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Evaluating the Belfast Citywide Tribunal Service Final report

12th September 2016

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1 Introduction

1.1 Purpose of the Report

Deloitte MCS Limited ('Deloitte') has been appointed by Belfast City Council ('the Council') to undertake an evaluation of the Citywide Tribunal Service. This report documents the findings of this evaluation.

1.2 Citywide Tribunal Service

1.2.1 Background

The Belfast Advice Group (BAG) was established in November 2012 with the aim of being a collaborative agency with the purpose of resourcing and developing specialist advice services (i.e. Citywide Tribunal Service). It also sought to provide a wide range of advocacy and representation across Belfast and where appropriate, develop or source specialist services such as quality assurance or volunteer development as a resource to augment generalist provision. BAG comprises of:

- North Belfast Advice Partnership
- East Belfast Advice Partnership
- West Belfast Advice Consortium
- South Belfast Independent Advice Group
- Central Belfast Advice Consortium

BAG developed and presented to Belfast City Council a proposal to deliver a Citywide Tribunal Service. BAG voted the North Belfast Advice Partnership (lead by Ligoniel Improvement Association (LIA)) to be the lead partner for administration of the Citywide Tribunal Service.

1.3 Terms of Reference

The terms of reference for this engagement are as follows:

- To review the effectiveness of the Tribunal Service in meeting its objectives and targets. Any additional benefits that are identified should also be highlighted.
- To consider the governance arrangements of the programme and in particular the Belfast Advice Group (BAG) and the future need for a strategic body in light of changes to the Advice sector and Welfare Reform.
- To examine the impact of the Council's investment in the project and to determine the need for future funding in the context of the Council's Generalist Advice programme, the new Advice Strategy for NI and Welfare Reform.
- To identify options and make recommendations for programme improvement in light of the findings the 3 points above. The recommendations should include as a minimum, options for future delivery methods, future funding needs/levels and the relationship with the Generalist Advice programme and to provide an indication of the potential impact of the options presented.

1.4 Method

The key tasks we have undertaken as part of this engagement are listed below:

- Desk based review of key Government policy documents and strategies as listed in the Project Initiation Document (PID);
- Review of the current funding situation;
- Review of the current governance arrangements, including the partnership agreement and BAG terms of reference and meeting minutes;
- Review of statistical/monitoring data as made available by Belfast City Council and BAG;
- Consultation with key stakeholders:
 - Kevin Higgins (Advice NI)
 - Michael Donnelly (now Department for Communities [DfC], previously Department for Social Development [DSD])
 - Elaine Downey (previously DSD, now DfC)
 - Mickey Kelly (Northern Ireland Social Security Agency - NISSA)
 - Linda Williamson (Citizens Advice Belfast)
 - Pat Coulton (Citizens Advice Belfast)
 - Gerry Tubritt (South Belfast Advice Consortium)
 - Eddie Malone (West Belfast Advice Consortium)
 - Mary McManus (East Belfast Advice Consortium)
 - Stephen Reid (North Belfast Advice Consortium)
 - Maria Morgan (Ligoniel Improvement Association)
 - Sinead McKinley (Ligoniel Improvement Association)
 - Clare Mullen (Belfast City Council)
 - Collette Bradley (Belfast City Council)
 - Workshop for Belfast City Council Elected Members (Alliance attended)

The consultations, desk research and analysis was completed in March and April 2015¹.

1.5 Report Structure

The rest of this report is set out as follows:

Section 2 – Context – This section highlights the key strategic, policy and sectoral issues impacting on the Citywide Tribunal Service and the Advice Sector as a whole

Section 3 – Operation – Review of the operation of the Tribunal Service through the Lead Partner

Section 4 – Governance - Review of the governance of the Tribunal Service by BAG

Section 5 – Options – Identification and analysis of options for a future Tribunal Service model

Section 6 – Conclusions – Summary and recommendations

¹ The bulk of the analysis was undertaken based on fieldwork and information available in March / April 2016. Further amendments were made in September 2016 to take account of contextual changes (e.g. Confirmation of NISSA mitigation measures) following a request from Council.

2 Context

2.1 Introduction

This section highlights the key strategic, policy and sectoral issues impacting on the Citywide Tribunal Service and the Advice Sector as a whole.

2.2 Contextual Issues

2.2.1 Changing Benefit Landscape

The introduction of Welfare Reform in Northern Ireland over a period of years is already making unprecedented changes to the benefit system. Existing benefits such as Disability Living Allowance will be replaced with new benefits (e.g. DLA to be replaced by Personal Independence Payment) and there will be changes to eligibility criteria.

A key reason for establishing the Citywide Tribunal Service in the first instance was to increase support to those appealing benefit decisions in the wake of Welfare Reform. However, the implementation of Welfare Reform was delayed in Northern Ireland. Welfare Reform was finally agreed as part of the “Fresh Start Stormont Agreement and Implementation Plan” (November 2015) and substantive changes will be rolled out during the second half of 2016.

