



# How people solve legal problems: level of disadvantage and legal capability

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**Abstract:** *The paper provides compelling new evidence from the Legal Australia-Wide (LAW) Survey demonstrating the lower legal capability of multiply disadvantaged people. The most disadvantaged respondents were found to be significantly more likely to take no action in response to their legal problems. In addition, when they did take action, they were significantly less likely to use self-help resources, and significantly more likely to use not-for-profit legal services, than those less disadvantaged. Further, despite their greater use of not-for-profit legal services, the most disadvantaged group had significantly lower awareness of such services.*

*Implications for policy and effective legal assistance services are discussed. The findings clearly signal the vital role of not-for-profit legal services in extending access to justice to the most disadvantaged members of the Australian community. In addition, given the high use of health or welfare advisers by the most disadvantaged group, the results also point to collaboration between these advisers and public legal services as a key strategy to enhance access to justice for the most disadvantaged.*

## Background

Legal needs studies show that certain disadvantaged groups are significantly more likely than other members of the community to ignore their legal problems.<sup>1</sup> And when they do act, some disadvantaged groups are also more likely to act without the benefit of formal advice (Coumarelos, Macourt, People, McDonald, Wei, Iriana & Ramsey 2012; Hadfield 2010; Pleasence, Buck, Balmer, O'Grady, Genn & Smith 2004; Pleasence 2006).<sup>2</sup> Although the nature

and severity of legal problems are key determinants of how people respond to them, recent research points to people's 'capability' as also being relevant to their responses (Balmer, Buck, Patel, Denvir & Pleasence 2010; Coumarelos et al. 2012; McDonald & People 2014; Pleasence 2006; Pleasence, Coumarelos, Forell & McDonald 2014). More nuanced understanding of factors influencing problem solving behaviour therefore holds the promise of better and more appropriate legal assistance services (Pleasence et al. 2014).

It is well established that people's 'personal capability' to participate in many aspects of society can be constrained by a range of factors related to socioeconomic disadvantage such as limited literacy, education, income and poor health. Generally,

1 The term 'legal problem' is used throughout this paper for easy reference to a problem that is 'justiciable' in that it raises legal issues with the potential for legal resolution, regardless of whether the respondent recognised this or took any action involving the justice system (cf. Genn 1999).

2 For example, the Legal Australia-Wide Survey found that people with low education, people unemployed in the previous twelve months, and those with a non-English main language, had lower odds of taking action and seeking advice than others. Compared to others, people with a disability had higher odds of taking

action and seeking advice, and the odds of seeking advice were also higher single parents (Coumarelos et al. 2012).

personal capability is increasingly constrained by increasing disadvantage (see McLachlan, Gilfillan & Gordon 2013; Pleasence et al. 2014). Lower personal capability can include lower 'legal capability' to use the law and other pathways to resolve legal problems. Legal capability refers to the personal characteristics or competencies (knowledge, skills, psychological, resources) needed to effectively resolve legal problems (Balmer et al. 2010; Collard, Deeming, Wintersteiger, Jones & Seargeant 2011; Coumarelos et al. 2012; Jones 2010; Pleasence et al. 2014). Empirical research demonstrates unequal distribution of legal capability across the community (Balmer et al. 2010; Coumarelos et al. 2012; McDonald & People 2013; Pleasence et al. 2014). For example, knowledge and understanding of law and rights varies, such as perceiving and characterising problems as being 'legal', and identifying what can or might be done to resolve the problem, and how legal information and assistance can be obtained (see Balmer et al. 2010; Coumarelos et al. 2012; Jones 2010; McDonald & People 2013; McDonald, Forell & People 2014; Pleasence et al. 2014; Pleasence, Balmer & Reimers 2011). Personal skills, abilities and resources also vary, and affect confidence and willingness to take action, and determination to persevere to achieve resolution (Pleasence et al. 2014; Sandefur 2007). Legal capability is also affected by systemic and structural factors, such as geographic location and local service environment. For instance, limited personal capability may compound gaps in legal service infrastructure and affect awareness of, and access to, local legal services (Pleasence et al. 2014).

Research suggests disadvantaged people tend to have lower legal capability that manifests in poorer and more constrained legal problem-solving strategies, and consequently, more limited access to justice (Balmer et al. 2010; Coumarelos et al. 2012; McDonald, Forell & People 2014; McDonald & People 2013; Pleasence et al. 2014). For example, Balmer et al. (2010) demonstrated that disadvantaged groups had poorer knowledge about their rights and legal processes, and found that poorer legal knowledge led to worse outcomes if people tried to resolve their legal problem without professional advice. Disadvantaged people may also lack the financial resources to engage a private lawyer. Thus, disadvantaged people may lack the capability and resources to resolve legal problems.

Recent analyses of the Legal Australia-Wide (LAW) Survey national dataset demonstrated that multiply disadvantaged people have higher vulnerability to legal problems, with vulnerability increasing or compounding as the level of disadvantage increases (McDonald & Wei 2013). Further, LAW Survey analyses by Iriana, Pleasence and Coumarelos (2013) suggested that multiple disadvantage results in poorer strategies in response to legal problems. Multiply disadvantaged respondents were

significantly less likely to take action, and when they acted, were significantly less likely to consult legal and non-legal professionals.

This paper further examines whether multiple disadvantage is associated with lower legal capability to resolve legal problems. Using LAW Survey data, the paper builds on the analysis by Iriana, Pleasence and Coumarelos (2013) by using finer-grained categorisation of legal problem-solving strategies to investigate this relationship. Iriana, Pleasence and Coumarelos (2013) used four categories of strategy: taking no action, handling the problem without formal advice, using a non-legal professional and using a legal professional. The present study breaks down some of these categories. It examines the use of self-help resources separately from other ways of handling the problem without professional advice. It also examines the use of private lawyers separately from the use of not-for-profit legal services. Based on their lower personal capability and financial resources, it is hypothesised that more disadvantaged respondents will have lower legal capability, indicated by more limited legal problem-solving strategies. Specifically, it is hypothesised that more disadvantaged respondents will:

- be less likely to take action in response to legal problems.
- be less likely to use self-help resources and more reliant on not-for-profit legal services.
- be more likely to have lower awareness of not-for-profit legal services.

## Measures and analyses

### Level of disadvantage

Respondents' level of disadvantage was measured using a count of the following nine indicators or types of disadvantage: disability, disadvantaged housing, Indigenous background, low education level, low income, non-English main language, living in a remote or outer regional area, single parenthood, and unemployment.<sup>3</sup> Respondents were grouped according to the number of types of disadvantage they had: 'none', '1 or 2 types' or '3 or more types'. In total there were 7218 respondents

3 See Coumarelos et al. (2012) for definitions of disability, disadvantaged housing, Indigenous background, low education level, non-English main language, single parenthood, and unemployment. Low income was defined as having a before tax personal income less than \$20,800 (equivalent to less than \$400/week) or a combined income with a partner of less than \$41,600 (equivalent to less than \$800/week). For young people (i.e. those aged from 15 years up to 22 years) living with a parent or guardians, low income was similarly defined as an income of less than \$20,800 for a single parent/guardian and \$41,600 for partnered parents/guardians. Living in a remote or outer regional area was defined to include living in a very remote area, remote area and outer regional area, and was distinguished from living in an inner regional area and major city area.

in the 'none' group (35% of all respondents), 10 612 respondents in the '1 or 2 types' group (51%) and 2887 respondents with '3 or more types' group (14%).

