



MINISTRY OF
JUSTICE
Tabū o te Ture

Consultation Paper

Proposed purchase framework for
improving access to community legal
services

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Introduction

The Ministry of Justice is considering a new framework to use when purchasing community legal services. This new framework would be in place by 30 June 2013 when the existing contracts for community law centres end.

The aim of the new framework is to improve access to community legal services nationwide. Community legal services play an important role by helping as many people as possible to resolve their own legal problems or stop problems from becoming legal issues. To realise the full potential of these services, we want to consider reducing the significant variation in the types and quality of the services and to ensure consistency throughout the country. We also want to extend the coverage of community legal services to ensure that all New Zealanders are able to access support.

The Ministry of Justice must tender for all community legal services by 30 June 2013. All contracts with community law centres end on this date and contracts with new or existing centres will be made through the tender process. New organisations interested in providing community legal services may also submit a tender at this time¹.

This offers an opportunity to consider our approach and options for improving access to community legal services. It also requires thought on the best way of delivering community legal services to ensure that they continue to be current and provide the best outcomes. In an environment where resources are limited we also need to ensure that services are efficient and that they are able to meet the greatest possible level of legal need.

This document outlines a proposed purchase framework for improving access to community legal services. The proposals are at a high level and if they are adopted further development would be required before they could be implemented. Our approach would be to work with community law centres and other stakeholders to design the service options and to plan for the changes.

¹ Organisations that are contracted to provide community legal services automatically become a community law centre for the purposes of the Legal Services Act. This does not prevent the organisation from providing other services in addition to community legal services.

Consultation process

The first step is to consult on the options being considered, and we encourage you to provide feedback on the proposals.

Please submit your written consultation responses using the feedback form by 5pm 14 October 2011 to:

Community Legal Services Consultation
Legal Aid Services
Ministry of Justice
19 Aitken St
DX SX10125
WELLINGTON 6145

You can also email your submission to carmel.daly@justice.govt.nz. If you have any queries, email or phone Carmel on 04 495 5940.

A general summary of submissions will be made available on the Ministry of Justice website in early December 2011. Please note that your submission may be publicly available if a request for information is made under the Official Information Act. Please indicate in your submission if you consider any part of your submission should not be disclosed to other parties.

Background

Current situation

Community legal services are provided by community law centres, independent and usually not-for-profit organisations. There are currently 26 community law centres, which offer a range of services including providing legal advice, legal assistance and representation, legal information, legal education and law reform activities. The purchase approach used to date has supported variation in the services provided by the different community law centres.

There is a need to improve not only the consistency of community legal services² but ensure the overall quality and range of services is lifted. Some community law centres provide a high quality of service, while others fall below the expected standard. Seven centres have been audited over the last two years and three of these audits highlighted serious performance issues related to governance and service delivery. We recognise that any performance problems will have an impact on people seeking assistance. One recent measure introduced to improve the quality of services has been funding the new national body Community Law Centres o Aotearoa (Inc) to deliver quality improvement initiatives over the next two years.

Quality issues can be directly related to the size and scope of an individual centre and may result from resourcing or other logistical difficulties. For example, the smaller centres can find it difficult to provide direct supervision of lawyers and this leads to compliance problems. Larger centres are more likely to employ senior supervising lawyers so can meet the requirement.

The Ministry is responsible for purchasing community legal services within the funding provided by or administered by government. There are two funding sources for community legal services. The first source is the interest received from the Lawyers and Conveyancers Special Fund. This used to be the main funding source, however changes in banking practice and the decline in the property market have reduced the funding available from the Special Fund. Central government is the second source of funding and for 2011 / 12 it has provided 64.8% of the funding used to purchase community legal services. In an environment of limited resources we are being challenged to deliver cost effective services that respond to growing legal needs and demand for community legal services.

