

## NACLC CONFERENCE 2012

1. Scotland approach Vs UK
2. Troubled families and those most in need

Acknowledge the traditional owners and custodians of the land on which we meet, the Kaurna people.

Thank you for welcoming me and thank you for inviting me to speak.

I am aware that you know what is going on in the UK.

I will try to limit my comments to the most relevant aspects and not use this as a therapy session even though I have been really looking forward to downloading and hearing the commiserating sucking in of breath and gasps of disbelief.

The occasional OMG will still be appreciated but do not feel obliged.

Therefore I will now talk about 3 things:

1. UK context
2. Legal Aid
3. How Law Centres are responding / preparing.

### 1 UK context

- Double dip Recession in UK is significant.
- But the extent and target of the cuts are Ideological.
- Very successful so far
- Main aims are:
  - A. To shrink state,
  - B. Make self reliant citizens,
  - C. Let the market prevail
  - D. Move way from Human Rights and interfering Europeans.

- E. Probably return/maintain Britain as a world leader although not clear whether they are aware that it is not what it used to be, in spite of the wedding, the Jubilee and the Olympics.
- However, they are keen to distinguish from Thatcher and so have a series of policies to humanise what is happening such as:
  - A. Big Society - sounds OK but really a mechanism for cutting Govt services, handing them over to local groups, e.g. Who can put in bids to collect the garbage or run the post office etc.
  - B. Voluntarism promoted as key to Big society
  - C. Charities are fundamental to its success but the entire sector is reeling from the impact of the spending cuts on its funding and this is an unintended consequence of their cuts.
  - D. Each Dept has to report on their Big Society agenda but really nothing much happening and rarely in news any more.
  - E. Personal self reliance agenda, also known as Welfare reform - architect is IDS (Ian Duncan Smith) almost a cult type following - sincere, a former party leader who had a Road to Damascus experience, but solution is things like schemes to encourage coupling
  - F. Education reform - university fees increase 300%, free schools outside Education Dept . Want to run a school as well as collect the garbage? here's your chance.
  - G. REd Tape Challenge - close QANGOS, gut the Equality Act, sack civil servants, shrink govt involvement
  - H. Localism Bill - want to develop the local football field or parkland? Get together with some neighbours put in proposal, again sounds good but pro local development and unthought through.

- I. Payment by Results - main new contracting mechanism - used in Australia already with employment programs and Social Impact Bonds. One in Australia at least already.
- J. Social enterprises - everything must earn money e.g. Westminster abbey charges for choral performances to raise startup capital to have a cafe which will fund upkeep of church

Obviously I am colouring this but what I am saying is not untrue. It is also to acknowledge that part of it is well intentioned - it is just that the key players in the Govt have no life experience or means to understand how most people live. Cabinet has several millionaires. Core group went to Eton together then Cambridge and at Cambridge were members of the Bullington Club. George Osborne the Treasurer, is looked down on because he was a scholarship boy.

This is the context for the Legal Aid Reforms.

## 2. Legal aid

- Legal aid commenced in 1949 as a pillar of welfare state
- Administered by Law Society initially and services provided through 1000s of private Law Firms who made a decent living until 2007.
- 2007 marketisation of legal aid would lead to cost reduction and savings
- Fixed fee Contracts per area of law. contract to provide a specified number of matters.
- Pay a unit cost based on an average time of around 4 hours
- Law Centres spend on average 5.9hrs not because of inefficiency but because of the personal needs of our clients. Draw the conclusion.
- BUT legal aid contracts constitutes 45% of Law Centre funds and must have a legal aid contract if want to represent clients. Generally, there are not govt grants like here with some exceptions.
- Proposed £350m cut out of £2bn budget CRIME stays and 80% of legal aid budget. £1.8bn left after cuts. Should be enough for the Law of everyday life but this is an illustration of the ideological framing of the cuts.
- chancellor says only the most serious matters and those that are required to protect Human Rights and meet EU law obligations will be funded and so that is mostly people who are detained.
- They want to change the litigious culture and encourage more self-reliant citizens who solve their own disputes.
- gone is the work that Law Centres do because seen as unnecessary for legal assistance -
- In summary areas removed are - private family( still fault based divorce in UK and go to court) immigration except when detained, employment, welfare benefits, most debt, half of housing, most of education - most of what they call social welfare law.

- Add to this, what is left - must go through a mandatory telephone gateway in most circumstances.
- Have spent years designing client focused streamlined services that resolve all the clients problems

now arrive at the Law Centre because it is the place they know saying "I've been sacked. Their racists." so you point to the telephone and say they must ring the gateway.

The gateway assesses they have a matter that is within scope but cannot help with the employment problem only discrimination and only over the phone, please ring this new number. If they want employment help they can ring another service ACAS.

When talking to discrimination lawyer they discover that the client is about to be evicted because they have no income. They can get help with the housing matter because they risk losing their house. This face to face so refer them back to the Law Centre (should the Law Centre have a contract.

client gets back to Law Centre that discovers also considerable debt and were denied benefits and don't understand why. Can help with part of the debt if it relates to the housing but not the welfare benefits. They will have to look up a website to get help with that.

- Massive campaign , Law Centres lead the Justice For All campaign,
- Lots of other allied campaigns.
- Unprecedented 5000 r responses to green paper consultation
- Govt defeated 9 times in house of Lords which included conservatives voting against govt.
- Some amendments but largely went through after something called a PING PONG stage
- Throughout the debate when MPs questioned about future help for clients and access to justice, response was Law Centres and other NfPs.