## Legal problem-solving actions

This paper examines six types of action taken in response to legal problems<sup>4</sup>, namely:

- no action<sup>5</sup>
- act without professional information or advice<sup>6</sup>
- self-help resource<sup>7</sup>
- non-legal adviser<sup>8</sup>
- private lawyer<sup>9</sup>
- not-for-profit legal service.<sup>10</sup>

## Legal problem-solving strategy

Sometimes more than one of the above actions was used in response to a legal problem. As a result, these actions were also used to define the highest-level legal problem-solving strategy used for each problem, that is, irrespective of whether or not any

lower types of action were also used.<sup>11</sup> The strategies were ranked from lowest to highest was: (1) 'no action', (2) 'act without professional information or advice', (3) 'self-help resource', (4) 'non-legal adviser', (5) 'private lawyer',<sup>12</sup> (6) 'not-for-profit legal service' (i.e. Aboriginal and Torres Strait Islander legal services (ALS), a community legal centre (CLC), a court service, legal aid).<sup>13</sup> This ranking reflects respondents' problem-solving behaviour in terms of their agency in obtaining information and advice, and using private and public legal services (i.e. not-for-profit legal services). This order was purposefully chosen to identify all respondents who used a not-for-profit legal service to try to resolve their legal problems whether or not they also used private lawyers and other strategies.

## Awareness of not-for-profit legal services

The LAW Survey measured both cued (i.e. prompted) and uncued awareness of not-for-profit legal services (Coumarelos et al. 2012). This paper employs the uncued awareness measure which asked respondents to name services that provide free legal information, advice or assistance without any prompting.<sup>14</sup>

## Analysis

Bivariate statistics were used to examine the relationship between level of disadvantage and (i) each of the six actions in response to legal problems, (ii) types of advisers used and (iii) awareness of not-for-profit legal services.<sup>15</sup>

Next, a multilevel binary logistic regression model was fitted to test the independent influence of level of disadvantage on taking action in response to legal problems.<sup>16</sup> The dependent variable was whether or not respondents had taken any of the six types of

4 Note that LAW Survey respondents who reported experiencing legal problems were asked a series of in-depth questions about up to three of their most serious problems, including questions about any actions taken to try to resolve the problem. The pool of up to three of the most serious problems for each respondent was determined as follows. The LAW Survey asked about 129 specific types of legal problems. Respondents who had experienced legal problems were asked to order the different specific types of legal problems they had experienced in terms of seriousness, and then identify the worst instance of each specific type. The worst instance of the three most serious specific types of problems were then followed up in depth. Respondents who had experienced fewer than three specific types of problems were only asked about the worst instance of the (one or two) specific types they had experienced.

5 'No action' was defined as the respondent not taking any of the five action types in this paper (see Coumarelos et al. 2012).

6 'Act without professional information or advice' was defined as the respondent talking to family or friends in an informal or non-professional capacity, communicating with the other side, as well as having a matter that involved or was likely to involve court, tribunal or dispute resolution processes, and was distinguished from seeking advice from of a legal or non-legal professional as well as use of a self-help resource. Note that communication with the other side entailed the respondent, or someone on the respondent's behalf, talking or writing directly to the other side to try to resolve the problem (see Coumarelos et al. 2012).

7 'Self-help resource' was defined as the respondent obtaining information from a website, book, leaflet and self-help guide. Note that use of self-help resources entailed the respondent, or someone on the respondent's behalf, obtaining information without having direct contact with a professional or organisation (see Coumarelos et al. 2012).

8 'Non-legal adviser' was defined as seeking information or advice from a non-legal professional or organisation such as a dispute/complain-handling, government, health or welfare, financial adviser etc. (see Coumarelos et al. 2012).

9 'Private lawyer' was defined as the respondent seeking information or advice from a private legal practitioner such as a solicitor or barrister (see Coumarelos et al. 2012).

10 'Not-for-profit legal service' was defined as the respondent seeking information or advice from an Aboriginal and Torres Strait Islander legal service (ALS), community legal centre (CLC), court service, and legal aid (see Coumarelos et al. 2012).

11 This measure of strategy expands on the measure used by Coumarelos et al. (2012) which classified actions into three broad strategies, 'sought advice', 'handled without advice' and 'took no action', and Iriana, Pleasence and Coumarelos (2013) who classified actions into four categories: 'taking no action', 'handling the problem without formal advice', using a 'non-legal professional' and using a 'legal professional'.

12 Note that 'private lawyer' includes a small number of other legal advisers who were not further specified (e.g. 'lawyer', 'barrister', 'QC' etc.), as well as other organisations that were not further specified, such as legal services provided by an employer, union or insurance company. Note that these other legal advisers were used for less than one per cent of legal problems.

13 These six strategies were obtained by separating two of three broad strategies defined by Coumarelos et al. (2012) as follows: 'handled without advice' was separated into 'act without professional information or advice' and 'self-help resource'; and 'sought advice' was separated into 'non-legal adviser', 'private lawyer' and 'not-for-profit legal services'.

14 Uncued awareness was measured using the following question: 'Can you name any services that provide free legal information, advice or assistance?'

15 Adjusted versions of the standard chi-square test were used, which applied a second-order Rao-Scott correction to accommodate weighted and clustered data (Rao & Scott 1984).

16 The model was implemented using MLwiN (Rasbash, Steele, Brown & Goldstein 2015). The model had a three-level hierarchical structure, with legal problem nested within respondent, and respondent nested within state.

actions. The other independent (or predictor) variables controlled for in the regression were gender, age, awareness of not-for-profit legal services, legal problem type classified, and problem severity (see Coumarelos et al. 2012). The influence of level of disadvantage and awareness of not-for-profit legal services on taking action was further examined by controlling for the interaction between these variables.<sup>17</sup> The full set of predictors used in the regression on taking action is presented in Appendix Table A1.

Finally, a multilevel multinomial logistic regression model was fitted to test the independent influence of level of disadvantage on the highest-level legal problem-solving strategy, controlling for the same predictor variables as above, with the exception of the interaction between disadvantage and awareness of not-for-profit legal services.<sup>18</sup> The full set of predictors used in the regression on highest-level legal problem-solving strategy is presented in Appendix Table A2.

## Findings

### Level of disadvantage and actions in response to legal problems

Table 1 presents the bivariate relationship between level of disadvantage and each of the six legal problem-solving actions. Note that Table 1 includes all of the actions respondents used, and that

17 This model was tested both including and excluding the interaction between level of disadvantage and awareness of not-for-profit legal services. As the model with the interaction was a better fit according to the Deviance Information Criterion (see Browne 2015), the interaction was included in the final model.

18 A multilevel multinomial logit model was fitted using Markov Chain Monte Carlo methods (see Browne 2015), again implemented using MLwiN. A two-level hierarchical structure, with problem type nested within respondent, was employed. This model was tested both including and excluding the interaction between level of disadvantage and awareness of not-for-profit legal services. As the model without the interaction was a better fit according to the Deviance Information Criterion (see Browne 2015), the interaction was excluded from the final model.

multiple actions were used for some problems (see Coumarelos et al. 2012). Table 1 shows that the proportion of legal problems where no action was taken increased significantly with respondents' level of disadvantage. The most disadvantaged respondents (i.e. those with 3 or more types of disadvantage) took no action in response to one in five (20.3%) legal problems. By comparison, respondents with no disadvantage took no action for only 16.5 per cent of their problems.

