



**Fiona Bawdon, a freelance legal journalist, discusses the unique contribution made by Law Centres® in the provision of legal services to the most needy and their struggle to survive in the face of fixed fees and the advent of competition from the commercial sector.**

## Law Centres under pressure

*Question:* Which former Law Centre manager once said: 'The most important thing to know about us is that we do not just do case work. Our philosophy is that we promote legal solutions to the problems of poverty, discrimination, social exclusion – and case work is just part of that?'

*Answer:* Crispin Passmore, speaking in 2003 (*Independent Lawyer* issue 11, p14), when he was manager of Coventry Law Centre.

Five years on, Crispin Passmore has moved on to bigger, if not necessarily better, things. As the Legal Services Commission's (LSC's) interim executive director of policy, he is steering through the controversial move to fixed fees for social welfare work. Ironically, it is a reform which Law Centres insist makes it all but impossible to continue doing the kind of strategic work that Crispin Passmore himself highlighted as crucial to the Law Centre mix back in 2003.

### Under pressure

Julie Bishop, director of the Law Centres Federation (LCF), says that the shift from hourly rates to fixed fees has left many of its members struggling financially. 'The sums just do not add up.' Five Law Centres 'are on the critical list'; others are only surviving by cutting back on more complex, time-consuming cases, she warns. 'With fixed fees, because of the need to do "churn", Law Centres are having to keep the smaller cases that normally they would have done for free or passed on to a citizens advice bureau,' she says.

In some areas, Law Centres are facing the added challenge of competition from commercial and other providers following the introduction of Community Legal

Advice Centres and Community Legal Advice Networks (CLACs and CLANs). For example, in April this year, Leicester Law Centre closed after the LSC awarded the contract for the town's CLAC to a commercial company.

Julie Bishop warns that when Law Centres lose out in the tendering process, the less tangible benefits they bring will be lost along the way. Most LCF members receive pro bono help from external lawyers and others – a resource which simply will not be available to commercial providers. 'The LSC will lose the voluntary ethic which the not-for-profit sector has traditionally brought to the equation,' she says.

Commercial providers will also lack the flexibility and 'ear to the ground' that Law Centres provide. 'Law Centres' management committees mean they are rooted in the community. They can address problems as they arise locally and tailor their service; they do not have to wait until there is a legal aid contract available,' says Julie Bishop.

### Losing a unique service

An article of faith for Law Centres is that their role is not just to do individual cases, but also to campaign for wider social justice by doing strategic work: education, test cases, group actions, and so on. It is this strand of work which many see as setting them apart from private practice or other advice agencies. It has also been the area where they provide greatest value for money, according to LCF research (yet to be published). The research carried out by the New Economics Foundation found that every £1 Law Centres spend on case work produces benefits or savings of £15; every

£1 they spend on public education work accrues benefits to the community of over £25.

Roger Smith, director of Justice, a legal and human rights organisation, says it is bringing the two strands of work together in one agency that makes for such a potent mix. 'There is something about the combination of case work with policy work and strategic litigation that is very, very powerful,' he says.

Julie Bishop says, however, that there is a fundamental mismatch between what the LSC wants to buy and what Law Centres have been in the business of providing. She makes the following analogy: 'The LSC says, "We want to buy apples; you are selling fruit salad. We are going to pick out the apples and you can either toss the rest or start putting in more apples".' This may be perfectly understandable, given the narrow remit of the LSC, accepts Julie Bishop; except that the government has a whole number of policy areas which require fruit salad, that is, the broader range of services offered by Law Centres. 'The apple buyers should not be in the business of destroying the fruit salad providers,' she says.

'The LSC wants to help the maximum number of people with a limited budget and has developed a system to create throughput. Law Centres are not about throughput; they are about providing a quality service in often complex cases,' she says.

Steve Hynes, LAG's director and former director of the LCF, says that the LSC case work-led approach is 'reductive' and 'all about controlling budgets'. Instead of focusing on what will actually benefit clients most, the LSC is focusing on the things which are easy to count and

measure, like the number of cases dealt with. As a result, the strategic part of Law Centres' work is likely to wither away. 'Like any contract situation, people will only do what they are paid to do,' he says.

'Law Centres have traditionally brought a large element of creativity to their cases; people thinking around problems to come up with solutions – but how do you quantify that?' adds Steve Hynes.

