

**Law Commission Consultation Paper**

**WOMEN'S ACCESS TO JUSTICE : HE PUTANGA MO NGA WAHINE KI TE TIKA**

**WOMEN'S ACCESS TO LEGAL INFORMATION**

## **The Law Commission**

The Law Commission is an independent advisory body, established by statute and funded by the taxpayer. Its main function is to undertake the systematic review, reform and development of the law of New Zealand. Its purpose is to help achieve law that is just, principled and accessible, and that reflects the heritage and aspirations of the peoples of New Zealand.

The Law Commission's processes are essentially public, and are subject to the Official Information Act 1982. Thus copies of comments and submissions will normally be made available on request, and the Commission may mention them in its reports. Any request for the withholding of information on the grounds of confidentiality or for any other reason will be determined in accordance with the Official Information Act.

Any personal information supplied in submissions will be used only for the purposes of the project on Women's Access to Justice and nothing the Commission publishes in respect of the project will identify any individual in any way.

### **Women's Access to Justice: He Putanga mo nga Wahine ki te Tika**

The scope of this project has been determined after extensive consultation with New Zealand women. At meetings and hui all around the country and in written and telephoned submissions, thousands of women have described to the Commission their experiences with the law and have identified the ways in which their expectations or needs were or were not met. It has been made clear that for a great many New Zealand women "access to justice" means ready access to quality legal services and procedures, and that quality is measured to a significant extent by the responsiveness of legal services to clients' social and economic situation and cultural background. The project team is focusing on four major areas in its report to the Minister of Justice which is due at the end of 1997. These areas are:

- access to legal information
- the cost of legal services, including
  - the civil Legal Aid regime
  - information about lawyers' fees
  - Pro Bono work - free legal assistance
  - costs in the Family Court
- access to legal representation and advice, and
- the education of lawyers.

Research is now underway on several topics within those broad areas.

The Commissioner responsible for this project is Joanne Morris.

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All boxed quotations contained in this paper were received by the Law Commission in the course of its consultation process. They do not represent the views of the Law Commission.

*"I don't know anyone who knows about the law or where to go."*

*"People just don't know about the law."*

*"There is a lot of anger amongst our women and men. Every Monday and Tuesday at the court-house. The total confusion of not knowing what to do and how to do it."*

*"There is something about that whole legal system that makes people terrified."*

*"The grass roots people in our community don't know where to get information from or who are the community groups out there to help them with their problems."*

*"No one knows about the legal system here and to be honest some don't want to know until they are confronted by the system. But what we do know is that many Maori, especially our women, are scared of the law and perceive it as a very negative subject."*

*"Sometimes many of us don't know who to go to, to get information to do with the law."*

*"Access to legal information for Maori women is not available here."*

*"We need to know our rights because we don't know."*

*"At a District Court level Maori women who are appearing that day are so scared. They turn up at 9.30 on a court day they don't know what to do. They feel like a rag to mop the floor with. They turn up and try and wing it, they try and just get through the day."*

*"We don't get any information here."*

*"The whole society of lawyers and the system is a very secret society."*

*"How do you educate people until they can feel okay about making any sort of decision, when their only concern is surviving from DPB day to DPB day? Many of the issues of justice don't concern them until they can deal with surviving. The problems are huge, the resources are minimal, their esteem is down and that's the reality of our situation."*

*"Women are too scared to ask for help."*

*"A lot of us Maori women do not know anything about the law."*

## INTRODUCTION

1 The Law Commission has been told in its consultations with women around New Zealand that access to legal information is at best problematic and at worst non-existent. At over 80 meetings throughout New Zealand in the Commission's consultations with Maori and non-Maori women and in over 400 written and telephoned submissions, women have told the Commission of the problems they have trying to obtain legal information. Women have said that they are unaware of who to ask, what to ask about, where help can be found 24 hours a day or where in the phone book to begin looking.

2 In Part 1 of this paper the Commission examines what legal information is currently available about particular matters of concern to women and evaluates it in terms of content, cost and distribution. Part 2 of the paper examines other factors that are preventing women's access to legal information. Part 3 identifies agencies which have responsibilities or which are playing a role in the provision of legal information. Part 4 identifies some problems associated with the provision of legal information. Finally in Part 5, the Commission discusses how some improvement might be made, in relation to both the content and the provision of legal information.

3 For the purposes of the paper, legal information has been defined as general information about the law, legal services and legal processes. It is distinguished from legal advice. Within the next few months, the Commission will be producing papers relating to access to legal advice.

The purpose of the paper is to generate discussion and to encourage feedback. The intention is not to suggest solutions at this stage. At the end of each section is a set of questions asking for further information, ideas, comments and criticisms. The Commission would be very grateful for answers to all or any of the questions about which you have particular knowledge, interest or views. Alternatively, we would be very grateful for a more general submission based on some of the ideas in this paper.

Please return these to the **Women's Access to Justice Project, Freepost 56452 Law Commission, PO Box 2590 Wellington**. Alternatively, if you would like to make a submission by phone, please call **Brigit Laidler** on our tollfree number **0800-88-3453**. If you would like to make a submission by e-mail, please send it to **BLaidler@lawcom.govt.nz**.

We would like responses by **Friday 6<sup>th</sup> December 1996**, please. If you have problems meeting this deadline, please let us know.



## PART 1: WHAT LEGAL INFORMATION IS AVAILABLE?

### **The Information**

4 In the consultations held by the Commission and in the submissions received, women have most frequently raised issues relating to custody of their children, domestic violence and the difficulty of funding legal proceedings. Consequently, this paper focuses on access to legal information in the following three areas:

- . custody and access,
- . domestic violence, and
- . civil legal aid.

5 The legal information identified by the Commission is presented in the tables below. These tables show what legal information is available and provide some comment as to its content, how it is distributed, the languages it is provided in, who it is produced by, what medium is used, and how much the information costs to the public. Unless indicated otherwise, the legal information listed in the tables is up-to-date and available.

*Discussion of Information*

*“There was some criticism of the pamphlets as they were written, long and would not always answer your questions.”*

*“Women’s need for information on protection orders is not restricted to 9 to 5.”*

*“Are there any pamphlets on legal aid?”*

*Content, distribution and cost*

6 Women have said that they would like information to be easy to read and understand, free, accessible, in steady supply, and available in many languages. The information presented in the tables above is now discussed with regard to some of these factors: cost, language used, the use of headings or questions and answers to set out written text, the use of examples, how widely the information is distributed, whether sources of further help or information are given, whether key concepts are explained, and whether any practical problems are evident.

7 The **Department for Courts’** new booklet and pamphlet on *Standing up to Domestic Violence* provide a simple summary of the new legislation in the pamphlet and a full discussion in the booklet. Both have been widely distributed and are written in plain language. The booklet is printed in several languages and the pamphlet repeats its information in several languages (although this not obvious from the cover, which is in English only).

8 As the Department acknowledges, there are some problems with many of its older pamphlets.<sup>1</sup> They are often, for example, complicated in their language, sentence constructions and titles. The custody and access pamphlet is entitled *Guardianship, Custody, Access*, legal terms which may be unfamiliar to many people. (This is indicated by the fact that the pamphlet starts by defining the terms.) To some extent this problem is overcome by a subtitle which explains what the pamphlet is about (“a guide to settling legal disputes over the care of children when partners separate”). The practical difficulty with this, however, is that it is set at the bottom of the page and would not necessarily be visible if the pamphlet were on a stand. The pamphlet *Going Your Own Way* contains clear headings about each topic except for legal aid. A note about legal aid is added on to the end of the pamphlet, visually connecting it to the heading above which is, however, unrelated. There is a space on the back of the pamphlets, and the intention was that the space would be filled in with a local contact: “For further information, please contact...”. While this is an excellent idea, on many of the pamphlets seen by the Commission, the spaces had not been filled in.

9 The Department’s videos provide practical information presented through people acting out their situations. The domestic violence video is quite long, however, and rushes through important information. There is only occasional use of subtitles. Further, the cost of the videos, the

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<sup>1</sup> Department for Courts Case Processing Operations Development Unit *Workplan: Project Information for Assessing Priorities*, October 1996.

fact that they are not widely or systematically distributed, lack of information about their existence and the requirement of equipment to play the tapes, make them an unlikely resource for women in the community to find or use.

10 The **New Zealand Law Society's Law Awareness** pamphlets are generally written in plain language and provide helpful examples. The pamphlet *Going to Court as a Witness* contains a picture of the court and labelled participants and although there is a lot of information in the pamphlet, it is clearly presented. The titles of these pamphlets are simple with specific questions asked in everyday language eg "what happens to your children when you part?" On the back of the pamphlets is a list of all the other pamphlets in the series. Some of the pamphlets in the series are not as clear. The pamphlet on *Living Together* contains long sections of text with few headings. *What happens to your children when you part?* uses terms before they have been defined (eg custody) and other terms which are not defined at all (eg shared parenting). The Society has recently started working with the Legal Resources Trust to simplify draft pamphlets and put them into plain English. Currently, the pamphlets are available only in English. The Society has begun to translate the pamphlets into Maori, but these are not yet available. The Society has no plans to translate the pamphlets into any other languages.

11 The **Legal Services Board's Legal Aid Guide** is clearly written, in a question and answer format, and is available in several languages. It is thorough and widely distributed. Cost and distribution are inhibiting factors for women accessing the **Legal Information Service Legal Resource Manual**. The Legal Information Service advises that the manual is used by a large percentage of Citizens Advice Bureaux, so that some degree of secondary access for women may be presumed. The manual is updated at least yearly and provides very thorough step-by-step explanations. The **Family Violence Unit's Reach Out-Toro Mai** is written in Maori and English and is a valuable nationwide directory of family violence services with explanations of what they offer, addresses and phone numbers. **Income Support's** booklet *Getting in Touch - Navigation Guide* provides useful phone numbers, different for each area of New Zealand. It is a helpful guide written in clear, everyday language, but the format is quite complicated and you have to know what you are looking for in advance. The Income Support Service provides a free telephone in each of its offices which the public can use to phone services listed in the Guide. The **FAIR** guide *Who looks after me?* is useful, with clear explanations and plain language. Its cost, size and the fact that it is available only on request will, however, limit the number of women who are likely to find it.

12 The **New Zealand Association of Citizens Advice Bureaux Information Sheets** are a recent initiative. They set out in plain language step-by-step processes. They are used by staff but can also be given to the public. The **Auckland Lesbian and Gay Lawyers** Out Law is a clear and practical guide for lesbians on custody issues. Cost and distribution are inhibiting factors. The **Lesbians and the Law Group video** uses plain language. Issues and legal points emerge through conversations and are reinforced in written subtitles. The **Lesbians and the Law Group book** is similarly clear. It is well set out and written in plain language. The Women's Legal Resource Project's Women Know Your Legal Rights has a straightforward question and answer format with a practical focus, including for example, a sample application for legal aid form, boxed quotations and stories from women and cartoons. The Mel Bogard / Legal Resources Trust book *The Legal Rights of People with Intellectual Disabilities* is a thorough, well set out guide to legal rights and uses plain language, cartoons and case studies. The Christchurch and Ture Amo Kura O Heretaunga Community Law Centres provide very clear, step-by-step resources on civil legal aid. Grey Lynn and Dunedin Community Law Centres' pages on domestic violence are straightforward and well set out, answering questions about the new Domestic Violence Act. The Dunedin Community Law Centre's booklet provides a thorough and practical guide of legal issues which

might affect a pregnant woman.