² In her report *Transforming the Legal Aid System* (November 2009), Dame Margaret Bazley noted that the full potential of community legal services could not be realised without addressing a number of issues including reducing the significant variation in the types of services provided and improving the quality and consistency of services. The report also noted that the Ministry needed to adopt a stronger purchasing approach to these services.

Legal needs

People need access to justice and the 'law' to protect against adverse circumstances or personal disadvantages. This access is an integral part of people's lives and it is instrumental, directly and indirectly, in solving problems.

Legal and non-legal problems are often connected – in addition to legal problems, people can have health, housing and other social problems, and this increases a person's vulnerability and their needs. The United Kingdom and Australia have developed integrated social welfare law services that assist clients to access a range of publicly funded services and help.

We know that consumer and debt-related problems are two of the most common reasons why people go to community law centres, and that without proper legal advice and support these issues can very quickly include other non-legal and legal problems. This is consistent with the 2006 National Survey of Unmet Legal Needs and Access to Services commissioned by the Legal Services Agency. The survey randomly sampled 7200 New Zealanders with booster samples of Māori and Pacific Island people. It sought to establish whether people had experienced a legal problem during the previous 12 months, and if they had, it collected information on their experience, including what action they had taken to resolve the problem. These findings remain consistent with international research on legal need and, in the current economic climate, legal needs are likely to have increased from the levels found by the survey in 2006.

Two key findings from the National Survey related to the prevalence and experiences of legal problems are:

- The most prevalent problems or disputes related to consumer issues, affecting one in ten of the population. The next most prevalent problem was money and debt, affecting 8% of all people, followed by problems with welfare benefits (7%), housing and land issues (6%), family or relationship breakdown problems (5%), and employment related problems (5%) – employment is an area where community law centres have more recently experienced increased demand.
- 23% of people experienced two different problems, and a further 17% experienced three or more different problems.

In April 2011 the Minister of Justice announced that the eligibility criteria and means thresholds for family and criminal legal aid will be adjusted³. Community legal services are increasingly important and a stronger framework for these will ensure that people who are no longer eligible for legal aid continue to receive the support they need to access justice.

³ The eligibility criteria for domestic violence and personal protection matters will not be affected by the changes.

Aims

This proposal aims to help as many New Zealanders as possible to resolve their own legal problems or stop problems from becoming legal issues. The six objectives are to:

- Provide access to quality community legal services across New Zealand
- Maximise the contribution community legal services make to the prevention and early resolution of legal problems
- Focus on improving outcomes for communities with high levels of legal need
- Collaborate with social and community organisations
- Develop the national co-ordination of all community legal services
- Make efficient use of all resources and provide value for money

Proposals

The proposed purchase framework

The proposal is to purchase two connected tiers of community legal service. The first tier is a national legal information service that would be freely available to all New Zealanders. The second tier would provide free direct (face-to-face) legal information, advice and assistance to help people who either cannot afford to pay for a lawyer or do not receive legal aid. In line with national and international research on legal needs, these services would target communities with high levels of legal need.

The proposed two tiers are outlined in the following table.

Tier	Client group	Delivery	Benefits
National legal information service	Free to all New Zealanders.	<ul style="list-style-type: none"> • Legal information – online • Initial legal advice – email and 0800 phone line • Information on where to go for more help with legal problems • Information on where to go for help with non-legal problems • Centralised development of legal information and resources • Submissions on law reform 	<ul style="list-style-type: none"> • New Zealanders have access to legal information and support • Prevention or early resolution of legal problems • Link to other sources of help for non-legal problems • Increased quality and consistency of legal information and resources • Efficient use of resources
Direct community legal services (Community Law Centres)	In communities with high levels of legal need. Free to people without sufficient means to pay for a lawyer.	<ul style="list-style-type: none"> • Legal information – face to face • Legal advice and assistance – face to face • Referrals to other agencies for help with non-legal problems 	<ul style="list-style-type: none"> • Available in communities with high levels of legal need • People on low incomes and ineligible for legal aid receive legal advice and assistance • Prevention or early resolution of legal problems • Referrals to other sources of help for non-legal problems • Community legal services are resourced to deliver quality services

National legal information service

A national legal information service would be freely available to all New Zealanders. Its primary purpose would be to provide online general legal information to help people to understand their rights and avoid or resolve their own legal problems. Where problems continue, advice would be available either by phone or email, along with information on where to go for further help.

