



Beyond great expectations: modest, meaningful and measurable community legal education and information

Suzie Forell and Hugh M. McDonald¹

Abstract: *Great expectations accompany many community legal education and information (CLEI) strategies – as tools to empower, to prevent legal issues escalating and to improve access to justice. But are these expectations realistic? This paper seeks to identify, specifically and more modestly, what different CLEI strategies may actually provide: to whom, when and to what end.*

To move beyond the great expectations, this paper provides a model for identifying different types of CLEI – by user, timing and purpose. The model can support the design, planning and evaluation of CLEI within organisations, and in collaborative planning across the legal assistance sector. It can help link CLEI to other legal assistance strategies. The model applies equally to face-to-face education sessions, hardcopy resources and online innovations.

Background

The aim of community legal education and information (CLEI) is to enhance the legal capability of the public, and to help meet diverse needs across the whole community (Coumarelos, Macourt, People, McDonald, Wei, Iriana & Ramsey 2012; Productivity Commission 2014b). But in practical terms, what does this mean and how can we tell when we have achieved this aim?

Community legal education (CLE) and community legal information (CLI) are integral parts of legal assistance services in Australia and have been for many years. The function was written into legislation establishing legal aid commissions in Australia in the 1970s (e.g. *Legal Aid Commission Act 1979* (NSW), *Legal Aid Act 1978* (VIC)) and CLEI has been a key strategy of community legal centres (CLCs) since their inception (Federation of Community Legal Centres Victoria 2011).

Indeed, the genesis of CLEI during this period of community-based activism and access to justice reforms is critical to ways in which CLEI is understood and practiced today. CLEI was seen then – and often is now – as a tool to empower individuals to identify, understand and enforce their legal rights, both in specific situations (such as arrest) and as empowered and engaged legal citizens more generally (Federation of Community Legal Centres Victoria 2011). To provide one example, one community legal centre describes the role of its CLE work as:

- To raise awareness about the law and legal processes
- To increase community understanding of how the law and the legal system impacts on our lives
- To assist people to actively participate in the law making process and to pursue law *reform through collective action*. (Illawarra Community Legal Centre 2015).²

¹ This paper has been developed from a conference paper delivered to the International Legal Aid Group Conference, Edinburgh, 10-12 June 2015 (see Forell 2015) and a report on CLEI at Legal Aid NSW (Forell & McDonald 2015).

² See also Community Development and Legal Education Working Group (CDLEWG) 2010, p. 12

Today, the 2015 National Partnership Agreement on Legal Assistance Services (NPALAS) provides the policy and funding framework for some Commonwealth funded legal services in Australia.³ The 2015 NPALAS aims to facilitate five outcomes, including that ‘legal assistance services help empower people to understand and assert their legal rights and responsibilities and to address, or prevent legal problems’ (Council of Australian Governments (COAG) 2015, p. 3). Information and CLE are two of the envisaged ‘legal assistance services’ to realise NPALAS outcomes, and they are perhaps the strategies most likely to be utilised to help people understand and assert their legal rights and responsibilities (COAG 2015, p. 6).

As an empowerment tool and prevention strategy, CLEI is sometimes ascribed great, indeed, transformative expectations: improved legal capability,⁴ improved access to justice, and prevention of escalating legal need. While such broadly expressed goals are valuable statements of intent, they do not identify outcomes that can be monitored and evaluated.

This is particularly so given that CLEI strategies are typically relatively short and generic interventions – ranging from face-to-face workshops and presentations, to interactive web-based resources and tools, to step-by-step guides, brochures and other publications, with a broad spectrum of intended users – and provide generic information rather than legal advice based on a client’s individual circumstances.

Such broad expectations have at least two risks. One is the political temptation to rely on relatively simple and relatively inexpensive strategies to improve access to justice, without taking into account the barriers people face in successfully resolving their legal issues. The second is that insufficient consideration is given to exactly how, for what, and when different CLEI strategies can most effectively and efficiently engage with the varying needs and capabilities of users to successfully address and resolve legal problems, and where the limits of these strategies lie.

