.\(^{58}\)

2.2.2 The first phase was to draw up a model based on indicators of 'expressed need'. This meant that the researchers tried to find proxies for demand. They assumed that the Commissions should continue to do more or less what they were doing already (i.e., mainly criminal and family work, with some more general civil cases and advice). They therefore looked for factors strongly associated with existing demand.

2.2.3 They started with the premise that, other things being equal, the existing budget would be allocated to the states on the basis of population. However, a straight per capita allocation would take no account of differences between populations. They therefore weighted the per capita allocation by an index based on various different types of need. The process was a complex one, and operated differently for different parts of the programme. Thus the index for criminal work was different to that of family work. However, in broad terms they identified three separate groups of 'need factors'. The first group comprised demographic factors. Criminal legal aid is overwhelmingly used by young men. Family legal aid is mainly used by women of child-caring age. They therefore looked at the age/sex profile of the state's population. The second group comprised socio-economic factors. A multiple regression analysis, conducted to determine which factors were most closely associated with existing demand, indicated that the proportion of low-income households, the proportion of long-term unemployed, the number of divorces involving children and the proportion of single parent families were important. The third group comprised cost-increasing factors. Factors that might increase the cost of providing services were identified. For example, services may cost more in highly dispersed populations, in urban centres (where rents and salaries are higher) or where many people have first

\(^{58}\) *Supra.*, n.51
languages other than English. The result was a model designed to form a new basis of allocation between states.  

2.2.4 This, of course, leaves open the question of services that are not presently provided, but which ought to be provided. In the second phase the researchers looked at 'unmet needs'. They conducted a survey of the low-income population which concentrated on 'felt needs' (i.e. occasions where people thought legal aid should help but did not). Meanwhile a survey of 'stakeholders' (providers, administrators and community groups) explored 'normative need' (what experts thought people ought to have). The difference between these two standards is illustrated by the fact that in the population survey the highest level of unmet need was felt by men facing family problems. Thus men were more likely not to apply for legal aid because they thought they would not get it; they were more likely to be turned down for assistance when they did apply; and when given legal aid, they were more dissatisfied with it. However, in the stakeholder survey, family law for women was perceived to be a greater priority, especially in domestic violence cases. This neatly demonstrates two things. First, that individual perceptions of need vary with perspective and function. Second, that differences in the focus and aim of questions relating to needs can lead to very different answers.

New Zealand

2.2.5 Under the 1991 Legal Services Act, New Zealand established 19 District Legal Services Committees, each composed of eight lawyers and community representatives. Among their other duties they were charged with identifying legal needs in their districts, monitoring the provision of legal aid and making recommendations to the Board. Board staff comment that some committees exist 'more on paper than in reality'. They have 'slim resources', 'meet for an hour about once a month' and are often 'singularly ill-informed about issues Parliament appears to expect them to be inherently knowledgeable about'. The Committees in the most disadvantaged areas were often the least active in identifying gaps in provision.

2.2.6 In 1996, the New Zealand Legal Services Board decided to complement its patchy knowledge of local needs with a national survey, along Clark and Corstvet lines. Completed in 1999, the survey interviewed 5,431 respondents about 27 common problems, experienced in the last three years. It found that about half the respondents had experienced a problem, of whom around half were deemed to have an unmet need. It produced a familiar list of barriers.


to access, including lack of information, psychological factors, the feeling that nothing could be done and fear of costs.\footnote{Maxwell, G., Smith, C., Shepherd, P. and Morris, A. (1999) \textit{Meeting Legal Service Needs: Research Report prepared for the Legal Services Board}, Wellington: Legal Services Board}

2.2.7 As already noted, there is little likelihood of general findings of large amounts of unmet legal need being actionable. However, they do allow for informed evaluation and development of legal aid policy alongside ideological change and, occasionally, crisis management. Unfortunately, basic frequency counts of manifold problem types do not provide a real insight into the individual circumstances of those studied, nor the relative hardship brought about by problems of very different types. Nor do broad categorisations of 'barriers' necessarily explain how they are felt on the ground – and without such knowledge it may be difficult to overcome them. As Opie and Smith comment, the national survey failed to provide nuanced accounts. Thus for example, it does not demonstrate why a Maori woman may be so reluctant to explain her problems to a male 'Pakeha' lawyer. Nor does it illustrate the mixture of bravado, misinformation and sheer ignorance influencing a young man in trouble with the police for the first time.\footnote{Mitchell Research (1999) \textit{Unmet Legal Need in the Taranaki Region}, prepared for the Legal Services Board, Wellington.}

2.2.8 Thus, quantitative studies of legal need may require complimentary focused qualitative studies, which might provide the insight into what methods might be adopted to allow political aspirations (relating to the big picture) to be made real.

2.2.9 One important finding that did emerge from the national survey was the extent to which people relied on informal contacts for gathering information and advice – including friends and family, and 'knowledgeable and influential' people in the community. Such community contacts proved far more important than printed or visual information. This suggests that a successful strategy may be to provide skills, information and backup through community contacts. In 1999, the Legal Services Board established pilot projects in disadvantaged rural communities to provide legal education and information to community contacts and volunteers. The flow of information has worked in both directions. The Legal Services Board has used the pilots as a way of researching local needs. Thus in the Taranaki region, researchers combined existing reports with interviews with contacts to produce a detailed account of the needs of a specific area.\footnote{Supra., n.60, pp.146-7} This gives a much fuller 'feel' for why legal services are not used at present and how people might be encouraged to use them in the future.
In the USA, the American Bar Association has recently updated Curran’s 1977 study. In 1994 it published a survey of 2,784 low and moderate-income households. The increasing complexity of the legal system is illustrated by the fact that while Curran had asked about 32 potential problems, the 1994 study asked about 67. This time the authors showed little of the previous reluctance to use the language of need: need not only appears in the title but on almost every page of the report, with tables explicitly counting ‘needs’, as in ‘mean number of legal needs per household’. Previous criticisms are dealt with by a declaration in the preface that the study is descriptive rather than prescriptive, and that the many situations ‘encompassed by the concept of legal need’ do not necessarily require the involvement of the legal/judicial system for resolution. Despite this disclaimer, however, the continual references to numbers of needs does encourage a rather simplistic response to the results.

The study found that within the last year moderate-income households had slightly more ‘needs’ than low-income households, while the very poor had even fewer. This counter-intuitive finding reflects the fact that the greater one’s involvement with economic activity, the more opportunity there is for things to go wrong. Thus people with jobs had more employment problems, while people who consumed more had more consumer problems. When faced with a problem, moderate-income families were more likely to use lawyers, but the difference was not great. It was mainly accounted for by moderate-income households’ greater use of lawyers for wills and family problems. Responses to employment, injury and financial problems were similar between the two groups.

Despite its size, the study illustrates some of the weaknesses of legal needs surveys. The first problem is that it is difficult to compare results across different surveys. As the study points out:

‘...the differences in approach taken by differing legal needs studies makes comparisons difficult. Studies have used different modalities (telephone versus in-person), different sampling frames (specific subpopulations versus the entire population), different approaches to eliciting needs (varying numbers of questions or cues, different reference periods, and so on), different units of analysis (person versus households),

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65 Ibid., p.9
66 This is illustrated by a Californian report which used the study to calculate that the state experienced 800,000 unmet needs each year, based on the number of people who did nothing, or took a non-legal action without being satisfied with the results (California State Bar 1996). This begs the question of whether lawyers would necessarily have delivered more satisfactory results.
67 Supra, n.64, p.26
Thus it can be dangerous to use different studies to compare changes in need over time or between countries. Although, looked at together, the findings of a number of studies can be usefully indicative – especially where differences between methodologies are minimal.

2.2.13 Secondly, the figures alone tell us very little. As stated above, without qualitative material they give little idea of the human stories behind the answers given. Without detailed analysis they do not reveal the complex patterns between use of law and other variables, such as class, income, gender, education, expectations, and attitudes. The strength of legal need surveys lies not just in the accuracy of the figures but in the authors' ability to explain what lies behind them. Unfortunately, the ABA study offers little explanation.

Britain

(a) The NCC/SCC surveys of serious disputes

2.2.14 In England and Wales, the Woolf review prompted the National Consumer Council to carry out a survey of people's experiences of the civil justice system. Their survey was designed to show what users thought of the civil justice system. It attempted to find 'users' by asking over 8,000 respondents if they had been involved in a serious dispute in the past three years in any of 13 areas, such as 'divorce', 'unpaid debts' or 'faulty goods'. Those who were involved in serious disputes were then asked up to 26 further questions about their experiences.

2.2.15 A very high proportion of those in the survey had used the legal system. Thus over three-quarters had sought professional or outside help. Over 40% had used lawyers while 30% had used a court or tribunal. These high rates reflect the question. Many people seem to have interpreted the phrase 'serious dispute' as meaning 'legal dispute'. So, those who had used the legal system were much more likely to have come forward than those who had not. Thus the NCC survey is best seen as primarily a study of those who sought to use the law. It is less effective at studying non-use.

2.2.16 The Scottish Consumer Council (SCC) carried out a similar study in Scotland. This picked up many more disputes about faulty goods, which constituted 17% of the sample, compared to only 8% of the

68 Ibid., p.43
NCC’s sample. The reasons for this are unclear. One can only speculate. Perhaps the canny Scots regarded a poor quality purchase as more ‘serious’ than the English. Perhaps the word ‘dispute’ is used more readily north of border to mean ‘argument’, without the same quasi-legal connotations. This might explain why a much higher proportion of Scots with a ‘dispute’ did not seek outside help and claimed they could ‘handle it themselves’. This difference in results shows how subtle differences in language and understanding can profoundly affect the results of surveys of this type - again highlighting the dangers alluded to in paragraph 2.2.12.

(b) Paths to Justice

2.2.17 In 1996, concern about the lack of empirical information about how people respond to legal problems prompted the Nuffield Foundation to fund Hazel Genn to undertake a large scale national survey of people’s experiences of legal problems, both in England and Wales and Scotland. The findings in relation to England and Wales have been published. The findings in relation to Scotland will be published soon.

2.2.18 The study started with the concept of a ‘justiciable problem’ – that is a problem for which, at least in theory, the legal system provides a remedy. The survey was designed to show how often people experienced justiciable problems “which were difficult to resolve”, what they did about them and with what result. This was put in the context of people’s motivation for taking action and the perceived barriers to justice as well as their perceptions of the legal system. Unlike the ABA study, it did not suggest that it was counting ‘legal needs’. The difference in language changes the nature of the discussion. Genn widened the focus from the previous narrow concentration on whether people used lawyers. The report explored people’s self-help remedies and their use of advice centres, as well as their use of lawyers and the courts.

2.2.19 It was a large and detailed survey. In England and Wales over 4,000 individuals were screened to see if they had experienced any of 13 groups of problems in the past five years. It then followed up over 1,000 people with problems to ask detailed questions about how they responded. Finally 40 in-depth interviews provided important qualitative descriptions of people’s perceptions and experiences.

2.2.20 The English and Welsh study, reported in Paths to Justice, found that justiciable problems are common: around one-third of the population had experienced at least one problem and one in seven had experienced more than one problem. Problems appeared to often come in clusters. Those with an employment problem, for example, were particularly likely to have also experienced money problems.

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consumer problems and problems with owning property.\textsuperscript{72} The study also found that a person's response to a problem depends crucially on what that problem is. For example, almost all those facing divorce sought advice. Those with consumer problems, on the other hand, mostly used self-help strategies. For accidents, though, people either did nothing or took advice. A multiple regression analysis found that those with higher educational qualifications, women and the old were more likely to seek advice. However, no straightforward relationship between income and advice seeking was found. Although for some problems higher income groups were more likely to obtain advice, this was not true for employment, neighbour or owner-occupation disputes, where medium and low income groups both sought advice more.\textsuperscript{73}

2.2.21 The \textit{Paths to Justice} study did not provide neat figures indicating how many legal service 'case-starts' might be appropriate in any legal category. Nor did it provide a full analysis of how demographic or geographic factors affect problem rates. Instead, it provided important background information about the number of justiciable problems recollected by people across Britain during a defined period, and people's reactions to them.

2.2.22 In relation to the latter of these, the study illustrated that there are clear limits to how far self-help succeeds against an intransigent opponent. This is not to say that self-help is unimportant. In some areas, such as consumer problems, it is the most common way of resolving a problem and is successful more than half of the time. However, where self-help fails initially, considerable effort is needed to achieve a resolution. In particular, people are extremely reluctant to go to court without advice. For example, in the whole survey no one with a consumer, employment or accident problem used the courts or tribunals without first obtaining advice. The qualitative interviews illustrated how frequently people become paralysed by their problems. Those with low-levels of 'education, income, confidence, verbal skill, literacy skill and emotional fortitude' are all likely to benefit greatly from external help.\textsuperscript{74}

2.2.23 In obtaining advice, the study showed that existing advice services are not always adequate to meet people's demands. So, although people are well aware of the existence of CABx, and frequently see them as a possible source of help, they are often discouraged by 'limited opening hours, unanswered telephones, full offices and queues'. As an interviewee remarked, 'it was always engaged, you just couldn't get through to a Citizens Advice Bureau'.\textsuperscript{75} This finding confirms other studies, including those by the National Association of

\textsuperscript{72} Ibid., p.31
\textsuperscript{73} Ibid., p.136-140
\textsuperscript{74} Ibid., p.143-160
\textsuperscript{75} Ibid., p.77-8
2.2.24 Finally, it appears from the Paths to Justice study that mere advice is often not enough to resolve a dispute. Genn carried out a multivariate analysis that sought to identify the factors most associated with resolving a dispute (defined as reaching an agreement or adjudication, whether favourable of not). It found that those cases least likely to be resolved were those where people had received no help at all. Such cases were 45% less likely to be resolved than where advice was obtained from a solicitor or law centre. However, those who had only received information and advice from an advice agency were 30% less likely to resolve their cases than those who had seen a solicitor or law centre. Only where advice agencies provided further assistance, such as contacting the other side, did their results equal those of solicitors. The qualitative interviews illustrated how in some cases only the intervention of a professional adviser presents a credible threat to an intransigent opponent.

2.3 Local Studies of Legal Need

2.3.1 CLS partnerships have begun devising locally applicable methodologies aimed at determining local need, demand and supply patterns. As a result, a small number of partnerships have already undertaken consumer surveys. However, no standard methodology or form of questionnaire has been adopted. This diversity in survey design and practice can be seen as a reflection of the various partnership structures and locations, their different stages of development, and the different skills and experience brought to bear within them. In this section we briefly review partnerships’ efforts to date, and discuss some of the advantages and disadvantages of their methodologies. The section should be read in conjunction with Appendices 1 and 2, which contain a full guide to research methodologies and recommendations as to survey instrument design.

2.3.2 Figures 2.3.1 and 2.3.2 set out the basic methodology and range of issues covered in 10 local surveys conducted to date by CLS partnerships in Chiltern, Cumbria, Darlington, Kirklees, Liverpool, Milton Keynes, Sandwell, Speke, Tameside, and Wirral.

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77 Supra., n.71, p.172
78 Ibid., p.94
79 See also, Moorhead, R. (2000), supra., n.3.
2.3.3 All of the surveys were undertaken to provide background information to assist CLS partnerships in meeting their strategic objectives. Thus, they all covered similar topics, such as categories of problems experienced, sources of advice sought, and experiences of the advice process.

2.3.4 The Southwark survey used quotas, based on characteristics such as age, sex, ethnicity and benefit status in order to promote representativeness. However, as is explained in the methodology section below, quotas must be carefully constructed. Well defined quota categories can ensure a broadly representative sample. However, they can also act to undermine representativeness and can never alone produce truly representative samples.

2.3.5 Some of the other survey methods used can also militate against representativeness. For example, telephone surveys, such as conducted in Cumbria, or surveys using telephone directories as a sampling frame, can only include those with access to a telephone. They thereby exclude some of the most disadvantaged groups in the population. They also exclude the significant number of households that are ex-directory. Postal surveys, such as conducted in Milton Keynes, can reach a greater number of people than telephone surveys. However, they do not encourage responses from those with a literacy problem or visual impairment, or from people for whom English is not a first language. This may have been a factor in the low response rate to the Milton Keynes survey, and the fact that not one of the respondents had experienced an immigration problem. Postal surveys also tend to over-represent certain groups in the population (e.g. older people) and under-represent others (e.g. the unemployed).

2.3.6 Generally, the least representative and lowest response surveys are newspaper surveys. We recommend these should be avoided wherever possible. If they are adopted, it is vital to ensure that questionnaire placement does not foil survey efforts. In the Chiltern survey the questionnaire was included in the Chiltern newsletter. Only 4 responses were received. This extremely low response rate is attributable to the fact that the questionnaire was printed on the reverse side of a free-offer voucher.

2.3.7 The Kirklees survey was conducted through eight agencies based throughout the district. The intention was to conduct a face-to-face interview with every visitor to each of the agencies during a one month period. Of course, in doing so it could not establish how many people went elsewhere, or their reasons for doing so.

2.3.8 In the Kirklees survey, it was also not possible to put any weight on cases which were serious and therefore indicated greater need, nor distinguish between requests for information, one-off pieces of advice and work which was likely to take longer or produce case work.
<table>
<thead>
<tr>
<th>Needs Survey</th>
<th>Sample Size</th>
<th>Sampling Frame</th>
<th>Survey Methods</th>
<th>Number of Questions</th>
<th>Timeframe of legal problem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southwark</td>
<td>410</td>
<td>telephone interviewees, 13 in focus groups</td>
<td>telephone interviews, follow-up focus groups</td>
<td>52 questions</td>
<td>previous two years</td>
</tr>
<tr>
<td>Cumbria</td>
<td>600</td>
<td>households selected randomly from telephone directories until 100 responses achieved in each of the selected 6 district areas</td>
<td>telephone interviews</td>
<td>8</td>
<td>within the last year</td>
</tr>
<tr>
<td>Darlington</td>
<td>very small (less than 20)</td>
<td>council tenants who attended the Tenants' Festival in Darlington</td>
<td>face-to-face interviews</td>
<td>11 questions</td>
<td>within the last three years</td>
</tr>
<tr>
<td>Milton Keynes</td>
<td>149 out of 1,000, 19 on citizens' panel</td>
<td>1,000 local residents at random and citizens' panel</td>
<td>Postal questionnaire, indepth discussion with small group of people from citizens' panel</td>
<td>8</td>
<td>within the last year</td>
</tr>
<tr>
<td>Tameside</td>
<td>1,400</td>
<td>existing 2,000 member panel of residents</td>
<td>postal questionnaire</td>
<td>10 questions</td>
<td>in the last five years</td>
</tr>
<tr>
<td>Kirklees</td>
<td>3,990 responses from 6,283</td>
<td>all those seeking advice during one month in any one of eight agencies in all parts of the district</td>
<td>face-to-face interviews</td>
<td>6 questions</td>
<td>X</td>
</tr>
<tr>
<td>Liverpool City Council and Speke Garston Partnership</td>
<td>265</td>
<td>mail shot based on 627 names selected at random from the Electoral Register</td>
<td>Letters to contact, then face-to-face interviews</td>
<td>13 questions</td>
<td>in the past two years</td>
</tr>
<tr>
<td>Chiltern District Council</td>
<td>4</td>
<td>Questionnaire sent out to all households within local authority (36,000)</td>
<td>Postal questionnaire in Council newsletter</td>
<td>4 questions</td>
<td>in the last five years</td>
</tr>
<tr>
<td>Liverpool City Council</td>
<td>1,363 (equals overall response rate of 47.1%)</td>
<td>citizens panel</td>
<td>Postal questionnaire in Council newsletter</td>
<td>12 questions</td>
<td>in the last 12 months</td>
</tr>
<tr>
<td>Wirral Council</td>
<td>1,540 (equals 60% response rate)</td>
<td>citizens panel</td>
<td>Postal questionnaire</td>
<td>13 questions</td>
<td>in the last 12 months</td>
</tr>
<tr>
<td>Sandwell</td>
<td>757</td>
<td>citizens panel</td>
<td>Postal questionnaire</td>
<td>13 questions</td>
<td>in the last three years</td>
</tr>
</tbody>
</table>
### Figure 2.3.2 - Overview of Issues covered in Local Legal Needs Surveys

<table>
<thead>
<tr>
<th>Issue</th>
<th>Covered by survey</th>
<th>Partially covered</th>
<th>Not covered at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Categories of problems people have sought advice for</td>
<td>Southwark; Milton Keynes; Kirkles; Tameside; Darlington; Liverpool; Chiltern; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Cumbria</td>
<td></td>
</tr>
<tr>
<td>Sources of legal advice used</td>
<td>Cumbria; Southwark; Milton Keynes; Tameside; Darlington; Liverpool; Chiltern; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Cumbria</td>
<td>Kirklees</td>
</tr>
<tr>
<td>Preferred mode of delivery of advice locally</td>
<td>Cumbria; Darlington; Liverpool; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Southwark; Tameside</td>
<td>Kirklees; Chiltern</td>
</tr>
<tr>
<td>Experience of seeking advice locally</td>
<td>Southwark; Milton Keynes; Tameside; Darlington; Chiltern; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Cumbria; Liverpool</td>
<td>Kirklees</td>
</tr>
<tr>
<td>Reasons for not seeking advice</td>
<td>Cumbria; Southwark; Tameside; Darlington; Liverpool; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Kirklees; Chiltern</td>
<td></td>
</tr>
<tr>
<td>Suggestions for improvement of services</td>
<td>Milton Keynes; Tameside; Darlington; Wirral; Liverpool Citizen Panel</td>
<td>Cumbria; Southwark; Liverpool; Sandwell</td>
<td>Kirklees; Chiltern</td>
</tr>
<tr>
<td>Personal characteristics of Respondents</td>
<td>Southwark; Milton Keynes; Kirklees; Liverpool; Wirral; Liverpool Citizen Panel; Sandwell</td>
<td>Cumbria; Chiltern</td>
<td>Darlington</td>
</tr>
</tbody>
</table>

2.3.9 In the Sandwell questionnaire, questions were included to help identify where advice and information centres should be located. So, it included questions on the accessibility of, for example, hospital, shopping, school and public library facilities. Questions were also included on the mode of transport used to go shopping. Questions such as these can help determine advice-seeking behaviour and access patterns. As noted above, an understanding of advice-seeking behaviour is vital to the effective delivery of targeted legal services.80

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80 A full discussion of advice-seeking behaviour is set out in section 3.3.4 below
2.3.10 Access issues were also raised in the survey questions submitted to the Wirral and Liverpool Citizens' Panels. The surveys found that 39.2% of respondents in Liverpool had access to the internet, compared to 49.5% in Wirral. Although the different methodologies may largely account for the different findings, this illustrates the potential dangers of CLS partnerships relying on national, or even regional, findings. Areas in even close geographic proximity need not contain similar populations, facilities or services.

2.3.11 A number of the surveys encountered problems relating to the time-frame over which legal problems were sought. For example, the Cumbria survey used a 12 month time-frame. This was a significant problem, as consequently only a small proportion of respondents reported needing advice (e.g. 2% for divorce, 3% for personal injury or debt), making analysis very difficult. Appendix 1 sets out guidance for determining appropriate time-frames.

2.3.12 As is also explained further in Appendix 1, the limitations of specific research methods can be mitigated through the use of more than one. In Milton Keynes, for example, by combining a postal survey with a focus group, it was possible to use quantitative data to identify issues of primary importance to local residents, and then to go into greater depth with a small group of people to identify possible solutions to these issues. Likewise, in a supplement to the survey in Kirklees, two additional questions were included in Kirklees's “Talkback” Questionnaire, sent out to a representative sample of 1,200 residents in Kirklees every 3 months.

2.3.13 Some of the surveys included a qualitative element in their design. For example, in both Wirral and Liverpool, one question asked respondents to comment on the level and availability of services received. These questions encouraged respondents to answer in their own words. This allowed for potentially broader and richer information to be obtained – that may not have fallen within the constraints of pre-defined answers. However, analysis and quantification of qualitative information, as is shown in Appendix 1, raises additional methodological difficulties.

