

On 31st October the Sustainable Advice Project (S.A.P) hosted a seminar entitled 'Developing alternative sources of income for your advice service'. This report outlines issues raised by 25 delegates who attended the event. One of the aims of the City Bridge Trust funded project is to help advice agencies develop their capacity to access alternative funding streams and generate unrestricted income. Charging for services and developing earned income sources from trading services and property were options addressed on the day.

AdviceUK members are continually struggling to deliver services to clients whilst funding to pay for those services is ever decreasing. The seminar served to take forward the debate on charging for services and trading as means to funding advice. Assessing the advantages and disadvantages of implementing charging and trading activities as a means of sustaining the advice sector in London. This report summarises the findings and concludes with recommendations for future action.

Nick Pearson (NP), *AdviceUK*'s National Money Advice Coordinator (stating that he was not speaking on behalf of *AdviceUK*) remarked in the debate on charging for services: '*free advice has been perhaps the defining and central principle underpinning the ethos of the not for profit sector*'. However, the notion that charging for certain types of advice and trading in the Not For Profit (NFP) sector is gaining momentum. Indeed, the 2007 ASA conference indicated that advisers are considering charging clients who can afford to pay and who would not normally seek free advice.

Issues arising from the debate on charging for services

- **NP stated that the current prohibition on charging is not absolute** e.g. clients helped under a legal aid certificate have to pay contributions to the Legal Services Commission (LSC) and that charging and the NFP sector is not incompatible – Relate charge for relationship advice services and counselling.
- There appears to be no barrier in charity law to charging for advice. Charities can set up a **trading arm** to 'sell a service' and generate income e.g. *AdviceUK* sells insurance and training and some members charge for translation and interpreting. Charities could also charge for 'add on services' such as: conveyancing, divorce, personal injury and consultancy.
- In debt advice, demand for face-to-face advice/ telephone advice exceeds supply. Resources are directed to those who need face-to-face advice and not on those who cannot wait for appointments. This places a barrier to advice for those who could potentially pay for the service. Funds generated by fee paying clients could be reinvested, expanding advice giving capacity to help more clients who cannot afford to pay. Is this way of financing advice compatible with delivery of legal advice in the NFP sector?
- Many grants are not rising with inflation, forcing agencies to supplement rising costs of running advice services. Given that only 12% of funds granted to agencies cover the full cost of delivering services and 47% of those in receipt of grant funding never receive full costs – it is not surprising that agencies are looking to supplement falling grant income through charging and trading.
- **Charging clients**, who can / are willing to pay and **Social enterprise activity** for related services, could generate unrestricted income to help subsidize, preserve or expand free advice services. Advice provision would therefore remain free of charge at the point of delivery for those who need it by charging 'better off clients' - safeguarding the moral and ethical argument on the right to free advice. But this raises the issue of means testing clients to make it possible. What income threshold would clients need to cross to become eligible to free advice and how would a financial eligibility and a merits test for clients be implemented to be accepted by the public and the advice sector?
- Delegates identified other areas of advice as potential fee earners including immigration, family and employment advice, with the latter operating under a 'no win no fee' basis. LCF were currently looking at conditional fee arrangements for employment advice.

- The Legal Services Commission (LSC) is reducing spending within the legal advice sector and there are implications of working with fixed fees for contract holders especially in London e.g.: costs for delivery of services will vary according to areas of law and locality. Fixed fees also do not take into account inflationary increases. There is a need therefore to reduce dependency by the advice sector on the LSC as a funder, and to find income to support core services not funded by the LSC. For instance, the LSC stated that Islington Law Centre has more than twice as much legal advice coverage than it needed and were told they were over performing on their contract hours.
- LSC legal aid contracts have also had the effect that those who are too wealthy to access the service are in effect limited to fee charging companies. Some of these people are potential clients who could, and might prefer to, use the services of the NFP.
- **Advantages of charging:**
 - Allow advice sector to provide better resourced services to more people by reinvesting income made through charging into free services.
 - Remove reliance on grant funding - 1 in 3 charities currently receive 80% of their funding from statutory sources making them susceptible to funders changing priorities, funding cuts and increased competition for funding programmes. The numbers of groups applying to the BLF's Advice Plus programme and the very low success rate is an indication of how difficult to secure financial security.
 - Unrestricted income would give the advice sector greater independence and control over planning. No longer beholden to what funders wanted to fund but on what the advice sector wanted to do to respond to service user needs.
 - The potential for private providers and the NFP to work together – the credit industry is interested in involving the NFP in brokering and supervising IVAs, following concerns at fee levels charged by Insolvency Practitioners.

Disadvantages of charging

- How can the sector ensure that those who need free legal advice continue to receive it and do not end up paying?
- Delegates voiced concern over the potential risk of charging to the reputation of the advice sector and to organisations in particular. Charging for advice could alienate vulnerable clients - why would an organisation charge for certain services yet maintain a free advice service? Charging could also increase liability risks to Management Committees and some staff.
- Delivering fee paying and free services could end up as a 2-tier service where fee-paying clients would expect and receive higher quality services. Would managers give priority to fee-paying clients especially during periods of financial difficulty?

Nick Pearson used the following example from debt advice to illustrate the potential of fee-paying advice to supplement free advice:

'40% of clients seeking advice need debt advice. At present, free debt advice sector assists a small section of the public – those needing face-to-face advice, on low incomes and who are not homeowners. The demand for free debt advice *exceeds* supply; the sector could not cope with an increase in client numbers by advertising services in the same way as commercial organisations.