Despite the recent Fresh Start agreement there is still some uncertainty at a Departmental and Executive level surrounding the implementation and impact of these Welfare Reform measures. It therefore seems reasonable to assume that this uncertainty, often accompanied by concern, is amplified on the ground. The advice sector certainly highlighted this anxiety among clients during consultation. Within this large scale wider reform, as many people’s welfare arrangements are reviewed and changes are recommended and made, having a right to appeal and access to Tribunal support is an important safety net within the overall Welfare Reform landscape.

2.2.2 Welfare Reform: Mitigation Measures and Independent Advice

Following the Fresh Start agreement a task group led by Professor Eileen Evasion was asked to look at welfare reform mitigations. The Evasion Report presents a three strand approach to Welfare Reform delivered by the independent advice sector. The first strand recommends a Freephone service delivered by the independent advice sector, while the third strand recommended additional resource and infrastructure funding for the sector to include expenditure on training, ICT, increasing digital capacity etc. The second strand is a recommendation that ‘Additional funding is delivered through local Councils for Northern Ireland-wide ‘front line’ f2f independent advice and representation. The recommendation explains that this funding should also have the following attributes:

- It should not require Council matched funding;
- It should be ‘ring-fenced’ specifically for the purposes of welfare reform;
- It should not displace/replace other Council funding for advice services and thus should increase capacity at the frontline and increase the digital capacity of the frontline.

The Evasion Report predicts an uplift in demand for frontline advice and representation of one third, and that this would require additional expenditure (£6m over 4 years).

September 2016 Update

The Welfare Reform Mitigations have now been confirmed by NISSA. These are:

Strand One: The provision of a centralised telephone service – A joint bid has been submitted by the regional consortium (Law Centre, Advice NI and CAB as the lead partner) to the value of £2.5m, with a decision from the Department for Communities expected imminently.

Strand Two: The provision of independent face to face services – This will result in 35 additional advisors across 11 Council areas (allocation yet to be determined). 25 will be employed by CAB and 10 by Advice NI, with a focus on completion of forms for PIP assessment with limited ability to do appeal work.

Strand Three: (i) Welfare Reform Readiness Programme – £600k of funding to March 2017 to provide support to front line advice organisations currently funded through the Council's Community Support Advice grant to ensure that organisations are prepared in order to assist customers through Welfare Reform. Amounts allocated to individual Council's is yet to be confirmed.

Strand Three: (ii) Welfare Reform Training Programme - £210k of funding up to March 2017 to enable front line advice organisations to complete immediate training requirements related to Welfare Reform. Further funding of £500k per annum is anticipated to address front line training requirements on an annual basis thereafter.

2.2.3 ‘Advising, Supporting and Empowering’ – Regional Advice Strategy

DSD published a strategy in October 2015 to ensure people across Northern Ireland continue to receive good, independent advice when they need it.

Entitled, ‘Advising, Supporting and Empowering’, the new strategy will improve how advice services are delivered for the public in Northern Ireland in the future, and suggests a series of actions over the next five years to further enhance these existing services.

A specific recommendation is made in relation to the model used for representation. It states that there should be a review of the current arrangements for appeals representation. A model should be developed that considers ways to reduce the number of cases going to appeal in the first instance and ensures greater consistency in the availability of appeals representation. This is a reminder that the ideal scenario is one in which there would be no need for appeals. Therefore the regional strategy rightly indicates a need to investigate “upstream” of appeals and see what can be done to reduce them.

2.2.4 Social Security Agency introducing Mandatory Reconsideration Process

In instances of disputing a welfare decision a new process is being put in place. In part this is seeking to reduce the number of cases going to appeal (in line with the point made in the regional advice strategy). The Mandatory Reconsideration Step

means that someone wanting to review a decision, must give the social security office the opportunity to formally review the decision.

Discussing this with SSA, this means a second person reviewing the case with the potential for a phone call with the client and potential for gathering additional information. A study² by the DSD showed that the main reason for overturning decisions at tribunal (91% of cases) was due to the Tribunal being provided with additional evidence which was not available to the original decision maker. In consultations the need to make sure information was available as early in the process as possible was emphasised and that it should not be 'held back' for appeals.

The hope is that this process could resolve the issue quicker and possibly remove the stress of going through an appeal process from the client.

The Mandatory Reconsideration Process was to commence on 23rd May 2016 (<https://www.nidirect.gov.uk/articles/changes-to-disputing-a%20social-security-decision>)

2.2.5 Financial Capability Strategy

The Northern Ireland Executive's aim for financial capability has the overall aim of 'better-informed, more skilled and more confident consumers, better able to manage, plan and take responsibility for their financial affairs'. The Financial Capability Strategy developed by DETI makes specific reference to a 'Northern Ireland response' to the financial capability issues arising from the impact of the Welfare Reform Bill and the introduction of Universal Credit. This again highlights the importance of a regional plan.