2.3.14 Where the difficulties and costs of undertaking a stand-alone survey were prohibitive, partnerships looked to piggyback questions on already existing survey instruments. So, the Tameside CLS partnership was able to draw on a community consultation mechanism already instituted by the local authority. This made the chances of a representative sample being achieved relatively high. The questionnaire, however, was designed to cover a number of topics not at all connected with community legal services (street lighting, street cleaning, and parks and open spaces). In the Wirral Citizens Advice Panel, the section on the experience of Information and Advice Services was preceded by a section on use and awareness of public library services. A clear disadvantage of appending questions to an existing survey instrument is that respondents may be distracted by the focus of unrelated subject areas or unduly influenced by the general context. So, for example, in the context of a local authority citizens' panel respondents may focus on
council-run services, or matters that they think would/should be of interest to the council. They might also use their involvement as a means to get a particular message across. However, as we suggest in chapter 4, adding questions to well funded and designed surveys is extremely cost-effective and can provide, in the case of Citizens' Panels, regular and consistent data to monitor local levels of justiciable problems and people's behaviour on experiencing them.
3. **Modelling Legal Needs**

As is clear from the preceding chapter, defining and assessing need is a complex process involving theoretical, empirical, and operational complications. However, the political imperative that welfare funding be targeted to those most in need requires that serious effort is expended on identifying where need lies and how it might be met. In the preceding chapter we charted the historical development of legal need studies and discussed recent examples of legal need surveys. In this section we turn our attention to the development of need models, i.e. statistical predictions of need levels, derived from proxy data. The first section of this chapter describes how it is becoming increasingly possible for government organisations to obtain information and develop need type models that function at the *small area level*. The second section provides a general review of the use of need models in the context of resource allocation. Examples from health and education are included. The third section describes the CLS *small area predictive legal need models* and explores their use in practice. It then explores the outputs of the models in relation to general indicators of deprivation and LSC supply data. The fourth section examines consumer advice seeking behaviour.

### 3.1 Looking at the Small Scale

#### 3.1.1

Until recently there was a pronounced dearth of available, reliable and nationally consistent small area demographic and social data. The most important national data gathering process – the census – was only periodic, and the data gathered was not easily available for analysis. Until recently, therefore, not even the *possibility* of developing national predictive need models existed. Until recently there were also few computers with sufficient memory or processing power to allow the manipulation of national data sets (or even small extracted samples). However, advances in computer power now allow for the ready analysis of increasingly large data sets. Advances in computer power have also promoted the national aggregation of locally derived demographic and social information, through, for example, the use of standard software applications within and across areas of governmental activity. Also, as the possibility of developing sophisticated and *live* demographic maps of the country has arisen, central government has become increasingly concerned that local and central administrative and research data should be recorded in a harmonised manner.81

#### 3.1.2

In recent years, then, local authorities, central government and other data users have been able to use a range of data sources to develop predictive need models. The range of available data continues to increase. However, this does not mean that the modelling task is becoming more straightforward. The increasing availability of data presents new challenges and problems. Not only must the function of models be more carefully defined, but the proxies and statistical methods used must be regularly

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reviewed, the quality of new and old data must be regularly assessed, and ethical and legal issues of confidentiality and data protection must be dealt with.

3.1.3 Most of the data sets that have become available in recent years are governmental administrative data sets. The strengths of this type of data set are numerous. They are, for example, up-to-date and easy to update. In many cases, they are also easy to validate. If they are constructed from individual post-coded records, they are easy to define in small area terms. They are comprehensive - in the sense that they comprise all cases. They can also be rich in variables, and wherever multiple variables exist there arises the potential for linking data sets. However, weaknesses include the fact that administrative data sets only cover those persons who fall within the related administrative systems. They are also defined in administrative terms. Administrative data is not research data. Only rarely are research considerations apparent in its definition. Administrative data may also change in form over time, as policies or systems change.

3.1.4 As a consequence of the increasing availability of small area demographic and social data, three different general deprivation indexes have been developed for the Department of Employment, Transport and the Regions over just the last 10 years – in 1991, 1998 and 1999. These indexes are intended to identify "those areas which experience the greatest levels of multiple deprivation, and ... can ... be used to inform targeting of regeneration programmes on such areas."83

3.1.5 The first index, developed in 1991, obtained around half of its data from the 1991 census. It was intended as a measure of deprivation, rather than general quality of life. It was intended to refer to groups of individuals who suffer deprivation directly, rather than those who are vulnerable. Also, it was produced in the form of a matrix of values at three spatial scales, so that patterns of deprivation within a region (e.g. deprivation spread throughout a district or deprivation centred in a couple of small areas within a district) could be seen more easily.84 Thirteen indicators were used for the 1991 index, eight obtained from the 1991 census and six from elsewhere. To combine these indicators, chi-square procedures were used to standardise the values, data were transformed to 'dampen extremes' and then summed (each indicator is therefore given equal weight). The second index, developed in 1998, was intended to update the 1991 index to a 1996 base.

3.1.6 Both the 1991 and 1998 indexes were created by the Centre for Urban Policy Studies at the University of Manchester. The 1999 index, however,
was developed by the Department of Applied Social Studies and Social Research at the University of Oxford, and released in the late summer of this year. The 1999 index was not a mere updating exercise, but a complete redesign. It was based on ward geography at 1st April 1998, and included a total of 6 sub-indexes, concerned with different forms of deprivation, each based on a combination of indicators. For each sub-index, the aim was to have a sum index in meaningful units. The sub-index values for each ward were weighted and summed. The weights reflected the importance of each deprivation sub-index in overall deprivation. Each indicator was therefore not given equal weight. Deprivation was rated according to concentration, independently of size of administrative area, and the size of the area taken into account was at the resource allocation stage. Indicators are therefore in the form of rates and percentages.

3.1.7 The 1999 index report proposed the development of a national set of neighbourhood statistics. This is now being done, and should greatly improve opportunities to develop models aimed at predicting specific forms of deprivation or need.

3.2 Needs Related Formula Funding and Modelling

*Formula Funding in a Wider Context*

3.2.1 The modern welfare state has as an objective to ensure that every citizen has access to a certain standard of housing, education, health care and help in protecting and maintaining their rights and responsibilities. In meeting this objective welfare spending is generally targeted towards those most in need. One method of targeting is to adopt needs related funding formulae. The ultimate aim of such formulae is to distribute resources fairly, efficiently and effectively across the country. Whereas needs related formula funding is new to legal services provision in England and Wales, other services have experienced it for some time. Lessons can be learnt from research and practice, in the context of these other services, both in this country and abroad. Needs related formulae used in health and education resource allocation are particularly illuminating, as some of the principles bear upon the issues the LSC and CLS partnerships are having to deal with.

3.2.2 The National Health Service (NHS) has been using needs related formula funding for a number of years. During the last two decades, needs-related health funding has become increasingly sophisticated and put to use in relatively small geographical areas. The health formula has also been amended a number of times, resulting in redistribution. In November 1998,
a wide-ranging review of the formula used to make allocations to Health Authorities was announced. The review is being carried out under the auspices of the Advisory Committee on Resource Allocation (ACRA). Its aim is to further improve fairness.

3.2.3 At present, NHS funding is allocated on the part-basis of the relative needs of Health Authority populations. A weighted capitation formula is used to determine each health authority’s target fair share of available resources. This target share should enable a health authority to commission similar levels of health services for populations in similar need. These target shares then inform but do not determine allocations. Actual allocations reflect decisions on the speed at which health authorities are brought nearer to target and a number of other factors, such as the overall level of resources available.

3.2.4 The weighted capitation targets are set according to the national weighted capitation formula, which calculates Health Authorities’ fair shares of available resources based on population size, age distribution and additional need. The age weighting reflects the variations in the need for healthcare arising from the age structure of local populations.90

3.2.5 There is also a cost weighting which takes account of the fact that the cost of providing healthcare differs from region to region. So, for example, the NHS formula makes modifications which add resources to allocations to London and rural areas. For the Hospital and Community Health Services, indices are constructed which reflect, for example, the cost of staff and land, buildings and equipment. These separate indices are combined into a single market forces factor (MFF) index, using national average expenditure weights. There is an emergency ambulance cost adjustment (EACA) to reflect the geographical variation in costs of delivering emergency ambulance services. Further, there are also two additional monetary adjustments. The Rough Sleepers Adjustment is based on the number of rough sleepers in a Health Authority, weighted by the capital cost of rough sleepers.91 The English Language Difficulties Adjustment is based on a multiplication of the national average costs of interpretation, advocacy and translation (IAT) by the estimates of the number of people experiencing language difficulties in a Health Authority.

90 It is interesting to note that age might also play a role in need for legal services. In Australia, a number of Usage of Legal Services Surveys have been undertaken by the Australian Bureau of Statistics. The survey conducted in 1990 in New South Wales found that women, and especially men, in their 20s were most likely to need legal advice for non-criminal matters. See Australian Bureau of Statistics (1990) Usage of Legal Services, Canberra: ABS. More recently, Genn has found differences in the use and expectations of the civil justice system relating to age.

91 This is based on the 1991 Census count, scaled up to the Shelter estimate of rough sleepers, in a health authority.
In education, in broad terms, a two-tier process of allocating resources is applied. First from a central budget to Local Education Authorities (LEAs), and then from LEAs to individual schools. Formula funding often goes hand in hand with increased devolution of central budgets to regional and local levels.

The funding formula for LEAs is contained in the Standard Spending Assessment formula. The amount is adjusted depending on considerations such as Income Support levels, proportions of the population in different ethnic categories, local costs, and the number of single parents in an area. Additional funds are also available through a number of Standard Funds, which take account of special needs. The funding for schools, as decided on by LEAs, is generally defined by the number of pupils. This means, in general, that the smaller a school is, the less money it will receive. However, for some schools the amount of money can be further adjusted, and every LEA has a slightly different formula. For example, additional resources may be available for the maintenance and upkeep of a school, or for schools with pupils with special needs.

Compared to health, there is more active participation and engagement of local government in education. This also means that there is generally a greater demand for local allocations to take place, and acceptance of national objectives and allocation formulae are less likely to be readily embraced. Arguably, allocation of resources for legal services is, in this regard, more similar to education than to health.

An example of a formula funding approach in the context of legal services delivery can be found in Australia. As was noted in the preceding chapter, in Australia, each State or Territory runs its own Legal Aid Commission. These Commissions provide legal aid through in-house staff and through private practitioners. Legal aid is mainly available for family and criminal work. Funding is provided through a mix of State and Commonwealth money. Traditionally, the Commonwealth’s contribution was based on historical expenditure patterns. However, this process took no account of demographic or social change, even in basic population number terms. In 1996, therefore, the Commonwealth commissioned the design of a more rational funding allocation process.

Consequently, a model based on indicators of expressed need was designed to form a new basis for funding allocation between States. The design process started from the premise that, other things being equal, funding should be allocated on the basis of population numbers. To ascertain which characteristics of populations should lead to departure from this premise, an analysis of factors strongly associated with existing demand levels was undertaken.\(^\text{92}\)

The findings of this analysis were different in relation to different subjects. However, in broad terms, there were three groups of need factors –

\(^{92}\) Rush (1996), supra., n. 51
demographic, socio-economic and cost. As regards demographic factors, for example, family legal aid is mainly used by women of child-bearing age. As regards socio-economic factors, employment is significant. Cost factors included business overhead costs.  

3.2.12 As well as an analysis of expressed need, work was also undertaken on unmet need. This involved a survey of the low income population, examining occasions on which people thought legal aid should help but it did not. It also involved a survey of stakeholders, exploring what services they thought ought to be provided. Not surprisingly, opinions varied between consumers and stakeholders, illustrating once again the subjective nature of much needs analysis. Nevertheless, the outcome of the process was an empirically derived formula funding method.

Designing Appropriate Funding Formulae

3.2.13 It is crucial for formula funding methods to take account of what population need assessment relates to, what forms of need it covers, and what level of need it seeks to identify. It is highly likely “that the need for legal services varies greatly between different groups and between the different types of services.”  

94 This is important. For example, a funding formula for legal aid eligible clients might look quite different from a funding formula for clients generally or clients falling within different financial criteria.  

95 Also, as shown above, different types of legal problem affect different numbers and types of people, and require different types of service. As the American Bar Association (ABA) found, people with jobs have more employment problems and people who consume more have more consumer problems. These concerns are closely linked to the issue of advice-seeking behaviour, dealt with in-depth in section 3.4 below.

3.2.14 The underlying quality of a funding formula will depend on a number of factors. The most important ones are the availability of needs indicators/data and the availability of expertise developed within the context of the service in question. The design of needs related funding formulae is greatly facilitated by the availability of good information on the form of need in question. If there is no nationally available data which can reliably measure or act as a proxy for such need, then reliable national needs modelling is impossible. It is important that the data used is distinct from supply and demand data. To shift targeted funding from demand to need requires that the routes of demand are understood, rather than the demand itself. Demand levels may be influenced by completely different factors to need.  

93 See Section 2.2 above


96 Ibid.

97 See Section 3.3 below
3.2.15 Designing needs related funding formulae is also greatly facilitated by the availability of expertise relating to the service and need in question. Expertise is required not only in devising practicable and good models, but also in maintaining them. Expertise should extend to modelling theory, the form of service in question, the form of need in question, and the use of models as funding allocation tools.

3.2.16 The design of needs related funding formulae should also take account of the local, regional and national political context within which the formulae are supposed to work. These practical considerations are an important adjunct to the more theoretical task of devising empirically sound formulae. For example, if it is policy to devolve funding and strategy decisions to a local level, then rigid national funding formulae inhibit local decision making.

3.2.17 In the context of CLS partnerships local participants have indicated significant sensitivities around leadership and control issues. So, needs related partnership funding strategies need to be based upon information and tools that stand a significant chance of being acted upon by all funders. Likewise, to ensure long term co-operation between funders and suppliers, such information and tools must be of a sort that suppliers can subscribe to.

3.2.18 Of course, it is impossible for national models to take full account of often rapidly changing local circumstances. So at a local (and regional) operational level, national models cannot provide the last word. Local knowledge and understanding must be allowed to feed into the needs assessment process at this stage.

3.2.19 Efficient organisation and use of services can be greatly increased by the inclusion of local knowledge in the funding allocation process. Individuals, communities and organisations at the local level are generally more adequately equipped than centralised bodies to pinpoint specific areas of need, with specific requirements, and advise how best to manage that need. Local influence also generates interest in and part ownership of the tools used for funding allocation. As a Department of Environment, Transport and the Regions (DETR) report recently observed,

"...local government, perhaps because it is closer to the problems of deprivation and their consequences on the ground, is more responsive to them. The trend over recent years has been to reduce the services and scope of local government as well as to curtail its financial freedom of manoeuvre. The evidence ... suggests that a reversal of this trend might have a part to play in the broader strategy of countering social exclusion."98

3.2.20 There is always a balance to be struck between facilitating local decision making and providing appropriate national criteria to enable sufficient accountability (at a national and local level). A study commissioned by the

DETR found that services managed by local government were more effective at targeting resources to deprived areas.\textsuperscript{99} This is relevant to the LSC as the role of the CLS partnerships is to target funds according to need. These groups have a better understanding of need in their areas, and are in a better position to put the money where it is needed most. Equally, those decisions have to be transparent, judged against some national criteria and clearly justified to ensure that all local stakeholders (not just, for example, the wishes of a local authority that wishes to reduce the amount of housing advice in an area) are taken into account.

\textit{Problems and General Guidance}

3.2.21 As indicated, needs related funding formulae are complex and difficult to design. They can never be entirely accurate, and they can be extremely difficult to \textit{test}. They generally involve concepts which are vague and open to political manipulation – such as \textit{need} itself. They also generally relate to the services most subject to political contention. They are, furthermore, dependant upon the quality of data which can be included within them, and historically such data has been extremely limited. However, there has been a revolution in the availability of publicly available administrative data over the past few years. The possibility of increasingly more reliable needs related funding formulae being developed over the next few years is therefore a real one. There are, however, some problems that will continue to face those who design such formulae and some general guidance which will continue to be relevant. Below are some of the more important of these.

1. Proxies and related needs should always be carefully defined. Only through the careful definition of needs can proxies be effectively developed. Also, only through careful definition of need and proxy can both be scrutinised and departed from if appropriate.

2. Adequate proxy measures of particular forms of need and social exclusion will not always exist. Proxy measures should relate to the conditions which promote a need. The better the proxy, the more necessary conditions will be included. The better the proxy, the more closely associated conditions will be included. However, unless there is a perfect correlation between proxy and need, the proxy will measure something other than the need in question. Adequacy in the broadest sense will require that the proxy provides a more accurate measure than any other available proxy \textit{and} more accurate measure than no proxy at all!

3. Proxies must be re-evaluated on an on-going basis. The conditions which promote a need will not always remain constant. In the medical field, for example, new forms of disease, infection and injury are continuously surfacing – through biological and social evolution and the development of new technologies.


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4. Funding formulae relating to public expenditure are political tools, and so their political acceptability is a prerequisite. From a developmental perspective, this requires that they be comprehensible, and demonstrably accurate and reliable. They must also, if funding decisions are ultimately devolved to local bodies, be sufficiently flexible to allow those bodies to exercise discretion based on local knowledge.

5. The relatively needy and not-needy may live in close proximity to each other, making measurement of need extremely difficult, and potentially misleading. Major cities, such as London, and remote rural areas provide important examples of this phenomenon in the legal services context. Allied to this, formula funding can embody but cannot inherently address preference between clustered high need and distributed moderate need.

6. It can be difficult to strike a balance between detailed and general (or rougher) information to be included in a formula. This is particularly so where a mix of levels of information is included, as dangers exist of double counting, etc. It is also important that complexity does not undermine political support.

7. It is not always advisable for formulae to operate at the small area level. Generally, less nationally consistent information becomes available the more local the information required. It is important to sensibly balance scale and accuracy. There can also be an important functional reason for this. The optimum scale for formulae to operate is at the same scale as service is delivered.

8. In some areas, rapid population changes can take place. This is difficult to take account of in funding formulae, especially if they remain constant over a number of years or are based on data which is updated every number of years (e.g. census data). Population change may relate to population characteristics (e.g. age or ethnic profile) or population numbers. Similarly, local patterns of industry can rapidly change, through the loss of old industries or the creation of new ones.

9. Equality of access to similar quality services in different areas is difficult to achieve. Formulae need to recognise that providing a service in London, for example, is likely to be more expensive than in other places. More generally, there are also incentive effects to be taken into account. It might be more attractive for a provider to supply their services in a certain kind of area. For example, professionals might be less willing to work in deprived, inner-city or very rural areas.

10. Related to this, patterns of access may vary between regions. People living in remote rural areas may be used to travelling significant distances to access services. People in major cities may be willing to travel only short distances. Some people may not be willing or able to travel at all. An understanding of how, where and when people access services must be built into or added to funding formulae.
11. Despite the majority of most deprived areas being located in big industrial conurbations, such as inner London and Liverpool, rural areas also suffer from poverty. Rural poverty, though, is often more difficult to measure than its urban equivalent. The more obvious multiple problems found in urban areas may not be apparent. Also, traditional measures of poverty, such as car ownership or employment levels, may be wholly misleading in rural areas.

3.3 The CLS Small Area Predictive Need Models

An Introduction to the CLS Small Area Predictive Need Models

3.3.1 The CLS small area predictive legal need models have been developed to provide a starting point for local legal needs analysis. The models are statistical models based on socio-economic data, which can be produced at various geographical levels (e.g. ward, local authority). They aim to identify the need for legal services in England and Wales. The basic approach in designing the models has been to identify the constituent elements of the problems faced by people requiring particular categories of legal service and adopt measures of those elements (or functions thereof) as proxies, or partial proxies, for need for such services. As the Needs Assessment Group have put it,\(^\text{100}\)

"The models identify key factors that are likely to indicate a need for legal help in a particular category of law."

3.3.2 The housing model has three main components: unfit households, overcrowded households and homelessness. The three components are weighted according to the proportion of work conducted in each problem area. The unfit households component is based on information used in the 1996 English House Condition Survey (EHCS) and the 1998 Welsh House Condition Survey (WHCS). The aim is to identify areas with a high demand for advice services in relation to unfit housing. The surveys determine the relationship between housing condition and tenure type. Housing which is considered unfit includes accommodation in disrepair, with dampness or inadequate heating, drainage, lighting and/or water supply. The overcrowding component is based on a variable from the 1991 census. Overcrowding is defined as all households with over 1.5 persons per room. The Homelessness component is based on information provided by the DETR.

3.3.3 The employment model uses two sets of data: employment count by industry and unemployed claimants. These are then weighted according to the prevalence of particular employment problems in each industry, based on the 1998 Workplace Employee Relations Survey (WERS). The WERS provides evidence on the characteristics of each industry and the problems

that arise. The employment count uses the 1997 Annual Employment Survey (AES). The survey records the number of people employed at ward level, based on their place of employment rather than where they live. The unemployed claimant component is based on the number of people claiming unemployment-related benefits in September 1999.

3.3.4 The *debt model* is based on two components: unemployed claimants and County Court judgements. The County Court debt judgements data relates to the number of county court judgements issued against residents over the 24 month period to January 1997. This information identifies those who have experienced debt problems and have not been able to sort out the issue prior to court action. The unemployment claimant information is the number of people claiming unemployment-related benefits in September 1999.

3.3.5 The *welfare benefits* model tries to identify the groups of people who are most likely to be on benefits or eligible for benefits: the unemployed, lone parents, sick and disabled and pensioners. The components have been weighted according to DSS research into individuals who fall below various income thresholds. The unemployed component is based on information on the number of people claiming unemployment-related benefits in September 1999. The lone parents component is taken from the 1991 census. This group is identified using the total number of households containing one person aged 16 or over and additional person(s) aged up to 15 years. The sick and disabled component is taken from the 1991 census. The information used is the total number of residents in households and communal establishments who have a limiting long-term illness. The pensioner variable is based on the number of pensioners claiming Income Support. It is based on a 100% sample undertaken in August 1998 by the Department of Social Security.

3.3.6 The *health and community care model* is based on three components: mental illness, pensioners and disability. The mental illness component is based on the Mental Illness Needs Index (MINI), which is based on 1991 census variables. The pensioner component uses the number of people of retirement age in 1996 to identify elderly pensioners. The disability component is based on benefits from the Department of Social Security.

3.3.7 No model is being produced for *mental health* need. It is suggested that in order to assess the need for mental health services, the Mental Illness Needs Index (MINI) is used, together with locally collected data on the location of mental health units and the number of patients detained under the Mental Health Act 1983. These criteria were chosen as the MINI shows the number of persons aged 16-64 per 100,000 population who are expected to spend at least one day as a psychiatric in-patient in any 12 month period in each ward, based on variables drawn from the 1991 census. Those seeking discharge from units are in the greatest need of legal services, and work relating to Mental Health Review Tribunals constitutes a large proportion of legally aided mental health work.
3.3.8 No model is being created for assessing the need for educational advice as it was felt that the indicators are independent of each other and that there was no merit in combining them or performing statistical analysis. It is suggested instead that data be collected at the Local Education Authority level, purely to increase understanding of issues and to monitor this category of legal need. The main indicators of educational need are: exclusions, suspensions and expulsions; special educational needs; admissions to institutions; quality of education; grants and loans.

3.3.9 For consumer and general contract a single indicator has been used, namely population. Survey evidence shows that disputes about faulty goods and services are spread across different income groups.

The Models in Practice (1) – Problems of Accuracy

3.3.10 The CLS models have been very differently received in different CLS partnership areas. In most they have been accepted as being reasonably accurate. Indeed, one LSC Regional Planning and Partnership Manager related to us how some partnerships described the outputs of the models as “obvious”. In contrast, however, serious reservations were expressed in some areas, stemming from a perceived failure of the models to accurately reflect particular local conditions.

3.3.11 In London, for example, legal services are not always reflective of legal services throughout the country. For example, immigration work in London is “all about asylum”, rather than nationality and asylum. Also, London legal service providers seem to draw their clients from a uniquely wide geographical area. Many people seem to regard London as a natural centre of specialism and excellence. Often, therefore, they are willing to travel to it in preference to more local towns and cities. Liverpool provides another example of a city with unusual local conditions. Liverpool has, for example, experienced a sustained period of population loss. Local concerns have therefore been raised that a measure of housing need which includes overcrowding may be inappropriate. Liverpool also contains some areas of extreme unemployment. In these areas there is concern that county court judgements are a poor measure of debt. Services are not offered. Credit facilities not available. There is also some general unease in Liverpool that areas such as Speke and Netherley, locally recognised as being extremely impoverished, are not prominent on the basis of CLS model outputs.

3.3.12 It is not only particular cities which throw up unusual conditions. A number of reservations were expressed to us by Regional Planning and Partnership Managers in relation to the use of models in rural areas. A number of significant differences exist between urban and rural populations which can be argued to greatly diminish the efficacy of national models. Although the CLS model outputs can be provided on a population weighted basis, not all of these differences are simple manifestations of different population densities.
3.3.13 First, as was noted in a West Midlands RLSC report, cities often experience a pronounced clustering of rich and poor. In rural areas rich and poor more often live side by side. Poor urban areas often experience overcrowding, mass unemployment, and high levels of associated benefits dependency. Urban areas also contain proportionately far greater numbers of persons falling in minority ethnic categories, and such persons are more likely to experience cultural and language barriers to full social involvement. The rural poor, by way of contrast, are more likely to have employment — but often on a seasonal basis and on low incomes. This is especially so in periods of agricultural decline, such as now. The rural unemployed are less likely to claim benefits to which they are entitled. They are less likely to live in overcrowded conditions. Their main disadvantage may be their isolation, which can often be compounded by poor transport infrastructure. An extreme example is provided by Powys, which has little in the way of public transport infrastructure and a very basic road network. As the Consumers’ Association recently observed:

"The experience of different groups in rural areas can be extremely diverse. There are pockets of affluence, but there is also a considerable amount of hidden poverty and deprivation. The problem of low income is exacerbated by poor access to essential services. There is a general lack of supply of advice services. These advice services tend to be static with limited opening hours. Access to these services is made more difficult because of isolation. These problems are compounded for particular groups such as older people, women with children, and those with disabilities."

