Uncontested Professionalism: Phoney Turf Wars and the Myth of Holism

W G Hart 2007 on Access to Justice

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ABTRACT

This paper considers the ways in which members of the public present problems to advice agencies and solicitors' firms. It looks, in particular, at the incidence and management of clients with problem clusters; that is, clients with more than one problem that crosses more than one area of practice to see how well those problems are resolved. It shows that multiple problems are common, and are only partially recognised by the advisers that deal with those clients. Furthermore, whilst lip-service is paid to the idea of holistic service in both policy literature and professional propaganda, it is an idea which is more honoured in the breach than in practice. Whilst this research exposes the idea that solicitors are not holistic, whereas nonlawyers are holistic, as something of a phoney war; it also emphasises the important intersectionality between legal and social problems which poses a number of interesting dilemmas to for access to justice policy. The idea of intersectionality is that legal and non-legal problems interact causally (creating more problems) and on the capacity of clients (literally wearing them down and reducing their capacity to cope with and solve problems). How far should legal service models adapt to that intersectionality? Should non-legal problems be dealt with alongside non-legal problems? What skills and service models are best placed to meet such needs?

Introduction

The aims of this research project were to:

The report can be downloaded at: http://www.law.cf.ac.uk/staff/MoorheadR

1. Examine how and when clients have, and present with, multiple problems when in contact with advice agencies and solicitors' firms;

2. Consider the ability of legal advice and information services to provide holistic approaches to advice and dispute resolution;

3. Identify barriers to holistic provision; and,

4. Identify examples of good practice approaches to the holistic provision of advice and dispute resolution, including, where possible, outlining the potential for better service delivery for complex problems.

Why are problem clusters important?

The notion of problem clusters has its origins in two elements of the justice sphere. It initially surfaced in the advice movement's advocacy of holistic advice. Non-lawyer organisations (e.g. Citizens Advice Bureaux), or non-traditional lawyer based providers (such as Law Centres) have emphasised that advice service delivery should respond to the notion that clients' problems are often multi-faceted; legal and non-legal; and complex and interrelated and do not simply draw on narrow legal techniques for problem resolution. The reconceptualisation of advice provision that this involved was a main basis for non-lawyer challenges to the dominant private practice model of legal services provision (Moorhead et al, 2003). In particular, paraprofessionals sought to claim that they were best placed to recognise and respond to the complexity and subtlety of client problems through more holistic service provision. This claim was founded on the belief that specialist legal training and the economic incentives of private practice, militated against lawyers providing the rounded service that clients needed. Whilst research comparing the provision of advice by these non-traditional providers has tended to confirm that they provide a better service (where providers are themselves specialist), it has not generally demonstrated that the advice provided is more holistic in nature, at least not in the sense that the advice is more likely to tackle multiple problems (Moorhead et al, 2001; Moorhead and Sherr, 2003; and, Moorhead and Harding, 2004).

The second, and most important, element of interest in problem clusters derives from the increasing body of evidence on justiciable needs in a number of countries (see, for example, Genn, 1999; Genn and Paterson, 2001; Law et al, 2004; van Velthoven et al, 2004; Currie, 2006). The work of the Legal Services Research Centre (LSRC) (i.e. the Legal Service Commission's (LSC) research unit), under the Directorship of Pascoe Pleasence, has particularly emphasised clusters as an analytical framework for understanding legal need

(Pleasence et al, 2004a; 2004b and 2006). Part of the motivation for this is the idea that problem clusters might have 'triggers', problems that instigate or make more likely a cluster of problems. An advice service that successfully dealt with trigger problems before they evolved into clusters might reduce overall levels of legal need, reduce the social and economic costs of justiciable problems and more effectively improve the lives of hundreds of thousands of clients.

Existing research also suggests that problems emerge in the way that service providers respond to clusters of problems. Pleasence et al (2004a) quantify levels of referral fatigue. That is where clients present with a problem to an agency that does not specialise in that problem, so clients may be referred or signposted to a more suitable provider, but each time such signposting/referral occurs, the clients become increasingly unlikely to attend at the subsequent provider (Pleasence et al, 2004, pp. 75–78). Problems are then likely to go unresolved or escalate.

A related, but more subtle, approach suggests that for legal and advice needs to be better resolved, policy makers need to better understand the interrelationships between problems; how one problem might reinforce another, or might require resolution alongside another problem if the help given to the client is to be constructive. The notion of *intersectionality*, that apparently separate problems need to be understood and dealt with together, has some purchase in this context. In the legal services field there is an increasing amount of evidence of the interrelationships between legal and non-legal fields, especially health (see, Moorhead et al, 2004 on lone parents; and Sherr et al, 2002 on recognition and utility of legal advice in health contexts). Similarly, legal aid policy has increasingly developed with an eye on the social exclusion agenda (see, for example, DCA, 2005).

Policy makers, and the LSC in particular, have responded to the challenges posed by problem clusters by seeking ways of building in more holistic (or seamless) provision into their contracting models. The FAINs (Family Advice and Information Networks) have attempted to build more holistic service into the services aimed at family breakdown, with solicitors currently acting as the principal gateway. Similarly, tolerance work[2] has been used under specialist legal help contracts as a means of providing a more holistic service to a client who presents with a specialist problem but who also needs help outside of a firm's core areas of expertise (see Moorhead and Harding, 2004).

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[2] Under legal service contracts firms are permitted to do a limited amount of work outside of their specialism. This work is known as tolerance work.