2.2.6 Financial Independence Strategy

The Department for Communities (DfC) is currently developing a Financial Independence Strategy, which has a clear focus on the financial changes required for Universal Credit. The Financial Independence Strategy will set out how claimants can be prepared for these changes and support them as they transition to Universal Credit and become self-sufficient in managing their money and paying their bills on time. This strategy will be introduced in December 2016 and its subsequent impact on the number of appeals cannot be reliably estimated at this point.

2.2.7 Belfast Agenda

The Belfast Agenda is a community plan for Belfast expected to be released in 2016. It will be a joint vision for Belfast 2030, created in partnership with key city partners, residents and community organisations. The plan will set out measurable medium and long term goals for social, economic and environmental improvements for Belfast over the next 15 years.

Early iterations have shown that among the key focuses for the Council going forward will be reducing poverty and reducing health inequalities. These aims are strongly linked to the outcomes that the Citywide Tribunal Service strives to achieve. Going forward there could be opportunity to more explicitly link the results of the service to the Belfast Agenda outcomes.

2.2.8 Summary of Need

A summary of the strategic need highlights the following:

² <https://www.dsdsni.gov.uk/sites/default/files/publications/dsd/presidents-report-on-decision-making-2013-14.pdf>

- It is widely recognised that having a right to appeal and access to Tribunal support is an important safety net within the overall Welfare Reform landscape. This was a key part of the rationale for the original Citywide Tribunal Service.
- The Fresh Start Agreement means significant welfare reform, i.e. changes to people's welfare benefits, over coming months and years (not least the move from DLA to PIP). Alongside this it appears reasonable to anticipate a surge in people seeking advice and specifically, support through appeal processes.
- There are upstream efforts, most notably the Mandatory Reconsideration Process, which may help resolve welfare decision disputes quicker without the need to go to appeal. That said this is still to be implemented at the time of writing and its impact should be monitored.
- There is to be a regionally agreed approach to mitigating welfare reform, including representation support. This was recommended within the Evasion Report following the Fresh Start Agreement. However until the detail of what this looks like is clear, the strategic context points to a continuing need for the Citywide Tribunal Service.
- There is an alignment between the Citywide Tribunal Service and draft Outcome goals within the Belfast Agenda, most notably reducing poverty and reducing health inequalities.

3 Operation

3.1 Introduction

This section looks at the operation of the Citywide Tribunal Service from a number of key angles:

- **Service Model:** How the Tribunal Service operates;
- **Monitoring Process:** How the Council reviews the performance of the Service and the conditions of funding;
- **Objectives:** Key targets agreed between the Council and the Lead Partner;
- **Funding:** The breakdown of funds provided to the Lead Partner to operate the Tribunal Service;
- **Cost:** Analysis of the costs of operating the Tribunal Service;
- **Statistical Analysis:** Review of the Service statistics provided by the Lead Partner;
- **The Service Stories:** Client Case Studies.

3.1.1 Service Model

The Citywide Tribunal Service model consists of one Senior Tribunal Representative, four Tribunal Representatives and two Administration Staff. All staff operate out of the LIA premises located in North Belfast, however the Tribunal Reps spend a large portion of their time at Appeal Hearings in the various locations around Belfast. This model has operated throughout the whole period of operation with an additional part-time Admin resource appointed in 2015.

The model was supported by the majority of stakeholders during our consultation process. The defining characteristics of the model were outlined as:

- a city-wide service for Belfast;
- a governance system with representation from each of the geographical Belfast advice consortia;
- a team dedicated to providing tribunal representation (i.e. working alongside clients, preparing them and supporting them through a Tribunal Appeal);
- an administrative resource within the team to deliver on the administrative requirements and allow the representatives to focus on tribunal representation, increasing the number of clients they can represent;
- the team located together in a ‘centre of excellence’ to allow for a collegiate approach with team members supporting one another, sharing information and advice as they seek to continually improve the quality of their service
- The demand placed on the Service’s limited resources means that using a model which helped the maximum number of clients has the consequence that some clients are met for the first time at their Appeal Hearing.

3.1.2 Monitoring Process

The Funding Agreement between the Council and the Lead Partner stipulates that monitoring reports must be received every six months as a condition of funding provision. The reports include:

- Progress on the implementation of the project;
- Any proposed changes in the nature or scale of the project;
- Updates on projected prospects of the technical and commercial success of the project
- Progress towards achieving the performance targets as set out in the project
- Updates on costs incurred in operating the project including any unanticipated factors having or likely to have an impact on costings
- All other information which may be relevant to the progress of the project and to the Council's continued commitment to the project
- An outline of the outputs, impacts and expenditure relating to the project

The Council has received reports for each six monthly cycle within the timeframe set. From review of the reports received, it appears that the information provided to the Council by the Lead Partner meets the requirements set out above.

3.1.3 Objectives

As part of the Funding Agreement, the Council and the Lead Partner agreed on six objectives to underpin the Tribunal Service. The table below sets out the objectives with a brief description of progress to date.