Relevant here is the paucity of evidence demonstrating what CLEI ‘works’: for whom, under what circumstances, and at what cost. In their systematic review of the effectiveness of CLE, Wilczynski, Karras and Forell (2014) found limited research evidence demonstrating the impact of CLE. This was not a finding that CLEI is ineffective

per se, but rather that there was limited empirical evidence to show whether or not CLEI strategies had achieved intended outcomes. Broadly expressed, the ‘great expectations’ placed on CLEI contribute to the challenge of planning and evaluating CLEI strategies, if for no other reason that it is difficult to specify and measure what ‘success’ is.

In yet other work we have noted how deficits in personal legal capability mean that there are limits on what unbundled forms of legal assistance such as CLEI are likely to achieve. Better recognising these limits is also essential for identifying for whom and under what conditions CLEI strategies are demonstrated to ‘work’ (see Pleasence et al. 2014; McDonald, Forell, Wei & Williams 2014).

CLEI framework

Looking beyond the great expectations of CLEI, this paper examines what different CLEI strategies may actually provide, to whom, when and to what end. This means also thinking about how CLEI strategies might ‘dovetail’ with more intensive forms of legal assistance to extend utility and improve access to justice for different client groups, rather than approaching CLEI as a one-shot, stand-alone tool.

The discussion leads to a model for identifying different types of CLEI – by user, purpose and timing – to support the design, planning and evaluation of CLEI.

The CLEI framework developed in this paper stems from a broader project the Law and Justice Foundation of NSW (Foundation) is working on with an Australian legal aid organisation (Forell & McDonald 2015). The framework is intended to support decision making about whether to use certain CLEI strategies, when, for whom and to what end, and to inform thinking about the appropriate use of technology to meet the needs of different users.

This project is also part of a broader research agenda at the Foundation focused on identifying what works to address the legal need and access to justice barriers identified in ongoing empirical research, as well as through on-the-ground service provision. Our approach to evaluating legal assistance services has been to start with the nature of the problem identified, then consider what outcomes are intended, and finally to ask which strategies may contribute to that end.

Also relevant, we are focusing in particular on CLEI as a function of legal assistance services such as legal aid commissions, community legal centres (CLCs) and Aboriginal and Torres Strait Islander legal services (ATSILS). These services typically have a broad mandate e.g. ‘to help people to understand and protect their legal rights, through advice, advocacy, representation and education’ (Legal Aid

3 The 2015 NPALAS was preceded by the 2010 agreement, which similarly emphasised the role of community legal education and legal information to ‘inform and build individual and community resilience’ (COAG 2010, p. 4).

4 Legal capability refers to the knowledge, skills, psychological & resource aspects that affect what people are able to do themselves to resolve legal problems (see Pleasence, Coumarelos, Forell & McDonald 2014, p. 130).

NSW 2013) but constrained by funding limitations,⁵ services to disadvantaged people and communities are commonly prioritised (COAG 2010, 2015; Productivity Commission 2014b).

Herein lies a common service challenge for legal assistance services: the ongoing tension between using their scarce resources to do a lot for fewer people – but focusing on those who have the most need – or doing a little for a lot more people (Pleasence et al. 2014). Our argument here is that CLEI is not simply the least expensive option for the broad community, leaving more intensive forms of legal assistance, such as minor assistance (or legal task), duty lawyer and representation services for the most disadvantaged.

Rather, CLEI should be viewed as an element within a broader continuum of available legal assistance service options. CLEI often complements, and is complemented by, other legal assistance strategies. Instead of a simple trade-off between CLEI and legal advice, effectiveness and efficiency at times will require both; and/or potentially, minor assistance and duty services. CLEI may also be vital for realising the type of targeted, collaborative and joined-up legal assistance services envisaged by the 2015 NPALAS.

A broader view of the diverse uses and purposes of CLEI which takes into account form, mode and audience supports a more nuanced understanding of the role of CLEI in not only extending access to justice and legal capability, but also in providing more effective and efficient legal assistance services (see also Pleasence et al. 2014).

Technology and the service environment

Discussion of CLEI is incomplete without reference to the way technology is rapidly transforming CLEI and opening up new opportunities.

