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Family Lawyers and Multi-agency Approaches: Why Don't Lawyers Work with Other Service Providers?

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Family Lawyers and Multi-agency Approaches

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Multi-agency solutions involve a range of service providers, often located across different professional backgrounds, working together in order to address a client's problems. In England and Wales, multi-agency approaches are at the heart of welfare policies aimed at tackling complex social problems such as gender violence, social exclusion, crime prevention, child protection and community health. For supporters of multi-agency approaches, clients benefit from being offered integrated, holistic and innovative solutions, which are more likely to address the root causes of problems. Despite this, family lawyers often work alone rather than work with other service providers.

First, this chapter examines previous work into the advantages and barriers of family lawyers being involved in multi-agency approaches. Secondly, we look at evaluations of two initiatives implemented by the Legal Services Commission (LSC) in England and Wales, namely the Family Advice and Information Network (FAInS) pilot; and Community Legal Advice Centres and Networks (CLAC/Ns). These initiatives both attempted to involve lawyers in providing a holistic service to address clients' overlapping legal and non-legal family issues.

Both FAInS and CLAC/Ns have been discontinued and the demise of the LSC means that similar initiatives now face a bleak future. However, this does not mean that it is impossible for lawyers to work with other service providers to tackle family law problems. Our analysis identifies two main barriers to the lawyers working with other service providers: lack of financial incentives; and unequal power relations. The loss of legal aid funding for family law matters will force lawyers to look for new

ways to survive in a shrinking market. One survival mechanism, and one which also addresses the barriers of funding and uneven power relations, may be to become employees for not-for-profit (NfP) organisations who provide a holistic and joined-up service to their clients.

Involving Lawyers in Multi-agency Approaches: Advantages and Barriers

Multi-agency approaches involving lawyers are not common. However, they have gained prominence in the form of medical-legal clinics in the US. Medical-legal clinics were founded by Zuckerman, a paediatrician working in Boston, who was frustrated by only being able to resolve a narrow aspect of a child's illness rather than the underlying social issues that often cause childhood disease. Zuckerman set up a clinic involving doctors referring patients with potential legal problems to lawyers.[1]

For Zuckerman, medical-legal clinics promote a preventative approach to social problems, which involves tackling a problem before it reaches a crisis point, which may in turn produce long-term outcomes. The clinics encourage a culture of advocacy, and assist the most vulnerable members of society who are also the most likely to experience multiple problems. These clients are also the most likely to find it difficult to access multiple services, and do not necessarily realise that their problems may have a legal solution.

Despite the growth of medical-legal clinics, there are few evaluations aimed at testing how the involvement of lawyers in multi-agency approaches works in practice.

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[1] Zuckerman, B, Sandel, M, Lawton, E and Morton, S, 'Medical-legal Partnerships: Transforming Health Care Medical-legal Partnerships' (2008) 372 *Lancet* 1615.

The evaluations that have been done have highlighted advantages as well as potential barriers. For instance, Lynch examined efforts by lawyers providing services to homeless clients in an Australian legal clinic to engage with social services providers in order to address their clients' non-legal issues.[2] The clinic offered outreach services, so that clients did not have to come in to the service, and lawyers were then exposed to the clients' lives. The main problem faced by the clinic involved obtaining ongoing funding, and the service was dependent on lawyers working free of charge.

Another Australian example consists of Noone's evaluation of efforts by a Community Legal Centre and Community Health Service at providing a holistic service for clients with legal, health and welfare problems.[3] The service's success relied on referrals being appropriate and mutually beneficial, the referral process being understood by both agencies, and checking that clients followed up on referrals. An integrated approach reduced the anxiety experienced by clients who were facing a cluster of problems, and improved client satisfaction also increased lawyer satisfaction.

Noone's evaluation also identified a number of barriers. Funding was insufficient to allow for organisational integration, and there was a lack of overarching policies. In order to be successful, there needed to be willingness across providers to share resources, providers needed to have agreed goals, planning to be integrated, and for there to be trust between providers. Professional boundaries were found to create barriers, and service provision was hampered by differences in communication and decision-making styles, professional identities, levels of commitment, willingness to recognise the expertise of others, and levels of management support.