3.3.14 There are also very different forms of rural community. Recently abandoned mining areas have a very different demographic make up to predominantly agricultural areas. These in turn have a different demographic make up to holidaying areas.

3.3.15 As the CLS models are developed in the future, the important differences within and between urban and rural areas must be fully recognised. To date, sensibly, the models have avoided the use of traditional deprivation indicators such as levels of car ownership, which unambiguously discriminate against rural areas (in which car ownership is often a necessity). The employment model has also importantly developed to recognise different employment sectors. However, given the profundity of the differences between some types of areas, consideration should be given to the possibility of developing separate models for areas which experience need in very different ways. Alternatively, although it may amount to much the same, differential weightings could be developed to distinguish between defined area types. A precedent for such action is provided by the

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101 West Midlands Legal Services Committee (1999) Assessment of Need for Legal Services: Strategic Plan for Contracts to be Awarded in 2000, Birmingham: Legal Aid Board.
103 In areas such as Powys and the extreme South West of England, it is the age and not the number of vehicles that mark out rich and poor.
development of a separate deprivation index for Wales, in recognition of its unique geographical, demographic and social make-up.

3.3.16 Ultimately, it must be recognised that national models deriving from just a small number of elements of administrative data cannot realistically be expected to be uniformly accurate. However, it must also be recognised that macro planning tools are increasingly important to the targeting of public funds, and the greater the number of ‘peculiar conditions’ that are accounted for in models, the less they are able to function on a national basis.

The Models in Practice (2) – A Starting Point

3.3.17 The CLS small area predictive need models perform an interesting function in the context of CLS partnerships. They are not prescriptive. As has already been noted, they provide a starting point from which to develop local legal needs reduction strategies. With so many different interests being represented in CLS partnerships an agreed starting point can be important. Without one it can sometimes prove impossible to generate enthusiasm and make substantive progress in co-ordinating efforts. In this context, six important themes came out of the RPPM interviews.

3.3.18 First, the manner in which the models and their outputs are presented to partner organisations is of great importance. If outputs which have not been population weighted are presented in areas comprising urban and rural parts, then they may well appear counter-intuitive. If outputs are presented which are relative to the national picture, then important local variations can be masked. In a deprived inner city area it is of little use to present a uniform picture of high need. Those local areas that are ‘high need’ relative to other local areas must be drawn out. If outputs are first presented in numerical form, they are more difficult to comprehend and the overall picture cannot easily be determined. Illustrative maps should always form the first medium of communication. If the CLS models are presented in a manner which emphasises LSC ownership, then there may be political reluctance to sign up to their output. This may be especially so in relation to local authorities which have experience of using models for local service development. If the CLS models are presented in a manner which passes over the efforts that have been made in their development, and that continue to be made in developing them further, then there may be difficulty in partner organisations taking them seriously.

3.3.19 Second, there is a political imperative to reach a working agreement as to the pattern of local legal need. Without such an agreement, no progress can be made in developing and implementing local legal need strategies. The accuracy of the pattern agreed upon is therefore, in some ways, of less immediate importance than the fact of agreement. Given that the models are nationally produced and can never be expected to provide uniformly accurate outputs for the country as a whole, it is legitimate for partnerships to move away from them if local knowledge or feeling demands.
3.3.20 Third, as already noted, the models have generally been well received by partnerships. As one RPPM observed, this is "largely because nobody has anything better." Given the nature of the subject matter and the range of political ideologies which manifest themselves in local politics, this is unsurprising.

3.3.21 Fourth, the CLS models are complex tools. Although their component indicators may be simple to comprehend, the process of determining the appropriateness of competing indicators, and of weighting those that are used in individual models, is far from simple. Local efforts to 'improve' upon the models should generally be restricted, therefore, to modifying their results in the light of local knowledge and feeling. Attempts to 'improve' the models by introducing new components should be avoided unless guided by specialists. Attempts to 'improve' the models by weighting their outputs according to the outputs of other models, such as the Index of Local Conditions, should be avoided wherever possible.104 Major differences in the outputs of the CLS models and general deprivation models may be a source of concern and require further enquiry. However, it must be remembered that different models have different functions, and, as is explained below, a lack of correlation between models may simply reflect such differences.

3.3.22 Fifth, no indication has been provided as to the relationship between the outputs of different CLS models. That is, the models provide no means of evaluating whether a locality has more need for, say, debt advice than, say, housing advice. In part the reason for this is that the CLS models are providing only relative geographical outputs. That is, they each only compare relative need for one form of need between different geographical areas. There is no obvious way of combining or weighting, as against each other, the outputs of different models. However, it is also a reflection of the political nature of such a process. Ultimately it is a matter of politics whether a need for housing advice is more or less important than a need for employment advice, etc.. Empirical research may be able to determine how pressing different types of need are perceived to be, through evaluating how seriously a problem affects a proportion of the population, how prevalent that problem is and the cost-benefits of legal help.105 However, as the Rush study in Australia has clearly shown, different social groups and different stakeholder groups are unlikely to be in agreement.

3.3.23 Sixth, a number of partnerships have expressed an interest in the development of models indicating absolute levels of legal need and/or appropriate numbers of 'case starts'. We believe there is no straightforward manner in which such models can be developed. As is clear from the above, predictive need models are not, and are unlikely to ever be, sophisticated enough to accurately quantify the incidence of problems with potential legal solutions across every area of the country. Furthermore, even if they were, that would still fall far short of quantifying appropriate case start numbers. People, for example, experience and respond to problems in very different

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104 The weighting of CLS model outputs according to the outputs of other models appears to have been common amongst partnerships. It has no methodological justification.

ways. They have, for example, different sensitivities, different cultural backgrounds, different responsibilities, different knowledge levels, different motivations, and different abilities and propensities to access services.

3.3.24 There are only two sensible routes to estimating appropriate case start numbers. The first is to reference national supply data alongside relative need models. The second is to identify geographical areas with appropriate supply and defined population types and use local supply levels as benchmarks.

*The Models in Context (1) – A Comparison with General Deprivation Indicators*  

3.3.25 The indexes of deprivation, described in section 3.1 above, have been an important development over recent years in regard to the measurement of deprivation at the small-area level. In this section we briefly compare the methods of three of the main CLS predictive need models (employment, welfare benefits and housing) with those of the deprivation indexes. We also statistically compare the three CLS predictive need models with the 1991 Index of Local Conditions (ILC). It was not possible to make a statistical comparison with the 1998 or 1999 indexes, owing to the late release of the 1999 index and the geographical resolution of the 1998 index. Nevertheless, a comparison with the 1991 index was felt to be a useful guide to differences in the results of different methodologies. We chose to undertake the statistical comparison in six local authority areas, to illustrate the likely reasons behind our findings. The authorities were chosen to provide a range of the different types of areas found in England and Wales. Each of the authorities consists of between 24 and 41 wards. They are Ealing (a London borough), Kirklees (an industrial area), Liverpool (a 'deprived' inner city area), North Cornwall (a rural coastal authority), Nottingham (a unitary authority) and South Norfolk (an agricultural area).

3.3.26 Each ILC indicator has a score for each ward. For the purposes of the statistical comparison, it was not possible to compare the ILC scores directly with the CLS model outputs, as the scores have been manipulated through log transformations and using signed chi-square values. The wards were therefore ranked according to their scores. The rankings of the wards could then be compared with rankings derived from the CLS models. To compare the rankings, a correlation coefficient was obtained in each case. As the

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107 By using logarithmic values to transform the chi-square values, it is possible to dampen the effect of extreme values, and produce distributions that are closer to the 'normal' curve. This also narrows the impact that any individual indicator can have.
108 This is a value between -1 and 1. A value of 1 indicates a perfect correlation between the two data sets, in other words each ward has exactly the same ranking for the two cases being considered. A value of -1 shows a perfect negative correlation (the rankings are the exact reverse of each other i.e. if a ward has the top ranking in one data set, it will have the lowest ranking in the other data set). A value of 0 shows no correlation between the data sets. If we want to see that two data sets correspond well with each other, for example the unemployment values given by the ILC and the unemployment values used in the CLS Welfare Benefits model, then we would like the correlation coefficient to be close to 1 for each Local Authority. The correlation coefficient is a simple but powerful tool for use with data with just an ordinal level of measurement such as that being considered in the models. See, also, appendix 3.
ILC has manipulated its scores to take account of the population size in each ward, only the population weighted outputs of the CLS models have been considered.

(a) Employment

3.3.27 Data from Citizens' Advice Bureaux and Industrial Tribunals suggest that legal problems relating to employment tend to relate to poor terms and conditions or unfair dismissal. Recent work by Moorhead et al. bears this out. They found that in 42% of matters dealt with by legal advisers a principal issue was unfair dismissal. In 35% a principal issue was pay, and in 21% wrongful dismissal. These problems tend to be industry related, so the CLS employment model is based on employment numbers within different industry types along with overall unemployment numbers. In contrast, the deprivation indexes relate to employment deprivation (where people who are willing to work are unable to do so due to unemployment or sickness). The 1999 employment deprivation sub-index is mainly concerned with unemployment numbers. The 1991 and 1998 indexes also looked at the ratio of long-term male unemployment to total unemployment. So, whereas the CLS employment model is more concerned with those who are in employment, the deprivation indexes have been concerned with those who are involuntarily unemployed. Figure 3.3.1 summarises the aims, indicators and methods of the three deprivation indexes and the CLS employment model.

3.3.28 In each authority, the correlation between the ILC employment deprivation rankings and the CLS employment need rankings is low. The main reason for this, indicated above, is that the CLS model is more concerned with the types of employment of those in work. A significant correlation was not, therefore, expected. However, the fact that the output of the CLS employment model does not generally correlate with the ILC employment deprivation indicators is significant. It demonstrates, more than is possible in relation to any of the other models, that the different purposes of different models require different designs which lead to different results. The difference between the results is not a problem: it is the point of the exercise.

3.3.29 As regards improvements to the CLS employment model, given the problem of seasonal working patterns, it would seem sensible to average unemployment claimant numbers over several months within the CLS model. Were this possible also for industry specific employment numbers, then averaging should also be considered here. It is also recommended that further consideration be given to the uniform weighting method adopted within the model. It is not immediately apparent why factors such as injury rates, dismissal rates, and business sizes should all be treated in the same manner.

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### Figure 3.3.7: Comparison of Indicators relating to Employment

<table>
<thead>
<tr>
<th>Aim</th>
<th>1991 deprivation index&lt;sup&gt;10&lt;/sup&gt;</th>
<th>1998 deprivation index&lt;sup&gt;11&lt;/sup&gt;</th>
<th>Employment deprivation&lt;sup&gt;12&lt;/sup&gt;</th>
<th>CLS employment model&lt;sup&gt;13&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicators</td>
<td>Measure the economic health of an area</td>
<td>Measure the economic health of an area</td>
<td>Measure enforced exclusion from the world of work</td>
<td>Help in the process of identifying need for legal advice on employment issues</td>
</tr>
<tr>
<td>Total Unemployment (1991 Census)</td>
<td>Total Unemployment (NOMIS 1997)</td>
<td>Unemployment count averaged over 4 months (ONS/NOMIS)</td>
<td>Unemployment Claimants for September 1999 (NOMIS)</td>
<td></td>
</tr>
<tr>
<td>Long-term unemployment ratio for males and females (NOMIS)</td>
<td>Long-term: unemployment ratio for males (NOMIS 1997)</td>
<td>Incapacity benefits recipients and Severe Disablement Allowance recipients (DSS)</td>
<td>Number of people employed in each industry (1997 Annual Employment Survey)</td>
<td></td>
</tr>
<tr>
<td>Combining Indicators</td>
<td>Addition of transformed chi-square values</td>
<td>Addition of non-negative transformed chi-square values</td>
<td>Since the indicators include no double counting, a simple rate is calculated</td>
<td>Weightings based on the 1998 Workplace Employee Relations Survey are applied to each industry and the unemployed indicator. The weighted indicators are then summed</td>
</tr>
</tbody>
</table>

(b) Welfare Benefits

3.3.30 The income of an individual or household affects their general way of life as well as their level of deprivation. A suitable indicator of deprivation could therefore, as the Social Disadvantage Research Group have stated, be "the proportion of households in an area living below a fraction of national mean income after housing costs."<sup>114</sup>

3.3.31 The 1991 index incorporated 1991 census data on household income. Unfortunately, however, up-to-date data of this sort is not readily available at ward level.

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<sup>10</sup> Supra., n.87


<sup>13</sup> LSC Needs Assessment Group (1999) *Predicting the Need for Legal Services*, Papers 1-9, unpublished reports

<sup>14</sup> Social Disadvantage Research Group (1999) *Measuring Multiple Deprivation at a Local Level*, Oxford: SDRG, paragraph A2.2
3.3.32 As can be seen from Figure 3.3.2, the two recent indexes and the CLS model take significantly different approaches to identifying the population of households affected by low income. Whereas the two recent indexes focus on people who actually receive welfare benefits, the CLS models try to capture a wider eligible population. So, the CLS model includes two groups commonly associated with low incomes – lone parents and the long term ill.

Figure 3.3.2
Comparison of indicators relating to Welfare Benefits

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicators</td>
<td>Measure households who are in receipt of low income</td>
<td>Measure households who are in receipt of low income</td>
<td>Measure people who are in receipt of low income</td>
<td>Help in the process of identifying need for legal services in this area of law</td>
</tr>
<tr>
<td>Adults on income support (DSS)</td>
<td>Households on income support (Benefits Agency 1996, ONS)</td>
<td>Adults and children in Income Support households (DSS 1998)</td>
<td>Number of pensioners claiming income support (DSS 1998)</td>
<td></td>
</tr>
<tr>
<td>Combining Indicators</td>
<td>Addition of transformed chi-square values</td>
<td>Addition of non-negative transformed chi-square values</td>
<td>Since these indicators are non-overlapping, the proportion of the total population living in such families is calculated</td>
<td>The figures for each indicator are scaled in order to estimate the number below the poverty line. The scaled values are added together for each ward</td>
</tr>
</tbody>
</table>

The 1991 deprivation index included the number of households with no car, for a similar reason. However, as was suggested above, and as was accepted for later incarnations of the deprivation index, this measure fails to

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115 Supra., n.87
116 Supra., n.111
117 Supra., n.112
118 Supra., n.113
recognise the greater need for cars in rural areas. In Cornwall, for example, car ownership levels are relatively high, but the cars are relatively old. The 1991 index, as noted above, also included census data on household income. This data is now many years out of date, and not suitable for inclusion in contemporary models.

3.3.33 Rural areas also tend to see a lesser proportion of eligible persons claim benefits. This problem is potentially mitigated in the case of the CLS model, as it includes two additional proxy measures for low income. Of course, by doing so it also introduces error derived from the proxies not perfectly corresponding to low income. This is a particular concern in this instance, as the proxy data derives from the 1991 census, which is now substantially inaccurate.

3.3.34 As can be seen from Figure 3.3.3, the urban areas showed a higher correlation between the ILC unemployment measure and the other ILC income related indicators. Ealing is an exception, perhaps due to its car ownership levels, which in turn is perhaps due to the positioning of its stations. There was a low correlation between the ILC and CLS model unemployment rankings in rural areas, reflecting the different years and times of year that the data relate to and seasonal employment patterns.

<table>
<thead>
<tr>
<th>Authorities</th>
<th>ILC indicators vs. ILC unemployment</th>
<th>CLS unemployment/pop vs. ILC unemployment</th>
<th>Need/pop vs. ILC unemployment</th>
<th>Need/pop vs. ILC indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ealing</td>
<td>0.67</td>
<td>0.90</td>
<td>0.46</td>
<td>0.82</td>
</tr>
<tr>
<td>Kirklees</td>
<td>0.97</td>
<td>0.91</td>
<td>0.69</td>
<td>0.77</td>
</tr>
<tr>
<td>Liverpool</td>
<td>0.98</td>
<td>0.76</td>
<td>0.78</td>
<td>0.78</td>
</tr>
<tr>
<td>North Cornwall</td>
<td>0.84</td>
<td>0.39</td>
<td>0.19</td>
<td>0.29</td>
</tr>
<tr>
<td>Nottingham</td>
<td>0.96</td>
<td>0.91</td>
<td>0.60</td>
<td>0.67</td>
</tr>
<tr>
<td>South Norfolk</td>
<td>0.78</td>
<td>0.33</td>
<td>0.08</td>
<td>0.41</td>
</tr>
</tbody>
</table>

3.3.35 Also, there was relatively low correlation between the ILC income related indicator rankings and the CLS model rankings in rural areas. This is a reflection of the different population groups included in the models. The numbers of sick, disabled and pensioners are not included within the ILC indicators. In all areas studied, rankings based on the number of sick and disabled people showed a high correlation with the overall CLS model rankings. This is an indication of the overlap between the different social groupings targeted through the model. Rankings based on the number of pensioners, on the other hand, did not correlate. Although they are the largest weighted group, their distribution does not correspond to that of the unemployed or sole parents.

ILC indicators refers to the ward rankings of the scores obtained by addition of the scores given by the indicators unemployment rate, households without a car, and children in low income households.

ILC unemployment refers to the rankings given by the unemployment rate of each ward obtained from the 1991 Census.

CLS unemployment refers to the unemployment data used in the CLS Welfare Benefits model, obtained from the DSS in September 1999.
3.3.36 As regards improvements to the CLS welfare benefits model, given the purpose of the CLS model, it might be that a measure of the maximum benefit rates over a period of months would provide the best indication of benefit prevalence.

(c) Housing

3.3.37 There are many potential legal issues associated with housing. These problems range from eviction and homelessness, through tenancy disputes, to overcrowding. The CLS housing model aims to capture relative need in relation to these issues. As housing is a central factor in everyday life, all three deprivation indexes also include housing related elements. Interestingly, as can be seen from Figure 3.3.4, the methodology adopted by the CLS model and the 1999 deprivation index are very similar. In contrast, the earlier indexes were limited to measures drawn from the 1991 census.

![Figure 3.3.4: Comparison of indicators relating to Housing](image)

<table>
<thead>
<tr>
<th>Aim</th>
<th>1991 Deprivation Index</th>
<th>1998 Deprivation Index</th>
<th>1999 Housing Deprivation</th>
<th>CLS Housing Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicator</td>
<td>Measure deprivation due to housing issues</td>
<td>Measure deprivation due to housing issues</td>
<td>Identify people living in unsatisfactory housing</td>
<td>Help in the process of identifying need for legal services in the housing category</td>
</tr>
<tr>
<td>Combining Indicators</td>
<td>Addition of transformed chi-square values</td>
<td>Addition of non-negative transformed chi-square values</td>
<td>Shrinkage estimation: the score for a small ward for each indicator is estimated by taking a weighted combination of scores for that and similar wards</td>
<td>Each indicator is weighted according to the amount of work being done in each indicator area. The weighted indicators are then added together</td>
</tr>
</tbody>
</table>

122 Supra., n.87
123 Supra., n.111
124 Supra., n.112
125 Supra., n.113
3.3.38 One difference between the CLS model and 1999 deprivation index approach is in the definition of overcrowding. The CLS model defines overcrowding to be more than 1.5 persons per room. The deprivation index defines it to be more than 1 person per room. Another difference relates to housing quality. The CLS model is more concerned with tenure types and uses crude national percentages to estimate the number of unfit houses in each ward. The 1999 deprivation index looks at poor housing by age, build type and whether occupiers receive means tested benefits.

3.3.39 Figure 3.3.5 demonstrates that the more urban of the six authorities studied show a stronger correlation between the ILC housing deprivation rankings and the CLS housing model rankings. Indeed, for North Cornwall no correlation was found. As there is very little overcrowding in North Cornwall, a real difference between the measure of unfit housing and the remaining ILC housing deprivation indicators would seem to be suggested. This is borne out by our findings in relation to the correlation between the rank of households lacking amenities (as determined by the 1991 census) and the rank of unfit households (as determined through the more recent English and Welsh House Conditions Survey). No correlation was found for either North Cornwall or Kirklees. There are two immediate observations that can be made in this regard. First, both the criteria and the reference date for the data used to compile the rankings are different. Second, whereas the census data are defined at the small area level, the House Conditions Survey data are not. As already indicated, a rather crude process for translating national percentages to small areas is used.

![Figure 3.3.5](image)

**Correlation between Housing data ranks and ILC housing indices ranks**

<table>
<thead>
<tr>
<th>ILC rank vs. Need/pop</th>
<th>Ealing</th>
<th>Kirklees</th>
<th>Liverpool</th>
<th>North Cornwall</th>
<th>Nottingham</th>
<th>South Norfolk</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.68</td>
<td>0.76</td>
<td>0.86</td>
<td>-0.07</td>
<td>0.85</td>
<td>0.45</td>
</tr>
</tbody>
</table>

3.3.40 As regards improvements to the CLS housing model, Moorhead *et al.* suggest that overcrowding is rarely a principal issue in relation to housing matters. They suggest that in fewer than 5% of matters is a principal issue overcrowding. This is in marked contrast to disrepair, at 21%, and arrears and threats of eviction at over 30% each. Given that the overcrowding indicator is drawn from the 1991 census, and population movements in the intervening decade have been substantial, serious consideration should be given to its removal from the housing model.

(d) Conclusion

3.3.41 In conclusion, although many elements of the CLS models and deprivation indexes correlate strongly, this is not invariably the case, and there are important distinctions between them in both purpose, method and result. We suggest, in the light of all of the above, that the basic approach adopted to developing the CLS models is the appropriate one. The degree of additional

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126 *Supra.*, n.109
functionality provided by this approach, compared to the use of a general deprivation index, is not clear in the case of all models. However, as is explained in the next chapter, further work being undertaken by the LSRC, LSC, CLS partnerships and the wider research community will provide a great deal of information in this area over the next few years.

3.3.42 As regards immediate improvements, in addition to the specific recommendations made above, the CLS models should lessen their reliance on 1991 census data. They should also utilise shrinkage estimation methods, to improve the accuracy of models in relation to wards with small data values.

The Models in Context (2) – Modelling Need, Demand and Supply

3.3.43 As stated above, the CLS small area predictive need models were designed to provide a starting point for local legal needs analysis. They were not designed to indicate absolute levels of demand or supply, or potential or appropriate numbers of case starts. Models derived from supplier data would be more suitable for these tasks. In the case of the first two measures, data relating to enquiries and case starts would suffice. In the case of the last measure, models would, at a minimum, need to reference data relating to actual numbers of enquiries and case starts in areas with 'appropriate' supply levels, along with indicative data of the type already included within the CLS models. Of course, this would require that areas with 'appropriate' supply levels could be defined. It would also require that models embody the cultural factors behind current variation in demand levels. Furthermore, as appropriate demand level models would most likely involve substantial increases from overall actual demand levels, it is questionable how useful they would be in setting supply levels, given the reality of limited resources. The same could be said in respect of potential demand models (absolute derivatives of relative need models), which would involve even higher levels still.

3.3.44 Need and demand levels may be very different even where there is an abundance of supply. As already indicated, levels of legal need, in the broadest sense, relate to underlying personal circumstances. Levels of demand for legal services relate to levels of need, levels of supply, socio-economic circumstances and cultural influences. Levels of supply of legal services relate to levels of need, levels of demand, socio-economic circumstances and cultural influences. To an extent, therefore, need, demand and supply levels can rise and fall independently of each other.

3.3.45 A useful illustration of the difference that can exist between levels of legal need and demand can be drawn from the criminal justice system. Under the Police and Criminal Evidence Act 1984 (PACE) any person placed under arrest, or attending a police station voluntarily to assist in connection with a

127 Shrinkage estimation is where the score for a small ward for each indicator is estimated by taking a weighted combination of scores for that and similar wards. It is used to moderate the high margins of error that can be associated with wards with small data values.

