Proxy Models of Legal Need: Can They Contribute to Equity of Access to Justice?

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Abstract

Prioritisation of cases and resources as a means of rationing the limited legal aid budget has recently become a feature of access to justice in the UK. This article explores the utility of devising proxy models of 'legal need' as a means of enabling the rational and equitable planning of legal services in these circumstances. Different conceptual and methodological approaches are considered, highlighting preliminary development work in Scotland. The likelihood of developing 'legal needs' measures that promote equity of access to appropriate legal services is discussed in the light of problems with defining 'legal need' and the diversity of services available for the resolution of legal problems.

Legal need and access to justice

A fundamental change in the distribution of legal aid in the UK has stimulated a debate about equity of access to justice in these new circumstances (Moorhead and Pleasence, 2003). In England, as a consequence of the Access to Justice Act (1999), capped budgets for civil legal aid were introduced, operating by a system of contracts offered to local providers. This means that there is no longer any entitlement to funding in civil cases; entitlement has been replaced with a scheme for prioritising cases and resources (rationing) as a way of meeting the needs of the general public within a limited budget. Alongside this, a complex system of controls has been set in place to manage and ration access to legal services. The Legal Services Commission has responsibility for the civil arm of the legal aid scheme and is obliged by statute to promote Community Legal Service Partnerships (CLSPs), which now have the exclusive right to determine entry, or continued presence in the market for legal aid services. They seek to work through an inclusive but voluntary framework and at a specifically local level (Moorhead, 2001). In Scotland the need for better planning and co-ordination of all forms of publicly funded legal assistance on civil matters, including legal aid services, has been recognised, although capped budgets have not been

introduced (Scottish Executive, 2004). The Scottish Executive and Scottish Legal Aid Board have identified a number of CLSP pilot sites in which tools to rationalise the local planning and distribution of legal aid services are being developed.

'Need' is the most widely accepted basis for distributing (or rationing) scarce resources in the public service sector. The principle of distributive justice in such circumstances dictates that limited resources should be distributed equitably in proportion to need, so that those with like needs should receive like attention and resources (horizontal equity) and that those with greater needs should receive greater attention and resources (vertical equity) (Braveman and Gruskin, 2003; Mooney, 1983). An equity framework thus systematically focuses attention on socially disadvantaged or marginalised groups, since the groups most likely to have a high level of need for legal services are also those who are most vulnerable in society (Braveman and Gruskin, 2003). This is, however, not limited to the poor and may include people with intellectual or physical disabilities, those from diverse cultural backgrounds, those with low levels of education, women who have special needs in relation to discrimination, pregnancy and responsibility for children, young people, children and older people (Schetzer and Buanamano, 2002). How to decide what 'greater need' is, which groups are in most need and whether this need is being met thus becomes central to any concern to establish equity of access to appropriate services (Marchand *et al.*, 1998; Mooney, 1983).

Estimating legal need

Predictive needs modelling is one possible method for estimating the need for legal services, and legal aid administrators have increasingly looked to the development of such tools to enable a rational and equitable planning of priorities and services (Bevan *et al.*, 1999). Such methods have a long history in other public service domains such as the NHS. Traditionally resource allocation in secondary health care has been governed by the distribution of funds between regions based on weighted estimates of population need for health care, and the problems with estimating need are well illustrated by this example. The need for health care is in general the consequence of the prevalence of morbidity in a particular population. Morbidity statistics are not, however, routinely collected so that various 'proxy measures' are used to assess need, the most common being rates of mortality, indicators of deprivation and patterns of utilisation (sometimes referred to as expressed need or demand). Each carries with it a set of issues about the accuracy with which they can estimate health need. All cause mortality correlates highly with generic measures of self-assessed health, but it is less good a proxy when it comes to considering the diversity of need for specific conditions that have implications for health care use, but do not necessarily result in disease and

death (for example, chronic conditions such as asthma). Deprivation indicators also correlate well with morbidity, since the majority of conditions are more prevalent in groups with lower socio-economic status. However, deprivation indicators alone will not fully capture the health need associated with population demographic characteristics such as older age and ethnicity. Utilisation is perhaps the most contentious proxy for health need, since it assumes a direct relationship between the need for services and their use. Routinely collected statistics such as hospital episodes and consultations with the general practitioner are often used to proxy population health need, but such utilisation rates are influenced by a number of factors that are likely to bias its measurement. Supply of services is one of these: if services are not available then they cannot be used. Clinical decision making and the priorities set within a particular locality as to the pattern and organisation of services provided may undermine the appropriateness of services in meeting the needs of a given population. Individual perceptions of the utility of health care in resolving their particular problem also affect patterns of utilisation.