Objective	Progress
1. Develop a steering group to look at the status of the group	Completed in the initial stages of the project with BAG creating a Partnership Agreement and a Terms of Reference.
2. Develop an effective Citywide Tribunal Service, delivering representation at tribunal service	The Citywide Tribunal Service has been operational for almost 3 years. The effectiveness of this is evaluated throughout this report. Measurable targets have been set and are discussed in Section 3.1.6.
3. Appoint a Lead Partner for the Service who will employ staff and oversee the management of the service	Completed in the initial stages of the project with BAG appointing LIA as Lead Partner.
4. Develop a Peer Monitoring programme for the lifetime of the project	The Tribunal Service has partnered with the University of Ulster Law Centre to shadow the Tribunal Reps at the appeal hearings.
5. Develop an Advisors' Steering Group to discuss the practical and operational issues within the Service	This objective has not been met to date. Through our consultations it was noted that this was due to the constraints placed on the key individuals within BAG in their role as generalist advice providers in their communities. Informal communication channels are open between the Tribunal Service and advisors for discussion of operational matters, however strategic decision making relating to the operation of the Service remains with BAG.
6. Develop a Citywide Partnership, discussing issues and areas of working within the Belfast Advice Sector with a focus on quality assurance.	One meeting has been held to date, however it was noted in the most recent BAG meeting minutes (See Section 3) that efforts were to be made to convene another meeting. The nature of the sector at the moment has necessitated a focus on funding discussion rather than on quality assurance.

It is clear from the above that some of the objectives were set and achieved at a point in time. Any decision on the future of the Service should include a review of the objectives by the Council and BAG. Section 2 highlighted the impending change associated with Welfare Reform, which will include 'Mandatory Reconsideration' where decisions will be reviewed prior to Tribunal. Consideration should be given to objectives which include supporting clients in receiving better decisions without the need for the costly and stressful Appeal Service.

3.1.4 Funding

Belfast City Council originally committed to providing funding for the period of 1 July 2013 to 30 June 2015. Since, then two additional funding payments have been made to the Lead Partner to continue the service, with a fourth committed and to be provided in mid-2016. The table below shows the timeline of funding for the project.

Funding Stages	Date From	Date To	Period	Amount (£)
1	1 July 13	30 June 15	24 months	426,210
2	1 July 15	30 Sept 15	3 months	54,000
3	1 Oct 15	30 June 16	9 months	175,000
4	1 July 16	30 Sept 16	3 months	64,000
TOTAL				719,210

The table shows that the project will have received funds totalling £719,210 for a three and a quarter year period up to the end of September 2016. It should be noted that whilst this funding was received directly from the Council, the Council used some of the funds reallocated to it from DSD (due to underspend) to cover some of the funding provided at stages two and four. The Service is wholly reliant on funding from Council and receives no funding from other sources. It would be appropriate for this programme to explore other funding options. In particular this would reduce risk to the service of reliance on a single funder, not least a funder which is under significant budgetary pressure.

September 2016 Update

Over the summer period, steps have been taken by BAG and by the Council to examine other potential avenues for funding. Council Officers and representatives from the Big Lottery People & Communities Programme have had an initial meeting to determine the potential for funding the Citywide Tribunal Service. BAG is to commence a pre-application process with Big Lottery with the aim of securing funding from this programme.

3.1.5 Cost

The Council have received four monitoring reports from the Lead Partner up to the 30 June 2015 (the next report for the period to 31 December 2015 is expected in April). The table below summarises the costs incurred versus budget, combining the financial analysis in the reports in order to review the costs on an annualised basis.

	Budget	Actual	Budget	Actual
	Year 1 (1/7/13- 30/6/14)		Year 2 (1/7/14 – 30/6/15)	
	£	£	£	£
Staff Costs	191,854.80	179,619.38	191,854.80	168,739.28
Support Costs	21,250.00	33,420.88	21,250.00	40,179.15
TOTAL	213,104.80	213,040.26	213,104.80	208,918.43

The monitoring reports show that the Lead Partner has operated the Tribunal Service within budget in the first two years of service. In both years staff costs were less than expected due to a number of staff not making pension contributions and thus reducing employer contributions. This was re-profiled to Support Costs after agreement with the Council. Further re-profiling of spend has occurred across a number of sub budget lines.

3.1.6 Statistical Analysis

3.1.6.1 Appeals

This section provides a quantitative analysis of the Tribunal Service based on the Council monitoring reports and other data provided to us by the Lead Partner. The table below shows the number of representations at appeals and the number of pre-appeal revised benefit decisions in each year as stated in the monitoring reports received by the Council.

	Annual Target	Year 1	Year 2	Total
Representations at appeals	2,000	1,429	2,362	3,791
Pre-Appeal Revised Benefit Decisions	200	186	211	397

In year one, the Tribunal Service finished below target in both areas during a period of bedding in, knowledge and relationship building, and for stakeholders to get used to using and referring to the Service. In year two, the Service finished in excess of target in both areas.