Since the early 1990s there has been a growth in fee charging debt management companies to meet the unmet debt advice 'market'. This consists of those unaware of or who do not want to access the free advice market – they are mostly homeowners, with higher incomes and higher debts. The majority has non-priority debts and so could afford to pay for their advice. Debt advice services such as the Consumer Credit Counseling Service (CCCS) work with such clients. Is there potential for AdviceUK members to compete with organisations such as CCCS?

Trading – key issues arising from delegates presentations

- What legal structures and factors do advice agencies need to consider if they wish to trade? Do they need to develop a separate company? How will memorandum of articles and charity objects be affected by delivering commercial activities?
- Is it possible to operate a trading arm whilst maintaining a quality free advice service?
- What TUPE/ staff contract implications are there for trading e.g. extended opening hours to see fee paying clients/ deliver activities in the evening and weekends; health and safety factors, staff bonuses etc
- Many clients are turned away as agencies do not have resources/ capacity to see everyone. Could trading alone generate enough income to enable agencies to develop and build on existing service provision to address unmet need?
- What resource implications do agencies need to consider if they decide to develop and market a trading activity alongside their free advice service e.g.: undertaking a needs assessment to assess demand; administration and management time, securing funding to set up new services and staff to deliver the service –using existing staff could place burden on already overstretched staff and volunteers.

Multi – Lingual Community Rights Shop (MLCRS) presented the following reasons that compelled it to charge other agencies for its interpreting and translation service:

- *Demand exceeded MLCRS' resources and capacity.
- *Funds were insufficient to meet the needs of BME communities.
- *Overloaded with casework, MLCRS' resources were stretched to the limit. Staff worked additional hours without pay for the sake of meeting demand.
- *Fundraising was and still is a major problem due to insufficient time, staffing and capacity.

These circumstances led MLCRS to develop its interpreting and translation service as a complementary service to support MLCRS and other agencies in meeting their needs. MLCRS raised additional funds to re-invest within its organisation, meeting financial shortfalls and provide quality and affordable service to agencies working among the people from black and ethnic minority, asylum seekers refugees and migrant communities whose first language is not English.

Recommendations for further action

- I. **Research**
- II. **AdviceUK should research** the legal implications of trading e.g. establishing a trading arm to deliver commercial services and clarity on legislative requirements with regards to charity objects and memorandum of articles. Confusion by seminar delegates echoes general uncertainty in the advice sector over legal structures and compatibility with free advice delivery - hindering ability to make an informed decision about whether trading is a viable option.
- III. The majority of seminar delegates indicated that they were considering the issue of charging clients for certain services. *AdviceUK* is aware that a number of members are already charging for certain advice such as immigration. *AdviceUK* should survey **members' views on charging to clients who can afford to pay in order to generate unrestricted income.**
- IV. **Seminar delegates addressed the moral and ethical arguments of charging and the risk of diminishing the sectors reputation in the eyes of existing clients and the sector as a whole.** *AdviceUK* should encourage debate in the advice sector on the ethics of charging in advice sector publications such as *The Adviser*, *Legal Action* and *The Independent*

Adviser. Delegates indicated that they wished to see AdviceUK clarify its position on charging for advice and offer guidance to members.

- V. *AdviceUK* should research, collate and distribute to members examples of good practice in trading and charging as an ongoing resource and reference.

2. Consultation

- i. Consult with members, advice networks and other stakeholders on a sector wide policy on charging. The consultation should consider:
 - ii. Damaging reputation of the advice sector – changing perception by clients, funders and the public. Will the ethical dilemma of extending services to fee-paying clients outweigh the financial benefits and opportunity to generate a source of unrestricted income - independent of government and other traditional funders such as trusts and foundations? Will funders in turn further reduce access to funding programmes if they believe agencies can generate income elsewhere?
 - iii. Reevaluating the advice sector's values and beliefs as they will not just be working with clients from poor backgrounds. Delegates advised that advice agencies should charge other agencies rather than individuals – what would be the best approach?
 - iv. How can the NFP prepare for the impending deregulation of the legal services market and competition from private sector providers such as CAPITA and A4E.

3. Impact assessment

- i. Potential of trading and charging to supplement reduction in grant funding and meeting true/full costs of delivering a free advice service - just 12% of those who receive grant funding receive full costs to deliver free advice. Can unrestricted income meet this shortfall?
- ii. Can charging and trading realistically increase financial sustainability? Are expectations too high as to how much income members could expect to gain?
- iii. What are the consequences of operating a two-tier service: extending service delivery beyond target group to organisations and individuals that can pay a fee to receive a service? Would agencies end up delivering a higher quality and more flexible service (e.g. out of hours appointments) service to fee paying clients, leading to a client focused rather than adviser focused operating hours?
- iv. The real cost of charging - What are the resource implications of providing fee paying services and changing how services are delivered to meet the needs of fee paying clients? Will this require additional staff, overtime rates for existing advisers? How will fee-paying service be packaged? How will those who can afford to pay become aware of these services?
- v. What will the impact be on diverting resources away from an agencies existing client base? Where will the expanded client base come from?

The general view of participants was that they were amenable to charging. AdviceUK should extend the debate to all members, funders of advice, statutory bodies, MPs, second tier networks.