Overall, acting without professional information or advice (such as consulting family and friends informally, or communicating with the other side) and use of a non-legal adviser were the most frequently taken actions. These actions were, however, unrelated to respondents' level of disadvantage. There were significant differences in use of a self-help resource and not-for-profit legal service by respondents' level of disadvantage. Use of a not-for-profit legal service was highest among the most disadvantaged group. The most disadvantaged, in fact, used a not-for-profit legal service for nearly three times as many legal problems as did respondents who were not disadvantaged (8.5% v. 3.1% of legal problems). The most disadvantaged were the group least likely to use a self-help resource to try to resolve their legal problems (14.9% v. 19.6–21.7% of legal problems).

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While use of private lawyers was unrelated to level of disadvantage, they were used for just over one in ten legal problems by each group of respondents (10.7–11.4% of legal problems), and private lawyers were the type of legal adviser used for the highest proportion of legal problems irrespective of respondents' level of disadvantage.

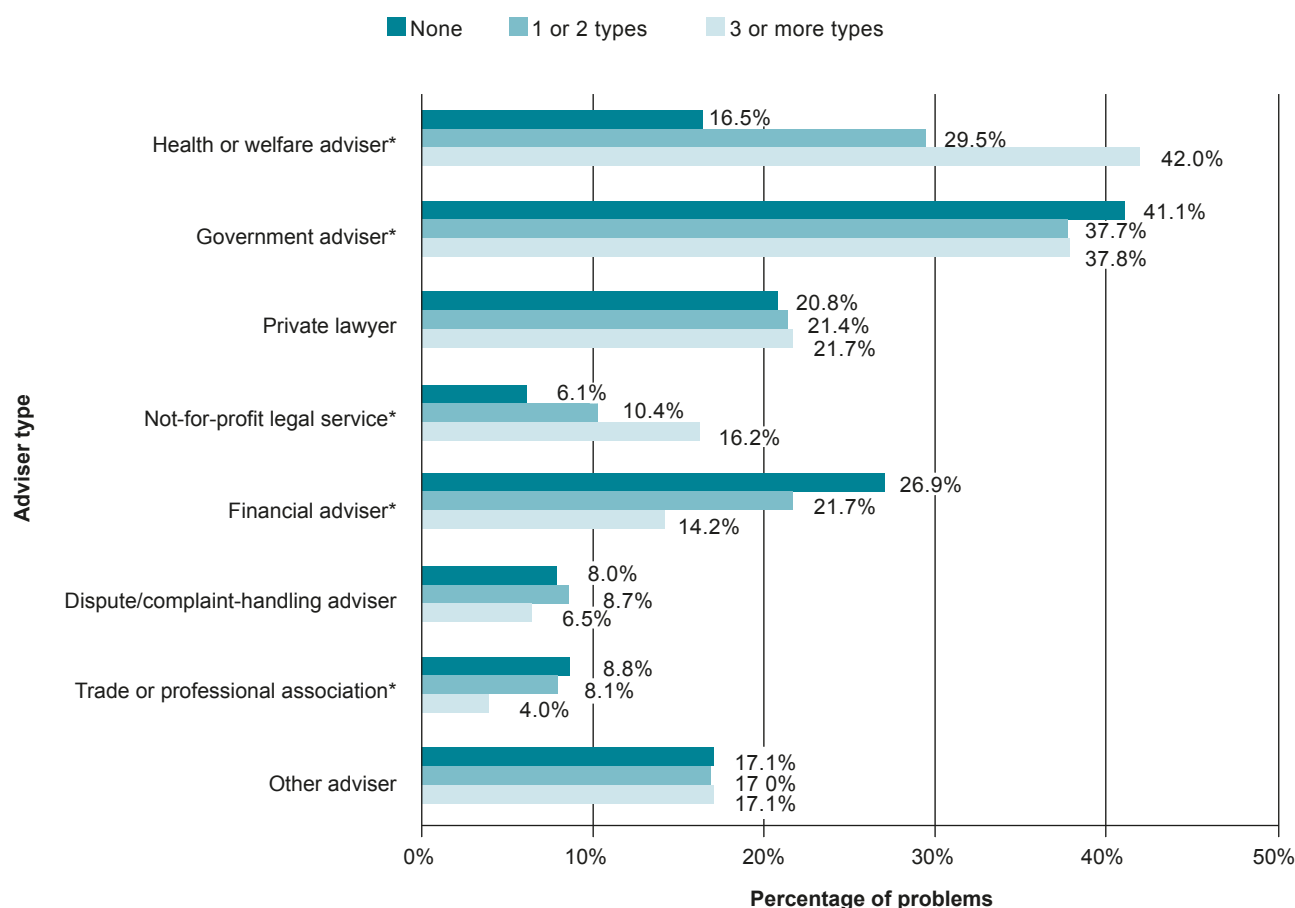
TABLE 1: ACTIONS IN RESPONSE TO LEGAL PROBLEMS BY LEVEL OF DISADVANTAGE

Level of disadvantage	No action*	Act without professional information or advice	Self-help resource*	Non-legal adviser	Private lawyer	Not-for-profit legal service*	Total (N)
None	16.5%	58.1%	21.7%	45.7%	10.7%	3.1%	6349
1 or 2 types	18.8%	57.8%	19.6%	45.0%	10.8%	5.3%	9696
3 or more types	20.3%	59.6%	14.9%	45.7%	11.4%	8.5%	3096
Average	18.3%	58.2%	19.5%	45.3%	10.9%	5.1%	19 142

Notes: N=19,142 legal problems. Significant differences ( $p < 0.05$ ) based on an adjusted version of the standard chi-square test are indicated by an asterisk (\*). No action:  $\chi^2=24.13$ ,  $F_{2,20573}=6.78$ ,  $p=0.001$ . Act without professional information or advice:  $\chi^2=3.20$ ,  $F_{2,20560}=0.86$ ,  $p=0.442$ . Self-help resource:  $\chi^2=60.80$ ,  $F_{2,20564}=16.10$ ,  $p=0.000$ . Non-legal adviser:  $\chi^2=0.94$ ,  $F_{2,20566}=0.26$ ,  $p=0.772$ . Private lawyer:  $\chi^2=1.07$ ,  $F_{2,20561}=0.26$ ,  $p=0.767$ . Not-for-profit legal service:  $\chi^2=127.35$ ,  $F_{2,20532}=35.71$ ,  $p=0.000$ . Row percentages may not sum to 100 due to rounding. Row percentages do not sum to 100 because multiple actions for the same problem are included.