The Lead Partner calculates an approximate success rate of 65% for the Tribunal Service. This success rate was provided to us by the Lead Partner and we have not audited this information. A 2013 study by Citizens Advice³ highlighted the value of representation, making a significant difference to the likelihood of success at appeal. The study showed that the likelihood of success at appeal with representation was 54% compared to 21% without representation. The Tribunal Service is therefore achieving a success rate for its clients well above the benchmark highlighted in the 2013 study, and well above what they study found as the success rate without representation.

The Lead Partner has also begun to measure the wider benefit of the service by monitoring the number of family members impacted by successful appeal decisions, with the 5,907 beneficiaries calculated in Year 2.

3.1.6.2 Referrals

The table below shows the origins of the referrals to the Tribunal Service split by Belfast Advice Consortium. The figures have been provided by the Lead Partner. It should be noted that these figures are only indicative and will not reconcile with the

³ http://www.citizensadvice.co.uk/media/uploads/Why_Advice_Matters-NI_Advice_Consortium_June_2013.pdf

number of appeals noted above. Issues with the CARMA system of data tracking caused the loss of two years of data meaning manual counting was required. The figures in the first year do not include 492 and 108 cases from pre-existing North and East Tribunal Services which migrated to the Citywide Tribunal Service.

Referring Partnership	July 2013 – December 2013	January 2014 – December 2014	January 2015 – December 2015	Jan 2016 – March 2016	Total
North	213	296	333	106	948
West	158	214	164	68	604
South	52	63	34	10	159
East	37	59	26	9	131
Central	30	30	32	1	93
Other	8	25	36	25	94
Self-Referral ⁴	no record	no record	96	166	262
Total	498	687	721	385	2,291

The table shows that referrals to the Service are not evenly spread geographically. The North Belfast Advice Consortium and the West Belfast Advice Consortium have referred many more clients to the Tribunal Service. This is to be expected with some electoral wards in North and West having the highest rates of benefit applications in the region⁵.

Referrals from South, East and Central Advice Consortia are considerably lower. East Belfast Independent Advice Centre receive funding from the Public Health Agency for a Tribunal Rep with a specific focus on Mental Health Benefit Appeals, providing support at other Appeals where possibly. This may explain the low number of appeals from East. The referrals from South are lower than expected. Other referrals can come from a number of sources including other government agencies, community groups and local politicians. Self-referrals also make up a substantial part of the referrals figures and have increased over time as the Tribunal Reps build up a greater network and awareness of those who would benefit from the Service.

3.1.6.3 Return on Investment

In order to assess the value of the Council's investment in the Citywide Tribunal Service, we have calculated a return on investment based on the figures provided

⁴ Self referrals are where the Tribunal Service Reps or Admin Staff are approached directly by potential clients, or where they recommend the Service to potential clients. The Service began to record these instances from October 2015

⁵ <http://www.ninis2.nisra.gov.uk/public/PivotGrid.aspx?ds=7006&lh=73&yn=1992-2014&sk=18&sn=Labour+Market&yearfilter=>

by the Lead Partner to the Council in the monitoring reports. The Lead Partner collects data on the monetary awards to clients from successful decisions at Appeal. This will be calculated as the weekly amount received by the client over the period of the award. This period could be up to five years. It also includes the monetary value of any additional benefits which become accessible to a client due to the decision achieved at appeal (E.g. A change in DLA status can trigger access to additional ESA disability premiums).

The total estimated monetary clawback achieved by the Tribunal Service has been calculated by the Lead Partner as £8,050,628⁶ for the first two years of operation. Assuming this is 65% of the cases which could have been successfully appealed (using the success rate estimated by the Lead Partner) and using the statistics referred to in Section 3.1.6.1⁷, we would expect that 21% of all cases would have been clawed back without the Tribunal Service. Therefore the total valued added by the service is £5,449,655 (£8,050,628/65*44).

To estimate the return on investment for the first two years of operation, we have set the monetary added value (£5,449,655) against the funding received during this period (£426,210). The estimated return on investment for the project is therefore calculated as 12.79. This is a significant ROI and shows that the achievements of the Service are significant compared with the investment input from the Council.

3.1.7 The Service Stories

Statistics alone are not sufficient for a robust evaluation, particularly when reviewing programmes and projects within the Advice Sector. A focus on the figures would not reflect the difference the service has made to the lives of its clients and their families. The feedback has been broadly positive on the need for the service and the impact achieved for the vulnerable in society.

Further to this, we have included three case studies in Appendix 1 showing the some of the stories of individuals benefiting from the support of the Tribunal Service.