Whatever the method adopted for needs assessment, in the health care sector, a debate has continued over the last 20–30 years as to which is the most appropriate for resource allocation, crucially there are important constants that make the use of proxy measures a possibility. It is not difficult, for example, to come up with a reasonable definition of health need that enables it to be measured within a given set of parameters. By and large, people know which services to access in relation to their particular problem; general practice is the first port of call, leading to referral to specialist care in the hospital setting for more serious problems. All areas are covered by both primary and secondary care services, although variation does occur in relation to the volume and the quality of care that is available. In this context it is possible, albeit crudely, to estimate the nature and the extent of 'unmet need' and equity in access to health care.

The development of proxy measures for legal need is more complex, because these constants do not exist. There is no agreed definition of legal need (Genn and Paterson, 2001). Legal need is not necessarily concentrated in deprived areas (Scottish Executive, 2003). There are multiple sources of supply of legal services (Francis, 2000). The public may not necessarily be aware either that they have a 'legal need' or how to access the particular service that would be most appropriate for problem resolution (Genn and Paterson, 2001). To decide upon and then measure what constitutes 'unmet need' in such circumstances presents somewhat of a conundrum.

Legal need and service utilisation

Some definitions of legal need embody the notion that it is best conceptualised in terms of the consequences that need has for utilisation of services. For example, in Australia legal need has been defined as 'a limited set of possible actions for securing existing legal rights within a given legal system'

(Schetzer and Buanamano, 2002). In Scotland, the Hughes report suggests that legal need can be defined in terms of the need for legal services, which is, in its turn, dependent on the client initially identifying and then pursuing a legal solution to their problem (*Report of the Commission on Legal Aid Services in Scotland*, 1980). In these cases the focus of needs assessment would necessarily be expressed need, or the demand for and utilisation of legal services.

If legal need is defined in relation to its 'expression' in service use, then it would be logical to develop proxy models of legal need using estimates of service use. Measurement based on such a premise would almost certainly exacerbate existing inequities in access to justice. The range of legal services and their availability in different localities means that actions taken to resolve legal problems will be crucially dependent on the supply of a number of different types of service by both statutory and voluntary agencies, ranging from those concerned with the provision of legal information to legal representation (Francis, 2000). The provision of such services is likely to vary considerably both between and within CLSPs, so that service utilisation will be dependent on availability as well as need. Given service availability, utilisation will depend to some extent on the capacity of the service to meet demand. For example, the lack of capacity and resources in the not-for-profit sector means that use of services providing legal information and advice can be restricted by short opening hours, long queues, engaged telephone lines and language problems for those whose first language is not English (Francis, 2000). It is also the case that utilisation may be determined by help-seeking behaviours: people are not always aware that they have a legal problem or, if they are, they may not be aware of the routes that can be pursued for its resolution by legal means (Genn and Paterson, 2001). If measurement is based on the use of legal services, it might only include those who have both the consciousness that there is a legal remedy for their problem and the knowledge required to access appropriate services to provide this remedy. Finally, an often overlooked but important problem is that there are no routinely collected statistics currently available that reflect levels of supply for the full range of legal services used by the public across the entire CLS (Scottish Legal Aid Board, 2002; Scottish Executive, 2003). The possibility of achieving systematic data across a wide range of providers even in a small locality is remote. For example, voluntary organisations in the health care sector offer a wide range of services, from the provision of information to counselling, but there is little consistency in the extent to which service providers audit use of their own services, so that usage data across organisations are patchy and unreliable (Baker and Burgess, 1993).

Legal need and justiciable problems

An alternative and potentially more viable basis for assessment of legal need is to define it in relation to the extent of justiciable problems within a particular

TABLE 1. Categories of legal problems.

(a) Problems to do with neighbours – e.g. noise, boundary/parking disputes
(b) Problems to do with employment – e.g. *not* gaining employment but harassment, unfair disciplinary procedures, sacked or made redundant
(c) Benefit problems – e.g. legal (and amount of) entitlement to welfare benefits, loans, grants or pensions
(d) Problems with discrimination – e.g. race, gender, disability, sexual orientation
(e) Problems to do with housing – e.g. applying for planning permission, dealing with squatters selling/buying property, problems with landlord, eviction or rent arrears
(f) Problems with faulty goods or services – e.g. getting refunds, replacements, claims for damage
(g) Problems with divorce/separation/problems to do with relationships/children– e.g. difficulties with obtaining maintenance, agreeing child support payments, adopting, division of property/assets through divorce
(h) Problems with an injury due to accident – e.g. suffered injury or accident and did/didn't visit doctor/dentist/hospital
(i) Problems to do with medical negligence – e.g. mistakes in dental/medical treatment
(j) Problems with unfair treatment by police – e.g. harassment, assault by an officer, unreasonably arrested, verbal abuse/rudeness, misinformation
(k) Immigration problems – e.g. obtaining UK citizenship, dispute over nationality, seeking asylum, obtaining authority to remain in the UK