The LSC have moved clusters centre stage in policy terms. Most recently, the 2006 Community Legal Service Strategy claimed, "People do not face 'legal problems' but clusters of problems to which the law may offer one solution". With the aim of promoting "an integrated and seamless service" (p.3), the strategy proposes to develop: Community Legal Advice Centres (CLACs) and Community Legal Advice Networks (CLANs) as models for delivery of "combined social welfare services". For the purposes of this analysis, the main characteristics of Centres and Networks are:[3]

- to be a service from diagnosis and information through advice and assistance to legal representation in complex court proceedings;

- to include taking legal services to groups of people that currently do not access mainstream services, such as certain Black and Minority Ethnic groups, and clients that are particularly vulnerable, such as clients with mental health problems; and,

- to give Centres and Networks the flexibility to decide how best to meet needs in their area.

Both Centres and Networks are important attempts to draw together the specialisms which might lie in otherwise unconnected law firms and advice agencies in any region. Centres, in particular, "will be a jointly-funded single legal entity that provides the whole bundle of core social welfare law services" (ibid, 8). Family law services will also be included in the Centres' work. The LSC aims to use Centres to test easier ways to deliver services together, "for example through a combined 'Money Advice', debt and welfare benefits category" (ibid, 8).

Networks are expected to be somewhat different from Centres. They will rely on groups of organisations to provide collectively, rather than individually, the full range of social welfare services. The principal idea being that, "No matter at which point a client accesses the Network, the full range of services will be available to them through a case management procedure" (ibid, 9).

Where CLACs or CLANs are established in a particular part of the country it seems likely that LSC funding for other providers of social welfare advice will be reduced or withdrawn (ibid, p. 9).

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[3] These bullet points are paraphrased from LSC (2006) p. 8.

From these proposals, it can be seen that the LSC places increasing emphasis on the need to service all of the clients legal advice needs, no matter which category of social welfare law that (s)he falls into. It also seeks to draw together, in one organisation, as many areas of specialisation as is feasible. There is considerable latitude for developing models of best practice, and understanding the interface between different specialisms/problem types. This research aimed to make some contribution to understanding such interfaces.

Prior research on clusters

A substantial body of empirical work has identified the existence of clusters of advice needs. A Scottish Study, for example, identified six problem clusters: a neighbourhood cluster; a goods and services cluster; a housing cluster; an employment cluster; a relationships/mixed cluster; and, a welfare benefits cluster (Law et al, 2004). The 2003 LSRC study *Causes of Action*, however, identifies different clusters: a *family problems cluster* (e.g. problems with domestic violence, divorce, post-relationships, relating to children); a *low incomes cluster* (e.g. rented housing, homelessness, unfair treatment by police and being the subject of legal action); a *welfare benefits cluster* (e.g. welfare benefits, mental health, immigration and medical negligence); a *consumer cluster (*e.g. owned housing, money, debt and threat of legal action); and what they refer to as an *employment sector dichotomy* (clustering either employment and personal injury matters, or consumer and neighbourhood problems). The 2006 *Causes of Action* study is subtly different: it presents a family cluster, a housing and benefits cluster and a third cluster (essentially a set of clusters comprising a broad range of problems) (Pleasence et al, 2006, 65–74).

The data from which cluster analysis is derived are largely quantitative in nature. Perhaps partly for that reason, the concept of clusters does not always accord with a common sense interpretation of what 'clustered' advice needs means and how advice services might be structured to meet 'clustered' needs. So, for example, the Scottish study refers to a consumer cluster that was dominated by problems to do with goods or services, while much smaller groups within the cluster comprised problems to do with neighbours, housing, and benefits. Other clusters, however, do make more intuitive sense: For example, the employment cluster contains a large minority (i.e. 20–30%) of clients with housing and/or benefits problems, and all of those clients in the 'welfare benefits' cluster also had problems with housing.

From a policy formulation perspective, and for all the strengths of the survey work undertaken, there may be limitations in such a top down, quantitative approach. First, quantitative data are unsuited to explaining links between different disparate problem types within clusters. Also this data cannot be used to explain how such clusters manifest

themselves within real life contexts. As a result, cluster analysis does not lend itself to understanding how clients view their problems or how they might then seek advice. For instance, it cannot be used to explain why clients seek advice for some problems and not others (Moorhead et al, 2004): why they are not uniformly advice seekers; or, why the same person employs different advice seeking behaviour depending on factors including the nature of the problem and the perceived availability of help. Interest in holistic resolution of problems must take account of such patterns of behaviour.

Second, save in very general terms, the research conducted to date does not indicate the time across which the problems occur.[4] Thus clusters of problems may in fact be temporally discrete and, in the eyes of the client or adviser, not clusters at all.

A related issue is the extent to which members of the public coming to advice services and lawyers, *present* with multiple problems that are amenable to more holistic resolution. (Hereafter we refer to these members of the public as 'clients' and lawyers/advisers as advisers.) There are two reasons why clients might not present with multiple problems.

1. The extent to which multiple problems are strung out over time. This is recognised in the need surveys referred to above in the finding that certain 'trigger problems' may cause (or 'cascade') into further problems later in the client's life (Genn, 1999; Currie, 2006). So for example, an employment problem might lead to a debt problem, which in turn leads to a matrimonial problem, and then into a homelessness problem. When cascading problems occur outside the period when advice is taken on the trigger problems, clients will not present with multiple problems. Similarly, clients presenting with cascaded problems might not think to seek advice on the trigger problems, as these are problems they may have lived with for some time.