128 i.e. extending to all justiciable problems.
criminal investigation, has a right to receive legal advice, free of charge and without a means test. Almost all eligible persons would fall within the broad definition of having a legal need set out above. Most would fall within a normative definition. Pre-PACE rates of legal advice ranged between 3% and 20%, rising to around 25% on its introduction, 32% on its 1991 revision, and 40% on its 1995 revision. The current ‘take-up’ rate is probably between 40% and 50%. Over half of those who decline legal advice say something like it being ‘not worth it’, and a further 10% say it is because they are innocent. This is despite the fact that most suspects have little or no idea of the predicament that they are in. Potential eligibility for court duty solicitor services has, likewise, for many years been much greater than actual ‘take-up’. Work on the CDS criminal contracting pilot also seems to show that there is a marked difference in the way in which need is translated into actual use of services on different localities. So, in London there is a much greater reliance on police station legal advice, while in Manchester the ‘green form scheme’ is used far more frequently. There is also evidence that criminal defendants in different ethnic categories vary in their patterns of decision making in the criminal justice system, which may have implications for their differential use of legal services. No doubt, such differences would also be found between otherwise defined categories of legal service consumer.

3.3.46 In the context of legal services in England and Wales, in the year 2000 levels of need, in the broadest sense, are far higher than levels of both demand and supply. Also, need, demand and supply are unevenly distributed around the country. However, whereas legal need is distributed according to the underlying personal circumstances referred to above, supply is distributed according to demand levels (at the supply location), professional interest and profitability. As Foster observed in the early 1970s, "The variations in legal provision throughout the country are considerable ... there is irregular dispersal within towns; an unequal


134 Ibid.

135 Supra., n.126

136 See, for example, Genn, H. (1999) Paths to Justice, London: Nuffield
distribution between urban and rural areas, and finally an uneven spread nationally.\textsuperscript{137}  

3.3.47 Despite the above, however, one would expect some correlation between need and supply. So, it is not surprising that we found the CLS model outputs to correlate with supply levels - but not powerfully.\textsuperscript{138} It was also not surprising that we found that the individual model outputs tended to correlate with the levels of supply of other legal categories of work. The employment model output, for example, correlated with the volume of supply in the debt category to a greater extent than the debt model output.\textsuperscript{139}  

3.3.48 When we undertook a detailed analysis of the CLS Funded legal services supply pattern we discovered an important reason for the relatively weak correlation between need and supply. There are 9,527 wards in England and Wales.\textsuperscript{140} These are distributed between 374 local authority areas.\textsuperscript{141} Of the 9,527 wards, 6,800 contained no point of supply for legally aided advice level work of any description in 1998-9.\textsuperscript{142} Furthermore, these 6,800 wards are not all in remote rural areas, and together contain 60% of the population. 60% of the population therefore live in wards in which no legally aided advice is delivered.\textsuperscript{143} When we looked at family law services at all levels, which account for by far the greatest proportion of CLS Fund expenditure, we found them to have been delivered in only slightly more wards (3,107, as compared to 2,727).\textsuperscript{144}  

3.3.49 At first, these figures might seem alarming. However, they may reveal some interesting realities of legal service delivery. Clearly, the location of legal service suppliers is influenced by need levels. Clearly, also, it is influenced by differential overhead costs. These factors directly relate to profitability. It is also influenced by the socio-economic characteristics of particular areas. So, for example, in Holt – a prosperous town in North Norfolk – numerous local volunteers have ensured the success of a local CAB. However, more deprived and populous towns nearby, such as Sheringham, have no CAB. More interestingly, though, it seems that even in optimum circumstances, geographical patterns of service delivery may not necessarily reflect patterns of need.

\textsuperscript{137} Foster, K. (1973) 'The Location of Solicitors', in 36 Modern Law Review 153  
\textsuperscript{138} The debt, employment and housing models, and the consumer and general contract indicator (population) were each analysed in relation to supply levels using the Pearson measure of linear association between model output and supply level. The outputs all correlated, using a two tailed significance test, at the 99% confidence level (debt: coefficient=0.246, p<0.01, n=9,527; employment: coefficient=0.467, p<0.01, n=9,527; housing: coefficient=0.294, p<0.01, n=9,527; consumer and general contract: coefficient=0.178, p<0.01, n=9,527). Similar results were obtained when only wards with some supply were included in the analysis (debt: coefficient=0.246, p<0.01, n=2,237; employment: coefficient=0.440, p<0.01, n=1,764; housing: coefficient=0.285, p<0.01, n=2,262; consumer and general contract: coefficient=0.151, p<0.01, n=2,262).  
\textsuperscript{139} Coefficient=0.360, p<0.01, n=9,527  
\textsuperscript{140} 1991 ward boundaries  
\textsuperscript{141} There are currently 415 CLS bid zones.  
\textsuperscript{142} Based on 1998-9 administrative data.  
\textsuperscript{143} A further analysis of the supply base will be included in the final report, along with a general analysis relating to all legally aided work.  
\textsuperscript{144} 1997/8 CLS data. It is interesting to compare these findings with Zander's early 1970s estimate that over two-thirds of London supply was to be found in one-twentieth of the postal districts.
3.3.50 Even when they exist, there are many reasons why individuals may not choose to access services in the immediate vicinity of their home. They may, for example, prefer to access all services in a single place—perhaps near their place of work. It may be that services are clustered in particular locations. Local transport infrastructure may promote the use of more remote services above nearby ones. Individuals may be concerned about confidentiality (or local gossip). As a client interviewed by Blacksell, Economides and Watkins observed, 145

"In a small village you can't (discuss things) ... There's friendliness in a village, and also there's an awful lot of gossip."

They may want to ascertain the perspective of service suppliers who are not a part of their immediate community. They may also be more confident in services provided in larger urban centres. Additionally, they may seek to access non-geographically located services (e.g. via the telephone or internet).

3.3.51 The placement of public services involves much more, therefore, than a simple process of identifying areas of greatest need. It has to additionally involve a process of determining local consumer behaviour. Of course, if general patterns of consumer behaviour are too influential in determining service location, then groups such as the immobile, elderly and infirm are disadvantaged to an even greater extent than normal. Targeted outreach services will always therefore be necessary to ensure full access.

A Closer Look at Consumer Behaviour

3.3.52 In this final section of this chapter we analyse consumer advice-seeking behaviour in the context of three very different geographical areas: Central Norfolk, Ealing and Wirral.

3.3.53 Figure 3.3.6 shows the area of Central Norfolk, a new and expanded CLS partnership area. The area is made up of 3 district councils: Broadlands, South Norfolk, and Norwich. The city of Norwich is the principal population, transport and commercial centre in Norfolk. It has a resident population of 119,900.146 However, this increases to around 180,000 during the working day. Broadlands and South Norfolk have similar populations to Norwich, although they are unevenly distributed, with around half of each population living immediately outside the Norwich city boundary. Their populations can therefore be characterised as being part Norwich suburban and part rural. Together the three district councils contain 92 wards with an aggregate population of around 340,000.147

3.3.54 In service terms the city has a magnetic effect on the two neighbouring districts, which stretches for some distance. Consequently, Broadlands

146 1996 census estimate
147 1996 census estimate

58
District Council funds no services within its own borders other than its own in-house Housing Advice Team. Furthermore, there is no CAB in the district. The council is not necessarily being derelict or overly parsimonious. In recognising that its residents are used to travelling to Norwich to access services, it funds advice agencies in the city instead. South Norfolk District Council, the city's other neighbour, does likewise. So, as can be seen from figure 3.3.7, in 1998-9 whereas legally aided advice was delivered in 1 in every 11 of Broadlands' and South Norfolk's wards, it was delivered in 1 in every 2.5 of Norwich's wards.

3.3.55 As can be seen from figure 3.3.8, the Broadlands and South Norfolk wards in which legally aided advice was delivered – Aylsham, Reepham, Abbey, Chet, Diss Town, Harleston and Marshland – were not those with the greatest population densities. However, they were all some distance from Norwich. Most importantly, though, the wards in Norwich where legal services were delivered – Coslany, Henderson, Mancroft, Mousehold, Nelson and Town Close – are all in the centre or abutting the centre of the city. Not one of the wards in which there was no delivery abut the centre of the city.

3.3.56 Certainly, the legal services supply pattern in central Norfolk reflects the difficulties faced by legal advice practitioners in setting up practices in sparsely populated areas, and the generally unordered development of legal services in England and Wales. However, it is clear that it is more than a mere product of population densities and economic environments. Day to day population movements and the form of transport infrastructure are also clearly of great importance. Additionally, it was suggested to us that people in Norfolk's rural areas often feel more confident in the quality and experience of services located in Norwich. It is expected that they will be used to a wide variety of clients and have a broad knowledge of possibilities. Also, as noted above, anonymity attaches to the use of non-local services.

3.3.57 There are high levels of car ownership in the rural areas of central Norfolk. People are used to travelling to access a broad range of services, from food retail through entertainment to medical care. It is reasonable that the supply of legal services should mirror that of others. Of course, any public scheme of legal service provision must ensure that the most cut-off members of society – who include those living in rural areas without transport – are offered other access opportunities. In Broadlands the local authority recognises this in respect of its general services, and consequently runs a mobile information centre, which can also be used by local legal advice services to extend their usual reach. Mobile, outreach, telephone, internet, and ultimately digital TV services may all play an important role in publicly funded legal service delivery.

3.3.58 Blacksell, Economides and Watkins have described how people living in rural areas use their own cars to access legal services along with other services. They commented,
"For most people, contacting a CAB or a solicitor was a relatively straightforward matter, in that they used their own cars and ... in most cases they had managed to combine the visits with other errands."

Paterson and Montgomery have noted that in some very remote areas, such as north of Inverness, people can think little of travelling considerable distances. Of course, those people without cars could find accessing services extremely difficult, especially if old and infirm. As Blacksell, Economides and Watkins also observed,

"Elderly women living on their own faced serious, almost overwhelming, problems."

3.3.59 Whereas central Norfolk provides an example of an area with a single major service centre, Ealing, a west London borough, provides an example of an area with multiple service centres and multiple strata of geographical identity. Although Ealing is just 55 kilometres square, it has a population of 300,000, making it the fourth most highly populated London borough. Ealing also contains a diverse population, both in socio-economic and cultural terms. A third of its population is minority ethnic. Ealing’s wards all contain urban areas, becoming much more built up towards the south and east of the authority. There are good transport links to the centre of London and to nearby Heathrow airport, with 8 underground and 11 mainline stations. There are four hospitals in the borough, and employment opportunities are mainly within local government, entertainment, technology and service industries. Ealing contains one of the biggest shopping centres in London and also has a university.

3.3.60 In general terms, London is different from other areas of the country because of the size and diversity of its population and the "concentration of specialist providers with a regional and national remit". In any event, as London contains many geographically proximate population and service centres, individual service outlets often cater for users from a number of different boroughs. This provides a great challenge to London CLS partnerships, which exist at the borough level, and have a responsibility for co-ordinating legal services to best serve their own populations. Ealing is no exception here. The borough is far from being self-contained. In the south, residents will commonly access services in Hillingdon or Chiswick. In the north, residents will access services in Harrow as "a matter of convenience". This last observation is in large part due to the poor transport links between the very north and the south of the borough. As can

151 Chiswick has a CAB, whereas Ealing does not.
152 Interview with CLS partnership representative.
Figure 3.3.6 Central Norfolk CLSP

Key:
- Railway line and Stations
- Motorway and Junctions
- Primary Roads
- A Roads
- B Roads

Wards 1991 (for Norfolk)
Figure 3.3.7 Legal Service Delivery in Central Norfolk

Figure 3.3.8 Population Density in Central Norfolk

Population Density
1996 Population

- 928 to 7,108 (30)
- 109 to 928 (30)
- 30 to 109 (32)
Figure 3.3.9 Ealing CLSP
Figure 3.3.10 Legal Service Delivery in Ealing

![Map showing delivery by ward in Ealing.]

Figure 3.3.11 Population Density in Ealing

Population Density
1996 Population
- 7,337 to 9,332 (7)
- 5,759 to 7,337 (8)
- 2,444 to 5,759 (9)
3.3.61 The substantial minority ethnic population in Ealing also presents the local CLS partnership with a different set of challenges to its central Norfolk counterpart. Ealing has a diverse range of legal advice services, a significant number of which are targeted towards particular minority ethnic populations. Anecdotal evidence suggests that persons from these minority ethnic populations will often travel significant distances to access the services. It must therefore be recognised that the consumer behaviour of different types of consumer is different. Likewise, consumer behaviour cannot be assumed to be similar in respect of different types of justiciable problem, service, or level of service. The presence of minority populations in CLS partnership areas also requires that generally targeted services be made accessible to—through, for example, a translation facilities.

3.3.62 Although figure 3.3.10 does not clearly show this, the majority of CLS Funded legal service suppliers are concentrated around two main transport routes, running through Southall, Hanwell, Ealing and Acton. This again illustrates the importance of transport patterns to the location of service suppliers. The CLS Funded legal service suppliers can also be said to be largely contained within the borough’s principal service centres.

3.3.63 Wirral is an unusual local authority. As can be seen from 3.3.12, it contains 22 wards, and sits on a peninsula. Even more so than Ealing, the population of Wirral is diverse in socio-economic terms. However, the population is less culturally diverse, although there is a large Anglo-Irish community. As with central Norfolk, the local authority area contains both urban and rural wards. However, unlike Norfolk the rural wards do not surround the urban ones. There is no clear single service centre, although Hamilton Square in Birkenhead is seen by many as a specialist legal service centre. Beyond the local authority boundaries are Liverpool and Chester, both of which are large service centres. However, it would seem that there is relatively little ‘leakage’ between these areas in service terms.

3.3.64 As a consequence of its unusual composition, Wirral has to face both the problems of rural and urban service provision. In the rural wards affluent and mobile people live in very close proximity to poor and isolated people. In the urban wards, population movements can be difficult to predict without local knowledge. As with Ealing, people will often travel to adjacent wards to access services. For example, people on income support in Eastham will travel to New Ferry to sign on. They will also do their shopping there. Conversely, there is little movement between New Ferry and Rock Ferry. Some communities were described to us as containing individuals ‘who won’t cross the road’.

3.3.65 Within the Wirral CLS partnership a great deal of effort has recently been expended on developing telephone and internet services. This has proved possible thanks to community initiative funding. The services have proved popular, and illustrate the potential use that might be made of 'new' technologies to reach out to a broader public in the future.

153 Interview with CLS partnership representative.
Concluding Remarks

3.3.66 Wirral highlights a number of the limitations of the current generation of small area predictive need models. First, they do not address the distribution of need within 'small areas', so pockets of need are obscured. Where such pockets straddle multiple ward boundaries, albeit a relatively rare phenomenon, this can result in highly misleading outputs. Second, they do not always reflect local identities. Third, they do not recognise the existence of service centres. Fourth, they do not manifest the sometimes complex patterns of consumer advice-seeking behaviour. Some of these limitations are probably inherent to small area models. However, it may be possible to address others. For example, the recording of client home address details by suppliers would potentially allow behaviour models to be developed. In any event, though, given the current use of the models within CLS partnerships – as a starting point for assessing local need patterns – additional local knowledge, understanding and research can complete the picture where the models cannot do so.

3.3.67 Outside of areas such as central Norfolk, Ealing and Wirral, consumer behaviour manifests itself differently, introducing even greater complexity into the need modelling process. The existence of niche suppliers in an area, for example, can draw people from far and wide. As Paterson and Montgomery have observed, in Sutherland there would appear to be a serious shortage of supply of debt advice (using Sheriff Court Decrees as a proxy for need), owing to the lack of local suppliers with an interest in undertaking such work. In Wigtown, on the other hand, there is an incommensurably high supply level, owing to the existence of a niche supplier. Does this represent over-supply? Does this demonstrate the proxy's ineffectiveness? Does this reflect consumer movements? Simple proxy models cannot say.

3.3.68 So, small area models such as those developed by the LSC for the CLS can go some way to identifying where need is likely to be most acute, if they are interpreted in the light of local knowledge their utility is increased. Local knowledge is always important as small area models suffer from inherent limitations. Discretion in their application is also important for the same reason. However, even were they entirely accurate, they would still need to be interpreted in the light of local consumer behaviour patterns. The economics of legal service provision mean that physical service outlets cannot be placed wherever need is felt. Outlets, where choice is available, should therefore be placed where consumers will be able to access them. Wherever they are placed, though, some people will experience great difficulty in accessing them. Service provision in rural areas provides the most obvious example. But many other potential barriers to access. Special attention must therefore always be given to identifying such people and developing services which reach out to them.

4. Conclusions and Recommendations

In this chapter we draw together the main themes addressed above and recommend a needs assessment strategy for the LSC and CLS. We also set out details of a new LSRC research project, which will play an important role in realising this strategy. Whilst this chapter provides some guidance on the use of research tools in CLS partnerships, we have set out detailed guidance in two separate appendices.\(^\text{155}\)

4.1 Conclusions and Recommendations

*The Evolution of Empirical Studies of Legal Need*

4.1.1 The issue of legal need has generated a considerable literature, spanning almost 70 years. Researchers first attempted empirical studies of legal need in the 1930s, in response to a recession at the American Bar. It was in the context of the optimism of the 1960s, however, that the idea of legal need really took off. Until the 1970s the approach adopted to empirical studies of legal need changed very little. Survey respondents were presented with a series of problems with potential legal solutions. If they were found to have experienced a problem, but to have not obtained the help of a lawyer in resolving it, they were deemed to have had an unmet legal need. A general assumption lying behind all the early empirical studies of legal need was that the involvement of lawyers in the resolution of problems was the best means of resolving them.

4.1.2 However, 1970s scepticism of the inherent worth of legal processes and solutions led to a more critical approach to empirical studies of legal need. It became appreciated that the mere potential of a legal resolution to a problem could not *on its own* warrant a finding of legal need. An individual may, for example, prefer not to go to law. In such a case, talk of need is *otiose*. Most importantly, though, even if an individual wishes to go to law, it may be that the law provides an inefficient route to resolution. Providing for a need cannot so easily be justified where the cost outweighs the benefit of resolution.

4.1.3 Today, arguments over what constitutes legal need have reached far greater levels of sophistication still. It is now appreciated that there are many stakeholders in the legal process, and talk of need must be clarified with description of whose need is being discussed. The functioning of the court process, for example, benefits greatly from the professional representation of those appearing in the courts. So, the institutions of law might themselves have 'needs' relating to the legal assistance that is provided to lay individuals.\(^\text{156}\)

\(^{155}\) See Appendices 1 and 2 below

Also, the complexities of the concept of 'need' are today better understood. Need is essentially functional. It does not exist independently of an associated end. People do not need legal services, they need the ends which legal services can bring about – even if that is a sense of fairness. Out of this two things can immediately be seen.

First, the nature of these ends must be clearly understood – and they may not always be clearly connected to the law even in the context of legal services. For example, in the family law context, the ends most effectively provided for by the provision of legal services may be non-legal. As Bevan, Davis and Pearce have recently noted, in family law “the process of dispute resolution is inevitably messy and emotional ... [and] does not fit easily within the normal legal process.”\(^{157}\) As a consequence, as Eekelaar, Maclean and Beinart have observed, the family lawyer spends a great deal of time fulfilling the traditional roles of social worker and confidante.\(^{158}\) These roles address the emotional needs of clients in crisis, rather than specific emotional needs that are subject to the legal process.

Second, that the extent to which legal services can be needed as a means to an independent end may vary greatly from case to case. What type and level of legal service is required is as important a question as whether legal services are required at all.

As a consequence of the developing understanding of the complexities of the concept of 'legal need', more recent empirical studies have sought only to identify those persons who have experienced problems, which could potentially and legitimately involve legal process, and then characterise the problems and explore people’s reasons for either going or not going to law. So, Genn has famously introduced the language of 'justiciable problems'.

It may at first seem that the language used is not of great importance. However, to describe a problem to a survey respondent as being legal is to potentially put that person in mind of 'serious' problems or problems commonly associated with the courts. Given the general public's notorious confusion over the difference between civil and criminal law, it may even put that person in mind only of the criminal courts. As any lawyer would be quick to observe, reliable answers are best derived from unambiguous and non-leading questions. Clarity of language is important. Neutrality of language is important.

In the context of the CLS, as Moorhead has said, "need assessment is an attempt to develop an objective process about potential demand for services which informs choices about the funding of those services.”\(^{159}\) In order to make informed choices, data at the local level is necessary in order to determine the prevalence and character of different types of problem, and

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159 Moorhead, R. (2000), supra., n.4, p.145
so allow the targeting of resources towards those problems which, as a matter of politics, are most pressing. The frequency and seriousness of problems can be better understood through research and need models, as can the susceptibility of problems to legal solutions. Nevertheless, the concept of 'need', in the context of the CLS, cannot be completely isolated the political process.

4.1.10 In the context of a limited CLS Fund, the funds which are directed towards the generation of strategic information (for administrators) must be proportionate to the potential additional benefit that an 'enlightened' decision making process could deliver. So, as is suggested in Appendix 1 below, the LSC and CLS partnerships must always carefully consider the benefits that their information gathering and research efforts will deliver. Certainty and reliability must be balanced with utility and accountability. Also, once the LSC and CLS partnerships have satisfactorily identified patterns of need, they must not only seek to adapt provision to best meet them, but must also develop education and information programmes so that 'the needy' are made aware of the options and services available to them. This is especially important in relation to those people who have learning difficulties or face language or cultural barriers to the acquisition of knowledge. After all, need without knowledge is need without hope.

\textit{Formula Funding and the Evolution of 'Need' Models}

4.1.11 In recent years it has become possible to build 'need' models, which use proxy data to indicate the likely prevalence of problems or deprivation of certain types. These models are still in their infancy, but the increasing availability of uniform and reliable small area data suggests that they will play an ever increasing role in future efforts to monitor and evaluate the effectiveness of public expenditure. They are certainly playing an increasing role in public resource allocation. Public health, education and regeneration expenditure are all linked to proxy formulae.

4.1.12 Of course, there are important limitations to small area models - which are unlikely to be overcome for some time, if at all. They cannot address the distribution of need within their smallest area of resolution, so 'pockets' of need are obscured. Also, the areas of resolution do not always reflect local identities. Most importantly, however, if they are based on national data and national indicators, then the different way in which problems or deprivation are experienced in different types of areas can not be fully recognised.

4.1.13 Power has stated that, "social exclusion is almost entirely an urban problem"\textsuperscript{160}. By social exclusion, the author is referring to the, "inability of our society to keep all groups and individuals within reach of what we expect as a society." Power argues that areas are intrinsically unequal, attracting different types of people. Poor conditions and poor people often group together. Within cities, clusters of poverty areas have developed, and with

these clusters the disadvantages associated with poverty have developed and intensified causing escape to become more difficult.

4.1.14 But there are other places, aside from inner cities, where deprivation occurs, although this will not necessarily be of the same type. For example, as Smith points out,

"a proportion of the population of rural areas live in poverty caused by insecure seasonal employment and a high cost of living. These people tend, on the whole, to be geographically scattered and lack of easy access to the key services of public transport, shops, banks and medical facilities makes their problems worse."

4.1.15 The different problems and experiences of problems associated with living in different areas of the country inevitably entail that different factors will be associated with them, or with deprivation generally. As mentioned in the previous chapter, access to a car is not a suitable ‘need’ or ‘deprivation’ indicator. In car ownership terms, there is a world of difference between urban centres with good public transport links and rural areas with scattered services and often minimal public transport. These differences constitute the principal reason behind the creation of a separate deprivation index for Wales. They also, we suggest, constitute a reason to consider the development of separate CLS models for rural and urban areas.

4.1.16 A final and important limitation of current small area models is their inability to reflect advice-seeking behaviour. It is one thing to identify where problems or deprivation is experienced; it is quite another to identify where targeted services should be provided. As has been seen, some areas contain single recognised service centres, to which people will routinely travel from significant distances away. Others contain multiple competing service centres, with complex consumer patterns. Others contain areas from which consumers rarely emerge. It is vital that consumer behaviour is a main consideration in LSC and CLS partnership strategic planning. It would be of great benefit, therefore, if it were ensured that all suppliers in the CLS network are recording the home location of clients, to potentially allow for the development of behaviour models. Even were such models not possible to develop, such information would be invaluable in interpreting the CLS ‘need’ models.

Use and Development of the CLS Models

4.1.17 For the moment the CLS models are being used as a starting point for local needs assessment. Given their current design and limitations, this represents the limit of their current capabilities. However, a new generation of models, derived from large scale survey data, may allow additional functionality. It is hoped that they will, at the very least, provide a readily maintainable general monitoring tool.

162 See para. 4.2.11 below
4.1.18 Given the current non-availability of appropriately constructed and detailed empirical data relating to legal need, the basic approach adopted in developing the CLS models is the appropriate one. The degree of additional functionality provided by the CLS models, above that provided by general deprivation proxies, cannot at present be quantified. However, the fact that there is not always a good correlation between the CLS model outputs and general deprivation index scores indicates that they are identifying different population groups. Until empirical data becomes available against which to test the models, however, it will not be possible to confirm that the population groups are the appropriate ones.