community. A justiciable event is 'a problem which raises legal issues, whether it is recognised by the respondent as being legal, and whether or not any action taken by the individual to deal with the event involved use of any part of the civil justice system' (Genn and Paterson, 2001). This means that legal need can be measured by assessing the nature and extent of justiciable events for a population, independently of an individual's knowledge of, or access to appropriate legal services for resolution of that problem. Survey data have identified a wide range of legal problems (Genn, 1999) (see Table 1) and so any methods of needs assessment developed from this basis of necessity requires some means of classifying legal problems into more or less discrete categories that can then be used as the basis for constructing proxy models.

Small area predictive needs modelling in England

In England the development of Small Area Predictive Needs Models for use by CLS partnerships relied on categories of social welfare law – debt, housing, employment, welfare benefits, health and community care and immigration – to distinguish between different categories of legal need (Pleasence *et al.*, 2001; Needs Assessment Group, 2002). For each area of welfare law, key factors were identified to serve as proxies of the need for legal help. For example, the housing model aims to identify needs for legal services in relation to a wide range of housing problems. These include homelessness, housing debt, harassment, security of tenure, tenancy problems, housing conditions, disputes with neighbours, overcrowding, building regulations, waiting lists and issues

of sale and purchase. To reflect these problems, the 'housing needs' index is a weighted sum of three components, namely the number of households in over-crowded or unfit accommodation and the number of refusals in local authority homelessness applications.

Aside from the technical problems with these proxy models, which have been reviewed elsewhere (Law *et al.*, 2004a, 2004b), their derivation and format suggest that they are unlikely as they stand to provide a sound basis for the equitable distribution of community legal services in relation to legal need, either within or between CLS partnership areas. Firstly, the proxy measures included in the different models have been selected on the basis of assumptions about what would constitute a good indicator of need for a particular area of social welfare law rather than being empirically derived as the predictors of particular types of legal problem. For example, for the housing index illustrated above, there are a large range of housing problems that can be resolved with legal advice but there is no rationale presented for choosing the specific indicators – unfit households, overcrowding and homelessness – for inclusion in this model, aside to say that they 'cover a large proportion' of work undertaken within the housing category. A recent attempt has been made to validate these proxy models by examining the extent to which predicted need correlated with reported need (as measured by survey data). Only weak correlations were found for most of the models and there was no correlation for welfare problems and employment problems (Pleasence *et al.*, 2002b).

By using categories of social welfare law as their means of classification, this method of proxy modelling also ignores one of its defining features and that is, not surprisingly, that legal problems tend to cluster together. Comprehensive national surveys of access to justice in England (Genn, 1999; Pleasence *et al.*, 2002a, 2002b) have found that employment disputes came together with money problems, money problems with benefit problems and so on. Interestingly, the Scottish 'microcosm' study (Palmer and Monaghan, 2001) found that such 'problem clusters' were different in areas with similar socio-economic characteristics, and the authors concluded that simple socio-demographic indicators could not be used as a proxy for types of civil problem.

Secondly, and perhaps more importantly, there is no way of assessing the *relative* levels of need arising from different sources, since all the proxy models are based on different scales of measurement. This means that it is not possible using these measures to look at the balance of need from different sources, which will have implications for equity of service distribution within CLS partnership areas. Moreover, this also means that there is no way of constructing a measure of overall need for CLS partnership areas, so that equity in access to community legal services in relation to need can be assessed between areas, enabling the performance of one area to be directly compared with another.

Framework for the assessment of legal need in Scotland

Some of the issues raised by model development in England and their implications for equity in access to justice have been addressed in a study commissioned by the Scottish Executive to evaluate current proxy models for the assessment of legal need and to consider alternative methodologies.