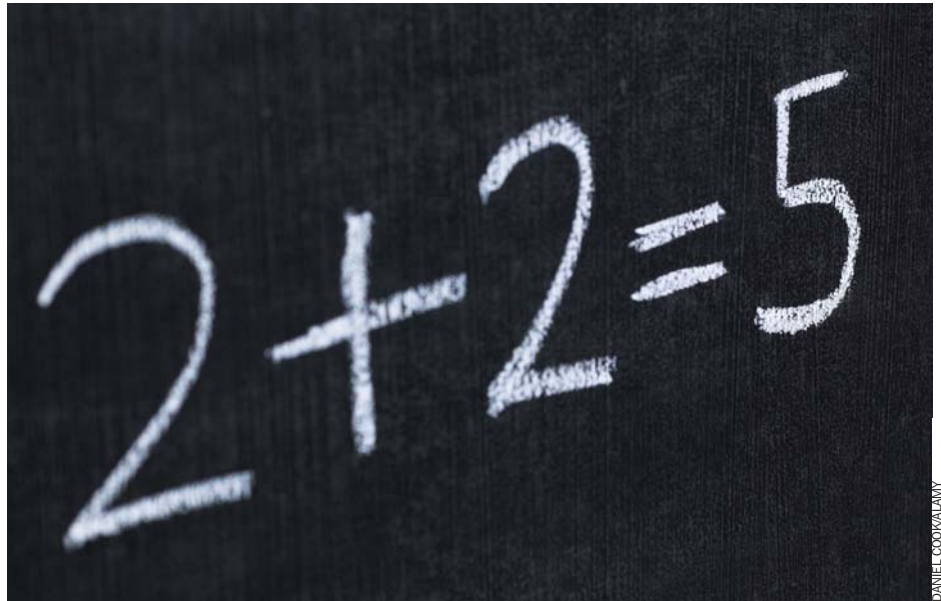
John Fitzpatrick, chairperson of the LCF, accuses the LSC of wanting a homogenised, 'dumbed down' service. His own Law Centre, Hammersmith and Fulham, has just passed its 30th anniversary, but John Fitzpatrick says it may not see its 31st, the way things are going. Many other Law Centres are in equally dire straits, he says. 'We have reached the point where what we are providing is an extremely inferior and diminished product.' This is a gloomy scenario that the LSC does not recognise.

### Focusing on clients

According to the commission, three-quarters of its not-for-profit contract holders (which would include Law Centres and other agencies) are doing 'at least as well' under fixed fees as it would expect by this stage. The LSC accepts that the remaining quarter is doing less well than hoped and these range from being 'a little bit behind', to some which are 'struggling quite a lot'. However, even those that are struggling 'have good, strong plans in place,' says Crispin Passmore. By the end of the six-month transition period, even the strugglers are likely to have worked through their difficulties, he adds. 'The way we set up payment for not-for-profit agencies is much more generous than for solicitors during the transition period,' he says.

Far from undermining Law Centres, current policy is proof that they have won the argument. 'They should be proud of the fact that they have changed the terms of the debate over the last 30 years. The only reason government and the LSC is so focused on social welfare problems is because of the lawyers in the 60s and 70s who fought those battles and said, "These are rights issues",' says Crispin Passmore.

Crispin Passmore started out as an advice worker at Coventry Law Centre (rising to become manager) when it was still run as a collective. He has a former insider's ill-disguised impatience with what he sees as the movement's inefficiencies (at Coventry, 'there was a collective decision to have no management, rather than to have



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collective management') and grandstanding. He tells of a recent conference where a delegate proclaimed that the only advice providers who care about clients are those in the not-for-profit sector. A few thousand legal aid solicitors in private practice might take issue with that statement, says Crispin Passmore and, in any case, what matters to clients is not what motivates their lawyers but what service they deliver.

Law Centres may have won the argument about the importance of providing legal services for the poor, but they have not always delivered, he says. 'It is really important to have an honest debate about this,' says Crispin Passmore. Too often, the services that Law Centres deliver have been inefficient or inaccessible. 'The key to this for me is to focus on what the clients need, not what the staff need.'

Some Law Centres are still run more for the convenience of the staff than clients, he says. It is not difficult to find examples of the kind of thing Crispin Passmore is talking about. The website of one London Law Centre warns that its drop-in sessions can be busy; so, 'We cannot guarantee that you will be seen. You may wish to arrive early but please note that doors do not open until 6.30 pm,' it says.

No privately paying or corporate client would wait outside in all weathers on the off-chance s/he might get to see a lawyer, says Crispin Passmore, so why should Law Centre clients? 'You do not need to rub people's poverty in their faces, day in, day out. Dignity is very important.'

Crispin Passmore says that although

Law Centres rail against reforms which limit the range of work they can do, they ignore the fact that many clients are already missing out. 'People who know how to use the system get advice; single parents and people with disabilities who cannot queue up, do not,' he says.

Although the LSC's head office in central London is a long way from Coventry, Crispin Passmore insists his thinking has not really changed in the intervening years. He stands by his insistence that case work should only be part of the Law Centre mix, but funding for strategic work needs to come from other sources. 'It is important to separate out the roles of different elements of funding. Legal Help is there to deliver client advice work, not test cases.' The LSC is working with local authorities and others to try to put funding for work not covered by Legal Help on to a secure footing. It is, he accepts, 'a very, very slow process'.

Julie Bishop says that new streams of funding are opening up; although Law Centres may be down, they are a long way from being out. 'They are in crisis because of fixed fees, but that is not to say the quality of the work they are doing is in crisis,' she says.

The LCF is holding its annual conference on 21 and 22 November in Birmingham. The keynote speaker will be Lord Bach, parliamentary under secretary of state for justice. See inside back cover of this issue for more details.