4.1.19 Having stated that the approach adopted in developing the CLS models is an appropriate one, we do have some concerns relating to the detail of their design. For example, we recommend the CLS models should, as a matter of priority, lessen their reliance on 1991 census data. They should also utilise shrinkage estimation methods to improve their accuracy in wards with small data values. The Employment Model should use an average unemployment claimant number over several months. The Welfare Benefits Model should use a maximum benefit rate over several months. As regards the Housing Model, serious consideration should be given to the removal of overcrowding as a component.

4.1.20 The CLS models were not designed to indicate absolute levels of demand or supply, or potential or 'appropriate' number of case starts. Models derived from supplier data would be more suitable for these tasks. In the case of the last measure, models would, at a minimum, need to reference data relating to actual numbers of enquiries and case starts in areas with 'appropriate' supply levels, along with indicative data already used within the CLS models. Of course, this would require that areas with 'appropriate' supply levels could be defined. It would also require that models embody the cultural and social factors behind current variation in demand levels. As appropriate demand level models would most likely involve substantial increases from overall actual demand levels, it is questionable whether they could be useful in setting supply levels within the context of fixed resources. The same could be said in respect of potential demand models.

4.1.21 Given the complexity of the CLS models and the ambiguity of terms such as 'deprivation' and 'need', great care must always be taken in defining precisely what they are seeking to describe or predict, and in presenting their outputs. As was noted in the previous chapter, within CLS partnerships the model outputs should always first be presented in local relative terms, and preferably in graphical form. Their design principles and limitations should always be set out, and it be made clear that local knowledge and understanding justify modification of their outputs. The model designs, though, should not be locally 'improved' upon without expert guidance, and they should never be combined with general deprivation indexes.

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163 See Section 3.3 above
4.2 A Strategy for the Future

A General Strategy

4.2.1 In general terms, the CLS’s needs assessment strategy falls into two parts. First, there is the development of national tools against which to plan, monitor and evaluate CLS activities. Second, there is the development of local tools to allow CLS partnerships to do the same.

4.2.2 At the national level the LSC continues to develop a series of predictive need models for the CLS, which are made available to CLS partnerships to act as a starting point in local needs analysis. The weakness of the models, from a national perspective, is that they cannot always adequately discriminate between different types of geographical area. This is a weakness that may be overcome in the future, either through the use of differential weighting in different areas or through the development of separate models for different area types. In any event, the CLS models will be greatly advanced over the next 18 months, through the use of large scale survey data collected as part of the LSRC project described in the next section. The ability to ground the models in survey data of the type to be collected will facilitate their modification to recognise different area types. It will also allow confirmation (or not) of the appropriateness of the current proxy set.

4.2.3 The weakness of the models, from a local perspective, is that they are not tuned to local circumstances. Local anomalies can undermine their outputs. CLS partnerships, while benefiting from general improvements to the models, will always have to treat them only as a starting point for detailed local needs assessment. The idea of developing demand, or appropriate demand models, seems to us to be futile. Local supply data and local supplier experience provides an excellent starting point to gauge the extent of over or under capacity. The only exercise we feel might be useful, in identifying appropriate demand levels, would be a study of areas which are generally regarded as having good supply (as opposed to under or over supply), to provide broad benchmarks for use in parallel with the need models. However, these benchmarks will still be extremely vulnerable to anomalous consumer advice-seeking behaviour patterns in particular areas.

4.2.4 Turning to surveys, and other research and evaluation methods, the LSC (along with the LCD) has a need to monitor the effect of shifts in national policy and operations. To reliably identify changes in the prevalence of different justiciable problem types over time, large scale periodic surveys, of the type described in the next section, will need to be conducted. Of course, large scale surveys are expensive, so it would be inadvisable to conduct them too regularly. Their expense also requires that they be used to maximum effect when they are conducted. They should not be seen as mere monitoring tools, but also as the keys to our better understanding of the complex process of accessing the various dispute resolution systems that exist in England and Wales.
From a CLS partnership perspective, national surveys have many of the limitations of national models. They do not always allow even broad discoveries to be made in relation to geographical variation. It is hoped that the survey design set out in the next section will allow for some useful insight into such variation, but it will not be applicable to all area types. CLS partnerships, therefore, may occasionally need to conduct detailed local investigations into, for example, the prevalence of justiciable problems and consequent consumer behaviour. They must also, as was indicated above, make efforts to understand local consumer advice-seeking behaviour patterns. At the local level, however, the relative cost of undertaking large scale research is colossal. CLS partnerships will therefore have to very carefully identify their critical information deficits and use a variety of methods to try to make them good. Focus group findings may be a useful route to, for example, identifying barriers to accessing local services, and will certainly cost far less than surveys. As noted above, Appendix 1 provides detailed guidance on how CLS partnerships should approach local research.

CLS partnerships must have access to data on client home locations from local suppliers. Partial post-codes would suffice for this purpose. It is imperative to a sensibly co-ordinated community legal service that leakage between areas and delivery black spots are identified.

Finally, CLS partnerships should identify possibilities for making use of other organisations' research efforts. In particular, they should seek to negotiate space in citizens' panel type consultation exercises. These are broadly representative and offer the possibility of generating data from sizeable samples at relatively low cost.

The LSRC Legal Need Research Programme

The LSRC is currently commencing a long-term research project to measure and characterise levels of legal need throughout England and Wales over a number of years. It will be conducted in collaboration with Hazel Genn and Mike Noble.

The project will serve a number of ends. First, it will provide the LCD with the necessary information to monitor progress against its strategic targets relating to legal need and the proportion of disputes resolved through the courts. Second, it will enable the further development of the CLS small area predictive legal need models. Third, it will provide a detailed analysis of consumer advice-seeking behaviour – both in terms of the decision to seek particular forms of advice or not, and in terms of the geographical location of services which are accessed. Fourth, it will involve the piloting of a short questionnaire, specially designed for incorporation into citizens' panel surveys, to allow CLS partnerships to monitor levels of need and use of

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164 And in many ways assessing 'need' levels in, say, Aberystwyth is as difficult as doing so across the whole of England and Wales.
legal processes over time. Finally, it will allow for a detailed analysis of justiciable problem clustering.

4.2.10 The project will involve four basic elements: a comprehensive national periodic survey of individuals based on the *Paths to Justice* survey, but with a focus shifted towards the earliest stages of the problem resolution process; a series of short-questionnaire local surveys, to be undertaken in collaboration (and eventually by) CLS partnerships; the re-design of the CLS small area predictive legal need models; and, an analysis of administrative data.

*The National Periodic Survey*

4.2.11 The national periodic survey will provide detailed data on legal need, consequent behaviour and the services used by a sample of individuals, it will also provide the data from which the CLS predictive legal need models can be developed. It is intended that the sample size of the first of the periodic surveys (the baseline survey) will be around 4500 households, with a 3 year reference period. On the basis of the *Paths to Justice* survey of legal, the 4500 households should yield in excess of 1,500 respondents, who will have experienced around 5,000 justiciable problems.\(^{165}\)

4.2.12 The baseline survey sample will be stratified to boost the numbers of rarer justiciable problem types, such as immigration. This stratification will be arrived at through boosting sample numbers in areas where rare problem types are more common. The survey will also be stratified to provide 3 or 4 rich local ‘case study’ data sets. This will allow for (a) an analysis of local advice-seeking behaviour, (b) linking of local administrative data, and (c) a series of CLS partnership case studies. As noted above, the baseline survey questionnaire will be based on that used in the *Paths to Justice* survey, although there will be a greater emphasis on the early stages of disputes. Also, to allow for the development of the CLS models, the questionnaire will be designed so as to include data equivalent to that available from national small-scale data sources (e.g. benefit data). A first follow-up survey will commence in April 2004.

4.2.13 Over the years ahead the periodic survey will provide a continuing source of rich data on justiciable problems and the civil justice process. It is hoped that it can be put to additional use over time. For example, it is currently intended that it should also be used to aid in the evaluation of the Woolf reforms.

*The Other Study Elements*

4.2.14 Piloting of short-questionnaire local surveys – aimed at providing basic information about need levels, advice seeking behaviour, types of help sought, and dispute resolution patterns – will be undertaken in parallel with

\(^{165}\) The problem areas the baseline survey will cover will reflect the LCD's priority areas. Broadly, these comprise family, social welfare issues, housing, debt, immigration and asylum, domestic violence, proceedings where the client is at risk of loss of life or liberty, proceedings against public authorities alleging serious wrongdoing, personal injury and clinical negligence, public interest and consumer problems.
the baseline survey. There will also be an overlap between the small scale survey pilot areas and the 3 or 4 oversampled baseline survey 'case study' areas. This will allow for direct comparison of the results obtained via the two methods. If the small scale survey instrument proves reasonably reliable, then its use will be encouraged throughout the country.

4.2.15 Once the baseline survey data have been collected, small area predictive legal need models will be developed. The models will be developed using both the current approach adopted by the LSC (through identifying the component elements of legal problems) and econometric modelling methods (to identify the most significant available indicators of identified problems).

4.2.16 Administrative data relating to the use of legal services - i.e. data collected by suppliers, funders, regulatory bodies, representative bodies, the courts and government departments (e.g. through report on case forms) - will also be used, where possible, to supplement the surveys and models.

The Future

4.2.17 As the study develops, those organisations that do not compile researchable data will be encouraged to develop at least a minimum specification harmonised record of cases (e.g. acts of assistance). By combining such records a broad picture of flows through the civil justice process will potentially be achievable.

4.2.18 It is also acknowledged that CLS partnerships will, over the next few years, begin to collect sizeable quantities of data of relevance to the monitoring of national strategic targets and our understanding of legal need. The LSRC has provided CLS partnerships with a toolkit with which to undertake local needs studies. Because of (i) the diversity of social, political and professional influences on the activities of partnerships, (ii) the diversity of patterns of local legal service provision, legal need and consumer behaviour, and (iii) the different skills and resources possessed by different CLS partnerships, it would be unrealistic (particularly in the short term) to expect CLS partnerships to go about their own local data collection and analysis in a sufficiently uniform manner to end the need for national data collection and analysis in relation to strategic targets and predictive model design. However, it is to be hoped that CLS partnerships will, over the years ahead, begin to produce an increasing proportion of the data required for these purposes.

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166 A preliminary draft of the short-questionnaire is attached as an appendix
APPENDIX 1

Guidance on the Use of Operational Research Methodologies in the Context of CLS Partnerships

A1.1.1 *Research* is a structured process through which information deficits are made good and understanding developed. *Operational research* confronts information deficits and incomplete understanding that prevent accurate and effective operational decision-making. *Good* operational research provides the information and understanding that enables such decision-making. Just as importantly, though, good operational research must involve costs that are proportional to the benefits derived. This, of course, means that it is not always appropriate to conduct operational research, even where there exists a clear knowledge deficit. It is only appropriate where the potential risks of proceeding ‘in the dark’ outweigh the research costs, and the research can deliver necessary and sufficient information and understanding within the timeframe in which a decision must be made. In short, a necessary characteristic of operational research is that it involves appropriate cost-benefit analysis.

A1.1.2 In setting out down the path of operational research, therefore, it is necessary to first identify the precise nature of the operational decision that needs to be made. It is then necessary to determine whether information/understanding that is necessary and sufficient to make the decision is available. If it is, then no research is required. Instead, steps should be taken to obtain the information/understanding. If it is not, it must then be ascertained whether it is possible to obtain the information/understanding through operational research. Expert opinion may need to be introduced into the process at this stage. If it is possible, then two more preliminary questions must be asked. First, what will be the cost of the research? Second, what is the risk and potential cost\(^{167}\) of making the operational decision on the basis of current understanding?

A1.1.3 To answer the question of research costs it will be necessary to form a provisional idea of the research design. The principles to apply in determining an appropriate research methodology are the same, irrespective of whether an initial or final view is being taken. The only differences are (a) the extent to which it is possible to review earlier projects and materials which might have a bearing on the choice of methodology,\(^{168}\) and (b) the amount of time and thought that is devoted to the design process.

A1.1.4 Before making any choices as to methodology, however, it is necessary to define the research questions that are to be answered by the operational

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\(^{167}\) This is not just the cost in monetary terms, but also in terms of time, politics, etc.

\(^{168}\) A review of previous research, practice and materials relating to the subject area of study should always be conducted. Such a review may partially (or occasionally fully) meet all research objectives. Even if no previous work has been done which addresses the precise same issues, useful guidance as to methods may be forthcoming. Mistakes are made to be learnt from!
research project. This is one of the most important parts of the research process. Not only does it force those who commission research to precisely define their information needs, it defines the boundaries of the research, and provides a basis for determining whether research is properly concluded and successful.

A1.1.5 Boundaries are important. From an operational perspective the object of the research is to provide necessary and sufficient information/understanding to make an operational decision. Any research question which is not necessary to provide this should be excluded.

A1.1.6 Guidance as to the use of the main and established operational methods is set out below. The guidance covers surveys, interviewing, focus groups, participant observation, experimentation and piloting. A section is also included on secondary data sources (data collected by someone else), which should always be considered before original data collection is undertaken.

A1.1.7 Operational research projects need not involve just one methodology. In many cases a number of methodologies used together can most effectively lead to the research questions being answered. This is known as triangulation. It provides a number of benefits to the research process. For example, it allows analysis to be conducted on a number of levels. It also allows results derived from one methodology to be 'cross-checked' against those derived from another.

A1.1.8 An example of a triangulated study would be one in which focus groups are used to identify the range of problems faced by individuals in a particular area, a quantitative survey is employed to ascertain the level of incidence of the problems and basic behaviour in relation to them, and qualitative interviews are conducted to explore how the problems arise, affect and are dealt with in peoples' lives.

A1.1.9 The above text refers to quantitative surveys and qualitative interviews. Methodologies may be broadly categorised into two types, although as will be shown below, there can be considerable overlap in their elements and, as already noted, it is possible to include both within a single operational research design. The two types of methodology are ultimately distinguished by the form of analysis employed, but this generally feeds back into all stages of design to produce relatively distinctive approaches. The first type of methodology is termed quantitative and involves statistical analysis. The second type is termed qualitative and involves a more interpretative analysis.

A1.1.10 Quantitative analysis can provide answers to questions such as how many? how much? how often? and (when sophisticated analysis is conducted) what is the effect of ...? Qualitative analysis is less descriptive and concerned less with direct causation. Typical qualitative questions are why? and what causes?
A1.1.11 When embarking on the research process it is important to determine whether quantitative type information, qualitative type information or a combination of both is required.

A1.1.12 No guidance is provided below in relation to analysis. Basic descriptive analysis requires little guidance. Anything more sophisticated should only be undertaken with specialist help. Naïve or otherwise poor analysis can render a research exercise worthless.

Research Methods

i) (Quantitative) Surveys

Introduction

A1.2.1 Most surveys are of a sample of a population. In this context a population comprises a specific group of interest to which survey results will be extended. A sample is a sub-group which is included in a survey itself. In a pre-election opinion poll the results of a survey of a relatively small number of voters are extended to the electorate as a whole. The electorate is the population, those surveyed the sample.

A1.2.2 A first concern with sample based surveys is to ensure that samples are representative. This requires that the characteristics of sample groups match those of the populations from which they are drawn. If a sample is not representative, then inferences about a wider population are inherently unreliable.

A1.2.3 In the context of social surveys, where there is enormous complexity relating to individual circumstances and socialisation patterns, sample group members are often selected through a random process (or as near to a random process as possible). The idea behind this is to ensure that no systematic bias is introduced into samples that would prevent their being representative.

A1.2.4 However, if an analysis of findings relating to particular pre-identified types of sample respondent (members of a sample) is of interest, then it is important they are included in sufficient numbers, and this may lead to simple random sampling being inappropriate.

A1.2.5 For example, in a county town which has a small minority ethnic population, amounting to 1% of the general population, a sample of 100 residents arrived at by simple random selection would tend to include just 1 minority ethnic respondent, and would not always include even that. If there is a pre-identified interest in analysing the survey findings relating to minority ethnic residents, or comparing them to those relating to other residents, then a sub-sample of 1 would be wholly inadequate. The answer, though, is not to increase the overall sample size to a level which will generate sufficient numbers of minority ethnic respondents. It is, rather, to increase the number
of minority ethnic residents within the sample. This process is known as stratification.

A1.2.6 A stratified sample is designed to boost the numbers of uncommon respondents and thus allow comparative analysis in relation to them. This is achieved through over-sampling predefined types of respondent by a set multiple. So, to continue the example above, if minority ethnic residents were over-sampled by a multiple of 20, then the sample would contain 20. The process of stratification does not undermine the representative nature of a sample, as any general analysis can be adjusted to take account of predefined over-sampling. Sampling of each pre-identified type of respondent (along with the residual sample group) should use a random process.

A1.2.7 Generating a random (or random-stratified) sample does not guarantee representative sample data. First, random is not equivalent to representative. Random sampling simply removes sample bias which results from the sampling process itself. However, it does not ensure that a resulting sample group is not biased through bad luck. If a coin is thrown 4 times, it is unlikely to land heads on each occasion, but it will tend to do so once every 16 attempts. More important still, if a coin is thrown 4 times, it is more likely than not that an uneven number of heads and tails will result. Only 3 times in 8 will 2 heads and 2 tails be forthcoming. When all possible outcomes are included, the less likely sometimes add up to being more likely than the most likely! Second, a sample may not be large enough to allow the inclusion of all types of respondent. A random sample of 1 will always be unrepresentative! Third, not all potential respondents are likely to be willing or able to participate in a survey. If there are any differentiating characteristics of unwilling or unable respondents, then a survey's results must be biased against those with such characteristics.

A1.2.8 A general picture of the population, against which to compare those who are included in and respond to a survey, and a general understanding of the population, to explain behaviour, are absolutely necessary to allow weighting of analyses and proper interpretation of results.

A1.2.9 Random sampling is not the only mechanism through which to counter sample bias. Quota sampling is another method that can be used. Quota sampling involves determining the correct proportions of respondents of different types and then matching a sample to those proportions. The correct proportions can be determined from census type data. Quota sampling is very often used by commercial survey companies requiring quick results, as quotas can be filled through any method (e.g. stopping people on a high street). The drawback of quota sampling is that it only counters bias stemming from the quota types. If the typology used is weak, then a sample will definitely not be representative. Also, within the quotas there may be any level of bias, depending upon the quota filling method. So, if quotas are met through stopping people on a high street, then those people who work on the high street, shop on the high street, live on the high street, etc., will be systematically oversampled. This phenomenon is known as self selection. It would not be possible to define quotas to a sufficient level of detail to
prevent any sample bias. However, it is possible to remove the most obvious or most troubling forms of bias, and the cost and time savings (compared with random sampling) may be enormous. Quota sampling should generally be regarded as a poor substitute for random sampling.

A1.2.10 Unfortunately, even if a sample is known to be fully representative, that is no guarantee that research results derived from the sample will be representative. The survey instrument used may be of poor quality and so yield ambiguous or misleading results. The coding of survey data may be of poor quality and so introduce additional error to the process of analysis. The probative (or explanatory) significance of particular findings may not be understood and so unwarranted generalisations may be made.

A1.2.11 Great care is necessary at all stages of the survey research process to produce reliable and meaningful results.

Conduct

First Steps

A1.2.12 In determining whether a survey might be an appropriate research method the first step is to ask whether the set of research questions to be answered can be answered through survey information. Surveys are not appropriate for all sets of research questions. If a detailed understanding of people's motivations in using certain services is the goal, then a survey may be a relatively blunt instrument. Generally, the more information (or greater depth of information) is required from individual respondents, the more surveys become inefficient research instruments.

A1.2.13 Once a decision is made that survey data is necessary or appropriate for answering the research questions, the population to be surveyed must be defined. Asking the appropriate people is as important as asking the appropriate questions. So, if operational research is being undertaken in the context of local service delivery, then the population will probably be defined in local terms. It may be further defined to include only persons eligible for a service, or married persons, or persons who have been injured at work, or who practice as solicitors, etc..

Sampling Frames

A1.2.14 Once a population has been defined, a sampling frame must be generated. This lists the members of the population and forms the basis of the sampling process. The sampling frame may be easy or difficult to generate depending on its nature. So, if a population is defined as people who have recently made use of an advice agency, then agency records would no doubt provide an excellent sampling frame. If, however, a population is defined as people who have never made use of advice agencies, then a ready made sampling frame is unlikely to be forthcoming.
A1.2.15 If there is no readily available (or sufficiently complete) sampling frame, then it may be necessary to conduct a filtering survey. So, if a population is defined as people who have experienced a problem with a potential legal solution within the preceding 3 years, then it may be necessary to conduct a survey of the general population to identify a follow up sample of people who meet the research population definition.

A1.2.16 Random selection is arrived at through the use of random number tables or random number (or entry) generating processes. It is not sufficient to select the first $x$ names from a list. Different types of respondent may have different types of name. If selecting from a list, however, it is legitimate to select every $n$th name, where $n$ is the sample frame size divided by the sample size. So, to derive a sample of 100 from a list of 10,000 names, a random number between 1 and 100 could be selected, then the name corresponding to that number and every 100th name thereafter could be selected. Random numbers cannot be obtained by “picking numbers out of the air” or making reference to any non random process.

A1.2.17 Quota selection is arrived at through drawing up a list of quota definitions and appropriate numbers.

Survey Type

A1.2.18 There are two basic forms of survey. Interview based surveys and self completion surveys. In the former case an interviewer will ask each respondent a set of questions. In the latter case a respondent will be provided with a questionnaire to complete on their own. Interview based surveys may be conducted face-to-face or over the telephone (although telephone surveys limit the range of potential respondents). Self completion surveys may be conducted through a direct process (e.g. the post) or an indirect process (e.g. through a questionnaire included in a newspaper).

A1.2.19 The more random and direct the process, the less will be the problem of self selection. Random, direct face to face interview based surveys are therefore good in this regard and indirect newspaper surveys particularly bad. Also, response rates tend to be higher for interview based surveys. Self completion surveys using newspapers tend to produce the lowest response rate.

A1.2.20 Self completion surveys are most useful for generating basic data in relation to a relatively large number of respondents. They are also the most economical form of survey. They suffer, however, from the greatest degree of bias, and so should be used only when a rough indication is adequate. Measures should be taken to ensure that only one questionnaire is returned per respondent.

A1.2.21 Interview based surveys can be more complex, as interviewers can guide respondents. They can also contain many more questions, as people tend to

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169 For a sample to be truly random every member of the population must have an equal chance of inclusion.
be more generous in allocating time for personal interaction. Interview based surveys are, though, resource intensive and time consuming (after accounting for questionnaire size), and so generally unsuitable for large samples. In respect of face to face interviews, the more concentrated a geographical sample area, the more manageable the conduct of the survey.

A1.2.22 Telephone interviews should be shorter and more straightforward than face to face interviews, but may still be more complex than self completion questionnaires.

Sample Size

A1.2.23 A consideration of sample size is essential when designing a survey based operational research exercise. Sample size directly effects the final number of survey respondents, and the number of survey respondents is a determinant of whether analysis of the type required to answer the research questions to a sufficient degree of reliability will be possible.

A1.2.24 There is no magic formula to determine optimum sample sizes. First, variability within samples and sample data is an important consideration. Previous research or experience may provide a useful indication of variability. If there is little variability in the population or sample data, then small sample sizes may be appropriate. If there is a lot of variability, then data from a small sample will often be misleading. The more variability, the more likely that "chance" will deliver skewed and therefore unrepresentative data.

A1.2.25 Second, likely response rate is an important consideration. Different survey types and different populations generate different response rates. So, if 100 responses are required, then (depending upon the population type) a sample of 200 may be appropriate for a telephone interview survey, but around 400 for a self-completion postal survey. 50% is a typical response rate for telephone interview surveys and 25% for postal surveys, in the absence of special interest or incentives.

A1.2.26 There are many reasons why people may be unable or unwilling to participate in a survey. A respondent may not be fluent in the language of a questionnaire. If this is likely to be a common problem within a survey, then thought should be given to translating self-completion questionnaires or providing interpreters for interviews. Infirm, minor or disabled respondents may be unable to fully engage in interviews or complete questionnaires. If they are of particular interest in a particular study, then thought should be given to identifying proxy respondents who are able to represent them – such as parents of young children, adult children of the elderly, etc.. Some respondents of postal surveys will have moved on from the postal address used. Sampling frames should therefore be as up to date as possible. Some respondents may need to be reminded to return a questionnaire before they will do so. Follow up letters (always including a fresh questionnaire) should always be sent out to maximise response rates in postal surveys. A second reminder can also be effective, but further reminders will provoke fewer and
fewer returns. The most sizeable group of non-respondents in any survey will generally be those who simply decline to take part. As regards interview based surveys, therefore, it is important to make respondents' participation as convenient as possible. Any interview based survey that includes the employed (or others whose time is regularly committed) must allow for interviews to be conducted outside of working hours. In the case of professionals, availability may be very limited.