3.2 Operation Summary

Our analysis of the operation of the Citywide Tribunal Service can be summarised as follows:

- The need for representation at Appeal was demonstrated through our consultations with a wide range of stakeholders.
- According to statistics provided by the Lead Partner, the Service achieves higher Appeal success rates than a 2013 benchmark noted in a study by Advice NI.(65% compared to 54%).
- The monetary value added by the Service has been calculated at £5.4m (after the exclusion of the proportion of successful appeals which would have occurred anyway without Tribunal Service intervention). A significant ROI of 12.79 shows that the Service is achieving high returns for its clients when set against the level of investment from the Council.
- The Service has progressed well against the objectives set. Statistical targets have been exceeded in Appeal representation and pre-appeal revised decisions. The service has some progress to make against the objective of establishing an Advisors' Steering Group. It is noted that some of the objectives are now outdated and **consideration should be given to revising the objectives in line with changes to the benefit system associated with welfare reform, including more of a focus on achieving better decisions before requiring a**

⁶ This is an estimate given by the service provider. This has not been audited.

⁷ A 2013 study by Citizens Advice highlighted the value of representation, making a significant difference to the likelihood of success at appeal. The study showed that the likelihood of success at appeal with representation was 54% compared to 21% without representation

Tribunal. This could mean increasing the target for pre-appeal revised benefit decisions.

- The Service is wholly reliant on funding from Belfast City Council. **Other funding sources should continue to be explored (e.g. Big Lottery, DfC) to reduce the risk associated with the Council ending support for the Service.**
- The number of referrals from the Belfast Advice Consortia varies across the city. While there are valid reasons why the number of referrals are uneven, **consideration should be given to greater outreach in South, East and Central to ensure the Service is truly 'Citywide'.**

4 Governance

4.1 Introduction

A key task for BAG as set out in its Terms of Reference is 'To effectively monitor and evaluate the ongoing performance of the Tribunal Service'. BAG therefore acts as the key governance mechanism in holding the Lead Partner for the Citywide Tribunal Service (LIA) to account. In this section, we review how this governance is exercised and analyse its effectiveness.

4.2 Governance Arrangements

4.2.1 Key Documents

There are two documents in existence which include, or make reference to, governance arrangements in relation to either BAG, the Lead Partner or the Tribunal Service. These include:

- **BAG Terms of Reference** – This document outlines high level aims for BAG as well as five specific key tasks, two of which relate directly to the Tribunal Service. They are:
 - To develop a Tribunal Service and set out the Programme of Work;
 - To effectively monitor and evaluate the ongoing performance of the Tribunal Service.The Terms of Reference also specify meeting arrangements which include:
 - Meeting on a quarterly basis to discuss specific issues (more frequently in the early stages of operation if required);
 - Meetings will be minuted;
 - Issues can be raised at the meeting or via email to all members of BAG;
 - Members are free to request a meeting of BAG at any time to discuss the Tribunal Service;
 - Written Reports will be presented to the group detailing current caseload, performance against identified targets and any social policy issues.
- **BAG Service Level Agreement** – This sets out the role of a Lead Partner i.e. a member of BAG who will contract with BCC on behalf BAG for a specific purpose. The responsibilities of members of BAG to a Lead Partner are also outlined. However, this is general memorandum of responsibilities and does not take account of the specific governance needs of the Tribunal Service.

4.2.2 Review of Minutes

Meeting minutes for BAG were obtained from LIA. It was noted that formal meetings of BAG took place on the following dates since the beginning of the Tribunal Service in July 2013. These took place on:

- 1 October 2013
- 27 June 2014 (session with Volunteer Now)
- 7 August 2014
- 4 February 2015
- 11 August 2015
- 16 December 2015

Our review of the minutes of meetings, as well feedback on governance from our consultation with BAG members indicated the following:

- **Timing** – The dates of the formal meetings of BAG show that meetings are not taking place at the frequency originally suggested in the BAG Terms of Reference, being scheduled more ad hoc at roughly six month intervals rather than quarterly. From our consultations, it was noted that best endeavours were made to meet more regularly but due to the workload and demand place on the Partners in their respective advice services, this had not been realised. However, our consultations highlighted that other informal meetings do take place between BAG members and the Lead Partner on an ad hoc basis.
- **Attendance** – It was noted in the majority of meeting minutes that no representation was present for the West Belfast Area Partnership.
- **Review** - It is clear from the minutes that some time is given at the start of each meeting to discuss progress to date of the Tribunal Service. However it is not clear what supporting information is provided to BAG members to evaluate the performance of the Service, monitoring statistical data or review expenditure.

4.3 Governance Summary

Proportionate measures could be taken to improve the governance of the Tribunal Service. Whilst useful, the current governing documents do not clearly articulate the responsibilities of the Lead Partner to BAG, and BAG to the Lead Partner, specifically in relation to the Tribunal Service. BAG confirmed to the Council in March 2016 that it had reviewed the Terms of Reference for the group and that it was happy that no changes were required. **It is recommended that a specific Terms of Reference is established for BAG in relation to the requirements of the key parties in the Tribunal Service.** This could include for example:

- Review of BCC monitoring reports before submission
- Monitoring of progress against targets
- Review of referrals statistics
- Review of appeal performance including number of appeals

As noted in Section 3, it is also recommended that the objectives of the Service are revised in order to take account of the fact that some objectives have been achieved in full, and to account for changes to the benefit system with a focus on better decision making earlier in the process. This will lead to a clearer understanding of expectations and outcomes, a defined and specific listing of responsibilities and should ultimately lead to improved governance.