The 2006 National Survey found that one third of New Zealanders had experienced at least one non-trivial legal problem over the last 12 months. Thirty-four percent of people in this group said that they only wanted information so they could sort out the problem themselves. A further 35% wanted information and a basic level of support, and 11% wanted someone to help sort out their problem. Based on the survey findings, a national legal information service would meet the needs of around 20% of New Zealanders each year.

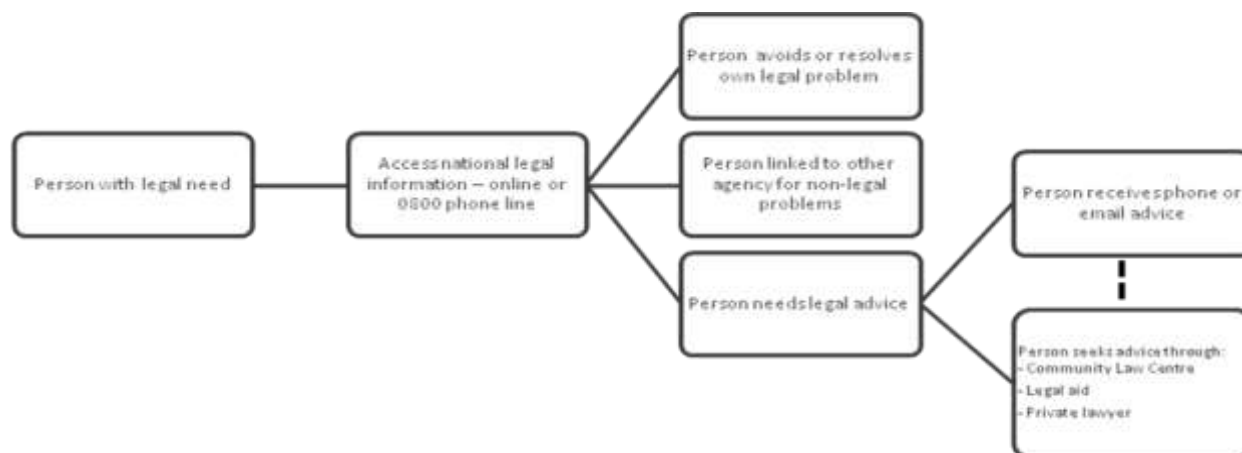
Numerous difficulties with accessing advice and information were reported in the National Survey and these mostly related to:

- problems finding the information sought
- the services accessed were not able to help
- inconvenient meeting and opening times
- difficulties in contacting services.

A national legal information service would overcome most of these problems and provide people with one single point of access to information that is available at all times.

Other information services are already available⁴ and our approach would be to complement these services. We want to make it easy for people to know where they can go for help and make the best use of all resources.

The diagram below shows ways a person may approach a national legal information service.



⁴ For example Citizens Advice Bureau has <http://www.cab.org.nz>

A national legal information service would also be a resource for other community agencies. The service could increase the legal knowledge and capability of other agencies so that these organisations can better assist their clients.

The service would work closely with other community legal services to produce pamphlets, education programmes and other resources for their use.

The national service would also be responsible for co-ordinating law reform activities including making submissions on behalf of community groups, including community legal service providers. These activities would require structures, such as reference and advisory groups, and online forums to be in place for information sharing, work planning and co-ordination purposes.

The national legal information service would use experience gained from the successful LawAccess website and other information and advisory services. It would also draw on the international experience of providing similar services in Australia and the United Kingdom.