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[2] Lynch, P, 'Human Rights Lawyering for People Experiencing Homelessness' (2004) 10(1) *Australian Journal of Human Rights* 4.

[3] Noone, MA, 'Towards an Integrated Service Response to the Link between Legal and Health Issues' (2009) 15 *Australian Journal of Primary Health* 203.

These barriers are similar to those identified by Moorhead and Robinson, who compared the advice provided by legal firms and NfP agencies based in England and Wales.[4] Clients experienced clusters of complex housing, debt and benefit problems which required integrated solutions. The provision of an integrated service was limited by financial constraints, lack of organisational skills and capacities and lack of information about what other services provided. Some clients ended up being confused by instructions, and instead of resolving issues before they reached a crisis point, problems were allowed to escalate.

The barriers identified by these evaluations would potentially hamper the delivery of multi-agency approaches regardless of the service providers involved. However, there are additional barriers that are specific to lawyers. The first such barrier involves regulation. Multi-agency approaches in the form of multidisciplinary practices (MDPs) were only allowed in England and Wales with the passage of the Legal Services Act 2007, and are still banned in some jurisdictions such as the US.[5] The medical-legal clinics sidestep regulations as they are non-profit organisations and clients are referred, and therefore there are no fee-sharing arrangements.[6] Opponents of MDPs argue that they undermine the core values of the legal profession, namely protecting client privilege and confidentiality, avoiding conflicts of interest, and ensuring the profession's independence.[7] However, it has been argued that ethical

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[4] Moorhead, R and Robinson, M, *A Trouble Shared – Legal Problem Clusters in Solicitors and Advice Agencies*, Department for Constitutional Affairs, Research Series 8/06. http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/research/2006/08_2006.pdf.

[5] Paton, PD, 'Multidisciplinary Practice Redux: Globalization, Core Values, and Reviving the MDP Debate in America' (2010) 78 *Fordham Law Review* 2193.

[6] Brustin, SL, 'Legal Services Provision through Multidisciplinary Practice – Encouraging Holistic Advocacy while Protecting Ethical Interests' (2002) 73(3) *University of Colorado Law Review* 787.

[7] Garcia, JR, 'Multidisciplinary Practices: What is Wrong with the Legal Profession's Ethics Rules' (2000) 44(2) *Saint Louis University Law Journal* 629; Paton, 'Multidisciplinary Practice Redux' (n 5).

issues can be dealt with, for instance extending privilege. Referrals also bypass restrictions arising from lawyers' ethical codes.[8]

It has also been argued that the legal profession's opposition to MDPs arises from a desire to protect their monopoly over the legal services market.[9] In England and Wales, the lifting of the ban on MDPs followed from a report by the Office of Fair Trading[10] which found that the restriction was anti-competitive and could be used to unfairly increase legal fees. This was followed by a report by Sir David Clementi which suggested abolishing the legal profession's self-regulation.[11] Clementi argued that MDPs would provide an impetus to improve services, allow for greater innovation, increase efficiency, lower costs and provide a more integrated service that would better address clients' needs. Clementi's recommendations are partly reflected in the Legal Services Act 2007. The Act permits lawyers and non-lawyers to provide legal services on an equal footing. Part of the opposition against MDPs had been based on the difficulties in implementing regulation across different professionals. The Act attempts to resolve this issue by moving regulation from the individual profession to the 'economic unit' in which the service provider operates.[12]

Regulatory barriers are not the only reason for lawyers' reluctance to work with other service providers. Prior to removal of the ban on MDPs, lawyers could have drawn on the services of non-lawyers through referrals, and yet lawyers have

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[8] Wyrda, H, 'Keeping Secrets within the Team: Maintaining Client Confidentiality while Offering Interdisciplinary Services to the Elderly Client' (1993) 62 *Fordham Law Review* 1517.