2. Clients may have multiple problems at any one period in time but may seek help only with a single presenting problem, and not all of their other problems. Clients may be reluctant to reveal underlying or associated problems when discussing presenting problems, perhaps because of stigma, guilt or a feeling that the adviser is there to deal with a particular problem type only and should not have their time wasted with the client's ancillary worries.

To date, attempts to demonstrate and explore holistic advice provision have relied on largely quantitative measures or anecdotal evidence from advisers. This has proved unsatisfactory

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[4] For example, Moorhead et al have demonstrated, in the context of lone parents, that problems can occur and persist across long periods of time (Moorhead et al, 2004).

(see, especially, Moorhead et al, 1999). Very little is known about how those problems present to advisers. The extent to which multiple problems present to advisers, either explicitly or implicitly, was unknown. Similarly, the ways in which advisers work to identify and resolve multiple advice needs has not been adequately researched (for instance, the extent to which hidden advice needs can be revealed through the course of interviews and advice giving). Similarly, barriers to such working (such as the increasing specialisation of advice work; inadequacy of referral mechanisms, in spite of strengthening through Community Legal Service Partnerships (CLSPs) and the Specialist Quality Mark) have not been examined through objective evidence-based research or systematic analysis. With the LSC turning towards CLACs and CLANs as mechanisms for service delivery, there is a pressing need to understand more of the interrelationships between problem clusters and advice providers' expertise.

Methods

We aimed to provide a detailed consideration of how problem clusters manifested and were dealt with within the main types of organisations currently operating within the CLS. We had sufficient resources to study 12 organisations and sought to include four types of advice provider. Given the research emphasis on clusters, we decided to focus on three main areas of social welfare law where existing research suggested clusters were particularly likely to occur, namely: housing, welfare benefits and debt. We successfully recruited to our four target groups:

- 3 solicitors,

- 3 CABx,

- 3 law centres/specialist advice agencies, and

- 3 Local Authority providers.

The organisations were located in London and a range of locations across South Wales and South West England. We sought to recruit providers with different specialist expertise because we were also interested in ways in which organisational expertise might impact on the problems presented and how clients were dealt with. To this end we recruited suppliers:

- some who specialised in housing, welfare benefits and debt;

- some who specialised in housing (but not welfare benefits or debt); and,

- some with specialist expertise in welfare benefits and/or debt (but not housing).

What constitutes a specialist agency and who has specialist expertise will usually excite controversy. Without delving deep into such controversies, and for the purposes of analysis only, we used the LSC's Specialist Quality Mark (SQM) and the existence of specialist contracts when recruiting our sample. For local authority agencies, however, we did not have the SQM as a proxy. Here we had to rely on self-proclaimed specialisation.

Given the need to maximise the number of clients we would see in any period of observation we concentrated on suppliers who handled relatively large amounts of work in the relevant social welfare categories. We recruited suppliers to meet our aim of observing how problem clusters around the debt/housing/welfare benefits axis were dealt with, given different types of expertise within the organisations. One of the organisations we observed had a debt contract but we principally observed family cases.

Whilst our expectation was for debt, housing and welfare benefits to be the main presenting problems, we also collected information on other types of justiciable problems that manifested during the interviews we observed, utilising the broad framework of problem types developed by Hazel Genn and the LSRC for their studies of legal need.

The suppliers specialisms are presented in Table 1.

Table 1: Specialisms by Supplier Type

Supplier	Specialisms
CAB	All three
CAB	Benefits and debt
CAB	All three
Local Authority Organisation	Benefits only
Local Authority Organisation	Benefits and debt
Local Authority Organisation	Benefits only
Solicitor	All three
Solicitor	Housing only
Solicitor	Debt and family
Specialist Advice Agency	Housing only
Specialist Advice Agency	All three
Specialist Advice Agency	Benefits and debt

The methods we employed were as follows.

Observation

The first phase of the research was observing meetings between advisers (i.e. solicitors and non-lawyers, specialists and non-specialists, depending on the organisation) and their clients.

We tended to concentrate on initial meetings, but also saw some follow-up meetings between advisers and existing clients. We spent between 3 to 5 days in each organisation conducting observations and interviews with advisers. The time spent in each organisation depended on the number of appointments booked, days/times allocated to advice provision i.e. 'surgery hours' etc. The main aims of the observation stage were to:

- **Build up a qualitative and quantitative picture of the nature of problems presenting to advisers**. This involved recording the frequency and nature of multiple presentation; type of problems that presented explicitly and those that tended to present implicitly or were 'hidden', and possible explanations as to why this was; the context of the problem (i.e. background – how the problem arose); how problems manifested themselves (both within the client's life and within the interview); how problems interrelated; and the impact of the adviser's interview style on the client's presentation of problems.

- **Explore how advisers dealt with multiple advice needs.** This involved looking at how problems were managed by the advisers/lawyers. For example, were problems ignored/signposted/referred? Were clients advised but told there was nothing the adviser or client could do to solve their problem? Were they advised and given a plan of action to implement themselves or did the adviser agree to help client further? What level of help/advice was offered?

Data from the observations were collected in a bespoke database, designed to collect both quantitative and qualitative data including relevant organisational characteristics; client demographics; client problems; signposting/referral information; and adviser interview style.