A1.2.27 Third, the form of data analysis to be undertaken is also an important consideration. The more complex the analysis, the larger the sample size needed will tend to be. This is not a hard and fast rule though. If correlation or multiple-regression analysis is to be undertaken on survey variables (individual survey questions) which have a clear causal relationship, then a relatively small sample size may still be appropriate. The demands of analytical methods cannot be separated from the nature of the data to be analysed.

A1.2.28 If there is significant variability within a sample or sample data, or if the sample data is to be subjected to complex statistical analysis, a survey should always be designed in collaboration with expert researchers.

A1.2.29 Further to the above considerations, sample size must be balanced against cost. It must also therefore be balanced against the number of questions to be asked and the survey method to be used. An interview based survey of 1000 people using a questionnaire containing 30 questions could involve costs of tens of thousands of pounds.

*Questionnaire Design*

A1.2.30 Survey questionnaires need to be carefully crafted. The form and layout of questions is not only critical to the generation of appropriate and reliable data, it is also critical to the response rate a survey will generate.

A1.2.31 Survey questions need to be clear and unambiguous. If a question is not clearly phrased, then respondents will, at best, answer on the basis of a limited understanding of the point in issue. Technical language should be avoided where questions are addressed to lay persons. However, it may be appropriate in questions addressed to specialists. Those who use technical terms may understand technical terms more readily than ordinary language equivalents, as technical terms generally develop to overcome the ambiguities of common discourse.

A1.2.32 Wherever possible, questions should be ordered so they naturally follow on from each other. So, there should be as few abrupt changes in the subject matter of questions as possible. Also, narrowly formulated questions should follow on from broadly formulated ones, rather than vice versa. This will help to ensure that respondents' minds are focused on the proper subject matter of questions. Where particular answers lead to particular questions this should be clearly indicated.
A1.2.33 Survey questions can be either open or closed. Open questions allow respondents to formulate their own answers. Closed questions provide a fixed range of answers from which respondents must choose. The advantage of closed questions is that they produce consistent data and they promote speedy responses. The disadvantage is that they can only provide anticipated answers, although it is possible to mitigate this through the use of "other" as an answer, with a request to supply details. They also risk oversimplifying issues. The advantage of open questions is that they allow a full range of responses to questions. This is particularly useful where little is known about the topic. They also allow a far greater depth of answer. However, open questions which encourage lengthy answers cannot be regarded as quantitative instruments. They are therefore discussed in the next section.

A1.2.34 Fixed answers to survey questions may be of three basic types. Numeric answers can be reduced to numbers (i.e. ages, dates of birth, income, etc.). Ordinal answers can be placed in relative order. A common ordinal set of answers is "Good; Average; Below Average". Nominal answers have no intrinsic order. Perhaps the most common set of nominal answers is "Male; Female".

A1.2.35 Survey questions can also be leading. Leading questions suggest their own answer. They thereby tend to bias resultant answers. Leading questions should be avoided in all circumstances.

A1.2.36 A further discussion of the terminology and form of questions is set out in Appendix 2, along with a selection of model terms and questions.

A1.2.37 Aside from the particular form and order of questions, the design of a survey questionnaire should aim to maximise the response rate and honesty in answers given. Response rate can, for example, be influenced by the amount of time required for, and the complexity of, participation. Questionnaires should therefore be as simple and short as possible. This does not mean that lengthy questionnaires can never be appropriate, but they should be regarded as exceptional.

A1.2.38 Questionnaires should also include an introductory section which (a) explains the purpose of the research, (b) sets out the practical use to which findings will be put, (c) assures respondents that the information they provide will be treated as being confidential, and (d) provides some space for additional comment.

A1.2.39 Questions seeking personal details should be left to the end of a questionnaire to avoid causing additional concern about the use of survey data and to avoid any early awkwardness. Sometimes, though, this will not be possible. For example, personal details may dictate the appropriate questions to be asked of a respondent.

170 In the case of self-completion questionnaires it is advisable to set out a brief note on confidentiality at the top or bottom of every page.
First Contact

A1.2.40 Interview based surveys should, unless they are to be conducted "in the high street", be preceded by a hand signed letter setting out the function of the survey, an indication of the form of the survey and the commitment required of respondents (e.g. the amount of time interviews will take to complete), and an assurance of confidentiality. The identity of the person and organisation sending out introductory letters needs to be carefully considered. Expectations can be raised in respondents' minds as to the sorts of answers being sought simply through knowledge of the identity of those conducting or sponsoring a research exercise. The same question asked in a "legal", "local politics" or "consumer" context may well elicit a very different answer. So, if a survey is clearly stated to be for a local authority, then local authority services may immediately be placed at the forefront of respondents' minds.

A1.2.41 Interview based surveys conducted "in the high street" should provide materials for respondents to take away with them. It may be reassuring for a respondent to be given some written details of a survey's function and, perhaps, a contact number or address to gain further information.

A1.2.42 Postal survey questionnaires should be accompanied by freepost reply envelopes. The reply envelopes should ideally be addressed to an independent department or organisation to allay fears of misuse of data. Follow up letters (with fresh questionnaires attached) should be sent where original questionnaires are not returned within a reasonable period of time. Postal survey questionnaires should also be accompanied by a hand signed letter as described above.

The Bottom Line

Cost

A1.2.43 The cheapest form of survey is the self-completion survey. Postal questionnaires can be printed and distributed relatively cheaply. Even with 2 follow-ups and reply paid envelopes costs could be less than £2.50 per questionnaire. However, questionnaires must first be designed - which involves time and cost - and when returned, they must be coded into an analytical software package and the product then analysed and written up. A postal survey of 1000 people involving a questionnaire containing 20 simple questions would be unlikely to cost less than £3000 in all.

A1.2.44 As regards interview based surveys, a telephone survey of 1000 people conducted by a commercial research organisation will involve costs of between £300 and £400 per question for simple closed questions, and up to £1,000 per question for open questions. If interviews are conducted face to face at respondents' home or work places, then costs can be double this. The ONS omnibus survey of 1850 people involves costs of £1,083 per question for closed questions, and upwards of £1,243 for open questions.
A1.2.45 The Nuffield Study, conducted by Professor Hazel Genn, involved a survey of 2,595 households (yielding 4,125 individuals over 18). The survey instruments ran to 92 pages, with 50 questions necessary just to establish the existence of a justiciable problem. The design, development, survey, analysis and other costs ran well into 6 figures.

A1.2.46 With training it would be possible for CLS partnership staff to conduct basic interviews, thus saving some costs. However, even a short questionnaire may require 15 minutes to complete, and this figure must be greatly increased if respondents are to be personally visited. Even where interviews are conducted over the telephone or "on the high street", time must be allowed for making initial contact, refusals and inactivity.

Cutting Corners

A1.2.47 Rather than conduct a separate survey, it may be possible to make use of a survey already planned by another organisation. For example, some local authorities conduct periodic social surveys and may be willing to allow additional questions to be included. If there are no surveys planned in an area, then it may instead be possible to find a co-funder for a survey. Local authorities, charities, and service suppliers might all be interested.

Advantages and Disadvantages

A1.2.48 Quantitative surveys can be extremely useful tools. They enable a snapshot of attitude, belief, experience or behaviour to be taken. With well designed questions and sensible pre-coding of possible answers, analysis can be facilitated and enhanced. With well constructed sampling frames, enquiry can be focused on populations of particular interest. With a representative sample, survey results can often be generalised to wider populations.

A1.2.49 However, quantitative surveys are extremely resource intensive. Their design, conduct and analysis are highly specialised activities. Poor design, conduct or analysis can lead to, at best, unreliable conclusions and, at worst, wholly misleading conclusions. Quantitative surveys are also generally unsuitable for the in-depth analysis of complex social systems. The statistical analysis of such systems demands quantities of data that are generally unmanageable and, in any event, involve prohibitive costs. Also, unless there is already a good understanding of the system, questionnaires cannot reliably be designed to collect the appropriate information.

A1.2.50 For any large-scale quantitative survey, it is advisable to employ either unstructured or semi-structured qualitative interviews prior to the survey in order to explore issues and potential areas of misunderstandings. Such interviews could also serve to canvas opinion on the number of questions to ask, appropriate respondents, and stratification. Conducting this type of exploratory groundwork before a large-scale survey is conducted can save

time, increase response rates and make survey data more useful and relevant. Guidance to the conduct of interviews is set out in the next section.

ii) Interviewing

Introduction

A1.3.1 Interviewing, in its simplest form, is an everyday social phenomenon. It is a common, instinctive activity that comprises asking questions to elicit opinions, experiences, perspectives and information. In a refined form, interviewing is also an important empirical research tool. Usually, a difference between general and research interviewing is that the latter involves a clearly designated questioner and a clearly designated respondent. Another difference is that research interviews are invariably conducted with a series of respondents. The most important difference between general and research interviewing, however, is that the form and operation of research interviews is carefully designed to ensure the sum of all answers given effectively and reliably enables all research questions to be answered.

A1.3.2 Research interviews (henceforth simply referred to as interviews) can take a variety of forms, ranging from structured to unstructured, individual to group, quantitative to qualitative, short to long, face-to-face to distance, etc..

A1.3.3 Quantitative interviews are conducted as part of quantitative surveys. They were therefore dealt with in the preceding section. Group interviews (commonly referred to as focus groups) are dealt with in a later section. This section deals solely with individual qualitative interviewing.

A1.3.4 Qualitative interviewing involves smaller sample sizes, has a more open-ended form and goes into greater depth than quantitative interviewing. There is no standard form. There is therefore a unique variation across interviews. In contrast, quantitative interviewing involves uniform and narrowly defined (or even fixed) responses.

A1.3.5 Qualitative interviews are useful for generating detailed explanatory information and to probe respondents' views. As with all research techniques, however, it is important to gather information accurately and for the specific purpose in question. This involves choosing an appropriate interview type and producing a well designed interview instrument. Which interview technique is chosen depends on considerations such as the research topic, the purpose of the project, the resources (in terms of cost, staff) available, time available, and the nature of the target interviewees. Interviewees' personalities, status and co-operation are all important considerations.

172 Rarely, interviews may be conducted on a series of dates.
Type of Interviews

A1.3.6 The variety of different research interviews are normally differentiated by the degree of structure used. The most structured interview type is the structured or standardised interview, followed by the semi-standardised interview and the unstructured or non-standardised interview.

A1.3.7 In the structured interview, the interviewer controls the pace and format of the interview. The order and wording of the questions are predetermined. Each respondent is asked exactly the same questions in exactly the same order and in exactly the same way. The respondent and the interviewer have only very limited room for flexibility, spontaneity and variation. The interviewer does not improvise on or vary the questions. The structured interview is appropriate where research is aimed at obtaining relatively simple information in a form that readily permits comparability between different respondents' answers.

A1.3.8 The semi-structured interview is a combination of both structured and unstructured interview elements. It therefore allows for greater flexibility and improvisation than the structured interview. Interviewers are able to follow up answers (for both clarification and elaboration), and explore ancillary issues. Semi-structured interviews can therefore elicit a far greater depth of answer than structured interviews.

A1.3.9 Although some of the questions in semi-structured interviews are specified, interviewers are free to alter their order. They are also free to focus on particular subject areas. They are therefore able to take account of the individual respondent and his or her idiosyncrasies to a far greater extent than would otherwise be possible.

A1.3.10 Semi-structured interviews are useful for an understanding of why things are as they are. Respondents can be pushed beyond initial answers until an interviewer is content that he or she understands the reason for the answer. Semi-structured interviews are also useful where there are large gaps in basic understanding. They do not limit what can be found, as structured interviews generally do. Semi-structured interviews also have the benefit that at least some answers from different respondents can be readily compared.

A1.3.11 Unstructured interviews are of a purely qualitative nature. They allow interviewees to talk about the interview topic in their own frames of reference. The subject is allowed to talk freely about various aspects of a topic and the interviewer asks questions as he or she sees fit. The interviewer will have a topic guide, which he or she refers to in order to make sure that the issues of interest are covered, but beyond that there is total flexibility. The topic guide is a crucial tool for unstructured interviewing. It serves as a guide for the interviewer. Ideally a topic guide should be set up like a flow chart, an outline or a framework so discussion can flow.
naturally from one topic to the next. Of course, not all interviews will flow the same way. A topic guide can also contain some example questions and follow-up questions, which can be used (if required) to redirect or clarify an area of discussion. As with any interview, it is advisable to start an unstructured interview with an easy, unthreatening and relatively open question.

A1.3.12 Unstructured interviews are useful in generating an in-depth understanding. They are particularly useful where there is a great deal of information available, but an unsatisfactory understanding of what it means. However, at the other end of the scale, they are also useful exploratory tools in new areas of enquiry. So, for example, unstructured interviews might provide the best means to generate an understanding of the complexity of a subject area in which a large scale quantitative survey is to be undertaken.

A1.3.13 As was noted above in relation to choice of basic methodology, it is sometimes sensible to combine several interview types in a single piece of research, using each to supplement and confirm the others. This is known as triangulation. Triangulation should be considered within as well as between basic methodology types.

Questions

A1.3.14 As was explained in the preceding section, there are two basic forms of question – open and closed. The use of closed questions, which provide a fixed range of answers, is dealt with in the preceding section. They are always the appropriate form of question for eliciting basic personal details. First, there is no need to provide flexibility in relation to such details. Second, such details are often required in a standard form so as to allow the nature of a sample of respondents to be determined.

A1.3.15 Open-ended questions allow respondents to answer as they wish. They are therefore necessary to explore subjects in-depth without running the risk of too narrowly defining the terms of discussion. As answers may be provided in many forms, however, the ability to directly compare answers provided by different respondents can be limited. The more leeway is given to respondents, the more complex the task of interpretation.

A1.3.16 The most extreme form of open question elicits a narrative from a respondent. A question asking a respondent to "tell me about ..." provides an example. As noted above, narrative questions should rarely be introduced at the start of an interview. They run the risk, for example, of allowing discussion to drift at an early stage. However, they can be useful questions with which to broach new subjects, or elicit detail in relation to a reference made by a respondent.

A1.3.17 In terms of the form of questions and notes included in interview instruments, the principles to adopt are much the same as those set out in relation to survey questions. Clarity and relevance are the key. The number of questions that should be included will vary depending upon whether they
are open or closed, and the length of answer that is expected or desired. If lengthy answers are desired, interview instruments should not be too ambitious in the range of subjects to be covered. In general, interviews should be designed to last no more than 90 minutes.

The Players

Interviewers

A1.3.18 Numerous studies have shown that interviews contain an element of in-built bias. This is due to respondents reacting to the interviewer and not simply the questions. Recognising the existence and effect of social interaction in designing and conducting research is important. To minimise bias the interviewer needs to adopt a flexible and sensitive approach, lead the discussion as little as possible, cover all issues with all respondents, and be a good listener!

A1.3.19 The role of the interviewer and his or her interviewing technique will vary according to the form of the interview chosen. A structured interview will require the interviewer to maintain a strict question-answer approach, whereas an interviewer in a semi-structured or unstructured interview must be able to improvise and deviate from a topic guide.

A1.3.20 Research interviewing is not a straightforward task. As well as being aware of potential bias, interviewers must have a reasonable understanding of the subjects for discussion, an ability to manage time to best effect during interviews, a reasonable understanding of the sensitivities of respondents, and be able to inspire confidence on their part. If respondents do not trust interviewers, then, especially in relation to sensitive subject areas, honest answers are unlikely to be forthcoming.

Respondents

A1.3.21 In addition to the interviewer taking a different role depending on the type of the interview, different types of respondent may require different interview styles. For example, face-to-face, individual interviews are likely to obtain a better response rate than will postal or telephone surveys from the illiterate, disabled or elderly. An in-depth interview conducted to assess the legal needs of somebody who is not a fluent English speaker will ideally involve an interviewer who speaks the respondent's own language and understand the respondent's frame of reference. At the very least an interpreter will be necessary (adding a new dynamic to the interview process).

A1.3.22 A number of studies have indicated that respondents might not always be as frank as interviewers would hope them to be. This might be due to a fear of being shown-up or to respondents trying to be polite and say what they think interviewers want them to say. Considerations such as these require the interviewer to ask questions that check the veracity of the respondent's statements. The principles set out in the preceding section, in relation to approaching sensitive subject areas, are also equally as applicable here.
Also, respondents should always be assured of the confidentiality of their answers.

**Experts and Elites**

A1.3.23 On occasion it may be appropriate to interview experts or elite (or important) persons. This may be so either if the expert or elite group is the subject of study (e.g. solicitors) or if it has specialist knowledge of the subject of study. In the latter case the expert or elite group will become consultants.\(^{173}\) If the expert or elite group is to be the subject of study, then, unless those charged with the research are similarly expert or elite, an “insider” should be found who is a member of the specific target group to be studied. This person can act as a guide to his or her environment.

A1.3.24 Where experts or elites of different types are interviewed it might be sensible to adopt the same or similar questions or topic guide. This will allow a comparison of perspectives. Also, it may be sensible to design questions that examine consistency between groups. So, for example, a local police representative might be asked which area he or she identifies as having a high incidence of violent crime. Answers could then be compared to those of a hospital representative as to which areas patients who have become victims of a violent crime come from.

A1.3.25 Interviews with experts can also be used to identify the main groups which should be sampled for a larger research exercise. For example, experts might indicate that there is a particular need for employment advice amongst a specific section of the community. A stratification process could then ensure that section is represented in a survey relating to the need for employment advice.

**Sample Size and Sampling**

A1.3.26 In unstructured interviews, and to some extent semi-structured interviews, the interviewer encourages the respondent to use their own terms as issues emerge spontaneously. This means that the respondent can talk at length and in detail. Hence, each interview will be data-rich and relatively time-consuming. Qualitative analysis may also be relatively time-consuming.\(^{174}\) As a consequence, projects which rely on unstructured interviewing often use a sample of just 15 or 20 individuals. Sometimes even fewer respondents may be appropriate. This is especially so in the context of a triangulated methodology. It is important, though, not to include too few respondents to provide a rough representation of the population of interest.

A1.3.27 Even small samples should ideally be selected according to the principles set out above in relation to surveys. Particularly, in the case of small

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\(^{173}\) In the context of legal need, experts might include lawyers, advice workers, heads of voluntary organisations, academics (in university departments such as social policy, social work, housing and urban studies, law, economics, geography and land economy).

\(^{174}\) Unlike with survey data, which once inputted into an analytical software package can be manipulated with relative ease whether it relates to 10 or 1,000,000 respondents, qualitative data becomes more and more burdensome the more and more there is of it.
samples stratification can become increasingly important, to ensure a range of respondent types. As qualitative interviews usually deal with small, clearly defined target groups, considerations should be given to characteristics such as gender, age, status, life stage, social category, attitudes and behaviour.

A1.3.28 Sometimes, when interviewing certain types of respondent, it may not be possible to use standard sampling techniques. Such may be the case, for example, in relation to respondents who are difficult to contact, such as drug-users. If such is the case, then a snowballing sampling technique may be adopted. This basically entails finding one (or a few) respondents, and then persuading them to introduce further respondents. They are then able to vouch for the interviewer. However, snowball samples are vulnerable to extreme bias.

Conduct

A1.3.29 Prior to undertaking any interviews, the usual formalities must be observed of defining research questions, designing appropriate research instruments and sampling. Any research project which relies on interviews should then ideally involve piloting of the questionnaire(s). Pilot interviews will highlight particular areas of ambiguity and act as a precautionary device. It is important to be prepared to make necessary changes after piloting.

A1.3.30 Also prior to undertaking any interviews an appropriate interviewer must be selected. It may not always be possible to find an ideal interviewer. However, consideration should be given to potential candidates' knowledge, understanding and experience of both the interview procedure and the subject matter under study.

A1.3.31 If letters are used to contact respondents or arrange interview dates and times, then the letter should be set out as described above in relation to surveys. If another form of communication is used, it is important to introduce the study, explain what it is for, explain what is needed of respondents and assure them of confidentiality. All communication should be clear and concise.

A1.3.32 At the outset of an interview it is important to (re)introduce the research project and its purpose to the respondent. As has been noted above, an assurance as to confidentiality should be provided. A brief indication should then be given of the form and likely duration of the interview.

A1.3.33 It is generally advisable to tape record interviews. Agreement must be obtained for this. It is extremely difficult to make an accurate note of an interview, and qualitative analysis is complex enough without the added burden of incomplete memory to deal with.

A1.3.34 Questions should all be presented clearly, and respondents provided with time to think before answering. Interviewers should not jump in whenever
silence descends. The most accurate, concise and pertinent answers are not always spontaneous!

A1.3.35 An easy and general question is a good way to conclude an interview. Respondents should also be asked if they have anything else to add, thanked, and again assured of confidentiality.

iii) Focus groups

Introduction

A1.4.1 Focus groups have become increasingly popular over the last decade. They are used in market research to gather consumer opinions, in social research to study social phenomena, and by political parties to gather information on citizens' attitudes.

A1.4.2 Focus group interviewing involves the systematic questioning of a group of people at the same time. This questioning can be structured or relatively unstructured. Focus groups can generally be classified as a qualitative research method. They offer insights into group processes and attitude change, and often elicit spontaneous behaviour and emotional involvement from participants.

Sample

A1.4.3 Focus groups are typically comprised of 6 to 8 persons, in addition to a moderator, who leads discussion.

A1.4.4 As with all research techniques, it is important to make informed sampling decisions. Extreme disparities in, for example, socio-economic status might inhibit participation of some of the focus group members. This can be detrimental to the research exercise as focus groups rely on interaction within the group breaking down social barriers and encouraging openness.

A1.4.5 As with sampling for qualitative interviews, a representative sample is rarely possible. The sampling principles set out in relation to surveys should still be followed where possible, with stratification coming into play to ensure range. Focus groups are primarily about rapidly determining prevalent experience, behaviour or opinion. They may, therefore, often act as a precursor to more elaborate research exercises.

A1.4.6 As regards how many focus groups should be conducted on a given topic, it will vary considerably and depend largely on how much reliance is being put on focus group findings. Often, the findings of even one focus group are insightful. Clearly, though, as the number increases, the range of focus group members broadens and the overall results can become more representative.
The Moderator

A1.4.7 The moderator supplies the topics for the focus group and can interrupt and redirect the discussion. It is important for the moderator to encourage all participants to speak in order to obtain the fullest possible coverage of the issues discussed.

A1.4.8 The moderator needs to devise a topic or interview guide. The topic guide should translate the overall research questions into discussion questions and issues which are respondent friendly. As with one-to-one qualitative interviews, the topic guide should not become a fixed question-response guide, but a flexible tool.

A1.4.9 There are various stimulus material the moderator can use in addition to the straightforward topic guide. One specific technique which can be used in focus groups is brainstorming. This could involve the moderator asking the focus group members to tell him or her everything they know about, say, local need in a confined area. The brainstorm ideas should be written down and then explored further. Another technique is asking focus groups to complete open-ended sentences. For example, "Referring to advice services in this area, if I had to decide I would spend it on…"

A1.4.10 The moderator needs to be aware of, and if necessary control, difficult groups. The moderator must, therefore, keep group discussions on point, prevent domination by individuals or groups of individuals, and ensure that all members are actively involved to some extent.

A1.4.11 Lastly, the moderator is unable to control focus group discussion as in a one-to-one interview. The interaction between group members means that interviewees naturally use their own framework and opinions when discussing the topics. More time may therefore be needed to cover the same ground.

Use of Focus Groups

A1.4.12 In market research, focus groups are most commonly used to obtain opinions on a given product. This use can be applied to operational research as well. For example, a focus group exercise with minority ethnic participants can obtain opinions on the "product" of provision of legal services to the minority ethnic category of persons in question.

A1.4.13 Focus groups may be used as an exploratory device to test out a definition of a research problem. For example, if it is not clear whether a specific needs assessment issue warrants a large-scale survey exercise, a focus group with members of the survey target population will help decide whether it is worthwhile proceeding and spending the resources on survey design, collection and analysis.
A1.4.14 Focus groups may also be used to pre-test questionnaire wording or other elements of a survey design. Useful feedback can be obtained on the potential problems with the survey design and proposed data collection.

A1.4.15 Focus groups may also be used as a follow-up after other research has taken place. For example, a supplier survey might have indicated issues on which more in-depth information would be useful. This would constitute an example of triangulation.

A1.4.16 Focus groups with suppliers can be a cost-effective and efficient way of exploring issues at relatively great length in a relatively short period of time.