Using survey data to develop a typology of legal problems

In Scotland (Genn and Paterson, 2001) as in England (Genn, 1999; Pleasence *et al.*, 2002a, 2002b), previous national household surveys have developed sophisticated methods for establishing the frequency with which members of the general public are faced with problems that raise legal issues and for mapping the responses of the public as to whether and where they go for help and the outcomes of their actions. Of particular relevance for the assessment of legal need is the categorisation developed to measure the nature and frequency of justiciable problems. We used these categories as the basis for developing our legal needs assessment methodology. They were derived from information collected in a survey about patterns of such problems and their resolution (Law *et al.*, 2004a, 2004b). These survey data were collected across four pilot CLSP areas – Glasgow West, Argyll and Bute, Edinburgh and Fife – to capture the extent of the 11 categories of justiciable problems outlined in Table 1.

A total of 5,526 respondents were asked about justiciable problems experienced across the four CLS partnership areas; 29 per cent (1608) reported one or more justiciable problems which they considered serious enough for action to be taken. These data can be used as a means of deriving a small number of distinct categories of legal need, for which appropriate proxy indicators can then be derived. This means that these categories of need are empirically drawn from the pattern of justiciable problems in the community, rather than from predetermined categories of social welfare law. Clustering techniques were used to achieve this end (Everitt, 1974).

This analysis suggested the existence of six categories of legal need that could be used to classify the full range of legal problems. These are set out in Table 2. The clusters have been characterised according to the predominance of one particular problem type; examples of the most common problems within each cluster have also been given. The prevalence of these clusters differed significantly between the CLS areas. This can be seen in Figure 1.

This method gives some additional important information to that using the CLS proxy models, since it provides detail about the prevalence of problem clusters in relation to one another, as well as a comparison of their prevalence between CLS partnership areas. So, for example, it is easy to see from Figure 1 that employment problems and problems associated with benefits have the lowest prevalence on average across the CLS partnership areas, whereas neighbourhood problems have the highest prevalence. Problems with benefits are highest in Argyll

TABLE 2. Problem clusters and their characteristics.

| Cluster name	% of all cases with a serious justiciable problem	Predominant problems in cluster	% of problems in cluster
A neighbour problems cluster	42%	'noise/anti-social behaviour' 'problems with kids/youths'	85% 3.5%
A relationships/mixed problems cluster	17%	'disputes over the division of money' 'injury due to accident' 'difficulties obtaining maintenance for children' 'difficulties with custody/access' 'negligence in medical treatment' 'discrimination – race'	14% 14% 9% 9% 8% 6%
A goods and services problems cluster	13%	'faulty goods – replacement' 'faulty goods – refund'	57% 31%
A housing problems cluster	13%	'communal repairs' 'getting landlord to do repairs' 'looking for a smaller/bigger house' 'homelessness'	25% 24% 17% 11%
A welfare benefits cluster	8%	'legal entitlement' 'amount of entitlement'	51% 36%
An employment problems cluster	6%	'job loss' 'finding suitable work'	27% 11%
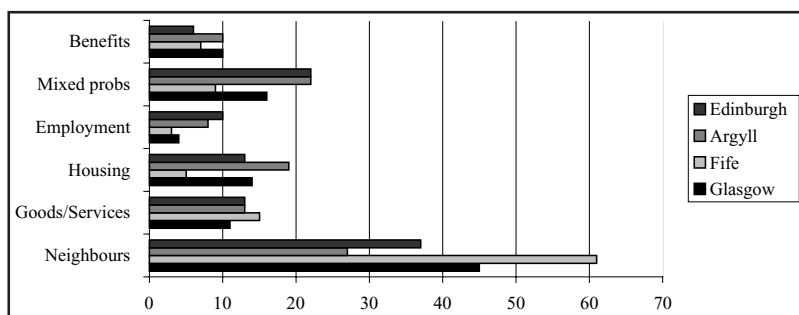
Figure 1. Prevalence of problem clusters in CLS partnership areas.

and Bute and Glasgow and lowest in Edinburgh. Problems with neighbours are highest in Fife and lowest in Argyll and Bute.