We developed a quantitative schema for classifying problems based in part on the categories and sub-categories employed in LSRC needs studies (Pleasence, 2006). These data were supplemented by qualitative data on the context of the problem including, for example, the circumstances surrounding or leading up to the problem. Both quantitative and qualitative data were obtained in relation to various adviser interview style criteria[5] and the level and nature of the advice provided. All information relating to the classified problem, coming to light during the observation, was recorded by the researcher.

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[5] The criteria were derived from checklists used by Avrom Sherr during his study of client interviewing (Sherr, 1998).

We observed 178 client interviews during that period.

We anticipated that in some organisations we might only observe low levels of multiple problems so, we decided to boost data on prevalence of multiple problems as part of the adviser interview (see below). Advisers were asked to review their caseload list over the last six months to enable us to build up a more detailed picture of how many cases in their caseloads involved multiple advice needs, and how these were dealt with. This approach is not as satisfactory as relying solely on observation, as there may be a degree of self-serving in some answers from advisers, nonetheless it provides a useful supplement to the observation data. For reasons discussed in Chapter 2 of the final research report, these data may provide some insight into the types of case that are dealt with as casework, rather than simply the types of cases that an adviser conducts and interview on. It also acted as a validation/triangulation process to the data obtained through the observations in that it helped us to ascertain whether problems observed during the research period were representative of the advisers' typical caseloads. This process enabled us to collect data on 487 additional cases.

Adviser interviews

Three advisers were interviewed in each agency/firm, save in one organisation which only had two advisers. As a result 35 advisers were interviewed. Interviews, which were semi-structured, took place after the period of observation to enable advisers to give their impressions on the advice needs of particular clients and more generally across their client base to describe the options available to them when dealing with clients with multiple problems.

Adviser participation was dealt with by way of a written consent process. Advisers were provided with written information about the research prior to giving their consent. All adviser interviews were recorded and subsequently transcribed verbatim.

Client interviews

It was important to supplement our observations with an understanding of the clients' perspectives on their problems and advice seeking experience. We aimed to interview 5 clients from each supplier (a total of 60) and achieved 58 first interviews. The interview schedule was semi-structured.

The available sample comprised clients who agreed to be interviewed by one of the research team on two separate occasions following the observation. All client interviews were conducted by telephone and were semi-structured. Very few clients refused their consent to

observation and only one refused to be interviewed after having been observed. Clients provided their agreement to participate by signing a consent form that including their contact details. They were given written information about the study before being asked to consent to participate. When telephoned clients were asked whether they would mind the interview being recorded and were assured of the confidentiality of the information they provided and of their anonymity. All clients agreed to their interviews being recorded; all interviews were transcribed verbatim.

Follow-up interviews with clients

It was anticipated that the observations were likely to be skewed towards the early days of clients' contact with advisers, so the team decided to conduct follow-up interviews with a proportion of clients dealing with two main issues:

- Whether further problems manifested during or after the advice episode (but post observation) and how that was dealt with;

- Whether after the initial observation, the client and their adviser(s) followed up suggested strategies, to help deal with the full range of problems; what strategies were adopted; and explanations for any failure to take action by either party.

Follow-up interviews generally took place three or four months after the observed adviser–client interview. Out of a target of 39 follow-up telephone interviews, 36 were completed. For 19 clients, observed towards the end of the project, there was insufficient time to conduct these second follow-up interviews. The two interview schedules (initial and follow-up) were therefore integrated to conduct one interview with this group, to ensure consistency of information obtained. The interview schedules used were semi-structured.

As with the first client interviews, clients were asked whether they would mind the interview being recorded and were assured of the confidentiality of the information they provided and their anonymity. The follow-up and the 'once only' interviews were all recorded and transcribed verbatim.

Clients were provided with a financial incentive of a £10 gift voucher for participating in a first interview and a £20 gift voucher for a follow-up interview.

Workshops

At the end of the project, building on the initial analysis, the team had planned to conduct a series of process mapping workshops with advisers to explore their approaches to multiple advice problems and contrast them with approaches observed during the research. It proved

too difficult to secure adviser participation in these workshops and only one was held. At this workshop emergent findings were discussed and case studies drawn from the observation data were worked through to explore the policy implications of this research. A similar seminar was conducted with stakeholders interested in the Community Legal Service. Lessons from both workshops have informed analysis of the data.

Methods of Analysis

Quantitative data from observations and interviews were analysed using SPSS. Where it was possible to conduct quantitative analysis of the data, standard inferential statistics were used to explore potentially statistically significant differences between different types of advice organisation and individual adviser types (notably specialists and generalists). When this was done, the conventional levels of statistical significance were used. That is where inferential testing suggests that there is more than a 1 in 20 chance that the results are statistically significant (i.e. that the probability (p) of the difference occurring by chance is less than .05). Where this is noted, the results are reported as statistically significant (and so likely to have happened other than by chance).

Qualitative data were analysed with assistance of the N6 package. N6 is a computer package or tool that assists researchers in managing qualitative data. The package is based on the coding or tagging of sections of text (data) that assists researchers in analysing and exploring that data so the analyst can search for information by these codes. This enabled the development of analysis reports to support the identification of key themes and findings..

An overview of the findings

This section of the paper overviews the key findings. They are discussed in more detail in the full report which is downloadable.[6]

A major role of this research was to examine the extent to which general population survey data, which has presented problem clusters as a meaningful and important element in our understanding of legal need, is borne out in practice when looking at the ways clients present in advice agencies and solicitors firms. This will help establish the extent to which clusters of problems are meaningful and useful concepts from the point of view of service delivery.