**FIGURE 1: ADVISER TYPE BY LEVEL OF DISADVANTAGE**



**Note:** N=9,783 problems where advice sought. For each type of adviser, the number of legal problems where respondents used this type of adviser is indicated in the brackets below. Significant differences ( $p < 0.05$ ) based on an adjusted version of the standard chi-square test are indicated by an asterisk '\*'. Health/welfare adviser (N=2,661),  $\chi^2=382.53$ ,  $F_{2,13293}=110.62$ ,  $p=0.000$ ; government adviser (N=3,799),  $\chi^2=10.84$ ,  $F_{2,13285}=3.42$ ,  $p=0.033$ ; private lawyer (N=2,079),  $\chi^2=0.56$ ,  $F_{2,13290}=0.14$ ,  $p=0.866$ ; other adviser (N=1,670),  $\chi^2=0.01$ ,  $F_{2,13302}=0.00$ ,  $p=0.998$ ; not-for-profit legal service (N=971),  $\chi^2=127.53$ ,  $F_{2,13284}=36.00$ ,  $p=0.000$ ; financial adviser (N=2,173),  $\chi^2=104.32$ ,  $F_{2,13305}=30.83$ ,  $p=0.000$ ; dispute/complaint-handling adviser (N=790),  $\chi^2=7.61$ ,  $F_{2,13303}=2.30$ ,  $p=0.100$ ; trade or professional association (N=747),  $\chi^2=37.30$ ,  $F_{2,13292}=10.29$ ,  $p=0.000$ .

### Level of disadvantage and use of advisers

When respondents sought advice, there were significant differences in the type of adviser used by people disadvantage (see Figure 1). Note that respondents often used multiple advisers (see Coumarelos et al. 2012). Use of dispute or complaint-handling advisers and private lawyers was unrelated to respondents' level of disadvantage. However, there were significant differences by respondents' level of disadvantage in the use of financial advisers, government advisers, health or welfare advisers, not-for-profit legal services and trade or professional associations (see Figure 1).

Use of health or welfare advisers and use of not-for-profit legal services both increased significantly with respondents' level of disadvantage, while use of financial advisers and use of trade or professional associations decreased. Compared to those who were not disadvantaged, the most disadvantaged used health or welfare advisers and not-for-profit legal services for more than 2.5 times as many legal problems (42.0% v. 16.5% and 16.2% v. 6.1%, respectively). At least in part, these findings are

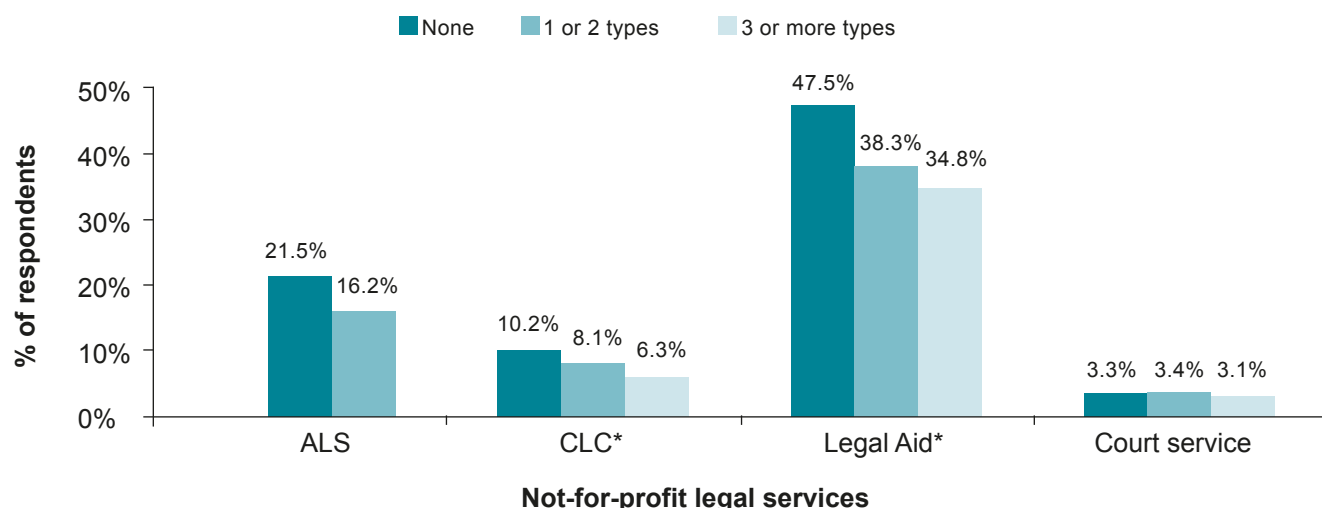
likely to reflect the types of legal problems more commonly experienced by respondents within the different levels of disadvantage (see Coumarelos et al. 2012).

### Level of disadvantage and awareness of not-for-profit legal services

Figure 2 reports the bivariate relationship between respondents' awareness of not-for-profit legal services and level of disadvantage. Awareness of CLCs and legal aid was significantly lower among the most disadvantaged. For instance, while 47.5 per cent of respondents who were not disadvantaged were aware of legal aid, only 34.8 per cent of the most disadvantaged were similarly aware. Although awareness of ALS also declined on raw numbers, this decrease was not significant.<sup>19</sup> Comparatively fewer

<sup>19</sup> Note that only Indigenous LAW Survey respondents were asked about their awareness of ALSs, and the figure is based on a weighted total of 348 Indigenous respondents. Note also that because Indigenous status was included as one of the indicators of disadvantage in the level of disadvantage measure, Figure 2 reports the number of Indigenous respondents who were aware of ALS services by the number of other indicators of disadvantage they had.

**FIGURE 2: AWARENESS OF NOT-FOR-PROFIT LEGAL SERVICES BY LEVEL OF DISADVANTAGE**



**Note:** N=20,176 respondents. Awareness of ALSs was based on a total of 348 Indigenous respondents. Significant differences ( $p < 0.05$ ) based on an adjusted version of the standard chi-square test are indicated by an asterisk (\*). ALS,  $\chi^2=2.63$ ,  $F_{1,611}=1.07$ ,  $p=0.302$ ; CLC,  $\chi^2=48.44$ ,  $F_{2,41425}=16.68$ ,  $p=0.000$ ; Legal Aid,  $\chi^2=203.57$ ,  $F_{2,41422}=68.61$ ,  $p=0.000$ ; Court services,  $\chi^2=0.41$ ,  $F_{2,41425}=0.13$ ,  $p=0.879$ .

respondents (around 3%) were aware of services from courts, and there was no significant variation by level of disadvantage.

### Level of disadvantage and taking action

Regression analysis was used to examine the independent effect of level of disadvantage on whether any action was taken (see Appendix Table A1).<sup>20</sup> Consistent with previous findings, the type and the severity of the legal problem were the strongest significant independent predictors of taking action (Coumarelos et al. 2012; Iriana, Pleasence & Coumarelos 2013; Coumarelos, Pleasence & Wei 2013). For example,

respondents were more likely to take action for more severe problems.

Nonetheless, level of disadvantage was also a significant independent predictor of action being taken, as were awareness of not-for-profit legal services, gender and age. Compared to respondents who were not disadvantaged, respondents with one or two types of disadvantage had significantly lower odds of taking action (odds ratio (OR) = 0.78), and the most disadvantaged had even lower odds (OR = 0.62), even after differences in legal problem type and severity of legal problems were taken into account (see Appendix Table A1). These regression results for level of disadvantage reveal a similar picture to the percentages in Table 1. Unsurprisingly,

compared to respondents who were unaware of not-for-profit legal services, those who were aware had significantly higher odds of taking action (OR = 1.20; see Appendix Table A1).