- Recent Mtg With MoJ asking for law centre help referring people from mandatory gateway
- LOOKed AT THEM IN DISBELIEF AND said SURE WHATEVER YOU THINK. it was a very short meeting. Where was the point of contact?
- Good side - profile raising and reminder of key role Law Centres play and over 1000 twitter followers including cabinet office and treasury which now using for broader social justice remit.
- Also local authority other major funder and have been 26% cut along with 100% EHRC funding

### 3. What are we going to do?

- Freaking out, a lot of foetal position rocking and then pulling yourself together because it is Britain after all
- Legal challenge - Unlikely to turn it back but may bring more back into scope and get I'd of mandatory gateway.
- We estimate up to 18 or 1/3 of Law Centres will close next year
- Real question is - what will happen to clients?
- Remember the 3rd widest gap between rich and poor,
- enormous poverty in UK,
- gang violence,
- knife crime,
- 2nd highest rate of teen pregnancy,
- extensive riots this time last year all over London, Birmingham, Manchester, other parts of UK,
- massive unemployment, in some areas youth unemployment is 46%
- and only 20% of the cuts have been implemented so far.
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- Even the OECD is calling on the govt for a rethink but instead we are Rethinking what Law Centres are about. we started almost 2 years ago and over a series of national meetings, developed a survival plan.
- some LCs are upbeat because have also been constrained by legal aid contracts and think although reduced they may be able to get back to their heart and take on the systemic work again.

The survival plan involves -

- Significant work on sustainability, reduced costs, shared facilities, mergers with aim to keep as many local offices open as possible
- Trading arms to charge mostly to keep expertise rather than cross subsidy
- Rebranding - critical as an indicator to Funders and policy makers that we are looking to the future, as a mark of quality and as an integrated and collaborative sector.
- New logo etc. all Law Centres will have the same as well as LCF and will be know an Law Centres network. new signage and front of office.
- Building evidence - we have been hamstrung by lack of a system like CLSIS.
- Exploring new models such as private investment, loans, and social impact bonds - each fraught with danger but this is where we are
- Currently bidding nationally for the new telephone contracts which are awarded on a price basis. Very scary but have no choice.
- Working on best methods for rationing services and targeting clients
- preparing resources to allow for orderly closures.
- AND developing the case for grant funding.

#### 4. Key part is VALUE FOR MONEY - value IMPORTANT

- PWC report
- From legal aid contracts receive around £11m but this generates
  - o £446.5m to £519.5m in terms of direct savings;
  - o
  - o approximately £450.6m in indirect savings; and,
  - o
  - o a further gross revenue of £99.8m in taxation revenue by creating and/or safeguarding employment.
- NEF on Value for money and the marketisation of legal aid
  - A. Key findings are that legal aid is a public good not one that can be delivered like a pizza. It is not finished when you eat it. It's value cannot be set by the market.
  - B. The current legal aid contracts and marketisation of legal aid introduce waste into the system because providers are incentivised to do the easiest work. and to avoid the best value for society work which are the more complex and systemic cases.
  - A. targets incentivise to do more easy activities quickly, to close matters early leading to need for more follow up activity and To charge for what would have been done previously for free.

- REAL Value for money is derived through the provision of a **quality** service where the client, together with the lawyer, **coproduce** a lasting outcome or deep impact.
- QUALITY service - time to est rel of trust, front loading work which means expert advice at the earliest point. Significant work with refugees showing even if deported if treated fairly, accept it better?
- Co-production - We all say that our services change lives. Not quite the case. Think of the teacher. We work with people who because of our contribution are able then to turn their lives around.

We are trying to specify / quantify the Value Added and what else will not be available if Law Centres close -

- A significant part of this is our expertise in what in the US is called poverty law - remember the poor man quote - and it is not just areas of law but how to establish trust with the clients because this trust is essential to get the full story, to solve the problem once and for all and it is vital to the creation of a deep or lasting impact.

As well as all this, we have Realised that for the civil servants and treasury we need the evidence

but for politicians we need to work the emotions. They can make a spilt second decision to spend millions if moved to do so . Eg. The McCann case. Cost over £4m so far and not even through all the evidence collected.

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## 5. Conclusion

- 3 years ago i said 'you don't know how good you are'. Today I say that what I have seen in the last 2 days not only confirms that remark but I have seen real advances - new faces, young faces, renewed commitment, professionalisation without losing the heart, a sense of purpose and direction, robust evidence of impact, strategic thinking, collaborative and coordinated practice, solid legal work, exciting CLE projects, extensive policy work, new ideas and energy for the project ahead. Real Value for money for the govt and a vital resource for the community.
- To AGD and legal aid, please don't let this be wrecked. I know that you understand the importance of CLCs and would also be conscious Of the blossoming of the sector. Despite the annoyances and the occasional off the wall incidents, i know you understand how good they are. Please do all you can to protect them from the political process.
- To my colleagues - focus on quality - you have to be good to do good, use your legal skills fully and take on the complex cases, be collaborative and share resources and practice, evidence and data, and be proud. Tell your stories and Pull the heart strings.
- To NACLIC and you all, I am privileged to have worked with you and been a part of this. THANK YOU so much for inviting me, welcoming so warmly back here, for reminding me why I am doing this.
- Congratulations and thank you.