[9] Dzienkowski, J and Peroni, RJ, 'Multidisciplinary Practice and the American Legal Profession: a Market Approach to Regulating the Delivery of Legal Services in the Twenty-first Century' (2000–01) 69(1) *Fordham Law Review* 83.

[10] Office of Fair Trading, *Competition in Professions* (London, HMSO, 2001).

[11] Clementi, D *Review of the Regulatory Framework for Legal Services in England and Wales: Final Report* (2004) www.aiga.it/old/pdf/doc-57-871.pdf, ch F.

[12] Stephen, F, *Lawyers, Market and Regulation* (Cheltenham, UK, Edward Elgar Publishing, 2013) 1139.

been reluctant to recommend their clients to other services.[13] As we discuss below, the main service that family lawyers refer to consists of mediation, and research has consistently demonstrated that many lawyers have been reluctant to refer. Pilot information meetings about mediation in anticipation of proposed mandated meetings under the Family Law Act 1996 failed to enhance enthusiasm for mediation. Consequently the proposal was dropped except for clients in receipt of legal aid funding, although as the LSC could not insist that parties paying privately should attend, referrals to mediation continued to remain relatively low.[14]

In May 2010, a Coalition government formed by the Conservative and Liberal Democrat parties came to power. The new government has reinstated mandatory attendance at a mediation intake session for applicants to the court in family matters (known as Mediation Information and Assessment Meeting) whether parties are legally aided or not. However, there is no requirement upon parties to attend mediation beyond the MIAM, and parties not in receipt of legal aid are required to pay. Previous experience would suggest that referrals for mediation will not increase, although the government appears determined to ignore previous empirical evidence and instead rely on popularist beliefs that lawyers promote an adversarial culture, mediation is always effective and that there is unmet demand for mediation.[15]

The lack of referrals may not be entirely due to lawyers protecting their market. It may partly reflect lawyers' desire to protect their client's interests. Lawyers have criticised the NfP sector for lacking adequate training and skills, providing

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[13] Davis, G, *Monitoring Publicly Funded Family Mediation: Report to the Legal Services Commission* (London, Legal Services Commission, 2000); Melville, A and Laing, K, 'Closing the Gate: Family Lawyers as Gatekeepers to a Holistic Service' (2010) 6(2) *International Journal of Law in Context* 167.

[14] Davis, ibid; Davis, G and Bevan, G, 'The Future Public Funding of Family Dispute Resolution Services' (2002) 24(2) *The Journal of Social Welfare & Family Law* 175.

[15] Dingwall, R, 'Divorce Mediation: Should we Change our Mind?' (2010) 32(2) *Journal of Social Welfare and Family Law* 107.

inappropriate advice and having long queues and erratic opening hours.[16] They may not refer as they are not aware of what other services are available,[17] or feel that other services do not provide anything that they do not already offer.[18] According to Moorhead and Richardson, lawyers largely see the NfP sector as being supplementary to legal services, rather than offering something that is valuable in its own right.[19]

Research has also shown that lawyers are often aware of their client's non-legal problems, but feel that exploration of these issues is beyond their professional remit.[20] Lawyers may be reluctant to discuss non-legal issues as they feel that this is beyond their expertise, or that to do so does not assist their client to 'move on'.[21] Sherr argues that lawyers' ability to examine non-legal issues is hampered by

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[16] Mather, L, McEwan, CA and Maiman, RJ, *Divorce Lawyers at Work: Varieties of Professionalism in Practice* (Oxford, Oxford University Press, 2001) 75; Moorhead, R, Paterson, A and Sherr, A, 'Contesting Professionalism: Legal Aid and Non-lawyers in England and Wales' (2003) 37 *Law and Society Review* 765; Neilson, LC, 'Solicitors Contemplate Mediation – Lawyers' Perceptions of the Role and Education of Mediators' (1990) 4 *International Journal of Law, Policy and the Family* 235; Richardson, CJ, *Court Based Divorce Mediation in Four Canadian Cities: An Overview of Research Results* (Ottawa, Department of Justice, 1988).