Derivation of proxy indicators

The survey contained data of respondents' gender, age, marital status, presence of children, impairment, employment status, qualifications, benefits, housing tenure, ethnic origin and household income. These socio-economic
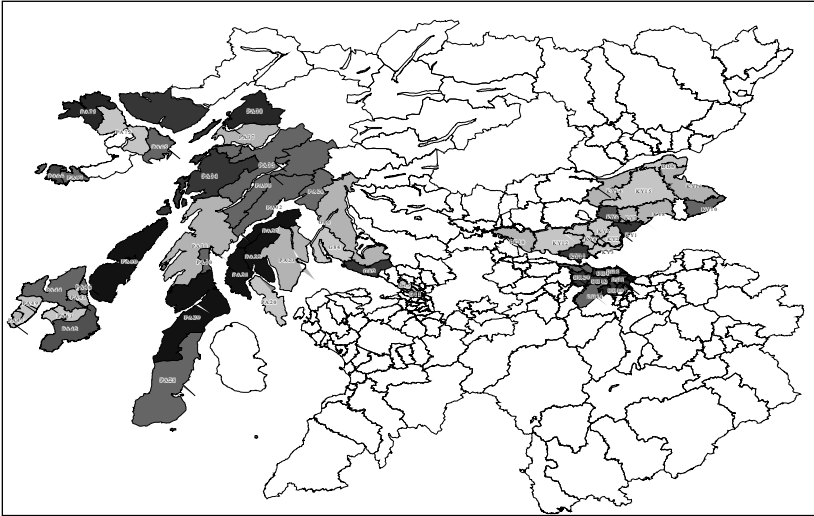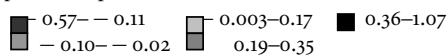
Figure 2. Distribution of legal need in CLS partnership areas.
Quintiles based on mean residual scores.

▨ 0.57−− 0.11	▨ 0.003–0.17	■ 0.36–1.07	
▨ − 0.10−− 0.02	▨ 0.19–0.35		

Note: Negative residuals imply lower than expected problem reporting and positive residuals imply higher than expected problem reporting.

and demographic characteristics can potentially provide proxy indicators for the experience of particular types of legal problem. The relationship between cluster membership and these factors was thus investigated, apart from the last two potential predictors.[1] The data of specific benefits in the survey were also collapsed to form two broad categories, namely 'benefits associated with disability' and 'benefits associated with deprivation'. A series of logistic regression analyses was undertaken to identify the factors which make membership of a particular cluster more likely than membership of the rest. Table 3 shows the results of this analysis.

As this table shows, the characteristics of those experiencing particular legal problems include groups commonly acknowledged to be disadvantaged in relation to access to justice: older people, people with disabilities, younger people, families and those with poor educational attainment (Mackenbach and Gunning-Schepers, 1997; Schetzer and Buanamano, 2002). For example:

- older people (> 65) were three times more likely to report problems with neighbours than younger people ($OR = 2.85$, $p < 0.05$), and retired people were three times more likely to experience housing problems than those in full-time employment ($OR = 2.99$, $p < 0.05$).
- people receiving disability benefits were twice as likely to experience a housing problem than those not on benefits ($OR = 1.84$, $p < 0.05$) and twice as likely to experience a benefits problem ($OR = 1.72$, $p = 0.05$).

TABLE 3. *Proxy indicators significantly associated with problem clusters* ($P < 0.05$)

Problem cluster	Potential proxy indicator
Neighbourhood cluster	Elderly (> 65)
	Employed
	Child < 18 in household
	Outside class A/B
	Physically fit
	No educational qualifications
Goods and services cluster	Educational qualifications
	No children
	No disability benefits
Housing problems cluster	Retired
	Receipt of disability benefits
Employment problems cluster	Part-time work
	Unemployment
	Living in rented accommodation
	No children
	Single
	Outside social class E
Family/Mixed problems	Younger age
	$2 +$ children < 18
	Separated, widowed or divorced
	Owner occupier
	Impairment
	High social class
Welfare benefits cluster	Disabled
	Benefits to alleviate deprivation
	Unemployed

- Families were one and a half times more likely to report a 'relationship problem' ($OR = 1.58$, $p < 0.05$) or a problem with neighbours ($OR = 1.38$, $p < 0.05$) than those with no children.

This is not a definitive analysis, but it serves to illustrate how proxy indicators could be derived empirically from survey data. All the variables here are collected in the census and so are replicable at the small area level. In devising proxy measures for problem clusters, it may be possible to weight each variable using usage data, but this would be circumscribed by the nature and the quality of such data.

Overall score of legal need

We also considered how these proxy indicators could be used to create a comparative measure of overall legal need between CLS partnership areas. A logistic regression analysis was thus initially undertaken to investigate the associations between the existence of a serious problem and the social predictors