Observation and interview data confirmed that for clients attending the types of agencies observed, clients presented with multiple problems that crossed the main boundaries between

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[6] See, http://www.law.cf.ac.uk/staff/MoorheadR

specialisms relatively frequently (we estimate between 43% and 56% of clients in the agencies we dealt with had multiple problems across problem types). The strongest clusters of problems found were:

- Rented housing, benefits and debt;

- Relationship breakdown, children, home ownership and domestic violence;

- Discrimination and employment.

The nature of clusters found will, of course, depend on the nature of advisers observed. The advisers the study observed concentrated on housing, debt and benefits, with one also concentrating on family work. The clusters present a reasonably strong similarity to those found by Pleasence et al (2006), confirming in broad terms within the suppliers observed that the problems that clients say they have in surveys also present in practice.

A further important observation is that the statistical concept of clusters is limited (as is any statistical concept). Hierarchical cluster analysis sorts problem categories into the most strongly associated clusters but simply focusing on these clusters does not capture the full interrelationships between problem types across categories. An alternative approach, simple crosstabulation of problems, showed that benefits, homelessness and employment problems linked with a wide range of problems (debt in particular). Mental health problems also had linkages across a range of problems.

A related finding is the extent to which clients with justiciable problems were coping with other significant problems, most notably physical and mental health issues. At least 28% of the clients observed had disability or chronic illness of one sort or another. Often clients were caring for elderly or sick partners or relatives. The interview data also suggested advisers had identified 34 out of 487 (7%) of their clients had mental problems. A strong sense emerged in the interviews of how social problems interrelated with and compounded justiciable problems. As Currie has noted in the Canadian context, problem triggers are often coupled with, "a resultant decline in levels of personal coping and self-efficacy… ...an already shaky edifice of daily life begins to crumble even further." (Currie, 2006: 13).

The analysis also considered the causes and triggers for the clients' problems. A particularly interesting finding is the extent to which local authorities were implicated. Of the observed clients, 37% (66 out of 178) had problems with local authorities. This does not mean the local authority was always at fault but it does show how the actions (or failures) of local authorities can give rise to needs for legal advice and, often, legal help. This can be due to problems

occurring in relation to housing benefit; council tax and council tax benefit; as well as housing (disrepair, repossession, rehousing and overcrowding).

Other causes or triggers for problems were illness/disability (of the client or a close relative); benefits problems; problems with current or former partners; employment difficulties and housing problems.

A final issue is the extent to which clusters of problems simply occur together or interrelate. As Pleasence et al state:

> *Problem types do not have to cause or follow on from one other in order for there to be a connection between them. Connections can also stem from coinciding characteristics of vulnerability to problem types, or coinciding defining circumstances of problem types. (Pleasence et al, 2004a, 37)*

What appears to be a rather delicate distinction is in fact important. The extent to which problems genuinely interrelate will determine the extent to which solutions to those problems will be similarly intertwined. Our analysis of the observation and client interview data suggests that most problem clusters would benefit from, but not require, coordinated management, and for a minority of very complex clusters, with particularly vulnerable clients, the need for coordinated management is strong.

How did advisers deal with those problems?

The aim of this part of the research was to see how clusters presented and how they were dealt with by the advisers observed by the team. A particular focus was whether the expertise of advisers or their organisations affected the ways in which problems were dealt with.

Data from the observation showed how the type of supplier observed affected the nature and size of clusters. Specialists, and solicitors in particular, tended to see clients with larger numbers of problems. The observations suggested that this was a combination of two factors. The ways in which clients chose, or were referred to, such suppliers meant they were more likely to have more serious and complex problems. Conversely, differences in the approach to interviewing of clients also rendered the exposure of latent multiple problems more likely.

Another important issue was the extent to which advisers were failing to expose the true extent of clients' problems during interview. Of the clients followed up in interview by the team, 29 out of 58 had some additional problems not dealt with in the adviser–client interviews. These were generally significant problems and about half were linked to their presenting problems in some way (and so might more obviously give rise to a criticism of the adviser for failing to expose them). There are a variety of possible reasons for not exposing the full range of a client's problems. The following are all factors: pressures of time; the

natural tendency of advisers to concentrate on the presenting problems; and, client reluctance to raise problems that are (to them) separate from the ones they wanted advice on.

A particular interest was how advisers dealt with clients with problems that were outside the areas of work in which they specialised. This would arise where clients saw generalist advisers, who had no particular specialism and were often volunteers; and specialists, where the client saw the adviser with one problem but raised other, supplementary problems. There was clear evidence that advisers, faced with problems outside their expertise, were far more likely to simply acknowledge those problems or only deal with them in part than specialist advisers dealing with problems within their expertise. There is also an interesting difference between generalists and specialists in the extent to which they signposted/referred clients for problems outside their own expertise. Specialists, faced with problems outside their own expertise, were more likely to signpost or refer clients to another adviser where their organisation had the relevant expertise (and so could deal with the problem). These findings suggest a specific problem with the willingness or ability of specialists to refer/signpost clients outside their organisation.