[17] Smart, LS and Salts, CJ, 'Attorney Attitudes toward Divorce Mediation' (1984) 6 *Mediation Quarterly* 115.

[18] Davis (n 13); Feldman, M, 'Political Lessons: Legal Service for the Poor' (1995) 83 *Georgetown Law Journal* 1529; Felner, RD, Terre, L, Farber, SS, Primavera, J and Bishop, TA, 'Child Custody: Practices and Perspectives of Legal Professionals' (1985) 14(1) *Journal of Clinical Child and Adolescent Psychology* 27; Smarts and Salts, ibid.

[19] Moorhead and Richardson, *A Trouble Shared* (n 4).

[20] Eekelaar, J, Maclean, M and Beinart, S, *Family Lawyers: The Divorce Work of Solicitors* (Oxford, Hart Publishing, 2000).

[21] Mather, L, Maiman, RJ and McEwen, CA, '"The Passenger Decides on the Destination and I Decide on the Route": Are Divorce Lawyers "Expensive Cab Drivers"' (1995) 9 *International Journal of Law, Policy and the Family* 286; Trinder, L, Firth, A and Jenks, C, '"So Presumably Things have Moved on since then?" The Management of Risk Allegations in Child Contact Dispute Resolution' (2010) 24(1) *International Journal of Law, Policy and the Family* 29.

deficiencies in communication.[22] Lawyers tend to treat their clients as 'exam questions' rather than as people with complex problems. Moorhead and Richardson argue that lawyers generally work within narrow specialisations with little overlap between areas of law, and the trend towards increased specialisation has been accelerating in recent years.[23]

Multi-agency Approaches: Evaluating FAInS and CLAC/Ns

While there are still few efforts at involving lawyers within multi-agency approaches, the Legal Services Commission in England and Wales had been at the forefront in providing initiatives. Two such initiatives consisted of the Family Advice and Information Network (FAInS) pilot, and more recently Community Legal Advice Centres (CLACs) and Community Legal Advice Networks (CLANs). These initiatives followed earlier research by Genn into the types of legal problems encountered across the community and what people do once they encounter a justiciable problem.[24] Genn found that problems frequently 'cluster', and that legal problems are often accompanied by an array of complex and overlapping non-legal problems. This research created a framework for understanding legal needs that stressed that dealing with a trigger problem before it evolves into clusters may reduce overall legal need, and in turn reduce social and economic costs and improve clients' lives.[25]

The FAInS pilot commenced in 2001 and closed in 2007. One of its primary aims was to have family law practitioners identify client's non-legal issues and refer

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[22] Sherr, A, 'Lawyers and Clients: the First Meeting' (1986) 49(3) *The Modern Law Review* 323.

[23] Moorhead and Richardson (n 4).

[24] Genn H, *Paths to Justice: What People Do and Think About Going to Law* (Oxford, Hart Publishing, 1999).

[25] Moorhead and Richardson (n 4) 2.

to other service providers where appropriate, so that clients received a holistic service that dealt with their entire problem cluster. Lawyers were provided with additional funding in order to explore their client's non-legal issues more fully in the first meeting. However, an evaluation of FAInS showed that approximately a quarter of clients were not provided with any information about another service or were referred. When a referral was made, clients were usually left to their own devices to make an appointment. The most common service signposted by lawyers was family mediation, and even then half of the lawyers interviewed were sceptical of the value of mediation.[26] A number of reasons were given for this reluctance to refer. Lawyers were not necessarily aware of what other services were available. Some also claimed that the services required by their clients were unavailable or had long waiting lists, lawyers were unsure of the quality of services offered by other agencies, and they did not want their clients to feel as if they were being passed off to another service rather than having their problems addressed.[27]

In order to save clients from having to recount their story each time they saw a different service provider, lawyers were encouraged to draw up a Personal Action Plan (PAP) for their clients. The PAP was intended to provide a 'travelling document' that summarised both legal and non-legal issues. However, Melville and Laing report that most PAPs contained insufficient information to provide another service with an understanding of the case.[28] Some lawyers were reluctant to use the PAPs as they felt that client confidentiality was breached, or that their clients would be upset if sensitive details were written down. Many lawyers also used the documents primarily to encourage their client to focus on legal issues and marginalise non-legal issues.