TABLE 4. Odds of having a justiciable problem

Socioeconomic and demographic characteristics	Odds Ratio	95% CIs
Male	1.00	–
Female	0.90	0.78, 1.03
16–24	1.00	–
25–34	1.31	1.05, 1.63*
35–44	1.37	1.08, 1.75*
45–54	1.67	1.28, 2.19*
55–64	1.71	1.25, 2.34*
65+	1.55	1.03, 2.34*
Single	1.00	–
Cohabiting	1.10	0.93, 1.30
Sep/Wid/Div	1.32	1.09, 1.60
No children	1.00	–
One child	1.28	1.06, 1.55*
Two or more	1.61	1.31, 1.99*
Owner	1.00	–
Renter	1.52	1.31, 1.77*
Occupational status: AB	1.00	–
C1	1.04	0.81, 1.35
C2	1.02	0.79, 1.33
D	1.01	0.77, 1.34
E	1.11	0.83, 1.48
No educational qualifications	1.00	–
Qualifications	1.05	0.92, 1.21
No 'deprivation' benefit	1.00	–
Deprivation benefit	1.25	1.05, 1.50*
No disability benefit	1.00	–
Disability benefit	1.32	1.03, 1.70*
Full-time	1.00	–
Part-time	0.72	0.58, 0.91*
Unemployed	1.03	0.78, 1.35
Sick/disabled	0.85	0.60, 1.22
Looking after home	0.94	0.71, 1.23
Retired	0.63	0.45, 0.89*
Other	0.93	0.70, 1.23

Notes: All variables are adjusted for all others.
∗ (p < 0.05).

which were recorded in the survey. Odds ratios were again calculated for each of the ten predictors, along with their levels of significance.

On this occasion we also considered the differences between each survey respondent's *observed* chances of having a justiciable problem, and the corresponding chances which were *predicted* by the logistic 'model'. The average of these differences was calculated for the individuals who lived within each of the 74 postcode districts covered by the survey, giving a relative score for each district indicating the extent to which levels of legal need were unexpectedly high or low.[2]

The odds ratios are shown in Table 4. These show that residents' chances of reporting a justiciable problem increased steadily with age. Justiciable problems
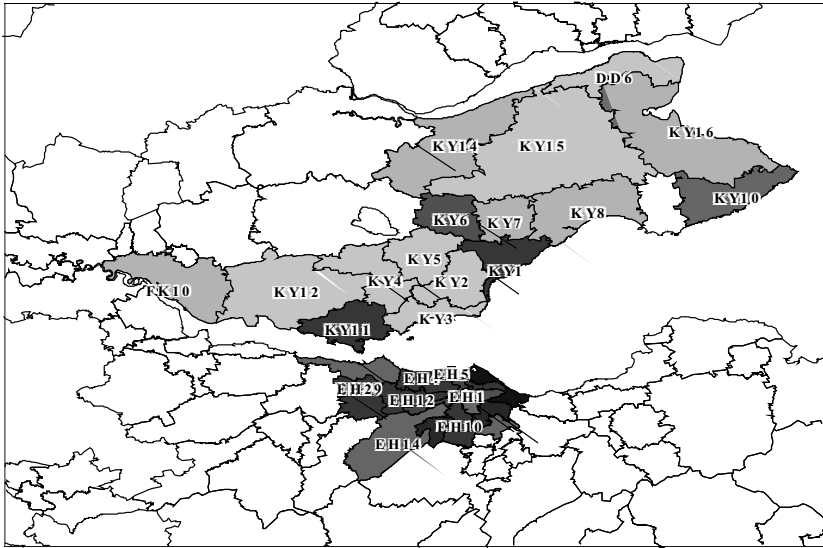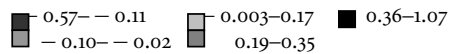
Figure 3. Patterns of legal need in Fife and Edinburgh CLS partnerships.
Quintiles based on mean residual scores.

■ — 0.57— — 0.11   ▢ 0.003–0.17   ■ 0.36–1.07
▢ — 0.10— — 0.02   ▨ 0.19–0.35

Note: Negative residuals imply lower than expected problem reporting and positive residuals imply higher than expected problem reporting.

were also more likely to be recorded for people who were separated, widowed or divorced, for people with two or more children, for people who rented their accommodation, and for people on either deprivation benefits or disability benefits, but less likely to be reported for those who were in part-time work or fully retired.

Figure 2 gives an indication of the postcode districts that have both lower and higher levels of legal need than would be expected given the population characteristics of an area. This map illustrates the variation both between and within CLS partnership areas in patterns of lower and higher levels of legal need. The contrast between Edinburgh and Fife demonstrates well (Figure 3) the different tasks faced by the CLS partnerships in these areas in following the principal of equitable provision of community legal services in relation to need.