The regression also revealed a significant interactive effect between awareness of not-for-profit legal services and level of disadvantage (see Appendix Table A1). The direction of this interaction is illustrated in Figure 3, which shows the estimated probability of taking action by respondents' level of disadvantage and awareness of not-for-profit legal services, based on the regression results.<sup>21</sup> Although the likelihood of taking action increased with awareness of not-for-profit legal services irrespective of level of disadvantage, the increase was greatest for the most disadvantage group. In fact, such awareness reduced the likelihood of inaction for the most disadvantage group by 30.2 per cent.<sup>22</sup>

### Level of disadvantage and hierarchical legal problem-solving strategy

Regression analysis was also used to examine the independent effect of respondents' level of disadvantage on the highest-level strategy adopted when action was taken.<sup>23</sup> The regression was based on the five strategies other than 'no action' and compared acting without professional information or advice to each of the other four strategies (see Appendix Table A2).

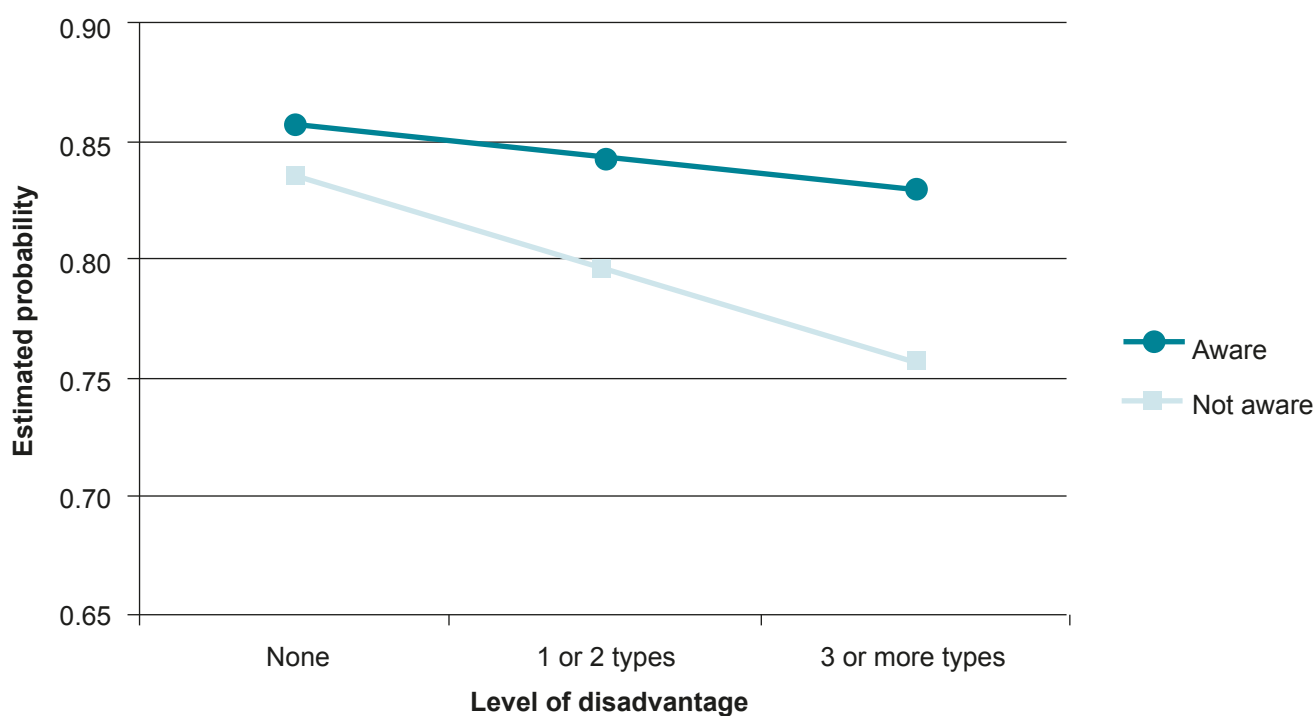
21 Figure 3 graphs the predicted probably of taking action in response to legal problems by respondents' level of disadvantage, controlling for the other factors in the Appendix Table A1 regression model, namely gender, age, awareness of not-for-profit legal services, and problem severity and type.

22  $(0.831 - 0.758) / (1 - 0.758) * 100 = 30.2\%$ .

23 As noted earlier, the final version of this model excluded the interaction between level of disadvantage and awareness of not-for-profit legal services, as the model was a better fit without the interaction.

20 As noted earlier, this model was a better fit with the interaction between level of disadvantage and awareness of not-for-profit legal services included as a predictor. Thus, the interaction was included in the final model.

**FIGURE 3: ESTIMATED PROBABILITY OF TAKING ACTION IN RESPONSE TO LEGAL PROBLEMS BY LEVEL OF DISADVANTAGE AND AWARENESS OF NOT-FOR-PROFIT LEGAL SERVICES\***



Note: N=19,142 legal problems.

\*Based on the regression model in Appendix Table A1.

Consistent with previous findings, gender, age and awareness of not-for-profit legal services, as well as problem type and severity, were all significant predictors of the highest-level strategy in response to legal problems (see Appendix Table A2; Coumarelos et al. 2012; Iriana, Pleasence & Coumarelos 2013; Coumarelos, Pleasence & Wei 2013). Awareness of not-for-profit legal services increased the likelihood of using such services as the highest-level strategy rather than acting without professional information or advice, and also increased the likelihood of using non-legal advisers as the highest-level strategy.

Independent of these predictors, level of disadvantage also had a significant effect on respondents' highest-level legal problem-solving strategy. The regression results for level of disadvantage in Appendix Table A2 are consistent with the percentages in Table 2. The most disadvantaged were significantly more likely than non-disadvantaged respondents to use not-for-profit legal services as their highest-level strategy (16.5% v. 2.4–6.1%) rather than to act without professional information or advice.<sup>24</sup> The results

for the other strategies were in the opposite direction. The most disadvantaged were significantly less likely than non-disadvantaged respondents to use a self-help resource as their highest-level strategy (3.6% v. 10.2–11.0%) rather than to act without professional information or advice. They were also significantly less likely than the non-disadvantaged to use a non-legal adviser (37.3% v. 43.3–46.8%) or a private lawyer (11.2% v. 12.4–14.5%) as their highest-level strategy rather than to act without professional information or advice.

The regression results also show that, compared to acting without professional information or advice, respondents who adopted a particular strategy as their highest-level strategy for one legal problem were significantly more likely to adopt the same strategy

... the type and the severity of the legal problem were the strongest significant independent predictors of taking action

<sup>24</sup> To examine the effect of the hierarchical ordering, the regression analysis was repeated using private lawyer instead of not-for-profit legal services as the highest-level strategy. The results were very similar. While the direction of the relationships between variables was unchanged, there were changes in significance level. For level of disadvantage, the only difference was that respondents with '1 or 2 types' of disadvantage were found to be marginally more likely to use a

private lawyer as their highest-level strategy, and marginally less likely to have used a not-for-profit legal service. This result may possibly be explained by respondents who were referred to a private lawyer by a not-for-profit legal service and by respondents who received a grant of legal aid and were represented by a private lawyer.