*Custody and Access, Legal Aid and Domestic Violence*

13 It seems that there is a lot of information available on **custody and access**. Further, it is information which is targeted to the needs of different groups of women, such as women who prefer videos over pamphlets.

14 The division between the civil and criminal aspects of **domestic violence** requires many women to become involved in both parts of the legal system, with their different rules and different terminology. While there is very helpful information available about both the civil and criminal sides of domestic violence, there is no information aimed at a woman who might not understand the civil / criminal distinction but is seeking information about all the possible legal implications of reporting domestic violence.

15 Generally there is helpful information available on **legal aid**, with the Legal Services Board's guide in particular being widely distributed. There are problems, however. In consultations around the country, women expressed uncertainty about whether legal aid is a loan or a grant and the descriptions of legal aid in this respect are often confusing. The Legal Services Board's guide contains a boxed reminder which is repeated several times: "Legal aid is for people who can't afford to pay a lawyer but - you may have to pay back all the legal aid". Similarly, the Christchurch Community Law Centre pamphlet on legal aid, which is otherwise clear and well set out, states in the first column "Legal Aid is a government funded scheme which pays for a lawyer to represent you in Court ..." and it is not until the third column that it mentions that you may have to pay.

**Conclusion**

16 There is a substantial quantity of legal information available. While criticisms can be made of the information and while changing the wording, focus or distribution of particular pamphlets may improve them, it does not explain the overwhelming message the Commission has received that women are simply not gaining access to legal information. It seems then that other things are going wrong.

**QUESTIONS**

- 1 **Do you know of any other legal information about civil legal aid, custody and access or domestic violence that is not identified in the tables?**
- 2 **How does your organisation find out what legal information is available?**

*Where women are getting their legal information from*

*“It depends upon knowing who to contact - which is the problem. Even though these organisations or groups exist the problem is finding out about them.”*

*“I didn’t know how to ring the court or a lawyer because I couldn’t find it in the phone book. For Doctors and Hospitals you can look in the front.”*

*“A lot of women go to the Citizens Advice Bureau in [the local main centre] when they want information but not everyone knows even to go to a CAB.”*

*“I didn’t know where to get information to help me decide what to do with my daughter so I was forced to go and see a lawyer. I now know I could have gone to Social Welfare or CAB to get the info I needed to make a decision. I learned the expensive way.”*

*“Isn’t it also important that the community law centre has more support and more finances and more publicity because so many women don’t even know that it exists.”*

*“[T]he court pamphlet stands on custody and access are hardly ever full.”*

*“A lot of people don’t go to the service providers for advice, they just ask others.”*

*“We use our bush-lawyers who are our on-call aunties or their nannies for help.”*

17 All over the country Maori and non-Maori women have told the Commission where they go for legal information. The following are the *main* places identified: Citizens Advice Bureaux, community law centres, courts, Family Court Co-ordinators, Women’s Refuge, Maori Women’s Refuge, government agencies including Te Puni Kokiri in particular, and lawyers.

18 There was also a significant number of women at the Commission meetings who did not know that these organisations existed or who gave reasons why some or all of them prove to be inappropriate for some women to use.

19 Many women have explained that they know information is out there somewhere, but that they just do not know how to make the necessary contact to access it. As well, women have said that they need to have some kind of background understanding so that they are better able to recognise the legal aspects of everyday problems, and so that they know where to go for information about the problems once identified. Many Pacific Islands women have said that they need to know the ‘first-stop’ places for information. Some Wellington based visually impaired women told the Commission that the majority did not know of the local community law centre, describing it as a “well kept secret”.

20 A very large number of women have told the Commission that they have access problems because cost and childcare needs may mean that travelling to the closest Citizens Advice Bureau, community law centre or court is impossible. Further, for women who need immediate information

it may simply not be practical to travel for help.

21 Some young Pacific Islands women have told the Commission that while they might know of and use Citizens Advice Bureaux, older Pacific Islands women will not. The 1993 Ministry of Consumer Affairs survey on how Maori, Pacific Islands and low income women receive information noted that:

while the Citizens Advice Bureaux and libraries are viewed as major sources of information by many sectors of the community, within the survey group this was not the case. Although most participants knew about CAB, many had never used it and because they were unfamiliar with the setting people felt nervous about using it. Those who had used CAB services did so only because of personal recommendation by a friend.<sup>2</sup>

22 Again and again, the Commission has heard that women are using their own networks, friends, whanau, Church leaders, and women in the community who might have had the same experiences as them or who can explain in their own language. These sources of information are described as readily accessible, free, private and unthreatening.

*How and when information is received*

*“You have to be pushy in asking questions to be told when things are happening or when something is going to happen. The court procedure was very hard because at a time when you are feeling most vulnerable you have to be very pushy to get what’s needed.”*

23 The time at which information is received will often affect how well it is understood or how useful it will be. First, people are less able to absorb information when they are under stress or in a crisis situation. The situation of women at the time information is needed is therefore directly relevant.

24 Further, for many women there are issues involved in the actual seeking of information: “the process of reaching out to organisations and getting information is ... an anxiety-ridden activity”.<sup>3</sup> For women of some cultures, publicly seeking information may be seen as inappropriate behaviour.

25 Balanced against this, however, is the fact that often information will not be absorbed if it is not thought to be directly or personally relevant. The Ministry of Consumer Affairs found that in its target group:

[m]any of the women were struggling to exist on very limited incomes and the resulting lack of energy for anything beyond day to day living meant that they perceived information as being relevant to them only when it affected their lives or their pockets personally.<sup>4</sup>

<sup>2</sup> Ministry of Consumer Affairs *How Women in the Ministry of Consumer Affairs Target Groups Receive Information, Executive Summary*, June 1993, 21.

<sup>3</sup> International Year of the Family Committee *An Information Revolution for Families*, December 1994, 28.

<sup>4</sup> Above n 2, 19.

### Isolation, cost and transport

*“A lot of women are isolated because they have no vehicle, phone or transport.”*

*“For the rural women access is a problem. Not everyone has a phone and to get help they have to travel away from home.”*

*“People need to come down to [town] for information. That’s a two hour drive. [Public transport is] really expensive. If you can afford it then you’re lucky. If not you just have to hitch - kids and all.”*

*“Nine times out of ten people just can’t afford the fares to travel, it’s too expensive. When you weigh the fare up against the kids’ bread on the table there is no choice.”*

26 Again and again women have identified cost, geographical isolation and transport as impediments to their access to legal information. Women have spoken about how they have to put up with their problems until such time as they can afford to get help. Cost alone is often the deciding factor for women in what legal information they are able to access.

### Legal Jargon

*“There is too much court jargon for us to understand.”*

*“Much legal jargon does not make sense to many women, eg ex-parte. This creates a communication gap between women and the law. It causes women attempting to access the law to feel “dumb”. Women are afraid to ask questions of Police and Judges - because of feeling/sounding “dumb”. There is a general lack of knowledge of information about the law, and no suitable/practical explanations are available, eg meaning of non-molestation order*

27 Underlying much of the discussion the Commission has had with women about access to legal information is the view that the legal system is an alien culture with an alien jargon.

### Languages

*“There is often an incorrect presumption that Pacific Islands women will understand English.”*

*“It’s not that we don’t understand. It’s that we don’t understand English.”*

28 English language ability cannot be presumed in New Zealand and yet there is very little helpful legal information available in languages other than English. This means that women from non-English speaking backgrounds, or deaf/Deaf<sup>5</sup> women reliant on sign language, are often completely cut off from information sources or must rely on others for access and explanation.

### Media

*“Some of our people can’t even read or write, so where do they get the information from?”*

*“Pacific Islands people are not pen and paper people.”*

29 Very little legal information is available in any form accessible to visually impaired women, or in a form more suited to the oral approach of some cultures. The Ministry of Consumer Affairs survey on the receipt of information by target groups, found that

an oral culture, lower literacy levels for some, together with a loss of reading skills through lack of practice and/or energy resulted in people not being able to make use of the written information developed by the Ministry of Consumer Affairs.<sup>6</sup>

30 For many, legal information provided in pamphlet form may be completely inaccessible. Yet the cost of videos, lack of information about their existence and the fact that equipment is needed to play them, also make them an unlikely resource for many women.

### QUESTIONS

**3 What comments do you have about the issues identified here?**

**4 What else do you think is going wrong with the information?**

<sup>5</sup> Some hearing impaired people signify their belonging to a Deaf cultural community by capitalising ‘Deaf’.

<sup>6</sup> Above n 2, 19.



## PART 3: LEGAL INFORMATION - RESPONSIBILITIES AND ROLES

31 This section identifies the various organisations which have specific responsibilities, powers or functions, or which have assumed a role in relation to funding, producing or distributing legal information to the public.

### Responsibilities of Public Bodies

#### *Legal Services Board*

32 The Legal Services Board is constituted under section 94(1) of the Legal Services Act 1991. It is comprised of eight members.<sup>7</sup> Sections 95(1)(e)(ii) and 95(1)(g) require the Board to fund law-related education and to provide advice on legal information and law-related education.

#### 95. FUNCTIONS--

- (1) The principal functions of the Board shall be--...
- (e) To receive, from the New Zealand Law Society Special Fund, money derived from interest paid on solicitors' trust accounts, and to ensure that the money so received is used exclusively for the following purposes:
  - (i) As a first priority, to fund community law centres:
  - (ii) To fund law-related education for the public:
  - ...
- (g) To provide advice on the provision, to the public, of legal information and law-related education...

33 Although the statute makes a distinction between “law-related education”, which the Legal Services Board must fund, and “legal information and law-related education”, on which the Board must provide advice, the reason for the distinction and the difference between the two terms is not clear. The terms are not defined in the Act, nor were they explained in the Legal Services Bill or mentioned in the Parliamentary debates. The Executive Director of the Legal Services Board advised the Commission that the use of the different terms makes no practical difference to the workings of the Board.<sup>8</sup>

34 In its Statement of Intent for the period 1 July 1996 to 30 June 1999, the Legal Services Board sets out its vision, values and mission. Its vision is to ensure by the year 2000 that, among other things:

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<sup>7</sup> Under s 98(1) of the Legal Services Act 1991 the Board is comprised of a presiding member, the chief executive of the Department for Courts or nominee, two practitioner members on nomination from the New Zealand Law Society, one member on nomination of the Minister of Maori Affairs, one member representing community law centres, and two members on joint nomination of the Minister of Consumer Affairs and the Minister of Women's Affairs.