Edinburgh

In Edinburgh there are stark contrasts between adjacent districts in which need appears either to be substantially lower than would be expected given the characteristics of the population or substantially higher than expected. If there is a discernible pattern, it would be that the former is more in evidence in the inner-city districts and the latter in outlying areas. There is thus a considerable task

faced by the CLS partnership in reducing such variation within the partnership area. When the composition of legal need is compared with other partnerships in the study using the problem clusters (Figure 1), it is clear that legal need is relatively high across all problem types in Edinburgh, with the exception of benefits problems. The CLS partnership in Edinburgh thus faces the issues of providing community legal services to meet high levels of need from a diversity of sources with a seemingly high degree of inequity in met and unmet need between districts within the area.

Fife

In Fife, on the other hand, there is in general little evidence of inequity in the distribution of legal need, but instead two or three districts in which need is substantially underestimated according to our model. Compared with other CLS partnerships, levels of legal need are highest for neighbourhood disputes and issues around goods and services, but low for other problem categories. The task facing the CLS partnership in Fife is thus different from that in Edinburgh: in two or three districts there is evidence that there could be unmet need; high levels of need are concentrated around a narrow range of legal problems. The resolution of these problems may well depend on input from a relatively restricted range of services based in the not-for-profit sector.

Proxy modelling of legal need as a means of promoting more equitable distribution of community legal services

As Paterson and Goriely (1996) have suggested, targeting or rationing of access to justice is not new, but the explicitness of its recognition in many jurisdictions is an overt challenge to universal equality before the law. The extent to which proxy models of legal need can be used as a means of promoting equity in access to justice is limited by both the variety of organisations supplying legal services and the problems inherent in defining and operationalising a meaningful definition of legal need. In such circumstances proxy measurement is unlikely to be robust enough to form the basis of formula-driven resource allocation at the small area level. However, the aim of equity in access to justice is not well served if proxy measurement is abandoned altogether, since this rests on the measurement of relative need both between and within CLS partnership areas and as such constitutes a key, if crude, indicator of the appropriate focus of limited resources. Abandonment of such measurement is likely to compound inequities that are already endemic in patterns of service provision. Since CLS partnerships are voluntary rather than statutory organisations, the efficiency and effectiveness of these organisations rather than relative levels of legal need in particular communities could in such circumstances become the predominant factor controlling the distribution of services.

In developing proxy models of the need for community legal services, it has been argued here that promoting equity of access is not well served by measures based on indicators of either service use or deprivation. Our own approach integrates proxy measurement with survey methods currently used for estimating the prevalence of legal problems. We have produced some exploratory analyses to illustrate how survey data could be used to identify 'problem types' and how proxy indicators can be created from the socio-economic and demographic correlates of these empirically derived problem types. We have also proposed a comparative method of overall need that can be used for estimating the difference between 'observed' and 'predicted' need for CLS partnership areas. These analyses are preliminary, however, and require further development. Due to difficulties in obtaining data, we have not been able to evaluate the extent to which routinely collected usage data could be incorporated into this methodological approach. These methods would in themselves be dependent on the representativeness of surveyed respondents in a particular locality.

The creation of statistically complex proxy indices for needs assessment is itself questionable (Campbell *et al.*, 1991; Carr-Hill and Sheldon, 1992; Sheldon *et al.*, 1993; Paterson and Montgomery, 1996). Concern about the usefulness of such indices for planning of local services has recently been voiced in the initial stages of development of a 'health/poverty' index, for which a wide variety of NHS, academic, local authority and voluntary organisations were consulted to identify and assess options and methods for developing this index (Dibben *et al.*, 2001). Participants acknowledged that single composite indices had utility at the macro (national, regional or health authority) level, acting as general indicators of health, poverty and deprivation, but at the local level such indices were not helpful for the purpose of needs assessment unless they could be broken down into their component parts. But if the aims of distributive justice, as well as those of efficiency and effectiveness, are to be pursued in relation to access to community legal services, then CLS partnerships do require comparative and transparent information that enables a discussion of how well existing levels of service provision meet the needs of their constituent populations both between the districts within their areas and compared with other CLS partnerships. Needs assessment using proxy modelling remains an essential component of this endeavour, as does the task of producing usable tools for local policy makers.

Notes

1 This is because 95 per cent of the sample in the CLS-wide exercise were White British, while 40 per cent of respondents either 'did not know' or refused to divulge their income.
2 The differences involved in the aggregation are technically described as 'standardised residuals' and more detail is given of statistical procedures in Law *et al.* (2004b).

References

Baker, D. and Burgess, R. (1993), *The Liaison between Voluntary Organisations and General Practice,* Wiltshire: Wiltshire Health Authority.

Bevan, G., Davis, G. and Pearce, J. (1999), 'Piloting a quasi-market for family mediation amongst clients eligible for legal aid', *Civil Justice Quarterly,* 239: 239–241.