In a review of the use of technology to improve service delivery to people on low incomes, Roger Smith (2014) describes a ‘profusion of creativity’ with more intuitive, interactive tools to take users through

to the resolution of their issues. In New South Wales, technology-based CLEI options include extensive online plain language legal information, websites such as LawAccess NSW’s LawAssist and Legal Aid NSW’s recently revitalised *Best for Kids*, the Legal Aid NSW app and Legal Aid NSW webinars.

Internationally, the Dutch *Rechtwijzer 2.0* site (<http://www.hiil.org/project/rechtwijzer>) which guides users through dispute resolution – interestingly, blurring the boundaries between information, education and more intensive assistance – is an example of the use of technology to deliver innovative solutions.

The use of technology for the provision of CLEI (together with other access to justice innovations) is another area of ‘great expectation’, promising broader access options and potential cost savings and efficiencies (Smith 2014; Smith & Paterson, 2013; Cabral, Chavan, Clarke et al. 2012). As Smith and Paterson (2013, 2014) note, the need for evaluations to consider *who* innovations best assist and how, is equally warranted.

There is a growing body of research on the limits of technology-based CLEI, notably for certain groups and legal issues. Smith (2014) and Hough (2012) among others, have pointed to the limitations of some technology-based CLEI for those people with fewer resources and lower capability. Researchers have identified a three-tier digital divide. The first relates to internet access and is rapidly closing (at least in Australia, for those aged under 65 years and for those living in locations with access to high speed internet).⁶ As this access divide has been bridged, attention has turned to the second and third digital divides.

The second digital divide relates to technical competency, that is the skills and experience needed to operate and make effective use of technology. The third digital divide exposes the important empirical question of whether or not users have the interest, awareness and willingness to try to use technology to solve legal problems (see Denvir 2014; Smith 2014; Denvir, Balmer & Pleasence 2011, 2014; Hough 2012, Forell, Laufer & Diguisto 2011).

As Denvir (2014) has demonstrated, even where the first and second digital divides are bridged, which is generally the case in relation to young people who use

⁵ For example, based on 2012–2013 figures, the Productivity Commission (2014a, p. 29) calculated that total government funding of the four main providers of public legal services (legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services and family violence prevention services) accounted for only 0.14 per cent of total government spending in Australia. Given limited available resources, public legal assistance is prioritised to disadvantaged clients and communities, while more intensive (and more costly) forms of legal assistance (e.g. representation) are only available to a tightly defined group of clients (subject to means and merit testing) or for a defined set of legal issues (mainly criminal and some family matters). Any legal assistance made more broadly available tends to be in the form of ‘prevention’ services (information and education), ‘early intervention’ services (advice, minor assistance and duty services) and dispute resolution services.

⁶ In Australia in 2012–2013, 83 per cent of respondents to a household survey were internet users. More than 94 per cent of those in age groups up to 44 years of age had used the internet in the previous year, as had 89 per cent of those aged 45–54, 78 per cent of those aged 55–64 and 46 per cent of those aged 65 years and over (Australian Bureau of Statistics 2014). Researchers also acknowledge the additional barriers that technology can provide to users when services (including CLEI) default to online options (Hough 2012, pp. 262–3). Clear examples include the impact of lack of bandwidth in rural and remote areas (a particular issue in Australia), the cost of internet access and download limits (again perhaps more of an issue in Australia).

technology extensively, it cannot be assumed that extensive users will be either inclined or capable of making effective use of online legal information to help resolve legal problems. Successful online legal information retrieval still requires some knowledge to perceive a problem as being 'legal' or potentially having a legal solution. Skill is required to access an appropriate source of information or frame an appropriate search term, and to sift through search results to find relevant and up-to-date information for a particular jurisdiction. Even once information has been obtained, users still have to interpret, analyse and apply it in a goal-orientated and problem-solving way. In fact, extensive users might actually be *less* inclined to independently seek out and use legal information when they are busy using technology for other activities.

Research into CLEI

In contrast to the broad and often beguiling expectations placed on CLEI (including the use of technology to deliver innovative solutions), particularly at the policy level, the idea that CLEI does not work for everyone, nor every type of legal problem, has been emphasised by researchers and specialist CLEI practitioners.