<sup>8</sup> Correspondence from the Executive Director, Legal Services Board, 14 May 1996.

Every New Zealander will be able to know where and how to get legal services by accessing information services provided by, or funded by, the Legal Services Board.

35 The Board states its values to be: innovation and progressive thinking; enhancement of human rights through access to justice, professionalism and willingness to advocate for the position of the underprivileged; consumer focus; cultural sensitivity; fairness; and efficiency in the use of resources. The mission of the Board is stated to be “empowering access to the law and the legal system”. To achieve its mission, the Board’s aims include: to provide quality cost-effective access to representation and to knowledge which empowers people; and to access needs and match those needs to appropriate legal services. The Board states that it wishes to be recognised by the wider community as the provider of quality access both to legal representation and to law-related information. It seeks to assist in reducing public misinformation and lack of information on legal matters which are of importance to all New Zealanders.<sup>9</sup>

36 The Legal Services Board is funded by monies appropriated by Parliament, money received from the New Zealand Law Society Special Fund, and any income derived from that money.<sup>10</sup> The Legal Services Board’s funding for law-related education is derived from interest paid on solicitors’ trust accounts. This interest forms the ‘New Zealand Law Society Special Fund’ and s 91F(2) of the Law Practitioners Act 1982 controls the distribution of this fund. The Legal Services Board has first claim to the money for the funding of community law centres. Any remainder is divided equally between the Legal Services Board and the New Zealand Law Foundation. The Legal Services Board must use its share of the remainder for the purposes listed in s 95(1)(e) (ii) to (iv) of the Legal Services Act. In the *Report of the Legal Services Board for the Year Ending 30 June 1995* the Board’s Education and Research Reserve Fund had a balance of \$7.693 million.<sup>11</sup>

#### *District Legal Services Committees*

37 District Legal Services Committees are established by s 114 of the Legal Services Act 1991. There are 19 District Legal Services Committees which are effectively voluntary bodies with members appointed from community groups and the legal profession.<sup>12</sup> Under s 115 of the Legal Services Act, the Committees have a statutory responsibility similar to that of the Legal Services Board in relation to legal information and law-related education:

#### 115. FUNCTIONS OF COMMITTEES--

The principal functions of a Committee shall be...

- (e) To use the funds allocated to the Committee by the Board--...
- (iv) To fund the provision of legal information and law-related education to the public within the district of the Committee.

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<sup>9</sup> Legal Services Board *Statement of Intent 1 July 1996 to 30 June 1999*, 3.

<sup>10</sup> Section 105(a), (b) and (c) of the Legal Services Act 1991.

<sup>11</sup> *Report of the Legal Services Board for the Year Ended 30 June 1995*, 52.

<sup>12</sup> Under s 117 of the Legal Services Act 1991, each committee must include District Law Society representatives, representatives from the Maori Affairs, Women’s Affairs and Consumer Affairs Ministries, and a community law centre representative, if there is a law centre in the district.

38 Whether or not there is any material difference between “legal information” and “law-related education”, it is clear from s 115(e)(iv) that the District Legal Services Committees have a responsibility to fund both, out of funding allocated by the Legal Services Board. There are two ways in which funding is given to the Committees for law-related education and legal information projects. Committees may apply for funding on a project by project basis with the Board assessing each application, or each Committee may arrange with the Board for the allocation of its own law-related education and legal information budget from which the Committee controls the allocation of funding for particular projects.<sup>13</sup>

### **Responsibilities of Government**

39 At an overarching level, the Government has general responsibility to provide legal information to the public. In addition, Article 7 of the Universal Declaration of Human Rights provides that all shall be entitled, without discrimination, to the equal protection of the law. Arguably a pre-requisite to the equal protection of the law is access to information about the law and its processes. Government obligations are discharged through the work of government agencies in varying ways, through their policy roles, operational units and increasingly, through the provision of funding to others.

#### *New Zealand Community Funding Agency*

40 The New Zealand Community Funding Agency (CFA) is a business unit of the Department of Social Welfare which “allocates and delivers funding to community and iwi-based social and welfare services”. Funding is “directed to the services most in need in accordance with government policies and criteria”.<sup>14</sup> The CFA contracts for services in three sectors: ‘Families in Need of Support’, ‘Community Welfare’ and ‘Disabilities’.

41 In the 1995/96 year CFA contracted, on a local or national basis, with a great many community organisations which provide legal information to members of the public. Among them are the New Zealand Association of Citizens Advice Bureaux, the National Collective of Independent Women’s Refuges, Barnardo’s, Rape Crisis offices and Refugee and Migrant Services.

42 In the 1995/96 year the Government allocated a total of \$104 million to the CFA to fund social and welfare services.<sup>15</sup> It is impossible to ascertain exactly how much of this was allocated for legal information. One of the areas within ‘Community Welfare’ is “general advice and information”, described as:

the delivery of general advice and information services to the public on social and welfare services. These include education, prevention, guidance, advocacy and negotiation for specialist services. Advice and information is provided by way of advice centres, leaflets, publications, and advisory officers. Providers are primarily Christian church groups, Iwi based providers, community based providers and voluntary organisations.<sup>16</sup>

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<sup>13</sup> Legal Services Board Policy Statement *Public, District Legal Services Committee and community law centre access to funding for law-related education and information purposes*, Part III, 6.

<sup>14</sup> New Zealand Community Funding Agency National Services Plan: Funding Decisions 1995/96, 8.

<sup>15</sup> Above n 14, 3.

<sup>16</sup> Above n 14, 11 and 111.

43 In 1995/96, \$3.250 million was spent on “general advice and information”. This is not representative of the total spent on funding the provision of information, however, as under each of the three sectors many groups list as their ‘programme relevant to contract’, “the provision of advice and information services”. Further, it is unknown how much funding is spent by any particular group on the provision of information, or how much of the information provided is legal information.

#### *Community Organisation Grants Scheme*

44 The Community Organisation Grants Scheme (COGS) is administered by the Department of Internal Affairs. Its kaupapa/philosophy is stated to be “to promote the identities and values of communities as a way of reaching social, cultural and economic fairness”. COGS funds community organisations to provide “essential social services” to disadvantaged people in their local communities. Such groups are identified as, in particular: Maori, Pacific Islands people, women, older adults, young people, children, families, the unemployed, the disabled, and those living in isolated rural areas. “Essential social services” mean services which if not provided will lead to a greater cost to Government. Funding is given in particular to organisations which have little or no Government funding.

#### *New Zealand Lottery Grants Board*

45 The Department of Internal Affairs also provides services for the New Zealand Lottery Grants Board. The Board’s function is to distribute the profits from State lotteries in such a way as to enhance the well-being of New Zealanders and their communities. The Board determines the proportions of the profits to be allocated to distribution committees, each of which is concerned with a different area, and distribution agencies, which are relevant for the arts, film and recreation and sport. Distribution committees are Lottery General, Lottery Environment and Heritage, Lottery Community Facilities, Lottery Welfare, Lottery Aged, Lottery Youth, Lottery Science Research and Lottery Health Research. The distribution agencies are Creative New Zealand, the New Zealand Film Commission and the Hillary Commission for Sport Fitness and Leisure. These statutory bodies operate autonomously in distributing their allocations from the Board.

#### *Department for Courts*

46 In its strategic plan, the Department for Courts lists five main purposes of the new Department. One of these is “supporting the Judiciary in assuring access to justice”. One of the ways that this is to be achieved is to “ensure a better understanding by the public of the role and operation of the courts and tribunals”. This is explained further:

The public generally is not well informed on how the courts and tribunals operate, and this, combined with the perceived complexity and traditions of the courts, can create a distance between the courts and the community they serve. Public confidence in the integrity and accessibility of the courts and tribunals could be improved by making their operations more transparent and reducing formality and complexity where this is appropriate. Where this is not appropriate, the reasons for doing things in a particular way should be explained. Court proceedings need to retain a certain dignity or the authority of the courts could be undermined.<sup>17</sup>

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<sup>17</sup> Department for Courts Strategic Plan 1996-2000, February 1996, 22.

47 Toward this end, the Department states that:

We will develop and implement a communications strategy which addresses improving the community's understanding of the role and operations of the courts and tribunals and meets the information needs of the people who use them.<sup>18</sup>

48 At an operational level, legal information pamphlets are often held on stands at the courts, or provided on request by court staff. As well, each Family Court in New Zealand has a **Family Court Co-ordinator** whose role is to arrange counselling in the Family Court and provide information to the public about the Court. Co-ordinators provide information on Family Court services, lawyers, relationship counselling, counsellors, mediation, care issues, social workers, psychologists, and community services. This work includes speaking with individuals on request, face-to-face, postal and telephone contact, organising open days and public forums, and liaising with community networks.

49 Within the Department there is also a division responsible for the provision of assistance to victims of criminal offences, to meet the obligations placed on the Department for Courts under the Victims of Offences Act 1987.<sup>19</sup> **Court Services for Victims** provides information to victims of offences which are prosecuted in the criminal courts and assists them to participate in the court process. The scheme was originally introduced as a pilot scheme under which six Victims Advisers were employed in various District Courts. The scheme has recently been extended so that there are now 20 advisers at 14 courts around the country. Advisers provide information to victims about the progress of their case through court, the criminal justice system generally and how to participate in the court process. They also ensure that victims have adequate support and are provided with information about available services; and liaise with other court staff, the Judiciary, police, Community Corrections and other relevant government and non-government local agencies.

#### *Ministry of Justice*

50 The recently established Ministry of Justice is a policy ministry with no operational branch. The Ministry does have a Communications Unit responsible for external relationships. The unit advises that its information role is to give a broad explanation of the legal system and the legislation administered by the Ministry, for example, rights and responsibilities under the New Zealand Bill of Rights Act 1990. The main responsibility for legal information to the public is, however, seen as residing with the operational units, such as Courts, Corrections, and Land Transport. The Ministry assists the operational agencies in checking the accuracy of their information.<sup>20</sup>

51 The Ministry is also involved in the development of a Justice Sector Information Strategy. This is a programme aimed at co-ordinating the information held throughout the justice sector. The

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<sup>18</sup> Above n 17, 23. Department for Courts Case Processing Operations Development Unit *Workplan: Project Information for Assessing Priorities*

<sup>19</sup> Section 4 of the Victims of Offences Act 1987 states that "Victims and, where needed, their families should have access to welfare, health, counselling, medical, and legal assistance responsive to their needs." Sections 5 and 6 require officers of the court to inform victims of the services and remedies available to them and about the progress of the proceedings.