Braveman, P. and Gruskin, S. (2003), 'Poverty, equity, human rights and health', *Bulletin of the World Health Organization,* 81: 7, 539–545.

Campbell, D., Radford, J. and Burton, P. (1991), 'Unemployment rates: an alternative to the Jarman Index?', *British Medical Journal,* 303: 751–755.

Carr-Hill, R. and Sheldon, T. (1992), 'Rationality and the use of formulae in the allocation of resources to health care', *Journal of Public Health Medicine,* 14: 117–126.

Dibben, C., Sims, A., Noble, M., Hill, A., Goldacre, M., Surrender, R., Goodman, N., Lloyd, M., Wright, G. and Smith, G. (2001), *Health Poverty Index Scoping Project,* Oxford: University of Oxford and South East Public Health Observatory.

Everitt, B. (1974), *Cluster Analysis,* London: Heinemann.

Francis, A. (2000), 'Lawyers, CABx and the Community Legal Service: a new dawn for social welfare law provision?', *Journal of Social Welfare and Family Law,* 22: 1, 59–75.

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

Genn, H. and Paterson, A. (2001), *Paths to Justice in Scotland: What People in Scotland Do and Think About Going to Law,* Oxford: Hart Publishing.

Law, J., Baker, D., Barrow, S., Barton, S., Assenti, S., McKissock, K. and Cookson, D. (2004a), *Community Legal Service: Assessing Need for Legal Advice in Scotland: Overview Report,* Edinburgh: Social Research, Scottish Executive.

Law, J., Baker, D., Barrow, S., Barton, G., McKissock, K. and Assenti, S. (2004b), *Community Legal Service: Assessing Need for Legal Advice in Scotland: Technical and Geographic Report,* Edinburgh: Social Research, Scottish Executive.

Mackenbach, J. and Gunning-Schepers, L. (1997), 'How should interventions to reduce inequalities be evaluated?', *Journal of Epidemiology and Community Health,* 51: 359–364.

Marchand, S., Wikler, D. and Landesman, B. (1998), 'Class, health, and justice', *The Milbank Quarterly,* 76: 3, 449–467.

Mooney, G. (1983), 'Equity in health care: confronting the confusion', *Effective Health Care,* 1: 4, 179–184.

Moorhead, R. (2001), 'Third way regulation? Community legal service partnerships', *The Modern Law Review Ltd,* 64: 4, 543–562.

Moorhead, R. and Pleasence, P. (2003), 'Access to justice after universalism: introduction', *Journal of Law and Society,* 30: 1, 1–10.

Needs Assessment Group (2002), *Predicting the Need for Legal Services: Models and Indicators,* London: Community Legal Service.

Palmer, C. and Monaghan, C. (2001), *The Public Perspective on Accessing Legal Advice and Information: Key Findings from a Microcosm Study,* Edinburgh: Scottish Executive.

Paterson, A. and Goriely, T. (1996), *A Reader on Resourcing Civil Justice,* Oxford: Oxford University Press.

Paterson, A. and Montgomery, P. (1996), *Access to and Demand for Welfare Legal Services in Rural Scotland,* Edinburgh: Scottish Legal Aid Board.

Pleasence, P., Buck, A., Goriely, T., Taylor, J., Perkins, H. and Quirk, H. (2001), *Local Legal Need,* London: Legal Services Commission.

Pleasence, P., Buck, A., Balmer, N. and O'Grady, A. (2002a), *Summary of the Findings of the First LSRC Periodic Survey of Legal Need (1),* London: Legal Services Research Centre.

Pleasence, P., Buck, A., Balmer, N. and O'Grady, A. (2002b), *Summary of the Findings of the First LSRC Periodic Survey of Legal Need (2),* London: Legal Services Research Centre.

Report of the Royal Commission on Legal Services in Scotland (1980), Edinburgh: HMSO.

Schetzer, L. and Buanamano, R. (2002), *Access to Justice and Legal Needs,* New South Wales: Law and Justice Foundation.

Scottish Executive (2003), *Legal Information and Advice Provision in Scotland: A Review of Evidence,* Edinburgh: Scottish Executive.

Scottish Executive (2004), *Strategic Review of the Delivery of Legal Aid, Advice and Information,* Edinburgh: Scottish Executive.

Scottish Legal Aid Board (2002), *Distribution and Supply of Legal Aid in Scotland,* Edinburgh: Scottish Legal Aid Board.

Sheldon, T., Smith, G. and Bevan, G. (1993), 'Weighting in the dark: resource allocation in the new NHS', *British Medical Journal,* 306: 835–839.