The approach taken by BAG in uniting the various consortia of advice providers to develop the Citywide Tribunal Service is forward thinking. **Consideration should be given to how the BAG model can be applied to other initiatives** within the advice sector and other sectors where there are groups across the city with a common focus on social issues, such as tackling poverty and health inequalities.

5 Options

5.1 Introduction/Overview

In this section, we use the analysis conducted in the previous sections to develop a list of options for project improvement. This includes exploring different methods of delivery, operation and funding.

5.2 Options

5.2.1 Option 1 – Cease the Tribunal Service

This option would see the Council end its support for the Tribunal Service. This would mean that the ability of Belfast citizens to receive representation in appealing a benefits decision would be vastly reduced and would be largely limited to the tribunal support offered by generalist advice workers. This would place further strain on the generalist advice sector in Belfast.

Our consultations with key stakeholder showed little appetite for ending the provision of expert representation at Appeal. Our analysis highlights the need for the Service which may grow significantly given further Welfare Reform.

We have not shortlisted this option.

5.2.2 Option 2 – Continue, however apply an alternative delivery model

This option would see an alternative delivery model introduced. The Council would continue to support representation at Appeal, but delivery would be the responsibility of each Belfast Advice Consortium geographically. Each Consortium would receive funding for a Tribunal Representative who would represent citizens referred to it by its consortium members.

Our consultations highlighted that the success of the Tribunal Service is in part due to the delivery model. The Tribunal Reps are all employed by the Lead Partner and are stationed in the same office and serve the whole of the city. This makes for a collaborative approach to serving the clients and has fostered a culture of shared learning. The team approach has also allowed for removal of the administrative burden from the Tribunal Reps (through the addition of Administration Staff) and has allowed them to focus on Appeals. It stops silo-thinking based on geographical area and allows for better management of workload burden, especially where demand is higher in certain locations at certain times. This ultimately leads to better client service.

We have not shortlisted this option.

5.2.3 Option 3 – Continue under the current model

This option would see the Council continue to support the Tribunal Service through the current delivery model. BAG would continue to hold its relationship with the Council in providing the service through a Lead Partner. Under this option, it is recommended that proportionate change is made to some aspects of the Service, including governance and monitoring as outlined in this report. This option would

also see the Council consider a more committed funding period as was the case during Funding Stage One.

Due to its positive output to date, **this Option has been shortlisted for further consideration.**

5.2.4 Option 4 – Continuation of the model, but responding effectively to the impact of regional changes and widening the funding mix

This option sees the continuation of the service using the same delivery model (i.e. a dedicated team located together) and has two dimensions:

- There are a series of regional changes that should have an impact on the need for the tribunal service. These include the recent implementation of the Mandatory Reconsideration Step by the SSA, and the additional resources being invested in the advice sector through the mitigation measures (set out in Section 2.2.2). These should support clients and reduce the need for tribunal representation. If the need for the service is demonstrably reduced through these (and evidence should be collated on what the impacts are), the funding support should be changed to reflect this; and
- Secondly, a key theme within the evaluation has been a reliance on a single funder, i.e. the Council. While not painless, it would be prudent, for both Council and the BAG, to transition away from a single funder arrangement to reduce the risk of funder dependency (particularly during a period of budgetary constraint for the Council). It is welcomed that BAG is already taking steps to address this. In this option Council would take a proactive approach to encouraging this through a planned, phased reduction in support over a period of time, during which it would be reasonable for the service to seek alternative sources of funding.

This Option has been shortlisted for further consideration.

5.3 Option Recommendation

The current model has enjoyed success to date. For a model to continue to be effective, it must adapt to changes in the area in which it operates, in this case the next phase of welfare reform, alongside investment in regional mitigation measures and the introduction of the Mandatory Reconsideration Step. These may, or may not, fundamentally alter the need for the service. .

We recommend Option 4, that the service is continued, that new, alternative funding avenues are used to supplement Council support, and that the need for the Service is reviewed periodically in the context of the success of the mitigating measures at delivering results for clients.

6 Conclusions and Recommendations

6.1 Introduction

This section summarises the key findings and recommendations of this review. We have summarised these under the themes outlined in the Terms of Reference.