<sup>20</sup> Conversation with Communications Unit, Ministry of Justice, 15 April 1996.

justice sector information vision is stated to be: “To ensure that relevant, timely and accurate information is available and accessible to authorised users to support the business needs of all agencies in the justice sector and their customers and to monitor the justice environment”.<sup>21</sup> The strategy aims to determine such matters as information sharing principles between the various agencies involved in the justice sector. While this initiative does not focus on the provision of information for the public, the Information Services Group advised the Commission that improved legal information for the public would be a “flow-on” from the organisation of information within the sector.<sup>22</sup>

#### *Other government agencies*<sup>23</sup>

52 Other government agencies which are involved in the provision of legal information relating to custody and access, domestic violence and civil legal aid include the **Police, the Department of Corrections, the Department of Social Welfare, Te Puni Kokiri, the Ministry of Women’s Affairs, the Ministry of Consumer Affairs, and the Department of Internal Affairs.**

### **Functions and Powers of Professional Bodies**

#### *New Zealand Law Society*

53 Section 5 of the Law Practitioners Act 1982 sets out the powers of the New Zealand Law Society:

#### 5. POWERS OF SOCIETY--

- (1) The Society shall have all such powers, rights, and authorities as are reasonably necessary or expedient for or conducive to the exercise of any of its functions.
- (2) Without prejudice to subsection (1) of this section, the Society shall, in addition to any other powers conferred on it by this or any other Act, have the following powers:
  - ...
  - (b) To publish or arrange for the publication of such periodicals, pamphlets, or other publications as it may consider of benefit to the public or to practitioners in relation to the practice of the law and the activities of the Society or of District Law Societies:

54 A further general function of the Society is found in s 4(1)(a) of the Act: “to promote the interests of the legal profession and the interests of the public in relation to legal matters”. It is arguable that s 4(1)(e) applies to the public also. It states that a further function of the Society is “to promote opportunities for the acquisition and diffusion of legal knowledge and skills relating to

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<sup>21</sup> Ministry of Justice *Justice Sector Information Strategy, Executive Summary*, August 1996.

<sup>22</sup> Discussion with Information Services Group, Ministry of Justice, April 1996.

<sup>23</sup> There are many government agencies involved in the provision of legal information. For the purposes of this paper, those mentioned provide information relating to the areas identified as of particular concern to women: custody and access, domestic violence and civil legal aid.

the practice of law". The Society's main source of income is a levy on its members.<sup>24</sup>

### *District Law Societies*

55 Section 26 of the Law Practitioners Act provides that to a large extent District Law Societies have the same functions and powers as the New Zealand Law Society:

#### 26. FUNCTIONS AND POWERS OF DISTRICT LAW SOCIETIES--

- (1) Subject to this Act and to the rules of the New Zealand Law Society, every District Law Society shall have within its district the same functions and powers as the New Zealand Law Society has under this Part of this Act, except the power to impose levies under section 9 of this Act...

56 The District Law Societies' main source of income is levies on its members.<sup>25</sup>

### *New Zealand Law Foundation*

57 The Law Foundation is an independent trust established by the New Zealand Law Society in 1982. Its funding is derived from interest paid on solicitors' trust accounts which forms the 'New Zealand Law Society Special Fund'. Any remainder, once funding has gone to community law centres, is divided equally between the Legal Services Board and the New Zealand Law Foundation. The Law Foundation must use its share of the remainder for the purposes listed in s 91F(2)(b)(ii) of the Law Practitioners Act 1982:

- (A) For the purposes of funding law libraries, legal research, and providing practical legal training for practitioners and law students; and
- (B) For the purposes of funding the Council of Legal Education; and
- (C) For funding such other matters as are referred to in Clause 12 of the deed of trust referred to in section 91A of this Act.

58 Clause 12 of the deed of trust contains a list of purposes to which funding may be allocated, many of which are relevant in relation to legal information. General purposes listed include: to promote the administration of justice and the development and improvement of the law; and to co-operate with other bodies or organisations having objectives in whole or in part similar to those of the Foundation. Two specific purposes listed are:

To provide legal aid and legal services for members of the public in need of such...

To undertake promote or assist the legal education of students at every level and members of the public generally.

59 Clause 12 also lists as a purpose:

To provide establish and maintain or assist in providing establishing and maintaining and if it considers such necessary or desirable to operate neighbourhood law offices or legal advice

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<sup>24</sup> Section 9 of the Law Practitioners Act 1982.

<sup>25</sup> Section 25 of the Law Practitioners Act 1982.

bureaux or community law legal services so that as full and proper a legal service as may be practicable shall be available for members of the public...

### **Roles of Community Organisations**

60 A great many community groups provide legal information. Those which provide legal information about custody and access, domestic violence and civil legal aid are identified here. For the purposes of this discussion, a distinction is made between those groups involved in the **distribution** of legal information and those groups involved in the **production** of legal information. Those involved primarily as **distributors** of legal information are identified first.

#### *Community law centres*<sup>26</sup>

61 The functions of the 15 community law centres are largely determined by their respective communities, through the identification of unmet legal needs within those communities. Some functions relevant to legal information are also contained in s 155 of the Legal Services Act 1991:

#### 155. FUNCTIONS OF COMMUNITY LAW CENTRES--

The functions of a community law centre shall include--...

- (b) The provision of legal information to the public or any section of the public:
- (c) The promotion of law-related education for the public or any section of the public:
- (d) Such other functions as each community law centre considers necessary to ensure that the needs of the public that it serves for legal services are met.<sup>27</sup>

62 These functions are relevant to individual community law centres to the extent that they receive funding from the Legal Services Board through the Special Fund. The Board must ensure that the money it receives from the Special Fund is used 'as a first priority' to fund community law centres. District Legal Services Committees must use the funds allocated by the Board to fund matters listed in s 115(e), including community law centres.<sup>28</sup> As at 30 June 1995 the Board's Community Law Centres Reserve fund totalled \$1.282 million.<sup>29</sup> Community law centres also seek funding from a variety of sources including the Lotteries Commission, the Law Foundation, District Law Societies, city councils, the Community Organisation Grants Scheme (COGS), local

<sup>26</sup> Community law centres also play a role in the production of information and have produced some which is relevant for the purposes of this paper. They are listed here as primarily distributors because this is their major role in this area and they state that they only produce information where they have identified a gap in the information otherwise available. They have no specific funding for the production of information.

<sup>27</sup> In *Suggested Approach for District Legal Services Committees to adopt when considering the need for a Community Law Centre*, Wellington, 1993, the Legal Services Board has further defined the functions of community law centres to include empowering people to meet their own legal needs by providing them with the necessary advice, information and support.

<sup>28</sup> One of the principal functions of the Legal Services Board is to advise on, approve, and assist with the establishment of community law centres throughout New Zealand and to fund such centres. One of the principal functions of the District Legal Services Committees is to establish community law centres within each district, after a needs assessment, consultation and consent of the Board, and to monitor their performance.

<sup>29</sup> Above n 11, 50.



trust funds and Rotary.

*Citizens Advice Bureaux*<sup>30</sup>

63 The New Zealand Association of Citizens Advice Bureaux (NZACAB) is a voluntary organisation which provides, free to all individuals, an impartial and confidential service of information, guidance and support. There are 91 Citizens Advice Bureaux (CAB) nationwide staffed by over 2500 volunteers from local communities, and 55 paid staff. The aims/whaingā of CAB are:

- . to ensure that individuals do not suffer through ignorance of their rights and responsibilities, or of the services available; or through an inability to express their needs effectively; and
- . to exert a responsible influence on the development of social policies and services, both locally and nationally.<sup>31</sup>

64 The NZACAB estimates that a quarter to a third of CAB work is law related,<sup>32</sup> and that 70%, or approximately 78,000, of those using the service each year are women.<sup>33</sup> NZACAB receive funding for both the core operating costs of the bureaux and for particular projects. Central Government is the primary source of funding through the Community Funding Agency. This funding supports approximately two thirds of the cost of the information, public relations, training, management support and policy development work of the bureaux. Funding is also received from the Community Organisation Grants Scheme (COGS) and the New Zealand Lottery Grants Board. The rest of the income is made up of grants from philanthropic trusts and businesses.

65 Other distributors of legal information include the *National Collective of Independent Women's Refuges*, the *National Collective of Rape Crisis and Related Groups of Aotearoa Inc*, *Relationship Services*, and the *Women's Justice Service*.<sup>34</sup>

66 There are a great many community organisations which **produce** legal information for women. Those organisations which have produced information in the areas of custody and access, domestic violence and civil legal aid, are discussed briefly.

*Legal Resources Trust*

67 The Legal Resources Trust is a charitable trust which was set up in 1991. It is a media production house which produces written publications and educational and training videos focusing on legal, health and social issues. The Trust is involved with the initiation of some

<sup>30</sup> Citizens Advice Bureaux also play a role in the production of information and have produced some which is relevant for the purposes of this paper. CAB are listed here as primarily distributors because this is their major role in this area and NZACAB states that CAB only produce information where they have identified a gap in the information otherwise available. CAB have no specific funding for the production of information.

<sup>31</sup> NZACAB *Annual Report 1995*, inside cover.

<sup>32</sup> Discussion with Executive Director, NZACAB, 2 April 1996.

<sup>33</sup> Above n 31, 3.

<sup>34</sup> The groups identified here as 'distributors' for the purposes of information about custody and access, domestic violence and civil legal aid are also involved in the production of information in areas other than those examined in this paper.

projects and applies for funding for these, such as for the book *The Legal Rights of People with Intellectual Disabilities*. For other projects it produces the material commissioned and funded by others, as for the Department for Courts' videos 'Domestic Protection Orders' and 'Being a Witness'.

#### *Legal Information Service*

68 The Legal Information Service (Inc) was established in 1981. It is a not-for-profit organisation, whose objective is "to improve the quality of legal information to the community in general, and to the poor, inarticulate or disadvantaged in particular".<sup>35</sup> The Service produced the Legal Resource Manual which is used by a large proportion of CAB, some of the community law centres and a few libraries and professional bodies. The Service gets its funding mainly from sales of the manual and of updates, and received a Law Foundation grant which enabled a substantial rewrite of the manual in 1993.

#### *FAIR (Family Advocacy & Information Resource) Centre*

69 The FAIR Centre is a service of Barnardo's New Zealand opened in 1995. Its purpose is to ensure easier and more direct access to information about social services, rights, entitlements and related issues for families throughout New Zealand. The Centre is in Wellington, and has two paid staff and a team of volunteers. It produces information resource packs and newsletters, and provides a national toll free phone service and a library service open to the public. The Centre relies on funding through donations, general grants (including Lottery Grants) and specific grants (including the Legal Services Board) for about a quarter of its expenditure. Some revenue is raised through the sale of the written resources to organisations and the remainder is provided by the Barnardo's fundraising. The Centre received funding for its information pack on *Rights and Responsibilities when Families are Apart* from the Legal Services Board.