Melville and Laing argue that the main barriers to the provision of a holistic service through FAInS consisted of the lawyers' conceptions of their professional

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[26] Melville and Laing, 'Closing the Gate' (n 13).

[27] ibid.

[28] ibid.

role.[29] For many family lawyers, their role involves separating their client's legal and non-legal needs, and then focusing on resolving the issues that are within their professional remit. Many clients present in a highly emotional state, and lawyers felt that dwelling on non-legal issues encourages clients to be irrational, unreasonable and distracted from thinking about their children's best interests. FAInS was discontinued in March 2007 when it was superseded by the FAInS Additional Modes of Delivery Pilot, although this pilot was also discontinued.

Following FAInS, the LSC commenced another initiative aimed at integrating services for clients: Community Legal Advice Centres (CLACs) and Community Legal Advice Networks (CLANs). CLACS brought together all services within a specified geographical area into a single entity, and CLANs brought together a consortium of difference organisations, including NfP agencies and private solicitor firms, under a lead provider. The services were funded jointly by the LSC and local authorities, and were delivered through a one-stop shop. CLAC/Ns covered a range of categories of law, focusing for the most part on welfare benefits, family law, community care, employment and debt, mental health and immigration issues. CLAC/Ns were also intended to meet a client's legal needs through the entire resolution process, starting with diagnosis and information, advice and assistance, through to legal representation in court. The LSC explained that CLAC/Ns were intended to provide a seamless service that would address clients' clusters of non-legal and legal issues, reduce the problem of referral fatigue and join up services.[30]

The first CLAC opened in April 2007 in Gateshead. The Gateshead's CLAC used an initial 10 to 15 minute 'diagnostic' interview, after which the client was referred if appropriate to a specialist for further advice with the appointment arranged

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[29] ibid.

[30] Buck, A and Curran, L, 'Delivery of Advice to Marginalised and Vulnerable Groups: the Need for Innovative Approaches' (2009) 3 *Public Space: The Journal of Law and Social Justice* 1; Legal Services Commission, *Making Legal Rights a Reality* (2006)

www.legalservices.gov.uk/docs/civil_contracting/CLS-Strategy-final-15032006cover.pdf.

immediately during the interview. Further CLACs opened in Derby, Leicester and Portsmouth in 2008.[31] However, cuts to legal aid funding now means that few cases could now be handled by CLAC/Ns. Consequently, contracts to CLAC/Ns were terminated in March 2012.

A comprehensive evaluation of CLAC/Ns conducted by the Legal Services Research Centre reported that the services were well received by clients. CLACs were seen to be accessible and efficient, clients appreciated having a range of advisers located in the one place, and felt that staff were more welcoming, professional, knowledgeable and better at resolving problems than other services they had used previously. It was important to clients that services were free, covered a range of issues and were flexible. From the providers' perspective, CLAC/Ns were successful when there were clear roles among advisers at each tier of the service. A client's multiple problems needed to be clearly defined and coordination between services well organised and supported by agreed procedures for sharing case management information. Services were also improved if there was appropriate aftercare and feedback.[32]

There were also some important differences between FAInS and CLAC/Ns. With FAInS, the initial diagnosis interview was conducted by a lawyer. However, as lawyers conceived their professional role as keeping the client focused on legal issues, this often prevented an exploration of other issues. The initial CLAC/N's interview was conducted by a generalist adviser. Advisers appeared to more fully explore their clients' multiple issues and identify future advice needs, although this did not occur in every instance. Advisers reported that they did not always have time to fully examine multiple problems, and one of the main themes was problems caused by over-demand.

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[31] Buck, A, Smith, M, Sidaway, J and Scanlan, L, *Piecing it Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres* (Legal Services Commission, 2010) www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2010/CLACPiecingItTogether.pdf.

[32] ibid.