6.2 Need

- A key reason for establishing the Citywide Tribunal Service in the first instance was to increase support to those appealing benefit decisions in the wake of Welfare Reform. However, the implementation of Welfare Reform was delayed in Northern Ireland. Welfare Reform was finally agreed as part of the “Fresh Start Stormont Agreement and Implementation Plan” (November 2015) and substantive changes will be rolled out during the second half of 2016. Therefore the context in which it was decided the Citywide Tribunal Service was originally needed remains evident, however the need should be reviewed periodically as it may change e.g. depending on the success of the regional mitigation measures at delivering results for clients.
- The NI strategic focus is shifting from attaining the correct decision for benefit appellants at Tribunal, to reducing the number of appeals by making better decisions earlier in the process (e.g. via the use of the Mandatory Reconsideration Step).
- Analysis in the Welfare Reform Mitigations Working Group Report (January 2016) indicates there will be a significant growth in need for support, including tribunal services when changes in DLA and Universal Credit are rolled out.
- The broad view of the stakeholders is that the service provides a good quality level of service and makes a genuine difference to the lives of some of the most vulnerable in society;
- The service relieves generalist advice providers of tribunal representation responsibilities and frees them to focus on providing general advice;

6.3 Effectiveness

- The effectiveness of the service is evidenced by the statistical analysis provided by the Lead Partner. It shows that the Tribunal Service is estimated to be achieving a success rate (65%) in excess of the Advice NI 2013 benchmark (54%). It is also achieving an excellent return on the Council's investment in the project (12.79).
- The Service is wholly reliant on funding from Belfast City Council. **Other funding sources should be explored to spread the risk of the Council ending support for the Service.**
- The number of referrals from the Belfast Advice Consortia varies across the city. **Consideration should be given to greater outreach in South, East and**

Central to ensure ongoing, high level awareness of the service and how to refer to it.

6.4 Governance

- Proportionate improvement to the governance of the Service is recommended in order to better define the responsibilities of the Lead Partner and other BAG members (e.g. review of BCC monitoring reports, monitoring of progress vs targets, review of referral statistics, review of appeal performance including number of appeals).
- Consideration should be given to revising the objectives to take account of the passage of time (e.g. an objective explicitly demonstrating how the project helps deliver outcomes on the Belfast Agenda) and the changes associated with Welfare Reform (e.g. an increased focus on resolving cases in advance of going to appeal).
- Consideration should be given to how the BAG ‘Citywide’ governance model could be used in addressing other common issues within the advice sector, or other sectors where there are groups across the city with a common focus on social issues, such as tackling poverty and health inequalities.
- The Citywide governance model used for the Tribunal Service in Belfast should also be used to inform the debate around the implementation of front-line mitigation measures including the delivery of Tribunal Services through local government. The successes of the Belfast model could be used to inform initial baselining in relation to budgets and targets.

6.5 Options

The current model has enjoyed success to date. For a model to continue to be effective, it must adapt to changes in the area in which it operates, in this case the next phase of welfare reform, alongside investment in regional mitigation measures and the introduction of the Mandatory Reconsideration Step. These may, or may not, fundamentally alter the need for the service. .

We recommend Option 4, that the service is continued, that new, alternative funding avenues are used to supplement Council support, and that the need for the Service is reviewed periodically in the context of the success of the mitigating measures at delivering results for clients.

Appendix 1

Case Study 1

Client A submitted a claim for Disability Living Allowance and outlined the difficulties he had with mobilising and how he needed assistance with all activities of daily living. He had had previous surgery on his knee and as a result his knee was frequently giving way underneath him. He subsequently fell and fractured his femur. Apart from physical difficulties, he was being treated for depression and anxiety. His claim to DLA was disallowed

The Citywide Tribunal Service represented him at an Appeal Tribunal. There was not a lot of detail in the GP notes and records. The Service requested an independent medical examination which was granted. As a result and after the findings of the medical assessment, DLA revised their decision and Client A was awarded High Rate Mobility indefinitely and Middle Rate Care for 5 years. Client A will also be entitled to an increase in his Employment Support Allowance to include a Severe Disability Premium. Over the 5 year period, the Service will have recovered for Client A £45,344 and increased his weekly income by £174.40.

Case Study 2

Client B converted from Incapacity Benefit to Employment Support Allowance. Subsequently he had to undergo another medical assessment. He only scored 6 points for Mobilising and was found capable of work. He was being treated for severe peripheral neuropathy, severe lower back pain and was awaiting surgery, as well as having significant mental health issues.

The Citywide Tribunal Service requested an adjournment to obtain additional medical information. His GP was contacted and a medical history was obtained. At his next appeal hearing, the appeal was allowed, scoring 15 points for Mobilising and placed in the support group.

He was awarded arrears of £4,363.80 and over a period of year the Service will have recovered for him £6,502.60. The Service managed to increase his weekly income from £73.10 to £125.05.

Case Study 3

Client C was being treated for rheumatoid arthritis, depression and anxiety. She had had previous awards but on renewal her DLA claim was disallowed. The Citywide Tribunal Service represented her at Appeal and she was awarded DLA Middle Rate Care for 3 years. This also meant that her ESA would also increase to include a Severe Disability Premium. Over the 3 year period of the award, the Service will have recovered £18,244.20 for the client and we have increased her weekly income by £116.95 a week.

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