**TABLE 2: HIGHEST-LEVEL LEGAL PROBLEM-SOLVING STRATEGY BY LEVEL OF DISADVANTAGE**

Level of disadvantage	Act without professional information or advice	Self-help resource	Non-legal adviser	Private lawyer	Not-for-profit legal service	Total (N)
None	25.4%	11.0%	46.8%	14.5%	2.4%	5303
1 or 2 types	28.0%	10.2%	43.3%	12.4%	6.1%	7876
3 or more types	31.4%	3.6%	37.3%	11.2%	16.5%	2467
Average	28.8%	8.7%	43.6%	12.8%	6.2%	15 646

**Note:** N=15,646 legal problems where action was taken. Row percentages may not sum to 100 due to rounding. The adjusted percentage for respondents with different levels of disadvantaged were derived from the multinomial regression model (see Appendix Table A2).

for other legal problems (see random effects in Appendix Table A2).<sup>25</sup>

## Discussion

The present study indicates the unequal distribution of legal capability across the Australian community and demonstrates the key role of not-for-profit

... the unequal distribution of legal capability across the Australian community and demonstrates the key role of not-for-profit legal services in affording the most disadvantaged access to justice

legal services in affording the most disadvantaged access to justice. The findings suggest that the most disadvantaged have lower legal capability, as indicated by their use of lower level legal problem-solving strategies. They are less aware of not-for-profit legal services and less likely to take action in response to their legal problems. When they do try to resolve their legal problems, they are less likely to use self-help,

non-legal professionals and private lawyers as their highest-level strategy and are more reliant on not-for-profit legal services. These findings point to the most disadvantaged experiencing greater personal and systemic constraints on legal problem solving, and signal reduced personal capability to resolve legal problems without recourse to public legal assistance services (see Pleasence et al. 2014).

There are a number of explanations for the greater use of not-for-profit legal services by the most disadvantaged. Public legal assistance services are intended to improve access to justice for disadvantaged Australians (e.g. Council of

Australia Governments 2015). As such, the most disadvantaged are the group most likely to satisfy eligibility criteria for not-for-profit legal services. However, given that not-for-profit legal services typically also provide a range of legal information and advice services without eligibility criteria, this is only a partial explanation, and particularly so given the finding that it was actually the most disadvantaged who were found to have the lowest awareness of not-for-profit legal services. The greater use of not-for-profit legal services by the most disadvantaged group may in part reflect the effective targeting of these services to them by way of outreach and duty legal services (see Forell, McDonald, Ramsey & Williams 2013; Forell, Ramsey, McDonald & Williams 2013; McDonald, Forell, Wei & Williams 2014; Pleasence et al. 2014).

The apparent greater reliance on not-for-profit legal services by the most disadvantaged appears to also reflect their greater need and more limited ability to deal with their legal problems without public legal assistance (e.g. Coumarelos et al. 2012; McDonald & Wei 2013; Pleasence et al. 2014). Indeed, the results show that the most disadvantaged are significantly less likely to make use of self-help, non-legal advisers and private lawyers as their highest-level strategy. The apparent lower legal capability of the most disadvantaged may also stem from greater non-legal needs. Empirical research has clearly demonstrated the overlap between legal and other public service needs, such as health, housing and employment, and has identified social disadvantage and capability as important access to justice barriers (Coumarelos et al. 2012; Pleasence 2006; Pleasence et al. 2014). Reduced capacity to self-help, due to greater legal and non-legal needs, suggests that self-help strategies are potentially ill-suited to the needs and circumstances of more disadvantaged groups, who may, instead, require more intensive forms of legal assistance, such as professional advice and minor assistance, to successfully resolve their legal problems.

The above findings have a number of important policy implications (summarised in Box 1). First, there is a clear nexus between the provision of public legal assistance services and the ability of the most disadvantaged to access justice. Consistent with research in overseas jurisdictions with similar public

<sup>25</sup> Appendix Table A2 shows that, compared to acting without professional information or advice, 'person' in the random effects was significant for each strategy. Examination of the covariance between strategies in the multinomial regression revealed a moderate correlation ( $r=0.30-0.45$ ) between all of the strategies except for not-for-profit legal services and self-help resources, where there was a weak negative correlation ( $r=-0.11$ ). This indicates that respondents who used a not-for-profit legal service as their highest-level strategy for one legal problem were unlikely to use a self-help resource for their other problems.



## BOX 1: SUMMARY OF KEY FINDINGS AND POLICY IMPLICATIONS

Issue	Finding	Policy implication
<b>Taking no action</b>	Increases with disadvantage	<ul style="list-style-type: none"> <li>Access to justice policy should support and encourage more disadvantaged people to take appropriate action, and use appropriate legal problem-solving strategies</li> <li>Services should be client-focused and targeted, joined-up, timely and appropriate to the legal needs and capability intended users</li> </ul>
<b>Acting without information or advice</b>		
<b>Self-help</b>	Decreases with disadvantage	<ul style="list-style-type: none"> <li>Self-help strategies are likely to be more suited to less disadvantaged and more capable groups</li> <li>May be insufficient as a stand-alone strategy for more disadvantaged people</li> <li>May be more effective as complementary strategies to connect more disadvantaged people with more appropriate forms of service</li> <li>More effective strategies may depend on clarity around who they are targeted to, and what they are intended to achieve</li> </ul>
<b>Public legal assistance services</b>	Use increases with disadvantage	<ul style="list-style-type: none"> <li>Access to justice of more disadvantaged people depends on the capacity of public legal services to appropriately meet their needs</li> </ul>
<b>Awareness of public legal assistance services</b>	Decreases with disadvantage, yet awareness reduced likelihood of inaction as level of disadvantage increased	<ul style="list-style-type: none"> <li>Targeted and tailored legal education and information may assist more disadvantaged groups to 'get help', and motivate appropriate legal problem-solving strategies</li> <li>Legal information and education strategies targeted to more disadvantaged groups are likely to be more effective when they signpost users to accessible and appropriate services</li> </ul>
<b>Legal referral pathways</b>	Use of health or welfare advisers and not-for-profit legal services increases as level of disadvantage increased	<ul style="list-style-type: none"> <li>Better integration of health and legal services, such as medico-legal and health justice partnerships, may improve access to justice for more disadvantaged people by overcoming</li> <li>Health and legal services have to be appropriately supported to successfully join and act as effective legal referral pathways</li> <li>Targeted and tailored legal education and information may assist health and welfare to act as problem noticers and to 'give help' by connecting them with legal assistance</li> </ul>

Reduced capacity to self-help, due to greater legal and non-legal needs, suggests that self-help strategies are potentially ill-suited to the needs and circumstances of more disadvantaged groups ...

capacity of not-for-profit services to appropriately meet their legal needs. In fact, the findings suggest that any reduction in the capacity of not-for-profit legal services is likely to reduce the access to justice among the most disadvantaged people in the community.