#### *Lesbians and the Law Group*

70 The Lesbians and the Law Group is affiliated with the Wellington South Community Law Centre. Funding for the *Lesbians and the Law* booklet and script development was received from the 1993 Devotion Trust and the 1993 Suffrage Centennial Trust Whakatu Wahine. The *Lesbians and the Law* video was funded by the Legal Services Board.

#### *Women's Legal Resource Project*

71 The Women's Legal Resource Project is also affiliated with the Wellington South Community Law Centre. For the production of *Women Know Your Legal Rights* it received assistance from the Welfare Lottery, the Department of Social Welfare, the Community Learning Association of New Zealand (CLANZ), and the Department of Internal Affairs.

#### *Auckland Lesbian and Gay Lawyers Group*

72 The Auckland Lesbian and Gay Lawyers Group was established over 10 years ago and has been involved in a variety of activities including lobbying for legislative change. The Group

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<sup>35</sup> *Legal Resource Manual*, Preface.

seeks funding for publications and other initiatives. The New Zealand Law Foundation provided funding for *Out Law: A Legal Guide for Lesbians and Gay Men in New Zealand*.

## QUESTION

### 5 What other organisations have a responsibility, power, function, or role in relation to the provision of legal information?

## PART 4: WHAT ELSE IS GOING WRONG? PROBLEMS WITH THE PROVISION OF LEGAL INFORMATION

73 This section of the paper examines some of the problems relating to the provision of legal information to the public. It identifies a general difficulty with the area, funding problems, statutory responsibilities, policy issues which are yet to be resolved, and gaps within the present system. It is acknowledged that listing problems in this way disguises the fact that many of the problems are interrelated.

### A difficult area

74 Many of the organisations involved with the provision of legal information indicate that it is a difficult area to be involved in. It is an area where there are often competing and conflicting needs, where it is difficult to decide how to prioritise, and where changes occur at speed. The Legal Services Board and the New Zealand Law Society both gave examples of difficulties in this area.

75 In its Statement of Intent, the **Legal Services Board** lists issues to be addressed over the next three to five years. One of the five major categories is education and information programmes. The Board states:

Provision of law-related information to empower citizens to avoid or overcome legal problems is an important part of the Board's activities. One of the major hazards of generating legal information is the speed at which the accuracy and value of the information degrades because of constant statutory changes and judicial interpretations. One thing worse than a total lack of knowledge about the law and basic legal principles is a knowledge based on out of date or just plain wrong materials. Recall of printed and videoed material is a complex and costly task...<sup>36</sup>

76 In 1993 the **New Zealand Law Society** held an initiative called 'Law Week' intended as a public relations and information initiative for the profession. The week coincided, however, with the Renshaw Edwards controversy which meant that 'Law Week' did not receive very much media attention. This resulted in many in the profession not being keen to repeat it so that 'Law Week' is now in abeyance.

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<sup>36</sup> Above n 9, 7.

### Limited funding and resources

77 Almost every organisation identified lack of funding and resources as a major problem in relation to the provision of legal information to the public.

*“There was a counselling co-ordinator. She was good but could be tied up in a counselling session with another family so wasn’t there to support you when you walked in to have your hearing or whatever.”*

78 Limits on funding and resources are identified as problems for **Family Court Co-ordinators**. There are about 30 co-ordinators nationwide and one co-ordinator may be responsible for several smaller courts in one area. One commented that “the work increases every year but the budget is limited”.<sup>37</sup> Another issue raised was whether it is the responsibility of the co-ordinators or the Department for Courts to make the co-ordinators’ function as widely known as possible, or whether it is up to the public to somehow find out. The co-ordinators indicated that there was a tension here. To a large extent, the effectiveness of their work depends upon being known in the community, having a high profile and being invited to community meetings and similar gatherings. On the other hand, there was concern that any increase in exposure would create too large a workload for the service to handle.

79 The **Legal Services Board** identified funding problems as affecting discharge of its statutory responsibilities. While there is a large sum in the Special Fund at present, the Board states that in part the accumulation of this amount is to protect the Board against what it perceives as the long-term vulnerability of the Special Fund. A study commissioned by the Board in 1994 indicated that while the Fund was performing adequately to date, even moderately conservative community law centre development, combined with likely fluctuations in the Fund, could rapidly produce a situation where the entire Fund could be inadequate to fund law centres on current bases.<sup>38</sup>

80 While some of the **District Legal Services Committees** indicated that they are very active in the area of legal information, many stated that their limited and stretched resources are largely responsible for a failure to discharge their statutory responsibilities.<sup>39</sup>

*“Having regard to the limited resources available to the Committee it has little ability to be proactive in this area.”*

<sup>37</sup> Discussion with Family Court Co-ordinator, 13 May 1996.

<sup>38</sup> *Sounding Board*, Issue No 10, December 1995, 4.

<sup>39</sup> The Law Commission sent a letter to the Presiding Member and Secretary of each District Legal Services Committee canvassing the Committee’s role in funding or providing legal information in their district. The Committees were asked about how they saw their roles and responsibilities in relation to the provision of law-related education and information to the local public; what law related material the Committee had produced or funded since 1 January 1995; and whether they were proactive in identifying areas where the community, and

*“The Committee is doing as much as it can.”*

*“While they would like to be doing more they do not have an unlimited budget.”*

*“A start has been made ... but it is a question of priorities.”*

*“The workload is such that one sinks.”*

81 Similarly, insufficient resources were invariably identified by **District Law Societies** as a main reason why they cannot do more.<sup>40</sup>

*“The Society does very little - it is small with permanently stretched resources. In theory it should do more but this is not practical - there is no library, no money is left for other things and no-one has spare time.”*

*“Being small the District Law Society only has time to deal with members’ matters. Other matters are left to the paid people in the New Zealand Law Society.”*

*“The Society does not have the resources to provide any extensive legal information to the public.”*

*“The Society does not have the financial resources to undertake this type of activity.”*

82 Several **community law centres** indicated that while they would like to produce more of their own material, funding is a constraint. One law centre told the Commission that it had recently produced a pamphlet but could not get funding to publish it and so was photocopying off a typed sheet.

83 The **Law Foundation** identified an element of precariousness about the funding it receives out of the Special Fund. While the Foundation’s Annual Report for 1995 shows the total accumulated funds at that time to be more than \$8 million,<sup>41</sup> the Foundation indicated that this amount of capital anticipates future funding demands and the fact that the Legal Services Board

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particularly women, require information. Twelve out of the 19 District Legal Services Committees responded.

<sup>40</sup> The Commission sent a letter to each District Law Society canvassing their role in providing legal information to the public in their district. The Societies were asked whether the majority of information and education they provided was geared towards the profession or the public, and whether they were proactive in identifying areas where the community, and particularly women, require information. Finally, they were asked how they interact with the New Zealand Law Society and other agencies in relation to the provision of legal information. Responses were received from five of the 14 District Law Societies.

<sup>41</sup> *Law Talk*, 27 May 1996, 15.

has the first, and potentially unlimited, call on the Special Fund for community law centres.<sup>42</sup>

84 The **NZACAB** identified similar uncertainty over funding. Although the Association recorded a small surplus in the 1994/95 financial year, the 1995 Annual Report referred to the “uncertainty of core and project funding from one year to the next”, and stated that “operating expenditure is likely to increase in the next financial year and project grants are very unlikely to remain as high”.<sup>43</sup> NZACAB also states that there is inequity of resources, with the government funding expensive and often one-off information campaigns while community groups struggle with on-going operational costs.<sup>44</sup>

### **How Organisations View Their Own Responsibilities**

85 Some organisations indicated that they do not see that they have a responsibility for the provision of legal information to the public, that other bodies are more suitable to carry out such functions, or that they have other functions of higher priority.

86 The **Legal Services Board** states that since its inception in 1992 its focus has been on other statutory duties namely the legal aid scheme, community law centres, the duty solicitor scheme and the Police detention legal assistance scheme. The Legal Services Board commented that the Government considers legal aid to be the Board’s core function.<sup>45</sup>

87 In general terms, the **District Legal Services Committees** which have no community law centres in their district indicated that they are quite active in the area of legal information. A commonly held view among those District Legal Services Committees which do have community law centres in their districts seems to be that the centres discharge the responsibilities of the Committees in relation to legal education and information. For some of these Committees this seems driven by a belief that information and education are more properly the responsibility of community law centres. Other Committees indicate that while they recognise that they have a responsibility in this area, they have had other priorities or simply not enough resources. For others, it has been a practical decision on the part of the Committee not to duplicate effort in this area.

*“I believe that it is appropriate that this work should be undertaken by the Community Law Centres rather than by the District Committee itself. The Law Centres have established ongoing administrative structures and permanent staff, and budgets running into six figures. There would be no point in the District Committee attempting to compete with or supplant the work of the Community Law Centres in this area.”*

*“At the moment it appears that the Law Centre may currently be in a better position than the DLSC to identify these areas.”*

<sup>42</sup> Correspondence from Director, Law Foundation, 22 April 1996.

<sup>43</sup> Above n 31, 15.

<sup>44</sup> Correspondence from NZACAB, 13 September 1996.

<sup>45</sup> Discussion with the Executive Director and Research & Education Manager, Legal Services Board, 3 April 1996.

*“The Committee is not proactive in identifying information needs but the relatively new Community Law Centre will probably be active in this area.”*

*“Our focus since the commencement of the legislation has largely been in the establishment of our new Community Law Centre.”*

### **Policy being established**

88 Several organisations indicated that their policy approach to the provision of legal information to the public had either not yet been established or had only recently been established.

89 The recently established **Department for Courts** has a Communications Manager whose role is to develop a corporate perspective, looking at information for the Department as a whole. He states that the Department recognises an ongoing need to inform the public and raise awareness concerning, for example, rights under new legislation. The Department is trying to respond to these responsibilities but the Communications Strategy, referred to in the Strategic Plan, has not yet been developed.<sup>46</sup>

90 Much responsibility for legal information has also been devolved to the four business units of the Department: Case Processing, Collections, Maori Land Court and the Waitangi Tribunal. For certain information campaigns the Communications Manager and the relevant unit work together. Generally, however, the units are expected to look at their own communication needs.

91 The Case Processing Unit has recently begun a ‘Publications Audit’.<sup>47</sup> This project is designed to ensure that “obsolete and missing publications are identified so that new and revised publications that meet agreed standards and support Department branding are then issued and maintained”. The project rationale is stated to be: “the dissemination of accurate information to the public about the Department’s business is critical. Currently many pamphlets, leaflets and videos contain obsolete information or are missing altogether. There are no consistent production standards”. The project’s aims include identifying existing information material nationwide, assessing the fit of information to criteria and determining needs and costs.<sup>48</sup>

92 In its 1995 Review of the Legal Services Act 1991, the **Legal Services Board** stated that one deficiency in the past three years was that the education function of the Act had not been given a sufficiently high profile and that there is too little law-related public education.<sup>49</sup> Some **District Legal Services Committees** indicated that they had not yet clarified the exact nature of their responsibility in relation to the provision of law-related education and information. Further, the Legal Services Board indicated that the relationship between the Board and the District Legal Services Committees is not fully established and that the extent and co-ordination of its

<sup>46</sup> Discussions with Communications Manager, Department for Courts, 9 April 1996 and 27 August 1996.