**Further Practical Considerations**

A1.4.17 Ideally, focus group discussions should be tape-recorded and transcribed. It is very difficult for a moderator to make complete and accurate notes whilst guiding discussion and paying attention to group dynamics.

A1.4.18 It should be stressed to focus group members at the outset of proceedings that focus group discussions are supposed to be informal discussions between all participants, not made up of speeches directed towards the moderator.

A1.4.19 Also at the outset of proceedings, each focus group member should briefly introduce him or herself, so that people know each others' names and can refer to them.

**Advantages and Disadvantages of Focus Groups**

A1.4.20 One of the main advantages focus groups offer is the possibility to observe social interaction and multiple opinions on a topic in a limited period of time.

A1.4.21 Being able to collect data in a relatively short period of time means that focus groups are efficient, inexpensive and data rich. Further advantages of focus groups are that they are flexible and elaborative. Old ideas are extended and new ideas are often generated by sharing information and arguments. This is one of the reasons why focus groups are often perceived as very stimulating by participants. Focus groups also give researchers an idea of how arguments and opinions are formed.

A1.4.22 One of the disadvantages of focus groups is that participants may not want to explore sensitive or embarrassing topics due to having to speak in front of a group. Additionally, group opinion might interfere with individual expressions. Also, a focus group can easily become dominated by one person only. These problems can be avoided, to some extent, if the moderator is competent and has the appropriate skills to deal with group dynamics. However, they can never be fully overcome.
A1.4.23 Lastly, the output of focus groups can be difficult and time-consuming to analyse. There are few guidelines on how to detect important points and interpret key themes.

**Mini Groups and Paired In-depth Interviews**

A1.4.24 Specific types of focus groups are mini groups or paired in-depth interviews. Mini groups or pairs have many of the advantages of a focus group. Additionally, they are easier to manage, and it is generally easier to get a smaller than a larger group together.

A1.4.25 Especially when consulting experts from universities or local government, having a discussion between three people stimulates debate and elicits different viewpoints at the same time, whilst still leaving each member of the group enough room to elaborate on ideas and concepts.

iv) **Secondary Data Sources**

A1.5.1 There are many occasions upon which it is necessary to generate original data in order to answer a set of research questions. However, such is not always the case. It is important not to ignore that data, and information generally, that exists elsewhere. Secondary data are data which have been collected by somebody else.

A1.5.2 After identifying a particular research question, the first step should always be to ascertain whether it has already been answered, and if not, whether there are any suitable secondary data sources available.

A1.5.3 Using secondary data sources is generally cheaper and less time-consuming than collecting one's own data. If one uses administrative data generated by a large organisation (e.g. the LSC), then it may be extensive. If one uses other research data, then it will have been collected with research considerations in mind. If one uses established continuous survey data, they are likely to be statistically robust, involve large sample sizes and may reach otherwise inaccessible populations.

A1.5.4 A centrally funded data archive is run by the Economic and Social Research Council (ESRC) and located at the University of Essex. The data archive (www.data-archive.ac.uk) contains details of over 4,000 social and economic datasets including census data, general household surveys, and family expenditure surveys. There is a searchable on-line catalogue and topic index which gives details of authors, titles, abstracts, and methodologies. Any relevant studies can be ordered on-line if necessary.

A1.5.5 There are a number of secondary data sources which might be of interest to partnerships at some time or another, and even if the data is not available at small area level, these data sources provide valuable background information, for example on income and capital. Some of the large government surveys may be of particular interest. Examples include the Family Resources Survey, Family Expenditure Survey, the New Earnings...
Survey, the British Social Attitudes Survey and the General Household Survey.

A1.5.6 When using secondary data, one should be clear about: the purpose of the original study; the kind of information collected; the sample design, response rate, sample size and representativeness of the sample population (nationally, regionally and locally); reliability and validity; and, when the data was collected.

v) Participant Observation

A1.6.1 Participant observation can be a useful operational research tool. It is especially useful as a supplement to interviewing. It can be used to test the validity of interview data or to highlight areas to explore through other methods. In participant observation, an observer participates in and observes the activity or people under study.

A1.6.2 For example, useful insights might be derived from spending some time in a Citizens’ Advice Bureau (CAB) or other legal service supplier and, say, observing the problems that are presented and how clients are dealt with.

vi) Experiments and Pilots

A1.7.1 In experiments, events are manipulated in order to identify causal relationships. In their purest form social experiments involve selecting randomised groups of people, one of which will continue to exist as if no experiment were taking place (the so-called control group) and the other of which will enter into the experimental situation(s) (the so-called experimental group(s)). The experiences of the groups will then be compared to identify whether the experimental situation produced a measurable effect.

A1.7.2 Social experiments are generally field experiments, meaning they are conducted not in laboratories, but are integrated into everyday life. Field experiments could, for example, be used to test methods of service delivery. Different delivery methods could be introduced into a number of similar towns (in social and demographic terms) and the results observed and compared. Field experiments are difficult to design effectively. Expert advice should always be obtained before embarking on one.

A1.7.3 Field experiments are similar to pilots. The essential difference is that pilots need not involve control or comparative elements, and may involve continuous development throughout their lifetime. Experiments should not be interfered with during their lifetime.
APPENDIX 2

Tools for Surveys

Introduction

A2.1.1 This appendix sets out some additional guidance for the conduct of local surveys. It should be read in conjunction with Appendix 1. As was indicated in that section, the form and layout of questions is not only critical to the generation of appropriate and reliable data, it is also critical to the response rate a survey will generate. Set out below is a check list of considerations for drafting survey questionnaires. There then follows a series of model terms and questions for use in local surveys. They are not compulsory, as any question in any survey must be specific to its purpose. Also, their form is likely to develop over time. However, they have been developed in association with a range of experts and users and reflect current best practice. Wherever possible, therefore, they should be used in preference to locally conceived alternatives.

Considerations for Drafting Survey Questionnaires

A2.2.1 In the context of operational research, as was explained in Appendix 1, choices of methodology and the form of research instruments must always follow from an analysis of the information (or understanding) deficit that is preventing operational decision making. Part of this analysis will involve the formulation of a series of necessary and sufficient research questions, the answers to which will make good the deficit.

A2.2.2 Following on from this, if a survey method is chosen as the appropriate means to meet an information (or understanding) deficit, then a questionnaire must be drafted. General advice on different survey types was set out in Appendix 1. The following guidance is generally applicable to all survey types.

A2.2.3 The following check list should be observed when drafting questionnaires

(1) Questions should be clear and unambiguous. So:
   - technical language should be avoided except where directed at specialists;
   - uncommon or otherwise unfamiliar language should be avoided;
   - double negatives and undefined time-spans should also be avoided.
   If unfamiliar language must be used, examples or illustrations may be sensible. However see (6) below.

(2) Questions should relate to a single issue and demand a single answer.

(3) Questions should be as short as possible.
(4) Closed questions should be used in preference to open questions wherever possible.

(5) In the case of closed questions used during face to face interviews, cards should be prepared which set out the possible answers. In the case of intricate closed or open questions it may be appropriate to prepare cards with (textual) illustrations to aid understanding. However, see (6) below.

(6) Questions should not suggest their own answer (i.e. lead).

(7) Questions should appear morally and politically neutral, to prevent respondents from answering according to ideals rather than reality.

(8) Where questions relate to a specific period of time, clearly define it.

(9) Questions requiring overly strenuous use of memory should be avoided.

(10) Closed questions which are answered through picking ranges (e.g. 0-£1,000; £1,001-£2,000, etc.) should avoid range overlap.

(11) Closed questions which seek to measure attitude or satisfaction levels should be properly balanced. So, there should be the same number of positive and negative responses, and increments should be even. Sometimes a neutral response can be placed at the end of a list to prevent respondents 'sitting on the fence'.

(12) Questions should be ordered so they naturally follow on from each other. Also, abrupt changes in subject matter should be avoided or, where unavoidable, clearly indicated.

(13) Narrowly formulated questions should follow on from broadly formulated ones.

(14) Personal details should be located towards the end of a questionnaire except where absolutely necessary for routing through earlier questions.

(15) When asking questions on sensitive issues, such as earnings or savings, it is advisable to ask indirect questions or give ranged answers (see (10) above).

(16) Information should not be collected from someone on behalf of someone else unless there is no alternative to proxy responses.

(17) Any questions which are not essential to answering the overall research questions should be removed.
(18) Questionnaires should include an introductory section which explains the purpose of the research and how findings will be used, and assures respondents that the information they provide will be treated as being confidential.

A2.2.4 Finally, a number of conventions should be observed to ensure that those conducting interviews and those being surveyed are clear in their role. Instructions to interviewers should appear in CAPITAL letters. The instruction "ASK OR RECORD" should appear in relation to details that may already have been provided. Comments by questionnaire designers should appear in italics. Reference to "you" should be to the person being surveyed. Where alternative terms are to be asked they should be separated by "|". Text (in brackets) should be left to the discretion of the interviewer to read out.175

Recommended Terms and Form of Questions

Introduction

A2.3.1 Formulating social survey questions is a specialist skill. Inappropriate terminology, poor structure, and indistinct references can render survey results meaningless. In formulating questions, therefore, it is important to learn from past experience and adopt best practice whenever possible. This approach also promotes consistency of data across different surveys. Surveys developed in isolation of each other will often produce incompatible data. This prevents the data being combined for further analysis at, say, regional or national levels.

A2.3.2 Given the difficulty and expense of undertaking surveys, and the potential value of combining data from different surveys, harmonised terms and survey questions should be adopted whenever possible.

A2.3.3 Set out below are some recommended terms and questions. Because different surveys have different objectives, methodologies, budgets, numbers of questions, etc., the same questions, answers and terms cannot always be appropriate. Adopting the approach set out in the Office for National Statistics' Harmonised Concepts and Questions for Government Social Surveys,176 a hierarchy of terms and answers are often presented. The level of detail required in a particular study will determine whether more or less detailed terms are adopted.

A2.3.4 The recommended terms and questions set out below are not intended as a final word. Future research will no doubt see improvements develop. Furthermore, changes in the society, the administration of services and legislation may all require changes to terms and questions. Also, it is hoped that over time the number of recommended terms and questions will


176 Ibid.
increase to provide an ever more comprehensive resource for those setting out on operational research exercises.

**Terminology**

A2.3.5 This section sets out recommended terminology relating to legal subject categories and service providers. The following section, which sets out some recommended forms of survey question includes further shorter sets or recommended terminology. The terminology included in these two sections should be adopted whenever possible.

A2.3.6 When including the following terms in survey questions it is often advisable to provide an example or two to aid comprehension. If the broader terms are used, examples can be taken from the narrower ones. If the narrower terms are used, there is unlikely to be as great a need for clarification. If 'other' is included as a possible survey answer, it is generally sensible to provide room for details. This limits the dangers of being restrictive in answers given. It also provides useful information for use in developing future survey questionnaires.

A2.3.7 The formulations set out below draw heavily from the Nuffield Paths to Justice study and the BriefCase system.177

**Legal Subject and Service Provider Categories**

A2.3.8 The basic categories set out in paragraph A2.3.13 in bold text can be expanded to those in plain or italic text in in-depth surveys. There are 11 basic categories: consumer; debt; detention; discrimination or unfair treatment by the police; employment; family; housing; immigration; personal injury; welfare benefits/grants or community care; and, other. The 11 can be readily expanded to 13 by uncoupling discrimination from unfair treatment by the police and welfare benefits/grants from community care. 7 of the 11 categories involve a real prospect that individual persons' surveyed could fall on either side of a dispute. For example, in the case of housing a person may have a problem as a tenant or with a tenant.

A2.3.9 Importantly, at the basic category level, two alternative terminologies are provided. The terminology on the left is considered appropriate for lay persons. The terminology on the right is considered appropriate for service providers. Beyond the basic level of classification a unified terminology is considered appropriate.

A2.3.10 At all levels there is potential overlap between categories. The categories are designed to minimise overlap, but some overlap (especially as a result of miscommunication or misunderstanding) is inevitable. At the more detailed levels, categories are designed to accommodate likely overlap and make it transparent. As will be clear from the section dealing with specific questions, follow up questions requesting the details of opponents in

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177 See Moorhead, R., Webley, L. and Sherr, A. (1997) BriefCase: Case Classification System for Legal Advice and Assistance, London: Legal Aid Board
disputes can further differentiate subject categories and show up instances of overlap.

A2.3.11 There are 3 levels of detail in all categories except employment, which has 4. It may occasionally be appropriate to use different levels of categorisation in different subject areas within the same survey. The function of a survey will dictate when this is so.

A2.3.12 An additional survey question that can usefully supplement a question about 'legal' problems experienced is, "Has any legal action been taken or threatened against you? (e.g. Have you received a solicitor’s letter or had court proceedings started against you?)." Such a question can lead to a categorisation question utilising the categories set out below.

A2.3.13 The recommended categories are:

1. **Provision or receipt of faulty goods or services**
   a. Provision or receipt of faulty goods
   b. Provision or receipt of substandard service
      i. Provision or receipt of substandard professional service (where no injury or health problem resulted)
      ii. Provision or receipt of substandard public services (where no money is owed or owing)
      iii. Provision or receipt of substandard financial service (including pension and insurance)
      iv. Provision or receipt of substandard building service
   v. Provision or receipt of substandard other service
   vi. Other

2. **Payment or repayment of money (excl. welfare benefits)**
   a. Payment or repayment of rent/mortgage
   b. Payment or repayment of (non-mortgage) loan
      i. Payment or repayment of a bank, building society or finance house loan
      ii. Payment or repayment of credit cards, hire purchase or other regulated credit
      iii. Payment or repayment of catalogue debts
      iv. Payment or repayment of an unregulated debt
   c. Payment or repayment of tax
      i. Payment or repayment of income tax, national insurance, or VAT.
      ii. Payment or repayment of council tax
      iii. Payment or repayment of other tax
   d. Payment or repayment of utilities charges
      i. Payment or repayment of water, electricity or gas charges
      ii. Payment or repayment of television charges
   e. Payment or repayment of insurance claim
   f. Payment or repayment of other debt

3. **Detention in prison or hospital**
   (not relating to conviction/sentence)
   a'. Detention in prison
      i. Action against prison officer(s)
      ii. Categorisation
      iii. Transfers
      iv. Parole
      v. Disciplinary Board

<table>
<thead>
<tr>
<th>Consumer rights</th>
<th>Debt</th>
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<tr>
<td><strong>Provision or receipt of faulty goods or services</strong></td>
<td><strong>Payment or repayment of money (excl. welfare benefits)</strong></td>
</tr>
<tr>
<td><strong>Payment or repayment of tax</strong></td>
<td><strong>Payment or repayment of utilities charges</strong></td>
</tr>
<tr>
<td><strong>Payment or repayment of other debt</strong></td>
<td><strong>Detention in prison or hospital</strong></td>
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<table>
<thead>
<tr>
<th>Detention</th>
<th>Debt</th>
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<tbody>
<tr>
<td><strong>Detention</strong></td>
<td><strong>Payment or repayment of utilities charges</strong></td>
</tr>
<tr>
<td>(Mental Health / Prisoners' rights)</td>
<td>(<em>not relating to conviction/sentence</em>)</td>
</tr>
</tbody>
</table>
vi. Other

b. Detention in hospital
   i. Treatment or care
   ii. Obtaining Discharge
   iii. Restrictions or conditions of discharge
   iv. Care after release

4. Discrimination (excluding employment) or unfair treatment by the police
   a. Discrimination by an individual or private club
      i. Discrimination because of race
      ii. Discrimination because of religion
      iii. Discrimination because of gender
      iv. Discrimination because of disability
      v. Discrimination because of age
      vi. Discrimination because of something else
   b. Discrimination by a service supplier
      i. Discrimination because of race
      ii. Discrimination because of religion
      iii. Discrimination because of gender
      iv. Discrimination because of disability
      v. Discrimination because of age
      vi. Discrimination because of something else
   c. Discrimination by a public body (e.g. local authority)
      i. Discrimination because of race
      ii. Discrimination because of religion
      iii. Discrimination because of gender
      iv. Discrimination because of disability
      v. Discrimination because of age
      vi. Discrimination because of something else
   d. Unfair treatment by the police
      i. Harassment by the police
      ii. Assault by the police
      iii. False imprisonment/wrongful arrest
      iv. Malicious prosecution
      v. Trespass by the police
      vi. Interference with belongings by the police

5. Employment
   a. Employment (excluding discrimination and harassment)
      i. Obtaining employment
      ii. Terms of employment
         A. Pay
         B. Deductions from pay
         C. Pension
         D. Normal working hours
         E. Holiday leave
         F. Maternity and Paternity leave
         G. Sick leave
         H. Disciplinary procedures
         I. Union membership
         J. Other
      iii. Working conditions (excluding safety)
      iv. Safety of working conditions
      v. Termination of employment
         A. Suspension
         B. Threat of dismissal
         C. Forced resignation
         D. Unfair dismissal
         E. Redundancy
b. Discrimination relating to employment
   i. Obtaining employment or promotion
      A. Discrimination because of race
      B. Discrimination because of religion
      C. Discrimination because of gender
      D. Discrimination because of disability
      E. Discrimination because of age
      F. Discrimination because of something else
   ii. Terms of employment
      A. Discrimination because of race
      B. Discrimination because of religion
      C. Discrimination because of gender
      D. Discrimination because of disability
      E. Discrimination because of age
      F. Discrimination because of something else
   iii. Working conditions (including safety at work)
      A. Discrimination because of race
      B. Discrimination because of religion
      C. Discrimination because of gender
      D. Discrimination because of disability
      E. Discrimination because of age
      F. Discrimination because of something else
   iv. Termination of employment
      A. Discrimination because of race
      B. Discrimination because of religion
      C. Discrimination because of gender
      D. Discrimination because of disability
      E. Discrimination because of age
      F. Discrimination because of something else

c. Harassment at work

6. (Family) relationships and children
   a. Divorce or separation (excluding problems relating to children)
      i. Divorce or separation only
      ii. Division or money, pensions or property on divorce/separation
      iii. Receipt or payment of maintenance on divorce or separation
   b. Children
      i. Receipt or payment of child support
      ii. Residence and contact (custody and access) arrangements
      iii. Taken into care or placed on Child Protection Register
      iv. Abduction or threat of abduction
      v. Fostering, adoption or legal guardianship
      vi. Choice of school
      vii. Unfair exclusion or suspension from school
   c. Violence
      i. Against you by your partner (or ex-partner)
      ii. Against your child(ren) by your partner (or ex-partner)
      vii. Against someone else living with you by your partner (or ex-partner)
      iv. Against you by your child(ren)
      v. Against your partner by your child(ren)
      vi. Against your child(ren) by your other child(ren)
      vii. Against someone else living with you by your child(ren)
      viii. By you against a member of your family

7. Your home and other residential property
   a. Ownership of your home
      i. Sale or purchase
      ii. Repossession
      iii. Alterations or planning permission
      iv. Maintenance
v. Communal repairs or maintenance
vi. Squatters
vii. Neighbours

b. Renting rooms or property to a lodger or tenant
i. Repeated non-payment of rent (rent arrears)
ii. Disagreement on terms of tenancy
iii. Sub-letting
iv. Anti-social behaviour by lodger/tenant
v. Early abandonment or return of deposit
vi. Repairs to damage caused by lodger/tenant
vii. Maintenance of the building
viii. Safety regulations
ix. Managing or letting agents

c. Living in rented accommodation
i. Disagreement on terms of rental agreement
ii. Provision of written rental agreement
iii. Getting repairs to the building
iv. Safety regulations
v. Sub-letting
vi. Return of deposit
vii. Eviction or threat of eviction
viii. Obtaining payment towards shared bills
ix. Harassment by landlord or agents of your landlord
x. Neighbours

d. Homelessness
i. Obtaining temporary accommodation
ii. Obtaining permanent accommodation

8. Nationality or residence in the United Kingdom
   a. Entering or remaining in the UK
      i. asylum
      ii. other long term immigration
      iii. unauthorised entry
      iv. conditions of entry
   
   b. Family member/partner entering or remaining in the UK
      i. asylum
      ii. other long term immigration
      iii. unauthorised entry
      iv. conditions of entry
   
   c. Change of residence or nationality status
      i. change of residence status (excluding nationality)
      ii. extension of authority to remain in UK
      iii. obtaining UK citizenship
      iv. nationality disputed

9. (Non trivial) injury or health problem caused by someone else
   a. (Non trivial) injury or health problem caused by a doctor or dentist,
      with complete or almost complete recovery taking longer than 2 years.
      i. misdiagnosis
      ii. inappropriate treatment
      iii. quality of treatment
   
   b. Other (Non trivial) injury or health problem caused by a doctor or dentist
      i. misdiagnosis
      ii. inappropriate treatment
      iii. quality of treatment
   
   c. (Non trivial) injury or health problem resulting from your job/school attendance,
      with complete or almost complete recovery taking longer than 2 years.
      i. accident at work/school
      ii. assault at work/school
iii. illness or other health problem caused by work/school environment
d. (Non trivial) injury or health problem resulting from your job/school attendance,
   i. accident at work/school
   ii. assault at work/school
   iii. illness or other health problem caused by work/school environment
e. (Non trivial) injury or health problem caused by someone outside of your job/school,
   with complete or almost complete recovery taking longer than 2 years.
   i. traffic accident
   ii. trip or slip on the street
   iii. accident in a property not belonging to you
   iv. accident caused by a defective product
   v. other
f. (Non trivial) injury or health problem caused by someone outside of your job/school,
   i. traffic accident
   ii. trip or slip on the street
   iii. accident in a property not belonging to you
   iv. accident caused by a defective product
   v. other

10. Welfare benefits or community care
a. Welfare benefits
   i. Eligibility
   ii. Calculation of benefit level
   iii. Review on change of circumstances
   iv. Payment or repayment
   v. Allegation of fraud
b. Community care
   i. Obtaining a local authority assessment
   ii. Results of local authority assessment
   iii. Level of care and service

11. Other

A2.3.14 The following list of terms includes both formal and informal providers of advice and legal services. As in the preceding section, the 5 categories in bold text can be expanded to include those in plain text.

1. Friend or relative
   a. Friend or relative who works as a lawyer or adviser
   b. Other friend or relative

2. Independent advice agency
   a. Citizens Advice Bureau (CAB)
   b. Law centre
   c. Other advice agency/worker (e.g. Money Advice Unit)

3. Lawyer
   a. Solicitors' firm
      i. Solicitor
      ii. Other legal adviser working in a solicitors' firm
   b. Barrister
   c. Other
      i. Legal adviser directly provided by an insurer, organisation (e.g. AA), etc..
      ii. Other legal consultant
      iii. Claims agency (e.g. Claims Direct)

4. Public or Regulating Authority
   a. Public authority
      i. Local council department (excluding social services)
ii. Social worker or social services
iii. Job centre
iv. Trading standards officer
b. Regulating authority
   i. Industry regulator (e.g. OFWAT)
   ii. Ombudsman
   iii. Trade association (e.g. ABTA, NAEA)
c. Police
d. Member of Parliament or Local Councillor
   i. Member of Parliament
   ii. Local Councillor

5. Trade union or professional body
   a. Trade union or staff association
   b. Professional body (e.g. BMA, Law Society)

6. Other non-profit organisation
   a. Housing association
   b. Religious organisation (e.g. church, mosque, synagogue)
   c. Other

7. Other
   a. Employer
   b. Insurance Company
   c. Court Staff

Questions

A2.3.15 The survey questions set out below provide a range of potential questions for use in local surveys. They are unlikely to provide a complete set of questions for any particular survey. They should be used whenever appropriate. Although small changes may be necessary in particular instances, it is recommended that the form of questions be deviated from only in exceptional circumstances. The questions set out below have been carefully crafted and provide maximum compatibility with other data sources.

A2.3.16 A survey questionnaire aimed at individuals should always ask some questions about the personal characteristics of the respondents. Answers provide an indication of how representative a sample is. It is usual to include gender, age, ethnicity, employment, and basic household questions. All answers should be numbered for easy coding at a later stage.

A2.3.17 A survey questionnaire aimed at organisations should also ask some questions about the personal characteristics of the respondents, and the position of the respondent in the organisation. Again, this is important for comparing the sample to the wider population. It also may be important to distinguish from different perspectives held by people in different positions.

A2.3.18 Questions relating to peoples’ experience of legal problems are notoriously difficult to design. The legal problem categories set out above should therefore be used unless there are exceptional circumstances.

A2.3.19 In designing questions asking about experience of problems, ideally three questions should be used to establish their nature and date. First, a question
should ask, "Have you ever had any problems or disputes, that were difficult to resolve, to do with any of the following?" In the case of personal injuries this question should be rephrased, "Have you ever suffered any injury or health problem which was caused by / resulted from the following?" A second question should then ask whether this happened since a specific date (which will define the survey's time frame). A third question should then ask, "What was the date you first suffered the injury or health problem?"