Second, legal information strategies — such as the provision of legal information through websites, leaflets, self-help guides and the like — appear to be less suited to the legal need and capability of the most disadvantaged. Not only are the most disadvantaged the group least likely to take action in response to legal problems, but when they do act, they are the group least likely to try to use a self-help resource, either as their highest-level strategy or at

legal assistance services — namely, Canada, England and Wales, Netherlands, New Zealand and Scotland — the findings demonstrate the role of public legal assistance services in providing access to justice to people who may otherwise not obtain any legal information or private legal assistance (see Pleasence & Balmer 2012). Most importantly, strategies to better meet the legal needs of the most disadvantaged appear to depend on the

all. These findings are consistent with qualitative research demonstrating the lower ability of particular disadvantaged groups — such as the homeless, people with a mental illness and prisoners — to access and participate in the justice system (Forell, McCarron & Schetzer 2005; Grunseit, Forell & McCarron 2008; Karras, McCarron, Gray & Ardasinski 2006; Nehu & McDonald 2010; Pleasence et al. 2014; Sandefur 2007).<sup>26</sup>

Consequently, legal education and information strategies may be insufficient and as *stand-alone* strategies for the most disadvantaged. That is, they may be insufficient to successfully resolve the legal problems they experience, and insufficient to successfully change entrenched poor legal problem-solving behaviour

Most importantly, strategies to better meet the legal needs of the most disadvantaged appear to depend on the capacity of not-for-profit services to appropriately meet their legal needs

<sup>26</sup> For instance, clients typically have to make a greater contribution to achieved outcomes when they obtain less intensive (and less expensive) forms of legal assistance such as legal information and self-help resources than they do when they receive more intensive (and more expensive) forms of legal assistance such as legal advice, minor assistance and representation services. That is, they have to do more of the work and perform more of the tasks necessary to successfully resolve the issue (see Pleasence et al. 2014).

(see Coumarelos et al. 2012; Pleasence 2006; Pleasence et al. 2014). For disadvantaged, less capable groups, legal education and information strategies may be more effective as *complementary* strategies to connect them with more appropriate forms of service, such as legal advice, minor assistance and representation (see Coumarelos et al. 2012; Forell & McDonald 2015). To be effective, legal education and information may therefore have to be targeted and tailored to the legal needs and capability of particular disadvantaged groups: to raise awareness of legal rights and what might be done to redress legal problems, and successfully connect them with timely and more appropriate forms of legal assistance (see Pleasence et al. 2014). The potential benefit of education and information strategies specifically intended to signpost disadvantaged people to legal services is indicated by the present finding that those least likely to take action in response to legal problems are those among the most disadvantaged who are unaware of not-for-profit legal services.

... the findings provide compelling new evidence to pinpoint the most disadvantaged as the group least legally capable and at greatest risk of unmet legal need, and further support the view that effective access to justice policy must be need- and client-focused

Recent research suggests that effective community legal education and information strategies may need to extend beyond merely providing knowledge and understanding of legal issues by also developing the skill and confidence (and motivation) necessary to overcome interlocking barriers that constrain action (see McDonald, Forell & People 2014). Improved clarity around who particular legal education and information initiatives are targeted to, and realistic expectations about what they are intended to achieve, would

assist the development of more integrated and coordinated legal information and other assistance services (see Forell & McDonald 2015). Of course, this begs wider questions about what types of public legal assistance services should be available to help those who are less likely to help themselves and how the level of legal assistance can be appropriately matched to individual clients' legal need and capability (see Pleasence et al. 2014).

Third, it is particularly striking that the only type of advisers that the most disadvantaged were significantly more likely to use for their legal problems were health or welfare advisers and not-for-profit legal services. This finding provides stark empirical evidence further identifying health and welfare advisers as important access to justice

pathways, particularly for more disadvantaged and less capable people at heightened risk of unmet legal need (Coumarelos et al. 2012; Coumarelos, Pleasence & Wei 2013; Pleasence et al. 2014). However, health and welfare advisers must be supported to perform this role (see Coumarelos et al. 2012). Better integration and collaboration between health and legal services, such as medico-legal and health justice partnerships, may be a key strategy for better meeting the legal needs and capability of the most disadvantaged (see Coumarelos, Pleasence & Wei 2013; McDonald & Wei 2013; Pleasence et al. 2014). For instance, it has been shown that joining-up between health and welfare and legal services can provide more culturally appropriate and accessible legal assistance services to socially isolated and disadvantaged migrant communities (McDonald et al. 2014; Pleasence et al. 2014).

Fourth, although not-for-profit legal services perform a vital role in extending access to justice to the most disadvantaged, it is of concern that the most disadvantaged exhibited significantly lower awareness of free legal assistance services from CLCs and legal aid than did other respondents. Critically, lack of awareness of public legal assistance services is a primary constraint on the legal capability of the most disadvantaged, and significantly increases their likelihood of inaction. Thus, one key strategy for overcoming barriers to action stemming from lack of awareness of not-for-profit legal services, again, is to better connect with the health and welfare professionals that the most disadvantaged are significantly more likely to try to obtain assistance from. Health and welfare professionals can potentially play an important role as effective legal 'problem noticers' who spot and refer clients to appropriate legal services (Coumarelos et al. 2012; Pleasence 2006). Another key strategy is community legal education and information to signpost the most disadvantaged to accessible and appropriate legal assistance (see Coumarelos et al. 2012; Forell & McDonald 2015; Pleasence et al. 2014). Targeted and tailored legal education and information may therefore be critical to assisting more disadvantaged groups to 'get help', as well as assisting the health and welfare advisers they often use to 'give help' by connecting them with legal assistance (see Forell & McDonald 2015).

Finally, the findings provide compelling new evidence to pinpoint the most disadvantaged as the group least legally capable and at greatest risk of unmet legal need, and further support the view that effective access to justice policy must be need- and client-focused. A holistic and multifaceted approach is necessary to cater for diverse legal needs and capability across the whole community (Coumarelos et al. 2012). Given the lower legal capability of the most disadvantaged, targeted and tailored assistance strategies are critical to their access to justice. More broadly, to most efficiently and effectively assist

more disadvantaged people and groups, services should be *targeted* to reach those with the highest legal need and lowest capability, *joined-up* with other services to address complex life problems and provide effective legal pathways, *timely* to minimise the impact of problems and maximise the utility of services, and *appropriate* to the legal needs and capability of users (see further Pleasence et al. 2014).

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## Appendix: Statistical tables

APPENDIX TABLE A1: PARAMETER ESTIMATES FOR MULTILEVEL LOGISTIC REGRESSION ON TAKING ACTION (CF. INACTION)

		Taking action		
		$\beta$	SE	OR*
<b>FIXED EFFECTS</b>				
Gender (cf. male)	Female	<b>0.276</b>	<b>0.038</b>	<b>1.32</b>
Age (cf. 65+)	15–17	-0.051	0.107	0.95
	18–24	0.100	0.084	1.11
	25–34	<b>0.165</b>	<b>0.079</b>	<b>1.18</b>
	35–44	<b>0.171</b>	<b>0.081</b>	<b>1.19</b>
	45–54	<b>0.177</b>	<b>0.082</b>	<b>1.19</b>
	55–64	0.078	0.086	1.08
Level of disadvantage (cf. none)	1 or 2 types	<b>-0.246</b>	<b>0.074</b>	<b>0.78</b>
	3 or more types	<b>-0.485</b>	<b>0.090</b>	<b>0.62</b>
Awareness (cf. not aware)	Aware	<b>0.179</b>	<b>0.079</b>	<b>1.20</b>
Level of disadvantage × Awareness	1 or 2 types × aware	0.129	0.096	1.14
	3 or more types × aware	<b>0.278</b>	<b>0.119</b>	<b>1.32</b>
Problem severity (cf. minor)	Substantial	<b>0.784</b>	<b>0.046</b>	<b>2.19</b>
Problem type (cf. average)	Accidents	<b>-0.345</b>	<b>0.067</b>	<b>0.71</b>
	Consumer	-0.058	0.046	0.94
	Credit/debt	<b>-0.288</b>	<b>0.075</b>	<b>0.75</b>
	Crime	<b>-0.565</b>	<b>0.046</b>	<b>0.57</b>
	Employment	<b>0.160</b>	<b>0.081</b>	<b>1.17</b>
	Family	<b>0.610</b>	<b>0.099</b>	<b>1.84</b>
	Government	<b>0.147</b>	<b>0.067</b>	<b>1.16</b>
	Health	<b>-0.440</b>	<b>0.107</b>	<b>0.64</b>
	Housing	<b>0.274</b>	<b>0.065</b>	<b>1.32</b>
	Money	<b>0.959</b>	<b>0.122</b>	<b>2.61</b>
	Personal injury	-0.034	0.073	0.97
	Rights	<b>-0.421</b>	<b>0.077</b>	<b>0.66</b>
Constant		<b>1.069</b>	<b>0.096</b>	
<b>RANDOM EFFECTS</b>				
State		0.011	0.013	
Person		0.054	0.055	