<sup>47</sup> Discussion with Customer Services Unit, Department for Courts, 4 October 1996.

<sup>48</sup> Above n 1.

<sup>49</sup> Legal Services Board *Review of the Legal Services Act 1991* (pursuant to section 112 of the *Legal Services Act 1991*), 6 and 3. The second half of this report is being written at present.

supervisory role is still being determined. Section 95(1) of the Legal Services Act 1991 lists the principal functions of the Board to include the supervision and co-ordination of the work of District Legal Services Committees. Clauses 3 and 4 of the Legal Services Board (Reporting) Instructions require District Legal Services Committees to provide the Board with statistical information each month, and minutes of their meetings. Staff of the Board have commented that the Committees should report every month on how the demand for legal services in their districts has been met, but that they usually only respond in relation to the legal aid scheme.<sup>50</sup>

93 The **Department for Courts** has no fixed distribution list for its pamphlets, which are sent out in response to requests. The **Legal Services Board** does not have a distribution policy for its legal information. The **New Zealand Law Society** distributed just under 100,000 of the 15 Law Awareness pamphlets in 1995. Although orders come from a wide variety of organisations, the Society does not have a set mailing list for the pamphlets and distributes the pamphlets in response to orders and requests.

### **No-one is responsible for “producing” legal information**

94 The statutory framework does not confer on any body the role of actually producing legal information. The **Legal Services Board’s** principal functions are “to receive” money, “to ensure” that the money is used “to fund” various things, including law-related education for the public, and “to provide advice” on the provision, to the public, of legal information and law-related education. **District Legal Services Committees’** principal functions include “to use the funds” allocated to the Committee by the Board “to fund” the provision of legal information and law-related education to the public within the district of the Committee. The powers of the **New Zealand Law Society** include “to publish or arrange for the publication” of pamphlets or other publications of benefit to the public. Its functions include “to promote” the interests of the legal profession, and of the public in relation to legal matters. **District Law Societies** have these same functions and powers. The **New Zealand Law Foundation** must use its share of the Special Fund for several purposes including “for funding” various matters including “to provide” legal aid and legal services for members of the public and “to undertake promote or assist” the legal education of members of the public. The functions of **community law centres** include “the provision” of legal information to the public and “the promotion” of law-related education for the public.

### **No-one is responsible for monitoring**

95 There is no body or system set up for assessing how well statutory obligations are being performed by the various bodies, how functions or powers might be exercised more effectively, and how the efforts of all organisations playing a role in the provision of legal information might best be combined. While obligations exist, and while the bodies are performing some functions, there is no body responsible for, nor anyone performing the role of, quality assessment. Nor are there any standards against which to assess quality, or any safeguards against duplication.

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<sup>50</sup> Above n 45.



## QUESTIONS

- 6      **What comments do you have about the issues identified here?**
- 7      **What else do you think is going wrong with the provision of legal information?**

## PART 5: HOW COULD THE SITUATION BE IMPROVED? SOME SUGGESTIONS

96      In this Part the Commission examines how the situation might be improved. The suggestions provided are based on what women have said in the course of the Law Commission's consultation process. They are listed here to encourage thought and feedback in this area. It is acknowledged that the implementation of many of the suggestions may be costly or otherwise difficult. Part 5 is divided into two sections. The first section looks at possible changes to the information itself; the second examines possible changes to the way in which information is funded and produced.

### Changes to the Information Itself - Targeting Legal Information to Different Needs

*"We definitely need more choice of accessing information ..."*

97      One of the strongest messages from the consultations undertaken and submissions received by the Commission is the diversity of women, their experiences and situations. This diversity has the inevitable result that no one means of providing legal information is going to work for all women. The response must therefore be to focus on providing 'something for everyone'.

### Different media

98      The use of different kinds of media will greatly increase the number of women who can access legal information. Possible media include: pamphlets and legal resource manuals, television, radio, face to face communication, national freephone services, audio-tapes, videos, interactive technology and computer kiosks. Many women have commented that a mixture of different media will be most effective in reaching the greatest number of women.

99      The Ministry of Consumer Affairs' survey on the receipt of information made the following recommendations concerning **written material**. It considered that "written material needed to be developed at two levels", to overcome problems where women with low literacy skills, or struggling with a low income existence, found written material useful only when it was explained by a person they knew and/or trusted. The Ministry recommended that first level material have three or four simple statements in plain language and a picture, with the name and/or identity of a contact person and a toll free phone number for further information. Second level

material, for people whose preferred way of gaining information is through written material, should have greater detail in plain language, with illustrations.<sup>51</sup>

100 The Ministry suggested that **pamphlets** need attention catching pictures, bright colours, simple layout, big letters, simple words, plain language, a title topic clearly stated on the front, lots of white space, and pictures relevant to the group targeted.<sup>52</sup> Some visually impaired women commented to the Commission that written material provided in **large print** is often better than Braille which not everyone can read. They suggested that word processed documents could be produced in a big format in, for example, Swiss Roman 17 point or even 24 or 42 point.

101 Many women suggested that more use should be made of **newspapers** including the newsletters and newspapers of particular groups, for example lesbians and Pacific Islands women, and that legal information might also be provided in **magazines**.

102 Another written resource might be **legal manuals** or encyclopedias of law for non-lawyers, as a nationwide resource. The Legal Resources Manual, produced by the Legal Information Service, could perhaps be a starting point suitable for development. Such a resource, kept in binders, regularly updated and written in plain language, could be made directly available to those providing legal information and to the public, in public libraries, government offices and school libraries.

*"I saw on TV the ads about Women's Refuge and being able to get help. I also saw the ads about not hitting children cos then they'll grow up to hit their children. I rang CAB like it said on TV."*

103 Many women identified **television and radio** as major sources of information for them. Some rural women emphasised their dependence on such media. Other women suggested that legal information should be provided through the stations and networks of particular cultures or groups such as Maori radio and television, lesbian radio and Pacific Islands radio.

104 Maori and Pacific Islands women in particular have stressed how vital it is to have people to impart **information face-to-face**, both in group situations and one on one. Women have said that talking to someone and having someone explain written information encourages them both to seek and to understand information. Many women have called for reliable legal information provided orally by members of their community. Some Pacific Islands women have stressed that such face-to-face contact must be on an on-going, constantly reinforced basis and that meetings with small groups of women are ideal. Women have also said that it is effective to identify "the issue of the moment" which receives a high profile and is presented by and associated with a **key figure in the community**. Many women have said that it is then important to follow through with videos and pamphlets.

105 Provision of legal information in an oral form also meets some of the concerns of, for

<sup>51</sup> Ministry of Consumer Affairs *How Women in the Ministry of Consumer Affairs Target Groups Receive Information*, June 1993, 29 and App III 13.

<sup>52</sup> Above n 51, App III 14.

example, visually impaired women. An increase in the legal material provided on **audio-tape** also would improve access to legal information for visually impaired women, particularly if it were well publicised and widely distributed.

106 **Video** is increasingly being used as a way to communicate legal information. There are limiting factors involved, in that not all women have access to video players or can afford to buy or borrow the tapes. The Legal Services Board is currently investigating the value of videos as an education medium, asking questions such as: “Does a video message stick?” and “Are videos more effective in reaching young people, women, Maori?”. The Ministry of Consumer Affairs’ survey on the receipt of information found that women might watch a video on public information if it was easily accessible, for example, if it were shown to women waiting in a queue. The Ministry identified that information is best absorbed if there are short stories about ‘real people’ which are relevant to the women watching.<sup>53</sup> Women have said that videos are particularly effective if presented by and associated with a key figure in the community. Providing videos with subtitles in different languages and/or in sign language would increase the number of women they would reach.

107 There are several examples of such initiatives. A series of videos was recently commissioned by the NZ Children and Young Persons Service and produced by the Legal Resources Trust on parenting without hitting. There are three videos, intended for Pakeha, Maori and Samoan communities, and each video was designed, written and directed by people of the relevant culture. The Legal Resources Trust is also just about to launch a video for the deaf community which explains legal rights and responsibilities. The information is conveyed using signing and subtitles.

108 While many women have said that they do not have a telephone or access to one, even more have suggested that better **telephone services** would improve access to legal information. Women suggested centralised, plain language telephone number listing. The Department of Internal Affairs publishes the “**Blue Pages Government Section**”. These are pages at the front of the telephone book white pages, marked with a blue stripe down the side, which list the phone numbers of government organisations in the relevant area. There is also an index using common terms so that, for example, you can look up ‘dole’ in the index and it tells you to contact Income Support which is then listed in the alphabetical listing. It may be that an extended and well-publicised version of the blue pages could answer this need.

109 Many women also called for a twenty-four hour **0800 telephone information line** as an ideal means of access to legal information. Women emphasised the importance of talking to someone rather than to an answerphone. The NZACAB is currently seeking funding for a nationwide 0800 number which will link callers with their local bureau during office hours. The Invercargill CAB has had an 0800 number for three years and it is now also available on the bureau’s free legal advice evenings. The Industrial Relations Service of the Department of Labour provides an 0800 ‘infoline’ which provides information relating to rights and obligations of employers and employees.

110 Technological advancements may provide other sources of legal information in the future. The Legal Services Board has been considering the possibility of nationwide **interactive technology**, for example, a form of computer that people could access throughout New Zealand by

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<sup>53</sup>

Above n 51, App III 14.

the year 2000 thereby overcoming problems of geography.<sup>54</sup> **Self service legal kiosks** are used in the United States, Australia and Singapore. Located near court buildings the kiosks provide friendly, multi-media and touch screen information about legal and court practices as well as certain limited issues of law. In his interim report on Access to Justice in the United Kingdom, Lord Woolf advocates that such kiosks could be available in courts and in other convenient locations such as post offices, public libraries, CAB and in other advice centres where help and guidance in the use of the systems could be provided.<sup>55</sup> It was also suggested that such information could be available on the Internet and World Wide Web.<sup>56</sup> Many of the organisations identified in this paper already provide information through their homepages and email. The Department of Internal Affairs' **"Blue Pages Government Section"** are available on the internet.<sup>57</sup>

## Distribution

*"As we know where all women go, why don't we put the information there?"*

*"We need a one-stop shop ... this would be a good way to help women to get access to information."*

111 The Commission has received many suggestions of places where women could access legal information. The appropriateness of a place might depend upon the sort of information being provided; some places will only accommodate simple messages, one telephone number for instance, whilst others could hold pamphlets, manuals and more. Women have said that information must be available at all of the following places so that the diversity of people is matched by the diversity of location: CAB, community law centres, hospital waiting rooms, waiting rooms of doctors, hospitals and health centres, courts, marae, public libraries, churches, post shops, Plunket, supermarkets and shopping centres, Link Centres,<sup>58</sup> on the backs of seats in trains and buses, sports clubs and on McDonald's place mats.