Direct (face-to-face) community legal services

Direct (face-to-face) community legal services would provide free legal information, advice and assistance to help people who cannot afford to pay for a lawyer and do not receive legal aid. The focus would be on providing services tailored to client needs (as opposed to general information), and community legal teams would include lawyers with experience in civil, family and criminal law.

Legal needs are not randomly or evenly distributed across the population and some communities require higher levels of assistance to access justice than others. The National Survey found that the Pacific (33%) and Māori (40%) people are more likely to experience a non-trivial legal problem than other New Zealanders (29%).

A community legal needs assessment would be completed using data that includes social and demographic information to set the priorities for funding direct (face-to-face) services. Communities with high levels of need would be prioritised. Organisations providing direct legal services would need to be resourced to achieve the intended improvements in consistency and quality. This would be considered as planning continues and it may mean reallocating resources away from communities with lower levels of legal need to those communities with high levels of need.

A national legal information service would enable direct community legal services to focus on legal advice and representation, although there would be some overlap in roles. For example, some people would continue to seek information from their local community law centre because they don't have a computer or internet access. It is possible that the community legal services could also provide phone or email advice to people who contact them from a national legal information service.

Direct community legal services would work with other community agencies to provide legal information and deliver the education programmes using resources developed by the national information service. The goal would be to increase the legal knowledge and capability of community agencies so that they can assist their clients to identify legal needs and access justice.

A broader range of legal and non-legal needs could be met by strengthening collaboration between community legal services and other community organisations, such as establishing networks and referral processes between the community legal services and other agencies.

Direct community legal services could be purchased from organisations that also provide other social services, such as Whānau Ora agencies. The preferred option would depend on the needs and resources of each community and the outcomes of the tender process.

Roles of a national legal information service and direct community services

The following table outlines the proposed roles of a national legal information service and direct community services.

Service	National legal information service	Direct community legal services
Legal information	<ul style="list-style-type: none"> • Develop, produce and maintain information • Deliver online service • Deliver phone service 	<ul style="list-style-type: none"> • Identify information needs and advise national service • Distribute information to clients
Legal education	Develop, produce and maintain education resources	<ul style="list-style-type: none"> • Identify education needs and advise national service • Deliver education programmes to clients and community services
Law reform	<ul style="list-style-type: none"> • Host on-line discussions • Coordinate information and make submissions 	<ul style="list-style-type: none"> • Identify issues within communities • Advise national service of issues impacting on clients and communities • Contribute to law reform discussions
Legal advice	<ul style="list-style-type: none"> • Coordinate national phone service • Provide information on where to go for help 	Deliver tailored assessments and advice
Legal assistance		Deliver tailored assistance (including representation)

Questions

We are interested in your views on the proposed purchase framework. The following questions have been designed to assist you to provide feedback. These questions are included in the submission form. Please feel free to comment on other aspects of community legal services.

Aims

- Q1. What are your views on the aims and objectives of the proposed purchase framework?
- Q2. Are there other aims or objectives that should be included?

Overview

- Q3. What do you think would work well with the proposed two tier purchase framework?
- Q4. What difficulties do you think it would face?
- Q5. What alternative frameworks could also work and why?

National legal information service

- Q6. What do you think would work well with a national legal information service?
- Q7. What else could a national legal information service provide?
- Q8. What would be important to consider in setting up a national information service?
- Q9. How could a national information service be useful to other community agencies?
- Q10. What community agencies should a national information service be linked into?

Direct community legal services

- Q11. What do you think would work well with direct community legal services?
- Q12. What else could direct community legal services provide?
- Q13. What factors are important to making direct community legal services a success?
- Q14. How could direct community legal services best make referrals to other agencies?

Roles of a national legal information service and direct community services

- Q15. Do you agree with the way the roles of the two services are outlined in this document?
- Q16. How could these roles be changed to better meet the objectives of the framework?

What happens next?

The Ministry of Justice will consider your feedback and make decisions. A response document that summarises the submissions and confirms the framework that will be used for purchasing community legal services will be developed and sent to all those who made a submission and the community law centres in December this year.



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