Note: N=19,142 legal problems. Significant findings (at the 95% level) are presented in bold.

\* Significant odds ratios (ORs) are presented in bold. A bolded OR>1.0 indicates that the non-reference category (e.g. female) had significantly higher odds of taking action than the reference category (e.g. male). A bolded OR<1.0 indicates that the non-reference category had significantly lower odds. The size of the bolded OR indicates the strength of the relationship. E.g. Bolded OR=2.0 means that the odds for the non-reference category were twice those for the reference category. Bolded OR=0.5 means that the odds for the non-reference category were half those for the reference category, or, in other words, that the odds for the reference category were twice those (i.e. 1/0.5=2.0) for the non-reference category.



**APPENDIX TABLE A2: MULTINOMIAL REGRESSION ON HIGHEST-LEVEL LEGAL PROBLEM-SOLVING STRATEGY (CF. ACT WITHOUT PROFESSIONAL INFORMATION OR ADVICE)**

		<i>Self-help resource</i>		<i>Non-legal adviser</i>		<i>Private lawyer</i>		<i>Not-for-profit legal service</i>	
		$\beta$	SE	$\beta$	SE	$\beta$	SE	$\beta$	SE
<i>FIXED EFFECTS</i>									
<b>Gender (cf. male)</b>	Female	-0.050	0.072	<b>0.178</b>	<b>0.049</b>	-0.134	0.079	-0.009	0.095
<b>Age (cf. 65+)</b>	15–17	0.048	0.250	<b>-1.069</b>	<b>0.147</b>	<b>-1.222</b>	<b>0.265</b>	<b>-1.131</b>	<b>0.396</b>
	18–24	<b>0.470</b>	<b>0.165</b>	<b>-0.676</b>	<b>0.109</b>	<b>-0.857</b>	<b>0.173</b>	-0.067	0.219
	25–34	<b>0.808</b>	<b>0.150</b>	<b>-0.236</b>	<b>0.102</b>	-0.016	0.151	-0.148	0.205
	35–44	<b>0.670</b>	<b>0.154</b>	-0.027	0.096	0.207	0.144	0.151	0.193
	45–54	<b>0.430</b>	<b>0.156</b>	0.018	0.099	0.254	0.151	-0.085	0.196
	55–64	<b>0.537</b>	<b>0.171</b>	0.086	0.111	<b>0.410</b>	<b>0.169</b>	-0.211	0.227
<b>Level of disadvantage (cf. none)</b>	1 or 2 types	-0.114	0.082	<b>-0.140</b>	<b>0.057</b>	<b>-0.248</b>	<b>0.087</b>	<b>0.270</b>	<b>0.120</b>
	3 or more types	<b>-0.623</b>	<b>0.122</b>	<b>-0.358</b>	<b>0.076</b>	<b>-0.519</b>	<b>0.117</b>	<b>0.690</b>	<b>0.139</b>
<b>Awareness (cf. not aware)</b>	Aware	0.080	0.077	<b>0.144</b>	<b>0.053</b>	0.161	0.083	<b>4.604</b>	<b>0.314</b>
<b>Problem severity (cf. minor)</b>	Substantial	<b>0.331</b>	<b>0.073</b>	<b>0.663</b>	<b>0.051</b>	<b>1.488</b>	<b>0.081</b>	<b>1.728</b>	<b>0.104</b>
<b>Problem type (cf. average)</b>	Accidents	<b>-0.479</b>	<b>0.201</b>	<b>0.997</b>	<b>0.091</b>	<b>-0.620</b>	<b>0.205</b>	0.100	0.260
	Consumer	0.143	0.078	<b>-1.904</b>	<b>0.066</b>	<b>-2.163</b>	<b>0.110</b>	<b>-2.694</b>	<b>0.167</b>
	Credit/debt	<b>-0.441</b>	<b>0.153</b>	<b>-1.290</b>	<b>0.095</b>	<b>-0.552</b>	<b>0.139</b>	<b>-0.605</b>	<b>0.176</b>
	Crime	<b>-0.682</b>	<b>0.166</b>	<b>1.178</b>	<b>0.074</b>	0.151	0.117	<b>1.003</b>	<b>0.125</b>
	Employment	0.232	0.144	<b>0.316</b>	<b>0.088</b>	0.042	0.128	-0.277	0.181
	Family	0.172	0.174	<b>-0.243</b>	<b>0.114</b>	<b>1.546</b>	<b>0.132</b>	<b>2.017</b>	<b>0.142</b>
	Government	<b>0.664</b>	<b>0.099</b>	<b>-0.814</b>	<b>0.071</b>	<b>-0.680</b>	<b>0.111</b>	<b>-0.581</b>	<b>0.147</b>
	Health	<b>0.648</b>	<b>0.246</b>	<b>0.730</b>	<b>0.145</b>	-0.177	0.218	-0.374	0.308
	Housing	<b>0.373</b>	<b>0.107</b>	<b>-0.363</b>	<b>0.070</b>	-0.137	0.099	0.115	0.129
	Money	0.085	0.162	<b>-0.485</b>	<b>0.093</b>	<b>1.382</b>	<b>0.113</b>	<b>0.485</b>	<b>0.167</b>
	Personal injury	-0.496	0.308	<b>1.637</b>	<b>0.121</b>	<b>1.512</b>	<b>0.150</b>	<b>0.870</b>	<b>0.229</b>
	Rights	-0.228	0.187	<b>0.227</b>	<b>0.098</b>	<b>-0.334</b>	<b>0.159</b>	-0.070	0.188
<b>Constant</b>		<b>-2.145</b>	<b>0.166</b>	<b>0.668</b>	<b>0.102</b>	<b>-1.610</b>	<b>0.158</b>	<b>-7.044</b>	<b>0.347</b>
<i>RANDOM EFFECTS</i>									
<b>Person</b>		<b>0.991</b>	<b>0.155</b>	<b>0.741</b>	<b>0.110</b>	<b>2.242</b>	<b>0.261</b>	<b>1.871</b>	<b>0.352</b>

Note: N=15,646 legal problems where action was taken. Significant findings (at the 95% level) are presented in bold.



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