Other than that difference, the adviser's own skills and expertise seemed to be the strongest indicator of how clients would be dealt with. Generalists were more likely to advise clients to deal with problems themselves. This is consistent with an ethos of empowerment. Whilst non-specialists recommended self-dealing on the part of the client may be appropriate for some straightforward problems, other research points to the dangers of such advice (Moorhead and Sherr, 2003). Evidence from this study highlights the problems such advice can represent to clients. With many reporting that they struggled to deal with problems themselves even after advice from their advisers.

Impact on clients

Many clients spoke of enormous stress and anxiety of dealing with the problems they faced, with a substantial group also pointing to health problems being caused or aggravated by the stress. The isolating and unnerving impact of bureaucratic decisions on a client's life was a common theme. An important element also was the fact that sudden illness, bereavement and/or the taking on of significant care responsibilities often coexisted and interacted with the clients' justiciable problems.

In terms of the impact of advice, clients perceived a burden being lifted, and could see themselves starting to get in control of their lives. Partly clients experienced a 'process benefit' of feeling informed and calmer. Many clients spoke of a dramatic reduction in stress levels, and the associated health problems also abating. Whilst clients were generally very

satisfied with the service they had received, some concerns were expressed around accessibility and some other issues.

What are the links with social exclusion?

Clients essentially fell into two groups. The first group had clearly spent some time in, or on the margins of poverty, accustomed to their marginalisation from the labour market and living on, or with the support of, benefits, for example the ill, the elderly and the unemployed. The second group appeared to be on the cusp of such social exclusion, having suffered some fairly recent trauma such as a serious illness to themselves or a partner; or had entered a period of what was starting to look like prolonged unemployment. A related finding is the extent to which clients with justiciable problems were coping with other significant problems, most notably physical and mental health issues. At least 28% of the clients we observed had a disability or chronic illness of one sort or another. Often clients were caring for elderly or sick partners or relatives. Our interview data also suggested advisers had identified 34 out of 487 (7%) of their clients with justiciable mental health problems.

In this sense, certain clients suffer from more problems because their problems are linked but also because these clients are amongst the most vulnerable in society. Taken together, this evidence supports the view that clients' legal needs and social needs are complex and intersectional: their social and legal problems interrelate and amplify.

Can we say what triggers problems?

Part of initial interest in problem clusters was the idea that problem clusters might have 'triggers' which lead to a cascade of further justiciable problems (Genn, 1999). An advice service which successfully dealt with these trigger problems might reduce overall levels of legal need, reduce the social and economic costs of justiciable problems and more effectively improve the lives of hundreds of thousands of clients. Our study provides some evidence on the causes and triggers for clients' problems.

For many clients, problems appeared to be triggered by the general difficulties faced by those living on benefits: poverty, debt and the complex nature of the benefit system itself. More specific triggers for problems that were common were:

- illness/disability (often a sudden deterioration in the condition of the client or a close relative which led to incapacity or care problems);

- benefits problems (failures to award benefits,process applications and overpayment claims);

- problems with current or former partners (violence and joint debts); employment difficulties; and,

- housing problems (disrepair and overcrowding in particular).

The illness/disability finding is an interesting one, suggesting benefits to the LSC of liaising with a wide range of health service providers, as well as claimant personal injury providers, if there is an interest in seeking to tackle problems early (see also, Sherr et al, 2002 and Harding et al, 2002).

The extent to which local authorities were implicated in the legal needs of clients with problems occurring in relation to housing benefit; council tax and council tax benefit; as well as housing (disrepair, repossession, rehousing and overcrowding) is also of interest. 37% (66 out of 178) of the clients we observed had problems with local authorities. This does not mean the local authority was always at fault but it does show how the actions (or failures) of local authorities can give rise to needs for legal advice and often legal help. Given the role of local authorities in the Legal Service Commission's proposals for CLACs as joint funders, robust mechanisms need to be in place to ensure that such Centres are not tempted to under-represent clients with problems to be pursued against local authorities.

How seamless was the observed service?

The idea of a seamless service is one where, even though more than one individual or provider organisation is involved in the delivery of a service, the co-ordination between agencies and practitioners is such that the service user's experience of the service and the efficiency of the service would be the same as if just one agency or practitioner is involved. Seamless delivery is delivery that avoids repetition and unnecessary delays for the service user. Whilst this ideal is relevant to both the public and private sectors, achieving seamlessness within public sector services is understood to support the achievement of cost efficient delivery of public services, as well as many other government agendas, particularly those relating to social inclusion and reducing crime.

Seamless service provision within the advice sector is particularly relevant to the delivery of services to those experiencing multiple legal problems, as it is often the case that one adviser, or even one provider organisation is unable to deal with all problem fully themselves. Therefore it is important that the client gets appropriate advice from another provider more skilled in the problem type. Signposting and referral mechanisms have traditionally been seen to be key to the delivery of seamless advice provison and one might expect increasing emphasis on this following the evidence about attrition from the system through referral fatigue (Pleasence et al, 2004a) and poor practice (Moorhead and Sherr, 2003).

This research, coupled with previous research looking at signposting and referral in the CLS (Moorhead and Sherr, 2003) and the relative performance of specialists and non-specialists under legal aid contracts (Moorhead and Harding, 2004), helps build up a reasonably strong picture of the seamlessness of service being provided by the advice sector. This study underlines the difficulties in getting specialists to signpost to each other across organisational boundaries. Generalist advisers appear more likely to encourage clients to 'muddle-through' on their own, whilst specialists may have a tendency to hang onto clients' problems outside of their expertise. Although some of these problems would have been simple enough to be dealt with competently, there are evidenced dangers in non-specialists dealing with cases outside their expertise (Moorhead and Harding, 2004 and Moorhead and Sherr, 2003). The research also points to the need for skills and incentives to encourage providers to identify the full range of clients' justiciable problems, if the Community Legal Service is to be truly seamless. For most problem clusters, clients would benefit from better links and communication between advisers.

