

The State and the Sector – Wortley Hall 6th September

The voluntary sector, independence & The Community Legal Service: A case study of how not to do it

The Community Legal Service (CLS)

The setting up of the CLS was a 'flagship' policy of the incoming 1997 Labour administration. At the time, what the CLS was to actually *be* had not been defined (problem No 1) – i.e. it could have been a funding stream, a strategic plan, a quality assurance system, a means of allocating resources, a way of controlling costs, an attempt to establish a national network of independent advice provision, or simply someone's bright idea. The indications are that it was largely the latter, but with one exception – what to do about Legal Aid?

Legal Aid – the type of advice provision that the Government puts money into (£1.9 billion) was fragmented, poorly regulated, costing too much, and hopelessly distributed through the country. It was in need of a radical overhaul (problem No 2).

The Legal Aid Board – responsible for running legal aid – was turned into the Legal Services Commission (LSC) and given the whole job of inventing and setting up the CLS (problem No 3).

It eventually became clear that key people inside the LSC (and possibly the Lord Chancellor as well?) had an ambitious agenda for the CLS which aspired to suck into its orbit virtually any setting in which information and advice might be proffered to the public (problem No 4), despite having no experience of dealing with these sub-sectors of the voluntary sector whatsoever (problem No 5).

Using the lingo and the hierarchical underlying assumptions of 'partnership working' (problem No 6), the two main mechanisms for progressing the CLS have been:

- **the 'Quality Mark'**(QM) – a quality assurance scheme that does not measure quality (problem No 7), jeopardises the funding of advice agencies (problem No 8), makes a lot of work for everyone concerned (problem No 9), whilst failing to demonstrate any improvement in service or advice quality (problem No 10);
- **CLS Partnerships** - intended to exist within every local authority area, these bring the LSC together with the local authority, who are joined by largely unrepresentative (problem No 11) individuals from the legal and voluntary advice sectors, to plan and develop local advice provision. With some notable exceptions, these are poorly serviced by the LSC (problem No 12), are erratic, stumbling, rarely strategic (problem No 13) but nevertheless, influence decision-making by the local authority (problem No 14).

Now, 6 years later:

- Legal aid costs have been capped (problem No 15), the reforms have focused on stricter and stricter regulation, audit and cost control measures (problem No 16) and lawyers are leaving the scheme in droves (problem No 17). *Everyone* is pissed off (problem No 18);
- Some 24,000 advice providers have been effectively forced to adopt a flawed QA scheme (problem No 19), after which the LSC has admitted the weaknesses and indicated that we are all now going to move onto something else – e.g. peer review, outcomes monitoring, etc. (problem No 20);

- At the same time, the LSC has bitten off more than it can chew and finds that it cannot feed the beast it has created (annual audit of all QM holders, General Help and above for example) (problem No 21);
- CLSPs have collapsed (they are called 'dormant' by LSC officers) in many places (problem No 22) and, where they have not, they have rarely resulted in any significant improvement in supply or quality of advice provision (problem No 23); CLSPs that have been successful have achieved this despite, rather than because of, the LSC;
- Here too the LSC cannot sustain its involvement – in the early summer, the London Region LSC Planning and Partnership Team was reportedly at 50% strength because so many of their 'consultants' had left for other jobs (problem No 24).

The impact on the voluntary advice sector and its independence

Outside of the legal practices that are part of the legal aid scheme, the independent advice sector is both very large and very diverse. It includes hundreds of agencies providing information only, advice, casework or formal representation, to particular population groups (young people, older people, disability, ethnic and other minorities) and the population as a whole, across a very wide range of topic areas. Beyond advice agencies that call themselves advice agencies, is another very large group of voluntary organisations who get into information and advice work as a consequence of the other activities or services they are involved with.

When the CLS first appeared on the scene, the advice world (like most of the rest of the voluntary sector) were somewhat preoccupied with 'quality' – as exemplified by inputs-based QA schemes. The LSC therefore found willing partners in its plans to set up the QM. And the local authorities too soon appreciated the merits of subscribing to a QA scheme that would be audited by someone else (at no cost to them).

With respect to CLSPs, being against them was like being in favour of sin – surely everyone could see the point of dialogue, better understanding, openness in policy, joined up services....? And many of us thought that, at last, with a Labour Government, things might be different.

With virtually no debate – never mind dissent – the LSC's grand plans for the sector were, therefore, accepted at local and national levels and all concerned set to, to make them a success. There is some evidence that there was less enthusiasm for the CLS amongst advice practitioners and practitioner-managers, but here too the moaning led to more crying in the beer rather than any significant organised opposition.

Of extreme significance in this, is the fact that the independent advice sector now finds itself:

- exhausted with the effort of keeping up with the initiative and its requirements;
- but without even the benefit of a sector position or policy on how to relate to the CLS;
- no better off than when the Labour Government came to power (indeed worse off in some respects);
- regulated by the State;
- using assessment models that are not fit for the purpose;
- and by a government quango that knows very little about the sector and the ways in which it works.

And all the time, the record that has been playing in the background is Danny Kaye's 'The Emperor's New Clothes'.

What wider questions does this sorry story raise?

- How important is the question of independence to advice agencies?
- And to the voluntary sector more generally?
- What role does the voluntary sector have in commenting on social policy and on generating, supporting, nurturing opposition to regressive policies?
- Is this a structural role (i.e. it doesn't matter who is in Government), or is it a contingent role (it depends on the Government or the policy at the time)?
- How can the interests of the voluntary sector – and the populations for whom they purport to speak – be best defended against both the power of the State and the silly ideas that it spawns?
- Why do so few people in the voluntary sector say 'no'? Why do so few people even express disagreement?
- Is opposition needed? If so, where can we find it?

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