

The Low Commission on the Future of Legal Advice and Support

Purpose of report

To give background to Lord Low's presentation to the Board.

Summary

This report outlines the remit of the Low Commission, the recommendations of the Commission's Consultation Report and summarises the key messages of the joint submission by the LGA and the Association of Directors of Adult Social Services.

Recommendation

To note the report.

Action

Appropriate action by officers as directed by the Board.

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The Low Commission on the Future of Legal Advice and Support

Background

1. The Low Commission on the Future of Advice and Legal Support, Chaired by Lord Low, has been established to develop a strategy for access to advice and support on Social Welfare Law in England and Wales. For the purposes of its inquiry, the Low Commission considers Social Welfare Law to include: asylum, benefits, community care, debt, education (including special educational needs), employment, housing and immigration.
2. The Low Commission is independent of Government, political parties and advice providers. The aim of the Commission is to develop a strategy for the future provision of social welfare law services, which:
 - 2.1 meets the need for the public, particularly the poor and marginalised, to have access to good quality independent legal advice;
 - 2.2 is informed by an analysis of the impact of funding changes and by an assessment of what can realistically be delivered and supported in the future; and
 - 2.3 influences the thinking and manifestos of the political parties in the run up to the 2015 election.
3. Over the past nine months the Commission has heard from over 230 organisations and individuals about their views on the future of social welfare law advice and support. It published its recommendations in a consultation report in August 2013, to which the LGA and ADASS submitted a joint response.

Key recommendations of the consultation report

4. The headline recommendations of the report are summarised below.
 - 4.1 A single national 'comprehensive' helpline for those who cannot find legal help.
 - 4.2 The creation of a National Advice and Legal Support Fund of £50m a year for 10 years for England and Wales to be used for funding national and local advice and legal support work.
 - 4.3 Further contributions of at least £50m from other national and local sources that have an interest in funding advice and legal support, including money advice services, the NHS, the Big Lottery Fund, Housing Associations, charities and the legal sector.
The Financial Conduct Authority to impose a levy on pay day loan companies to fund debt advice services.
 - 4.4 The introduction of measures to reduce demand for legal support, including those delivering public services getting decisions about individuals right first time, not only because it results in better public services for individuals, but also because it saves the state the costs of putting things right.

- 4.5 Statute law that is 'necessary, clear, coherent, effective and accessible' to make it easier for advice specialists to provide helpful information and advice for those with problems and those who help them.
- 4.6 Self-help guides for self-represented litigants, authoritative and independent self-help guides for all areas of social welfare law, including a review of all current guides.
- 4.7 Volunteering support, including greater use of Mackenzie Friends, including appropriate training and support, and for major law firms and other national companies to consider sponsoring some of the pro bono initiatives in the report.

Key messages of LGA response

- 5. The LGA and ADASS submitted a joint response to the Consultation Report, which welcomed the document as a thoughtful and positive contribution to the national discussion on the future of access to legal advice and support. The full LGA and ADASS response is available at:

<http://www.local.gov.uk/documents/10180/11779/The+Low+Commission+Consultation+Report+Association+of+Directors+of+Social+Services+and+LGA+response+September+2013/13147342-695c-47c2-a594-e14e69c5506f>.

- 6. The key messages of the LGA and ADASS response are summarised below.
 - 6.1 Accessible, timely and high quality legal advice and support is an important component of the range services and support necessary achieve positive outcomes for people when they experience employment, housing, financial and other difficulties and to prevent their situation becoming worse.
 - 6.2 We would welcome an opportunity for the LGA's Welfare Rights Advisers to discuss with Lord Low the recommendations that relate to welfare rights advice and the broader spectrum of advice and information provided by local authorities and their partners across the public, community, voluntary and commercial sector.
 - 6.3 **Wider role of local government in advice and information** - We agree that access to legal advice on the issues outlined in the terms of reference to the Commission is crucial but we are disappointed that the report understates the role of local authority (and NHS) staff, other than in homelessness and welfare rights services in providing information and advice.
 - 6.4 Our concern is that the Commission has started the spectrum at a point where many people have already had initial advice and assistance on housing, benefits and other matters from staff who are not officially recognised as a key part of the 'advice' world and who also need training, support and resources to work effectively.
 - 6.5 We support the report's focus on Alternative Dispute Resolution in reducing demand for legal advice and in which local authorities have a long track record of supporting. However, we would have liked to see a greater recognition of the

role of mediation services as an effective way of resolving disputes at an early stage.

- 6.6 We would have liked to see greater recognition of the enhanced role of local government in helping local people manage the various strands of welfare reform as a whole. The experience from many local authorities is that their front line staff have been drawn into various “financial management” issues in households: they have to manage the new system for crisis grants and loans, ensure that people get timely access to advice, and, increasingly, have to assist directly or through other parties people in looking at their options to make ends meet.
- 6.7 **New and proposed duties with regard to information and advice** - Recent and proposed legal duties on local government with regard to advice, information and advocacy are not fully considered in the report, despite their contribution to the first-tier support for individuals. The Health and Social Care Act 2012 placed a number of duties on local authorities with regard to provision of advice, information and advocacy.
- 6.8 From April 2013, local Healthwatch organisations ‘went live’. Their role is to give citizens and consumers a stronger voice to influence and challenge how health and care services are provided. As commissioners of local Healthwatch, unitary and upper-tier councils are responsible for ensuring that local Healthwatch provides effective and accessible information, advice and signposting services on all aspects of health and social care, including informing people on how they can make a complaint if things go wrong.
- 6.9 From April 2013 upper-tier and unitary local authorities have been responsible for commissioning an NHS complaints and advocacy services to support people who wish to make a complaint about the NHS.
- 6.10 The Care and Support Bill proposes a new duty on local authorities to provide individuals with comprehensive advice and information to help them maintain their independence, including access to finance information and advice. This should provide people with clear information about their entitlements and routes of recourse. This will be a significant new statutory duty and, as such, should not be an un-resourced new burden on local government. It would have been helpful if the Low Commission could have considered how proposed new duties of local government align with and contribute to the overall provision on advice available locally.
- 6.11 **Promoting existing good practice** - The report includes many examples of good practice by local authorities working with their partners to find cost effective, integrated and accessible ways of providing legal advice. These case studies provide a helpful illustration of the innovation and good practice that already exists. It is also evidence that this is a service to which local authorities are committed despite the financial challenges.
- 6.12 The LGA is keen to promote and disseminate good practice and innovative solutions through our communications channels with local government and their partners. We would welcome working with the Low Commission to find other ways of promoting existing good practice.

- 6.13 **Financial context** - It is not surprising that financial austerity is a constant theme running through the report. We agree that the focus of any new strategy must be to reduce the need for advice and legal support in the first place. We believe that the LGA's place-based community budgeting approach will drive public service effectiveness across the board by bringing together local services in one place for issues ranging from economic development to health and law and order. We therefore, strongly support the focus of the proposals in finding more joined up ways of commissioning and providing services.
- 6.14 However, we are not convinced that the proposals outlined in the Consultation Report can all be implemented in the current climate. Furthermore, we would welcome a broader focus on the full spectrum of information, advice and support services, in particular front-line services provided by a wide range of organisations and local authority staff. It would be helpful, therefore, if the final report of the Low Commission state clearly which of the recommendations should be prioritised.