112 There is no one place where legal information is best provided. For women in small communities, it may not be appropriate to go into the local CAB as that might be quite a public act. Some migrant women have told the Commission that many husbands do not want their wives to know what the law is and what rights they have, restricting the women's access. Again and again the Commission heard that no one place could serve all women: some women wrote that doctors' waiting rooms were inappropriate as the information got lost in the clutter; others wrote that there was no shopping mall in their town.

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<sup>54</sup> Above n 45.

<sup>55</sup> The Rt Hon Lord Woolf *Access to Justice: Interim Report to the Lord Chancellor on the Civil Justice System in England and Wales*, June 1995, 87.

<sup>56</sup> The Rt Hon Lord Woolf *Access to Justice: Final Report to the Lord Chancellor on the Civil Justice System in England and Wales*, July 1996, 287.

<sup>57</sup> For general discussion of Blue Pages, see para 108.

<sup>58</sup> There are 17 Link Centres run by the Department of Internal Affairs. They are 'one-stop information shops' providing access to government information and services. They provide information about the Department of Internal Affairs and 16 other government agencies and have a free phone service for public use.

113 Despite the fact that women have identified so many places where legal information should be held, a great number of women also called for 'one-stop information shops' where information about all legal, welfare and social issues are available in one place.

114 For many women, improvement would be made if there were simply provision of resources already available to others, particularly more **community law centres**.

*"I would like a community law centre that we can go to whenever we need to."*

*"Whether Maori would be comfortable in using a centre would be another issue. If the centre was Maori orientated, with Maori faces to greet them, then I feel that more Maori women would seek help for their situations."*

*"Ideally Auckland should have its own Pacific Island Community Law Centre. Run by Pacific Islanders for Pacific Islanders. Surely with Auckland being known as the Polynesian capital of the world, the need is clearly established."*

115 Community law centres are not sufficiently distributed throughout New Zealand and many women have called for more of them. There are now 15 community law centres in New Zealand. The following areas are without the services of a community law centre: all of Northland, Gisborne and East Cape, Bay of Plenty, Wanganui, Taranaki, Manawatu, Nelson and Golden Bay, Timaru and Oamaru, West Coast and Buller.

116 It has also been suggested that different law centres should be available for particular groups. A frequently repeated suggestion is that there should be a well-publicised nationwide network of Women's Law Centres. Such centres have received support in Australia. In its 1995 Justice Statement, the previous Australian Government announced that "[i]n a major new initiative, which will begin to redress the inequities Australian women have faced in obtaining access to legal services, the Government will provide \$12.3 million over four years to establish a national network of women's legal services, ensuring at least one specialist women's legal centre is located to serve the legal needs of women in every State and Territory".<sup>59</sup>

117 Some Maori and Pacific Islands women called respectively for Maori and Pacific Islands women's law centres. Other women have suggested that a mobile law centre would be welcome, particularly for women with access difficulties due to, for example, geographical isolation or disability.

118 Again and again women have called for legal information to be available in their **communities**.

*"Maori women are wanting to stay in their communities. They do not want to move"*

<sup>59</sup> Attorney-General's Department *The Justice Statement*, Australia, May 1995, 78. This was an initiative of the previous Australian Government, but is to be continued by the present Government.

*to [the main centre] to access services.”*

*“The messages need to be taken to the homes.”*

### *Education*

*“We need more information, education and awareness about the law.”*

*“We need to get legal education into schools and to train the children.”*

*“It needs to start at secondary school when our young men and women are learning their life skills curriculum. It wouldn’t need to take much to arrange such workshops. Right from the beginning they need to learn that background information that gives them choices.”*

119 Many women stressed that education will play a vital role in any future improvement of the situation. Discussion often focused on who it was important to educate. Some Pacific Islands women commented that while there used be a saying “if you educated the mother you would educate the whole family”, now it was more a matter of educating the daughter who would educate the family. They suggested having extension classes in schools on specific issues, similar to the Telecom sponsored DARE programme in schools on drug and alcohol education. Some rural women also commented on their dependence upon information from their children’s schools.

120 Women were also supportive of the New Zealand Law Society’s ‘Law in Schools’ initiative. This is a programme aimed at educating young people about their rights and responsibilities under the law and about the role of law in society, and to encourage an appreciation of how the legal system affects their lives and how they can actively participate in it. It has recently resulted in the registration of a number of law-related unit standards with the New Zealand Qualifications Framework.

121 The Legal Resources Trust has just completed a series of videos which outline the legal rights of young people. These are part of a package comprising 16 videos, 12 teacher guides, a text book and posters. Topics covered include dealing with the police and courts, family law and consumer issues. The videos were funded by the Legal Services Board and made in consultation with police and school pupils. The videos are expected to be used as a teaching resource for young people in schools, training opportunities programmes and polytechnics.<sup>60</sup> The NZACAB has also produced a video for young people aimed at increasing awareness of CAB and resources available in the community. The video *A Step in the Right Direction* was produced with funding from the International Year of the Family Trust.

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<sup>60</sup> The Law Commission will study the ‘Law in Schools’ programme and the *Understanding the Law* series, as part of the Women’s Access to Justice Project.

122 Some Maori women commented that education must be available for everybody, through various means, and that education in schools only will not be sufficient.

*“It needs to start at the schools and at the home together. It is no use just educating our kids and then they go home to an environment which has not had the same opportunities to learn about the law.”*

123 Women have suggested that legal information could form a helpful component of some adult education courses, such as Pacific Islands Education Resource Centre courses, and training courses at refugee and migrant reception centres. PEETO (Pasefika Education & Employment Training Organisation) runs a course which teaches women about the roles of CAB, community law centres and other community groups, and includes visits to those centres. Women also suggested continuing education through hui, support groups, legal clinics, programmes comparable to the health outreach programmes, and kohanga reo. One group of women praised the effort of a local judge who goes out to visit local women’s support groups in an effort to keep good communication going between the community and the judiciary.

*“This judge is wonderful. He made an effort to talk to our women’s group so that we can speak frankly about our concerns. We have also learnt a lot about the judiciary too.”*

124 Many women emphasised that there must be an ongoing message provided about legal information, so that when women find themselves in difficulty they know where to go and what to do.

#### *Languages and language*

125 Women stressed that with an increasingly multi-cultural society in New Zealand, legal information must be available at least in English, Maori, Cook Islands Maori, Samoan, Tongan, Niuean and Mandarin.

126 Women have warned that this is not a matter of simply translating materials currently available in English into other languages, just for the sake of it. Instead, what is translated must be carefully chosen to ensure that it is high quality, appropriate information.

127 Some women called for greater numbers of interpreters and for more information about the existence of interpreters. One recent initiative by the Wellington Community Interpreting Service has been to produce pamphlets which tell people in their own language how to access an interpreter if they are having difficulty speaking to English speakers. There are two pamphlets, each containing 10 languages. The pamphlets also include a panel which says, in English, “I need an interpreter” which can be shown to the English speaker.

128 It has been suggested to the Commission time and time again that simple language needs to be used so that people can understand it. Women have emphasised that giving an example of a word being explained is often more helpful than a definition.

*The information provided*

129 When there is a need for so much information, it is difficult to know what information is the most important. Women have indicated that priority should be given to the basics. Women have said that even if they do not remember exactly what to do in any given situation, they want to know that there is a place or phone number or person for help. Women have said that it is important to know they have rights even if they do not know what those rights are; and that they are allowed to ask questions, even if they do not know what to ask.

*How and When Information is Received*

130 A tension exists between the fact that it is difficult to absorb information when under stress or in a crisis situation and the fact that often information will not be absorbed if it is not thought to be directly or personally relevant. Women have made several responses to this. First, women have indicated that even if you cannot remember exactly what to do, if you have heard something before, there is not the same sense of the foreign or completely unknown. Further, while the details or substance may be forgotten, to remember that there is a place or phone number or person that can help is often enough. Finally, family members or friends can help each other if they have information and are not personally or emotionally involved in the crisis.

131 Women have also identified that storytelling is an effective medium in this respect, as information can be received in a way which seems more directly relevant and which pre-empt crisis. Learning the stories of other people through newspapers or those of characters from television programmes as well as personal accounts face-to-face, have all been identified.

**QUESTIONS**

**8 How should information be provided to women?**

**9 What comments do you have about the suggestions provided here?**

**10 How can women's general awareness of what information is available be improved?**

**Changes to the Provision of Legal Information**

132 As well as changes to the legal information itself, changes could be made to the way in which legal information for the public is provided. In this section the Commission suggests some possible areas for change. These include the active pursuit of existing statutory responsibilities, clarification of roles, focus on liaison and co-ordination between sectors, and the establishment or identification of a national body responsible for co-ordinating legal information.



*Active pursuit of existing statutory responsibilities*

133 Many different bodies have responsibilities in this area. It seems that these responsibilities are not always recognised by the various bodies or are interpreted in ways which differ from what is set out in the relevant legislation.

134 The **Legal Services Board's** focus on legal aid in the first years of operation has no doubt been a response to the Government view that legal aid is the Board's core function,<sup>61</sup> as well as to resource limitations. Such prioritisation is not supported by the statute, however. Section 95 of the Legal Services Act 1991, which lists the Board's statutory functions, does not set a statutory priority for any of the 'principal functions'. Where there is to be a priority given, the statute has set this out, as in s 95(e)(i) which states that monies are to be used "as a first priority" to fund community law centres. There is no such indication of priority in relation to the Board's functions. It seems that recent indications from the Board, including the acknowledgement that the education function of the Legal Services Act has not been given a sufficiently high profile,<sup>62</sup> and its most recent statement of vision,<sup>63</sup> signal pursuit of statutory responsibility in this area.

135 As discussed earlier, comments made by many of the **District Legal Services Committees** in areas where there are community law centres indicate a view that the existence or role of the law centres affect the Committees' obligations in relation to legal information.<sup>64</sup> Section 115 of the Legal Services Act 1991 sets out the functions of the Committees. It states:

## 115. FUNCTIONS OF COMMITTEES--

The principal functions of a Committee shall be...

- (c) To establish community law centres within its district in accordance with section 154 of this Act, and to monitor their performance...
- (e) To use the funds allocated to the Committee by the Board--...
- (ii) To fund community law centres established within the district of the Committee...
- (iv) To fund the provision of legal information and law-related education to the public within the district of the Committee.

136 It is therefore clear that Committees have statutory obligations to fund information and education. While these obligations may presumably be executed through community law centres, they exist independently of the Committees' responsibilities to fund community law centres. Further, while focusing on other functions first has no doubt been a response to the limitations and practicalities of their situation, there is no statutory prioritisation as between the Committees' various responsibilities.