Many advisers advised clients to deal with problems themselves where problems were outside of their specialism. Although consistent with an ethos of empowerment, our findings illustrate that whilst sometimes this worked well, giving clients the confidence and information necessary to take more control of their own lives, often it did not. We saw a substantial number of clients who were confused by the instructions they were given and who left problems to fester or escalate as a result. Clients coping with years of social exclusion or dramatic worsening in their health or lifestyle and poor levels of educational attainment and self-esteem were often ill-equipped to deal with complex bureaucracies or hostile opponents. Whilst advisers indicated an awareness that 'empowerment' was not for everybody, too often clients who could not cope alone were asked to.

What about a holistic service?

Holistic service is sometimes used to infer a broader notion of service than seamlessness. Several notions of service can be invoked in the name of holistic provision.

- **Understanding:** Seeing a client's legal problems in their wider social context, and addressing the legal problem within that context. For instance, this might include acknowledging the impact of a client's mental health, disability of caring obligations on their ability to solve their 'legal' problems.

- **Diagnosing:** Diagnosing and dealing with *all* of a client's *legal* problems (i.e. going beyond the presenting problem or the problem that a particular adviser is geared up to deal with to see what other legal needs might be present).

- **Delivering or networking:** Ensuring a client receives appropriate levels of advice on their *legal* problems through appropriate provision by the adviser

themselves, or through referral/signposting to colleagues or other providers in the system

- **Broadening:** Seeing a client's non-legal problems as requiring some level of intervention if the client's legal problems are to be addressed and delivering those interventions directly or through signposting/referring the client to the relevant services and ensuring those services are carried out.

- **Taking some strategic initiative:** Identifying and tackling the root cause of a client's legal problems (to use a medical analogy, tackling causes not symptoms).

Most practitioners confine their view of holistic provision to notions such as putting the client's problems in context and trying, with mixed success, to ensure that clients can be signposted to appropriate providers when the initial adviser cannot deal with a particular problem. Broader notions of holistic practice, such as tackling social as well as legal problems, were, understandably perhaps, not accorded much attention by the practitioners we spoke to. However they did recognise that clients might need counselling for some emotional and mental health problems associated with, or compounding, their justiciable problems. Advisers were reluctant to see themselves as counsellors but some were interested in, and would in our view benefit from, training in how to deal with particularly vulnerable and 'difficult' clients, but had failed to find appropriate provision.

What are the barriers to holistic/seamless provision?

A number factors were identified as militating against holistic and/or seamless provision:

- lack of time, manpower and funding constraints;

- lack of expertise and in-house capacity;

- the absence of comprehensive, accessible and useful information about alternative sources of legal and non-legal assistance for clients which included information on the capacity of organisations to take clients;

- the failure of the CLS to establish trustable networks of providers to whom suppliers were willing to signpost;

- different approaches to means testing; and, perhaps most tellingly,

- a concern that a truly 'useful' holistic service would give rise to a demand from clients which was, in itself, unsustainable.

Suppliers, perhaps mindful of proposals for CLACs which were beginning to emerge at the time of our interviews, were generally resistant to the idea that it was possible for single organisations to develop sufficiently to provide holistic provision 'in-house'.

What about lessons for future delivery?

Any system aimed at meeting the advise and assistance needs of clients with clusters of problems needs to address the following questions if clients with problem clusters are to be fully served:

- What are the incentives and skills necessary for each supplier to identify *all* of a client's justiciable problems and accurately assess the risk to the client and the need for further help?

- What incentives and information are necessary to ensure that the client is properly and effectively signposted or referred to the provider most likely to successfully deal with their problem?

- How and when should suppliers dealing with separate aspects of a client's cluster of problems, communicate and cooperate?

This is a challenging agenda, and one which faces all providers and funders serious about addressing the clustering of advice need, however this research has identified that a perhaps greater challenge will be determining how best the advice sector can support the particularly vulnerable clients identified by this research.

Many of the very vulnerable clients identified in the research had entrenched problems which were only going to be resolved, if at all, by concerted action, which the client themselves were unlikely to be capable of taking. The intersectionality of clients' legal and social needs, sometimes in situations of extreme social exclusion, suggests that clients who are at particular risk or are particularly vulnerable need especially high levels of intervention and service. For a minority of very complex clusters being experienced by particularly vulnerable clients, the need for coordinated management of solutions to justiciable, and other, problems was demonstrated. The extent to which non-legal needs are implicated in meeting legal needs suggest that resolution to an individual's legal needs may often require the engagement of multiple funding streams outside of 'legal' advice.

The issues affecting these high risk, high need individuals establish further challenges for the advice sector. For example:

- How should the agency deal with non-legal problems which impact directly or indirectly on the clients justiciable problems? What skills are necessarily part of the legal service and what matters can more appropriately be dealt with by others?

- At what point are clients' problems so complex and serious that they require concerted multi-agency action and who should coordinate and fund such action?

- When seeking to make clients more responsible for handling aspects of their problem, what assessments should be made of the clients capacities before doing so, and what steps should be taken to support the client in dealing with aspects of their problems themselves?