Identification of multiple issues was also often left to the diagnostic interview only, rather than occurring at all tiers of service provision.

As with FAInS, the CLAC/Ns did not always produce referrals. Some generalists did not refer as they were worried about deskilling and wanted to keep interesting cases. Some specialists also reported experiencing inappropriate referrals, inadequate paperwork and high client numbers. The way in which referrals were handled was also important for clients. Whereas FAInS asked lawyers to use the PAP as a means of informing a referral service of their client's issues, CLAC/N clients wanted opportunities to give their own narrative in order to establish trust with a service provider.

The majority of clients felt that CLAC/Ns provided a seamless service, although some reported having to see a number of people before obtaining specialist advice. This problem reflected over-demand, which also meant that some drop-in sessions were closed early, crowded waiting rooms and long waiting times due to a shortage of interview rooms. Although the evaluation investigated how services were joined up, internal performance monitoring was not particularly well matched to the programme's aims. There was little monitoring of how services addressed clients' clustering of problems or integrated services.[33]

Both FAInS and the CLAC/Ns were intended to 'tailor services' to clients, meaning that clients who were deemed capable were encouraged to take responsibility for resolving their own issues. Whereas FAInS lawyers rarely devolved tasks to clients, the CLAC/Ns advisers appeared more willing to recognise an appropriate division of labour. FAInS advisers also largely left their clients to follow up on referrals, whereas CLAC/N advisers tended to write down next steps and provide phone numbers. Tailoring services was not always successful, and some clients

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[33] Fox, C, Moorhead, R, Sefton, M and Wong, K., *Community Legal Advice Centres and Networks: A Process Evaluation* (Legal Services Commission, 2010)

judged to be capable of resolving their own issues struggled to follow recommendations. Some lacked the financial resources to do so and could not cope with an unfamiliar situation. Tailoring services was also reported to be time-consuming and resource intensive.[34]

In addition, there were problems at a broader policy level. CLAC/Ns were jointly funded by the LSC and local authorities, and the aims of each organisation were not easily reconciled. Each CLAC/N provided a bespoke service that required collaboration between the LSC, local authorities and service providers. As such, planning resources was difficult, and timeframes were largely determined by political processes within each local area.[35] A further evaluation commissioned by the Local Government Association also reported tension between the different organisations. LSC funding is only available to clients who reach the threshold, and LSC objectives are not necessarily aligned with local government commitments to support the NfP sector. The LSC also determined the specifications for contracts. Only some local councils were able to influence that contracting process and to specify their own objectives, and those that did needed to invest a significant amount of time and resources.[36]

Local authorities also expressed concern about the long-term sustainability of CLAC/Ns. They were concerned that contracts may not provide private providers with a sufficient caseload. The shift of funding towards large single contracts could also put smaller voluntary community organisations at risk.[37] Indeed, some of these concerns have proven to be well-founded. The LSC has now terminated CLAC/N

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[34] See n 30.

[35] See n 32.

[36] Tribal Group, *Early Lessons from Changes to Legal Advice Provision and Funding: The Local Authority Experience. London* (Local Government Association, 2010) www.local.gov.uk/c/document_library/get_file?uuid=7680d321-6cd2-4235-90b4-92c69da45881&groupId=10180l.

[37] ibid.

contracts following the withdrawal of funding for most family law and social welfare matters. Considering that one of the main problems faced by CLAC/Ns was over-demand, the impact of this will mean that many people with complex, overlapping multiple needs will now not receive the service that they clearly need.

Discussion: Why Won't Lawyers Work with other Service Providers?

Our review of FAiNs and CLAC/Ns suggests two major barriers preventing family lawyers from becoming involved in multi-agency services: financing and unequal power relations. First, lawyers need to get paid, and as vulnerable clients often cannot afford to pay private fees, they are reliant on the NfP sector or the state for assistance. The fate of both FAiNs and CLAC/Ns provides a stark example of what often happens to multi-agency approaches that are dependent on state funding during cutbacks.