A2.3.20 Additional recommended questions relating to access to legal services are:

1. Did you seek help with your problem/dispute?
   1. Yes (GO TO Question 2)  2. No (GO TO Question 3)

2. If yes, did you have any difficulty obtaining it?
   1. Yes (GO TO Question 4, then 5)  2. No

3. Why didn't you seek help with your problem?
   NB Respondents could be given the option of either ticking the one answer which best describes their situation, or of ticking all the possible answers which apply
   1. Problem not serious enough
   2. Deal with the problem myself
   3. Problem was resolved before I got around to seeking help
   4. Language problems
   5. Couldn't be bothered
   6. Too busy
   7. Didn't know where to go, or how to get help
   8. Didn't trust anybody to help
   9. Couldn't get to advice service

4. Who did you (first) contact for help with your problem?
   NB Answers should adopt the terminology set out in the preceding section

5. I had problems obtaining help because of
   1. Opening hours
   2. Telephone was always engaged
   3. Couldn't get an appointment
   4. Was embarrassed to be seen using the service
   5. Couldn't afford it
   6. Advice not available locally/Couldn't get there
   7. Too long to wait
   8. Other (please specify) ..............................

6. What kind of help did you want in order to sort out your problem(s)?
   N.B. This question ascertains level of service from a client's aspirational perspective. Questions directed to service providers should use the terminology of the CLS in relation to levels of service.
   1. I wanted to know whether there was anything that could be done to sort out/solve my problem.
   2. I wanted to be provided with some (advanced) information, so that I could sort my problem out myself.
   3. I wanted some information and basic support, so that I could sort my problem out.
   4. I wanted somebody to help deal with the problem (e.g. talking to the other side).
   5. I wanted somebody to sort out my problem for me.
   6. I wanted somebody to appear on my behalf/represent me before a court (or other tribunal).
7. What help did the service you approached for help give you?
   1. I was told whether or not there was anything that could be done to sort out/solve my problem.
   2. I was provided with some (advanced) information, which enabled me to sort out my problem myself.
   3. I was provided with some information and basic support.
   4. Somebody helped me deal with the problem (e.g. talking to the other side).
   5. Somebody sorted my problem out for me.
   6. Somebody appeared on my behalf/represented me before a court (or other tribunal).

8. How many times did you go to the advice service about your problem(s)?
   1. Once
   2. Two or more times
      a. Two to five times
      b. Six to ten times
      c. Eleven times or more
      d. Can't remember exact number
   3. Don't know

9. How satisfied were you with the way your problem was dealt with?
   1. Very satisfied
   2. Fairly satisfied
   3. Neither satisfied nor dissatisfied
   4. Fairly dissatisfied
   5. Very dissatisfied
   6. Don't know

10. Would you recommend the service you received to someone else?
    1. Yes
    2. No

11. What level of ability were you looking for in the person or organisation you asked for help?
    1. Basic knowledge (e.g. who else to contact, having information sent to me)
    2. Specific expertise relevant to my problem
    3. An expert representing me in court (or at a tribunal)

12. How did you receive help? Through a:
    1. Publication (e.g. leaflet)
    2. Letter
    3. Internet
    4. Telephone conversation
    5. Face-to-face conversation

13. Did you contact any of these people or organisations about your problem(s)?
    Please tick all that apply. N.B. See service providers' categories above.

14. How did you find out about the service you went to?
    1. Friends or relatives
    2. Advert (e.g. local media, telephone book)
    3. Internet
    4. Referred to it by an official agency/person (e.g. Council, Citizens' Advice Bureau)
    5. Previous experience
    6. Spontaneously walked in off the street
    7. CLS Directory
    8. Don't know/can't remember
    9. Other (please specify) ..................
15. How far did you have to travel to see your advisor?
   1. No more than 5 miles
      a. Less than 1 mile
      b. Between 2 and 5 miles
   2. More than 5 miles, but less than 30
      a. 6 - 14 miles
      b. 15 - 29 miles
   3. 30 miles or more
      a. 30 - 49 miles
      b. 50 miles or more
   4. Can't say
   5. No travel / Advisor travelled to me

16. How long did it take for you to travel to see your advisor?
   1. Not more than 10 minutes
   2. More than 10 minutes but less than 30 minutes
   3. More than 30 minutes but less than 60 minutes
   4. More than 60 minutes
   5. Can't say
   6. No travel / Advisor travelled to me

17. How much did it cost for you to travel to see your advisor?
   1. Less than £1
   2. Between £1 and £5
   3. More than £5
   4. Can't say
   5. No travel / Advisor travelled to me

18. How did you travel to see your advisor?
   1. Walked or cycled
   2. Private car
   3. Public transport
      a. Bus
      b. Train
      c. Plane
      d. Taxi
   4. Other

19. Did you require any special services, on account of your personal circumstances?
   1. Wheelchair access
   2. Place for children to play whilst I was using the service
   3. Minority language provision
   4. Female advisors available where appropriate
   5. Home visit or special transport
   6. Help because of hearing or visual impairment
      a. Help because of hearing impairment
      b. Help because of visual impairment
   7. Other (please specify) ..................................

20. If you required a special service, did you get it?
   1. Yes
   2. No
21. On a scale of 1 to 5, how important do you rate each of the following aspects of advice provision? (5 most important, 1 least important)
   1. Convenient opening hours and location
   2. Helpful and understanding staff
   3. Easy access to building
   4. Information available via the telephone
   5. Information available via the Internet
   6. Information available at e.g. supermarkets, doctors' surgeries
   7. Providing advice and information in a language you can understand
   8. Being kept up-to-date with how your problem is being dealt with

22. Have you ever received any of the following?
   1. Legal Advice and Assistance
   2. Civil Legal Aid

   When?
   Please specify in months and years __/___

A2.3.21 The above questions specifically relate to access to legal services. The questions below can be used to determine the socio-demographic characteristics of respondents.

1. Are you ...?
   1. Male 2. Female

2. What is your date of birth?
   __/___/___

3. To which of these groups do you consider you belong?
   1. White
      a. White
      b. Irish
      c. Other
   2. Mixed
      a. White and Black Caribbean
      b. White and Black African
      c. White and Asian
      d. Other
   3. Asian or Asian British
      a. Indian
      b. Pakistani
      c. Bangladeshi
      d. Other
   4. Black or Black British
      a. Black Caribbean
      b. Black African
      c. Other
   5. Other
      a. Chinese
      b. Other

4. What is your marital status?
   1. Single, meaning never married
   2. Married and living with husband/wife
   3. Married and separated from husband/wife
   4. Divorced
   5. Widowed
6. In which of these ways do you occupy your accommodation?
   1. Own it outright
   2. Buying it with the help of a mortgage or loan
   3. Pay part rent and part mortgage (shared ownership)
   4. Rent it
   5. Live rent-free (including rent-free in relative's/friend's property, excluding squatting)
   6. Squatting

7. If you rent or live rent-free, who is your landlord?
   1. Organisations
      a. Local Authority / Council / New Town Development
      b. Housing association, co-operative or charitable trust
      c. Employer (organisation) of a household member
      d. Another organisation
   2. Individuals
      a. Relative or friend (who was a relative or friend before you lived in your present accommodation) of a household member
      b. Employer (individual) of a household member
      c. Another individual private landlord

8. If you rent or live rent-free, is the accommodation provided?
   1. Furnished
   2. Partly furnished (e.g. curtains and carpets only)
   3. Unfurnished

9. Are you ...?
   1. Working
      a. Employed
         i. Employed (full-time)
         ii. Employed (part-time)
      b. Self-employed
         i. Self-employed (full-time)
         ii. Self-employed (part-time)
   2. A student
   3. Not working
      a. Retired
      b. Looking after family/home
      c. Permanently sick/disabled
      d. Temporarily sick or injured
      e. Unemployed and claiming IS or Job Seekers Allowance
      f. Other unemployed
   4. Other (Please specify) ................................

10. At what age did you finish your continuous full-time education? Ignore gaps of one year of less
    1. Age (please specify) ............................
    2. Still in full-time education
    3. Don't know
    4. Other (please specify) ..........................

11. Do you receive any of the following benefits?
    1. Income Support  □ / Income-based Jobseeker's Allowance  □
    2. Working Families Tax Credit □ / Disabled Persons Tax Credit □
    3. Incapacity Benefit □ / Severe Disablement Allowance □
    4. Disability Living Allowance □ / Disability Attendance Allowance □
12. Do you receive any non-means-tested benefits (e.g. Disability Living Allowance, Incapacity Benefit, Contribution-based Jobseeker's Allowance) (Do not include Child Benefit)? NB: Answers to this question should be used with caution, as respondents tend to underestimate benefit receipt.
   1. Yes   2. No

13. Does your household have any of the following items in your accommodation?
   1. Telephone
   2. TV set
   3. TV satellite / cable receiver
   4. Video recorder
   5. Computer
   6. Internet access

14. Do you at present own or have continuous use of any motor vehicles?
   1. Yes   2. No

15. Do you have any long-standing illness, disability or infirmity? Long-standing means anything that has troubled you over a long period of time or that is likely to affect you over a long period of time.
   1. Yes   2. No

16. How many people are there in your household, including yourself? A household is one person or a group of people who have the accommodation as their only or main residence and, for a group, either share at least one meal a day or share the living accommodation, that is a living room or sitting room.
   1 3 5 7+
   2 4 6
APPENDIX 3

SHORT QUESTIONNAIRE (For incorporation into panel type surveys)

1. In the last year, have you had any problems or disputes, that were difficult to resolve, to do with any of the following: (If more than one, please number them in the order they occurred)

Goods or Services

Provision or receipt of faulty goods or services (e.g. substandard building work / financial advice) .................................................. □

Health

An injury or health problem caused by a doctor, dentist or nurse ................................................................. □
An injury or health problem caused by someone else ................................................................................ □
Detention in hospital (e.g. discharge, conditions of discharge, treatment or care) .................................................. □
Community Care (e.g. obtaining assessment, result of assessment) ................................................................. □

Employment

Discrimination (race, religion, gender, disability) / harassment at work ................................................................ □
Employment terms or conditions (e.g. hours, leave, union membership, disciplinary procedures) ............... □
Termination of employment (including threat of dismissal) ............................................................................. □

Finance

Eligibility for, or amount of, welfare benefits ................................................................................................. □
Payment or repayment of rent/mortgage ........................................................................................................ □
Payment or repayment of other money (excluding welfare benefits) ........................................................ □

Family

Divorce or separation ........................................................................................................................................ □
Your children being taken into care or placed on the Child Protection Register ........................................ □
Fostering, adoption or legal guardianship ....................................................................................................... □
Choice of school or unfair exclusion or suspension ..................................................................................... □
Domestic violence (against you) .................................................................................................................. □

Housing

Neighbours .................................................................................................................................................. □
Ownership of your home (e.g. repossession, planning permission, squatters) ................................................ □
Getting repairs to rented accommodation .................................................................................................. □
Other problems with renting (principal residence only) (e.g. terms of rent, safety regulations, sub-letting, eviction) .......................................................................................................................... □
Homelessness ........................................................................................................................................... □

Other

Unfair treatment (including discrimination) by the police ............................................................................... □
Discrimination by any other public body (e.g. local authority) ...................................................................... □
Detention in prison (not relating to conviction/sentence) (e.g. categorisation, transfer, parole) ................... □
Your nationality ........................................................................................................................................... □
Residence in the United Kingdom ................................................................................................................ □
Being threatened with legal action (other than in a criminal matter) ........................................................ □
2. Did you receive help from a person or organisation in relation to your problems/disputes?

**Most Recent Problem**
1. Yes (Go to question 3) □
2. No (Go to question 4) □

**Second Most Recent Problem**
1. Yes (Go to question 3) □
2. No (Go to question 4) □

**Third Most Recent Problem**
1. Yes (Go to question 3) □
2. No (Go to question 4) □

3. From which of the following did you receive help:

**Literature**
1. Publication □ □ □
2. Web-site □ □ □

**In Person or by Telephone**
3. Friend or relative □ □ □
4. Advice Agency □ □ □
5. Council □ □ □
6. Other public authority □ □ □
7. Trade union or professional body □ □ □
8. Other non-profit organisation □ □ □
9. Private lawyer □ □ □
10. Other lawyer □ □ □
11. Other (specify) .................................................. □ □ □

(Go to Question 6)

4. Did you obtain any information from the following in relation to your problems/disputes?

1. Friend or relative □ □ □
2. Publication □ □ □
3. Web-site □ □ □

5. If you didn’t obtain help with your problem, why was this?

**Most Recent Problem**
1. Sought help, but could not obtain it □ □ □
2. Didn’t know where to go, or how to get help □ □ □
3. Didn’t trust anybody to help □ □ □
4. Problem not serious enough □ □ □
5. Dealt with the problem myself □ □ □
6. Problem was resolved before I got around to seeking help □ □ □
7. Language problems □ □ □
8. Couldn’t be bothered □ □ □
9. Couldn’t get to advice service □ □ □
10. Too busy □ □ □

2nd Most Recent □ □ □
3rd Most Recent □ □ □
6. Where you sought help in person, was it all within (your local authority boundary - for CLSP to specify)?

<table>
<thead>
<tr>
<th></th>
<th>Most Recent Problem</th>
<th>Second Most Recent Problem</th>
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7. Has your problem been resolved, or do you consider the matter to be concluded?

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<th>Second Most Recent Problem</th>
<th>Third Most Recent Problem</th>
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8. If your problem has been resolved or concluded, did this require you or your representative to use a court process (including a social security appeal or other tribunal)?

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<th>Most Recent Problem</th>
<th>Second Most Recent Problem</th>
<th>Third Most Recent Problem</th>
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<td></td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. To which of these groups do you consider you belong?

1. White
   a. British [ ]
   b. Irish [ ]
   c. Other [ ]

2. Mixed
   a. White and Black Caribbean [ ]
   b. White and Black African [ ]
   c. White and Asian [ ]
   d. Other [ ]

3. Asian or Asian British
   a. Indian [ ]
   b. Pakistani [ ]
   c. Bangladeshi [ ]
   d. Other [ ]

4. Black or Black British
   a. Black Caribbean [ ]
   b. Black African [ ]
   c. Other [ ]

5. Other
   a. Chinese [ ]
   b. Other [ ]
10. Are you:
   1. Female? ☐
   2. Male? ☐

11. What is your date of birth?
   ____/____/____

12. In which of these ways do you occupy your accommodation?
   1. Own it outright or with the help of a mortgage ☐
   2. Rent it ☐
   3. Live rent-free ☐

13. Do you receive any of the following benefits?
   1. Income Support ☐ / Income-based Jobseeker's Allowance ☐
   2. Working Families Tax Credit ☐ / Disabled Persons Tax Credit ☐
   3. Incapacity Benefit ☐ / Severe Disablement Allowance ☐
   4. Disability Living Allowance ☐ / Disability Attendance Allowance ☐

14. Are you in receipt of a state pension as your only source of income?
   1. Yes ☐
   2. No ☐

15. Do you have any long-standing illness, disability or infirmity?
   1. Yes ☐
   2. No ☐
APPENDIX 4

Technical Supplement: The Correlation Coefficient

The rank of each ward within an authority was calculated for each indicator and need values looked at. The ranks could then be compared by using the correlation coefficient. It was not possible to compare the actual values of the wards since the raw data used in the Index of Local Conditions was not available, but only the values after various statistical manipulations had been performed on the data.

The formula for the correlation coefficient is

\[ r_{xy} = \frac{\sum_{i=1}^{n} X_i Y_i - \frac{\sum_{i=1}^{n} X_i \sum_{i=1}^{n} Y_i}{n}}{\sqrt{\left(\sum_{i=1}^{n} X_i^2 - \frac{\left(\sum_{i=1}^{n} X_i\right)^2}{n}\right)\left(\sum_{i=1}^{n} Y_i^2 - \frac{\left(\sum_{i=1}^{n} Y_i\right)^2}{n}\right)}} \]

where \( X_i \) and \( Y_i \) are the ranks of ward \( i \) in the data set \( X \) and \( Y \) respectively, where there are \( n \) wards in the authority (Berenson and Levine, 1986). This is equivalent to the Spearman rank-correlation when just the ranks are being compared. (A proof of this follows at the end of this Appendix.)

The Spearman rank-correlation is

\[ r_s = 1 - \frac{6 \times \sum_{i=1}^{n} (X_i - Y_i)^2}{n(n^2 - 1)} \]

It is possible to test the hypothesis \( H_0 \): there is no positive association between \( X \) and \( Y \). This is a one-sided test. Under the null hypothesis, \( H_0 \), the test statistic \( Z = r_s \sqrt{n - 1} \) has approximately a standard Normal distribution.

This results in \( H_0 \) being rejected, i.e. there is a significant positive association between the two sets of ranks at the 5% level\(^{179}\), if

- \( r_s \geq 0.343 \) for \( n = 24 \) (Ealing and Kirklees)
- \( r_s \geq 0.323 \) for \( n = 27 \) (North Cornwall and Nottingham)
- \( r_s \geq 0.291 \) for \( n = 33 \) (Liverpool)
- \( r_s \geq 0.260 \) for \( n = 41 \) (South Norfolk)

Since most of the correlation coefficients exceeded these values and this report is more concerned with comparisons between the authorities, the significance of each correlation was not deemed as relevant as the actual values of the coefficient.

An illustration of how the correlation coefficient is obtained is shown below.

---

### Ward names and Unemployment Rankings

<table>
<thead>
<tr>
<th>Ward Name</th>
<th>ILC Unemploy. Ranking, (X_i)</th>
<th>CLS Unemploy. Ranking, (Y_i)</th>
<th>( (X_i - Y_i)^2 )</th>
<th>( X_i ) ( Y_i )</th>
<th>( X_i^* ) ( Y_i^* )</th>
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<td>Almondbury</td>
<td>0.149341 14</td>
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<td>300</td>
<td>212</td>
<td>4794</td>
<td>4900</td>
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</table>

Using the Spearman rank correlation:

\[
r_s = 1 - \frac{6 \sum_{i=1}^{n} (X_i - Y_i)^2}{n(n^2 - 1)} = 1 - \frac{6 \times 212}{24(24^2 - 1)} = 0.908
\]
Using the Correlation coefficient:

\[
    r_{x,y} = \frac{\sum_{i=1}^{n} X_i Y_i - \frac{\sum_{i=1}^{n} X_i \sum_{i=1}^{n} Y_i}{n}}{\sqrt{\left(\sum_{i=1}^{n} X_i^2 - \frac{(\sum_{i=1}^{n} X_i)^2}{n}\right)\left(\sum_{i=1}^{n} Y_i^2 - \frac{(\sum_{i=1}^{n} Y_i)^2}{n}\right)}}
\]

\[
    = \frac{4794 - \frac{300 \times 300}{24}}{\sqrt{(4900 - \frac{300^2}{24})(4900 - \frac{300^2}{24})}} = 0.908
\]

Both of these methods give the same value of 0.908, which is significant at the 5% level.

**Proof that the correlation coefficient with ranks = Spearman rank correlation**

To prove that these correlation are equal, two identities need to be proved first. These proofs are done by induction.

**Identity 1 :** \( \sum_{i=1}^{n} i = \frac{1}{2} \times n(n + 1) \)

When \( n=1 \), the left hand side = 1
the right hand side = \( 0.5 \times 1 \times 2 = 1 \)

Assume true for \( n=k \)

\[
    \sum_{i=1}^{k} i = \frac{1}{2} \times k(k + 1)
\]

\[
    \sum_{i=1}^{k} i + (k + 1) = \frac{1}{2} \times k(k + 1) + (k + 1)
\]

\[
    \sum_{i=1}^{k} i = (k + 1)(\frac{1}{2} k + 1)
\]

\[
    \sum_{i=1}^{k} i = \frac{1}{2} \times (k + 1)((k + 1) + 1)
\]

Therefore the identity is true for \( n=k+1 \).
Identity 1 is true for \( n=1 \), therefore true for \( n=2,3,4,... \)
\textbf{Identity 2} : \( \sum_{i=1}^{n} i^2 = \frac{1}{6} \times n(n+1)(2n+1) \)

When \( n=1 \), the left hand side = 1
the right hand side = \( \frac{1}{6} \times 1(2)(3) = 1 \)

Assume true for \( n=k \)

\[
\sum_{i=1}^{k} i^2 = \frac{1}{6} \times k(k+1)(2k+1)
\]

\[
\sum_{i=1}^{k} i^2 + (k+1)^2 = \frac{1}{6} \times k(k+1)(2k+1) + (k+1)^2
\]

\[
\sum_{i=1}^{k+1} i^2 = \frac{1}{6} (k+1)(k(2k+1) + 6(k+1))
\]

\[
\sum_{i=1}^{k+1} i^2 = \frac{1}{6} (k+1)(2k^2 + 7k + 6)
\]

\[
\sum_{i=1}^{k+1} i^2 = \frac{1}{6} (k+1)((k+1)+1)(2(k+1)+1)
\]

Therefore the identity is true for \( n=k+1 \).
Identity 2 is true for \( n=1 \), therefore true for \( n=2,3,4,... \)

\textbf{Main Proof}

The correlation coefficient

\[
r_{x,y} = \frac{\sum_{i=1}^{n} X_i Y_i - \frac{\sum_{i=1}^{n} X_i \sum_{i=1}^{n} Y_i}{n}}{\sqrt{\left( \sum_{i=1}^{n} X_i^2 - \frac{(\sum_{i=1}^{n} X_i)^2}{n} \right) \left( \sum_{i=1}^{n} Y_i^2 - \frac{(\sum_{i=1}^{n} Y_i)^2}{n} \right)}}
\]

When \( X_i \) and \( Y_i \) represent ranks, using identities 1 and 2, this simplifies to

\[
r_{x,y} = \frac{\sum_{i=1}^{n} X_i Y_i - \frac{1}{2} \frac{n(n+1)}{2} \frac{n(n+1)}{2}}{\sqrt{\left( \frac{1}{6} n(n+1)(2n+1) - \frac{1}{n} \left( \frac{1}{2} n(n+1) \right)^2 \right) ^2}}
\]
\[ r_{x,y} = \frac{\sum_{i=1}^{n} X_i Y_i - \frac{1}{4} n(n+1)^2}{\frac{1}{6} n(n+1)(2n+1) - \frac{1}{4} n(n+1)^2} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i - 3n(n+1)^2}{2n(n+1)(2n+1) - 3n(n+1)^2} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i - 3n(n+1)^2}{4n^3 + 6n^2 + 2n - 3n^3 - 6n^2 - 3n} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i - 3n(n+1)^2}{n^3 - n} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i - 3n(n+1)^2}{n(n^2 - 1)} - \frac{3n(n+1)^2}{n(n+1)(n-1)} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i}{n(n^2 - 1)} - \frac{3(n+1)}{(n-1)} \]

\[ r_{x,y} = \frac{12 \times \sum_{i=1}^{n} X_i Y_i}{n(n^2 - 1)} + \frac{(n-1) - (2n+1) - (2n+1)}{(n-1)} \]

\[ r_{x,y} = 1 - \frac{(2n+1)}{n-1} + \frac{12 \times \sum_{i=1}^{n} X_i Y_i}{n(n^2 - 1)} - \frac{(2n+1)}{n-1} \]

\[ r_{x,y} = 1 - \frac{n(n+1)(2n+1) - 12 \times \sum_{i=1}^{n} X_i Y_i + n(n+1)(2n+1)}{n(n^2 - 1)} \]

\[ r_{x,y} = 1 - \frac{(\frac{1}{6} n(n+1)(2n+1) - 2 \times \sum_{i=1}^{n} X_i Y_i + \frac{1}{6} n(n+1)(2n+1))}{n(n^2 - 1)} \]
\[
 r_{xy} = 1 - 6 \times \frac{\left( \sum_{i=1}^{n} X_i^2 - 2 \times \sum_{i=1}^{n} X_i Y_i + \sum_{i=1}^{n} Y_i^2 \right)}{n(n^2 - 1)}
\]

\[
 r_{xy} = 1 - 6 \times \frac{\left( \sum_{i=1}^{n} (X_i - Y_i)^2 \right)}{n(n^2 - 1)} = r_s = \text{Spearman rank correlation}
\]

**Perfect Correlation**

If there is a perfect correlation between two sets of ranks, then it was stated in the main text of this report that the correlation coefficient will be exactly one. This can be easily seen by looking at the Spearman rank correlation formula. A perfect correlation means that \( X_i \) has the same value as \( Y_i \) for each \( i \), and so \( X_i - Y_i = 0 \) for each \( i \). In the correlation formula, the term \( \sum_{i=1}^{n} (X_i - Y_i)^2 \) can thus be equated to zero when there is perfect correlation, and hence the correlation value will be one.