Many public services are being reconfigured to more effectively support individuals with multiple needs, whilst improving user experience, preventing vulnerable people from 'falling through the net', and provide service efficiency. Approaches being developed are varied, and it is important to consider what lessons from these may be relevant to the LSC and the wider advice sector.

Whilst many of the examples of service reconfiguration focus on improving service users' experience through the development of better co-ordinated and seamless service delivery, there is also an apparent acknowledgement that not all service users need or require the same level of service delivery. Different models of service delivery are developed with increasing intensity of interventions and required resources. High need and high risk individuals receive the model of delivery with the highest level of intervention and support, whilst the low need and low risk individuals receive lower level support and guidance.

In all settings the implementation of seamless services begins with an assessment of need to begin the coordination of services in the most appropriate way. An individual assessment of the client's needs determines the initial route taken by that service user. To achieve a seamless service, an assessment must serve to reduce repetition and potential delays for service users, and cover a minimal but sufficient level of information, so that risks are identified and acted upon. Assessments must identify multiple needs and risk factors in a way that can be shared with other professionals to support the coordination and delivery of a range of services. A common assessment framework allows for: data to be aggregated; more accurate identification of risk and protective factors; and, greater consistency of assessments. Population needs are also assessed (as they have been for the CLS) to facilitate the planning of the configuration of services and the most effective use of resources.

Leading directly from an assessment of need, is a decision about what level of service an individual requires. Sometimes called risk stratification, the language of risk is used to

classify service users to allocate them to different types of care coordination and services. For example, in health, this refers to the risk of a particular patient developing further health problems, whereas in youth justice, this refers to the risk of re-offending. In the CLS, levels of need and risk might refer to the likelihood of clients developing significant other problems, or to the consequences of certain problems (such as the loss of a home). These are likely to be partly determined by an individual's capacity to manage and achieve effective and sustainable resolution to their problems on their own.

The level of assessed risk determines an appropriate approach to the coordination of the care of individual service users. For those individuals assessed as low need and low risk this might be the implementation of measures that establish seamlessness of delivery, whereas high need and high risk individuals might be provided with a more intensive level of support, such as 'case management' activities.

This research illustrates the need, and perhaps the opportunities, for implementing different approaches to co-ordination within the advice sector. For example, individuals with multiple justiciable needs requiring engagement with more than one adviser or service provider, but who have the capacity to manage their own engagement (and therefore likely to be assessed as low risk and low need) are likely to only require effective sign-posting. This therefore would only require ensuring that advisers have access to accurate and up to date information on sources of advice.

Individuals assessed as medium need with medium levels of risk, are likely to benefit from effective referral processes, with meetings with other advisers being arranged on their behalf and a single assessment being transferred between advisers to reduce repetition of procedures and establish seamlessness of delivery. This would require the establishment of information procedures, protocols and any necessary technical support that these would require which are actually utilised in practice.

High need and high risk assessed individuals, such as the very vulnerable clients suffering complex clusters of need that were observed and interviewed as part of this research, are likely to benefit from a form of case management. Case management is only likely to be an appropriate and efficient use of resources for those who require intensive support from a range of providers. This is especially relevant in cases of high complexity when clients are in need of services from a number of providers. This research demonstrates that the inter-relatedness of legal and wider social problems that vulnerable people often suffer means that often service providers that need to be engaged in the resolution of legal problems extend beyond the advice sector. They are likely to include, health professionals, housing

practitioners, local authority welfare benefits officers, family counsellors as well as solicitors and advisers. A case management approach might seek to engage all these different agencies, as appropriate, in order to achieve the desired outcomes for the client.

There is no single model for case management, but there is often a specially trained case manager, who is responsible for coordination and care planning. The case manager ensures effective liaison between agencies and may conduct the initial assessment. It is their responsibility to monitor the progress of a service user and take action if the appropriate service is not being delivered.   This would be a new role within the CLS framework and careful thought would need to be given to the knowledge and skills necessary to perform this function effectively, if it were to be attempted. An example of a similar role can be found within the National Offender Management Model being implemented in the criminal justice system.

Related to case management is care planning, where objectives are clarified and milestones set. This helps to coordinate different services and show how a sustainable outcome will be achieved for an individual service user. Usually a documented care plan will be developed, for which the involvement of the service user is very important. These care plans will indicate the interventions planned and which agency and professional is responsible for carrying out the interventions. They may also establish information sharing requirements. Protocols can be used to help coordinate care in many different ways depending on the context, but primarily they aim to ensure that there is a shared understanding of roles and responsibilities among all providers involved in the delivery of services to a particular individual. They can have many other useful functions, such as helping to ensure that care derives from evidence based practice, and can include 'decision support systems' to help professionals make decisions about appropriate care.

Variance tracking is fundamentally important to the development of seamless services. Variance tracking facilitates learning and improvement in seamless services and is an appropriate procedure for all levels of intervention models. There needs to be processes for reviewing and improving an approach to seamless services based on collated data, and protocols for responding to instances of variance.

The ideas behind seamless service and service reconfigurations emanating from other areas suggest some gaps in our knowledge in relation to addressing advice needs which should be tackled. For example: how do we assess risks?; what information should be shared?; how should multi-agency responses to needs be coordinated? There is a range of response between dealing with client's problems atomistically and dealing with them truly holistically,

and little specification of what is expected from legal aid suppliers expected to engage 'seamlesslessly' with one another.   This knowledge gap needs to be addressed.

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