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<sup>61</sup> Above n 45.

<sup>62</sup> Above n 49.

<sup>63</sup> See above para 34.

<sup>64</sup> See above para 87.

137 The **Department for Courts** indicated that, as it is a relatively new department, policies and operations in relation to legal information for the public are still being established.<sup>65</sup> If the Department for Courts and each of the other organisations were to establish or formalise a distribution policy for the legal information it produces, this might lead to some improvement relatively simply. This could in turn encourage focus on areas of need, areas of coverage, gaps and duplication.

**EST**

**11 What is your view of the performance of statutory responsibilities?**

*Clarification of roles*

138 It may be desirable for all organisations working in this area to identify how they see their role and how they see the roles of others. While, for example, several District Law Societies indicated that they saw they had an important role in providing legal information to the public, others indicated that they did not consider that they have a role in this area.<sup>66</sup> The Law Foundation indicated that whereas the Legal Services Board has a fund dedicated to information programmes for the public, and the Law Societies focus on education of the profession, the Foundation's emphasis is on education and legal information for the profession in areas which will benefit the public.<sup>67</sup> If all organisations working in this area were to identify how they see their role and how they see the role of others, this would help to clarify who is working in what area and consequently, what work is being done and what areas need to be addressed.

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<sup>65</sup> Discussion with Communications Adviser of Case Processing Unit, Department for Courts, April 1996.

<sup>66</sup> Above n 40. Comments included: "The DLS has a very limited role in the provision of legal information to the public"; "I personally do not believe the Law Society has a responsibility to provide legal information to the public"; "The District Law Society's role is in relation to members rather than the public"; "The majority of the information and education provided by the District Society is geared to the profession because they are the people that pay for it"; "Information is geared towards the profession as it is only the profession that is served by the Law Society"; "... the District Law Society is there for its members rather than having any role with the public".

<sup>67</sup> Conversation with Director, Law Foundation, 1 October 1996.

**QUESTION****12 How do you see the roles of the various organisations involved with the provision of legal information to the public?***Liaison and co-ordination between sectors*

139 Many women have criticised the compartmentalisation of welfare, legal and social issues, saying that it does not reflect how they see their own lives. Women have said that they do not see their own problems as separated into legal, financial or health issues, and that the response should not be either. Women have said that such separation indicates a failure to recognise the whole person.

140 Liaison and co-ordination between the funders, producers and distributors of information is therefore important. There are already several initiatives of this kind. In 1995, the NZACAB facilitated inter-agency seminars to foster co-operation among information providers, calling together community and government organisations involved in directory production, database management and other forms of community information provision. The seminars aimed to share information about what each of the agencies is doing to respond to community information needs and to identify areas for future co-operation. They looked at what is working well currently in information sharing between agencies, what is preventing more information sharing, how such obstacles could be overcome, how to work collectively to improve updating systems, and how to best minimise overlaps and maximise co-operation.<sup>68</sup>

141 The organisations involved included NZACAB, FAIR Centre, Department of Social Welfare, NZ Federation of Disability Information Centres, Ministry of Consumer Affairs, Ministry of Women's Affairs, Department of Internal Affairs, Early Childhood Development Unit, Aotearoa Telelink Trust, Age Concern, Plunketline, NZ Disability Resource Centre, PACIFICA and NZ Council of Social Services.

142 This initiative has led to an ongoing network of government and community organisations, the Information Provider Network, which focuses on sharing ideas about information management, use of technology and improving information access for clients. NZACAB states that the Network could do more if it were resourced.<sup>69</sup>

143 Another example is the Women's Information Network (WIN). In 1992 the YWCA arranged a meeting of Wellington-based national community organisations which focus on the needs of women. The purpose was to discuss in an informal way shared concerns and strategies and for information sharing. The group includes women from: YWCA, Rape Crisis, Wellington South Community Law Centre, National Council of Women, Women's Division of Federated Farmers, Affirmative Action, Prostitutes Collective, Federation of Voluntary Welfare Organisations, Positive Action Self Defence Network, Barnardo's, Women's International League for Peace and Freedom, Women's Electoral Lobby, Labour Women's Council, NZACAB, NZ

<sup>68</sup> *Information for the Community: Can We Do Better?* Seminar hosted by NZACAB, 29 March 1995, Wellington.

<sup>69</sup> Correspondence from NZACAB, 13 September 1996.

Nurses Organisation, WEA, Society for Research on Women, Federation of Women's Health Councils, and Anglican Social Justice Commission. The network meets monthly and has recently launched a campaign on poverty for which it has employed a co-ordinator.

144 An example of a co-ordination initiative based around a specific project is the recent campaign on the Domestic Violence Act 1995. Co-ordinated by the Crime Prevention Unit of the Department of Prime Minister and Cabinet, the printed and television information campaign was the result of co-operation between several government agencies including the Department for Courts, the Legal Services Board, Police and the Ministry of Women's Affairs. Representatives of government sector agencies involved in crime prevention continue to meet on a monthly basis, to ensure ongoing awareness of activity and co-operation and to avoid duplication.<sup>70</sup>

145 Another liaison initiative is currently being organised by the Ministry of Consumer Affairs. The Ministry recently convened a forum of government and non-government agencies with an interest in consumer issues. The aim of the forum was sharing "knowledge and experience with a view to enhancing the efficiency and effectiveness of how [consumer] issues are dealt with for the benefit of consumers in New Zealand". Participants included representatives from the Commerce Commission, the Consumers' Institute of New Zealand, Maori Women's Welfare League, the Ministries of Women's Affairs, Pacific Island Affairs and Health, NZACAB, the Privacy Commissioner, Plunket, and the Coalition of Community Law Centres. One of the issues currently being investigated is access to justice and remedies, which involves inquiry into the operation of the court system, in terms of costs and delays, and Disputes Tribunals.<sup>71</sup>

### QUESTIONS

- 13 Are you aware of any other co-ordination initiatives currently operating?**
- 14 How do / might such initiatives improve women's access to information?**
- 15 What is needed to translate the work of such initiatives into the most positive results?**

#### *One national co-ordinating body for legal information*

146 Even with liaison and co-ordination between information providers from different sectors, it may still be desirable that within each sector there is one body responsible for co-ordinating information relating to that sector.

147 With regard to legal information, at the present time, no one agency is assuming responsibility for the provision of legal information to the public. Many community groups state that they produce their own legal information only where there is a gap in the information otherwise available. It seems, however, that there is a substantial quantity of legal information

<sup>70</sup> Discussion with Acting Communications Manager, Department of Prime Minister and Cabinet, 6 September 1996.

<sup>71</sup> Correspondence from General Manager, Ministry of Consumer Affairs, 4 September 1996.

available, often covering the same topics. Some community groups have indicated that this is happening for two reasons. First, some of the legal information produced is viewed as inadequate or requiring improvement. Second, some groups indicated that they were unaware of legal information produced by others or have difficulty maintaining the supply of the information.<sup>72</sup> It is arguable then that some kind of national co-ordination is needed to avoid duplication and gaps in the legal material and also to serve as a check on the quality of the information.

148 National co-ordination does not mean that solutions to problems for different groups or individuals must invariably be uniform. This follows from the Treaty of Waitangi, as the founding document of New Zealand society. Partnership and co-operation between Maori and non-Maori are imperative to ensure the effective and efficient use of resources, skills and knowledge. At the same time both Maori and non-Maori should be able to choose, within the inevitable constraints of resources, what and how information is best distributed in their respective communities.

*“It’s that old thing ‘think globally, act locally’.”*

149 Each region or community may have different ways of reaching the women within it. Women have said that while co-ordination at a national level is vital, much still must be decided at a local level, with adequate funding at both levels. Women have said that existing groups must be used.

#### QUESTIONS

- 16 Should some kind of national co-ordination be attempted?**
- 17 How might this best be achieved for Maori and non-Maori?**
- 18 How might action at both the national and local levels best be achieved?**

150 An obvious question to be considered is who could be responsible for the co-ordination of legal information. It is arguable that overall co-ordination is not a task easily or appropriately undertaken by any body other than at government level on a national scale.

151 Due to its statutory responsibilities, the Legal Services Board might be an appropriate body. This might be so particularly in light of the Board’s recent statement that it intends to take the major role in this area.<sup>73</sup>

<sup>72</sup> Submissions from CAB and community law centres.

<sup>73</sup> See above para 34.

152 The Community Funding Agency also currently serves a role in co-ordination. Its vision is stated as: “We will be the pre-eminent agency for the co-ordination, development and purchase of quality community and iwi-based social and welfare services on behalf of the government”. Part of its purpose is to ensure that “voluntary welfare services funded by the government are accessible and appropriate to the needs of their client groups and complement services provided by the state”.<sup>74</sup>

153 The Ministry of Consumer Affairs is involved with improving services for consumers, and might also potentially play a role in co-ordinating the provision of legal information to the public. The Ministry indicates that, at present, complaints or inquiries about the quality of legal services are referred to the appropriate professional body as they try to avoid picking up on issues that other government or non-government agencies deal with.<sup>75</sup>

154 It is also possible that this role requires the creation of a new body: an amalgam of the Government, profession and community, matching those with the need to those with the knowledge.

#### QUESTIONS

- 19 Who could be responsible for the co-ordination of legal information in New Zealand?**

155 There is at present no body which has an obligation to “produce” legal information. The New Zealand Law Society, for example, has the power to, but not a duty to do so. The Legal Services Board must fund legal information but need not produce it.

#### QUESTIONS

- 20 Should / could a body be created which actually has an obligation to “produce” legal information?**
- 21 Could / should this be the same body responsible for national co-ordination?**

156 It might also be important to consider the kinds of co-ordination measures which might be introduced. The Legal Services Board’s publication *Rarangi Rauemi : A Catalogue of Resources for Law Related Education*, which lists organisations and the materials they produce, forms a vital basis for the co-ordination of legal information. Such a resource, if complete, up-to-date and

<sup>74</sup> Above n 14, 7.

<sup>75</sup> Above n 71.

widely distributed, can also be used as a check on standards and duplication. One Australian co-ordination development is the establishment of a computer register of community legal education initiatives. This has been done by the Commonwealth Government with assistance from the legal aid commissions and community legal centres. The information contained on the Register includes all the community legal education products and programmes available.

157 The Legal Services Board recognises that while recall of printed and videoed material is a complex and costly task, the updating of a central, but freely accessible, database is a far more manageable proposition and it has stated its intention to facilitate access to and provision of on-line legal information systems as more members of the public have the skills to use such systems.<sup>76</sup>

### **QUESTIONS**

- 22 What resources and technologies might be used for co-ordination?**
- 23 How might co-ordination best be informed by what users need and want?**

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<sup>76</sup>

Above n 9, 7.