Secondly, even when funding has been available, multi-agency approaches are often hampered by unequal power relations between agencies. This can lead to some services, in particular those from the voluntary sector, being marginalised. In relation to CLAC/Ns, this problem occurred when the objectives of the LSC were given priority over the aims of local authorities and local service providers. The problem of unequal power relations may also appear in another guise. Multi-agency approaches appear to work best when generalists refer to lawyers, as was the case for CLAC/Ns, and also for medical-legal practices and other examples cited in the previous literature. In contrast, FAInS involved lawyers referring to other services, and lawyers did not see that this was within their professional remit. Even when lawyers had been specifically tasked with signposting other services, they were reluctant to do so.

Multi-agency approaches involving lawyers typically operate in a hierarchical manner, with lawyers at the apex. FAInS highlighted that lawyers do not necessarily understand that referring to other services could be useful. This suggests that lawyers do not see that their own skills set may be limited, and that other service providers may provide useful assistance to clients. Whereas some proponents of multi-agency approaches claim that they are a useful means for lawyers to learn new skills,[38] it seems that instead they reinforce lawyers' professional dominance over other service providers. A one-way referral system does little to encourage lawyers to recognise the skills of other professionals or to consider their client's non-legal problems.

This narrowness of focus on the part of lawyers working in the field of family law is an example of a wider phenomenon associated with the practice of law. Several researchers have pointed to the narrowness of experience of lawyers in private practice.[39] Lawyers are on the whole educated, trained and practise the law with other lawyers. Hadfield argues that this results in a relative lack of innovation by law firms and the adoption of relatively narrow business model.[40]

Conclusion: Is All Lost?

The elimination of legal aid for family law matters has resulted in the termination of CLAC/Ns, but even more worrying has been the rise of the number of litigants in person, and evidence that inappropriate cases are being referred to mediation. In some instances, practitioners have reported that referring to mediation is better than leaving

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[38] eg Anderson, A, Barenberg, L, Buck, A and Walker, H, 'Professional Ethics in Interdisciplinary Collaborates: Zeal, Paternalism and Mandated Reporting' (2007) 13 *Clinical Law Review* 659.

[39] Hadfield, GK, 'The Price of Law: How the Market for Lawyers Distorts the Justice System' (2000) *Michigan Law Review* 953; Stephen, *Lawyers, Market and Regulation* (n 12).

[40] Hadfield, ibid.

a vulnerable client to cope alone at court.[41] Despite this, the Coalition government appears to have made an ideological commitment to the demise of legal aid funding. However, this does not necessarily mean that innovations such as FAInS and CLAC/Ns are confined to the past. It may be that as social problems arising from the failure to fund the resolution of family law problems continue to mount, the government will be forced to take action. However, efforts to address family law problems without recourse to re-establishing legal aid are likely to be ad hoc, unstable and vulnerable to changing political agendas.

A more coherent way forward, which addresses both the financial constraints and unequal power relations, may emerge from Alternative Business Structures (ABSs) which are permitted by Legal Services Act 2007. ABSs are providers of legal services owned, inter alia, by non-lawyers and may be able to provide welfare legal services more efficiently and effectively than traditional 'High Street' law firms. Stephen suggests that this will lead to a 'technological revolution in lawyering.[42]

At present NfP organisations have a special status under the Legal Services Act 2007 which does not require them to be licensed under the Act. This is seen as a transitional arrangement, although the exemption will now continue until 2015 at the earliest. Nevertheless, given the reduction in public funding through legal aid for such services, socially motivated ABSs may provide a more viable and effective multi-agency model to provide such service in the future. The loss of legal aid funding means that lawyers must adapt to the new reality of a reconfigured legal market under the age of austerity, and one survival mechanism may be to become employees outside the traditional law firm.

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[41] Barlow, A, Hunter, R, Smithson, J and Ewing, J *Mapping Paths to Family Justice: Briefing Paper and Report on Key Findings* (2014) 8 available at; http://socialsciences.exeter.ac.uk/law/research/frs/researchprojects/mappingpathstofamilyjustice/keyfindings/.

[42] Stephen (n 12) 132–33.