There is a considerable body of research which indicates that the utility of CLEI strategies depends on both the legal capability of the individual users (such as their personal characteristics, resources and willingness to engage in self-help) and the nature and complexity of the legal tasks (Hunter, Banks & Giddings 2007, 2009; Lawler, Giddings & Robertson 2009, 2012; Pleasence et al. 2014; Robertson & Giddings 2014). Non-routine legal tasks involving the exercise of substantial discretions are particularly ill-suited to self-help strategies (see Lawler et al. 2009, 2012; Pleasence et al. 2014; Robertson & Giddings 2014).

Indeed, extensive literature has cautioned that one-size-fits-all education strategies are less effective than strategies tailored to address specific issues faced by particular groups of people at particular times (see Coumarelos et al. 2012; Pleasence et al. 2014). Self-help strategies appear to be a more viable option for people with higher legal capability who are able to benefit from CLEI initiatives which enhance their ability to solve problems themselves (Barendrecht 2011; Coumarelos et al. 2012; Pleasence et al. 2014).

Others note that, because some people have limited legal capability due to literacy, language or communication problems, CLEI will often only be *preliminary steps* towards legal resolution (Balmer, Buck, Patel et al. 2010; Buck, Pleasence & Balmer 2007; Coumarelos et al. 2012; Pleasence et al. 2014). For this group of users, CLEI strategies should not be seen as stand-alone services providing complete

solutions, but rather as a link or supplement to other legal services, particularly at points of pressing or urgent action (see Coumarelos et al. 2012; Lawler et al. 2009, 2012; Pleasence et al. 2014; McDonald, Forell et al. 2014). Researchers have also frequently further cautioned against seeing CLEI as being either a cheap *alternative* or a *replacement* for legal advice and assistance services (see Coumarelos et al. 2012; Giddings & Robertson 2003; Pleasence et al. 2014).

Lawler et al. (2012) point to a crucial distinction in the effectiveness of more general CLEI resources designed to raise broad awareness and understanding of legal rights and responsibilities, and more specific and tailored resources designed to assist people to self-help with particular legal problems in times of legal exigency (e.g. 'just in time' compared to 'just in case' resources).

Thus, research indicates the importance of having a considered approach to both to the selection of CLEI as a stand-alone legal assistance strategy (rather than advice or minor assistance for instance), and to the design and application of any particular CLEI strategy. It points to consideration of *who* CLEI strategies aim to assist, *how* CLEI strategies may make a difference and the *timing* of CLEI.

This reflects the thinking in *Reshaping legal assistance services: building on the evidence base: a discussion paper* (Pleasence et al. 2014), which proposed that to most efficiently and effectively assist those with the disproportionate amount of legal need, but lower capability to address that need, services should be client focused. This involves services being:

- **targeted** to reach those with the highest legal need and lowest capability
- **joined-up** with other services, to address complex problems
- **timely** to minimise the impact of problems and maximise the utility of the services
- **appropriate** to the needs and capabilities of users.

These concepts, also reflected in the NPALAS 2015, apply equally to all legal assistance strategies, including CLEI strategies, and should inform service strategies directed to disadvantaged people, as well as those intended for the general community.

Picking up on the limitations noted in the research, and drawing on the analysis in Pleasence et al. (2014), we see significant value in articulating more specific, measurable, assigned (i.e. linked to the target group) and achievable objectives for CLEI. This applies particularly in relation to CLEI provided by fund-limited legal assistance services charged with extending access to justice and promoting community understanding of their rights and responsibilities under the rule of law.

The diverse uses of CLEI

CLEI is used for a range of purposes and provided in a range of forms. While broadly speaking, CLEI is used to extend access to justice by enhancing legal capability, a comprehensive review of the CLEI activities of a large legal aid organisation – Legal Aid NSW⁷ – suggested a typology of purposes distinguished by audience, timing and intended outcome.

Legal Aid NSW describes the role of CLE as being to:

Equip people with the awareness, knowledge and skills needed to successfully resolve the law-related problems encountered in everyday life (Legal Aid NSW 2013, p. 27).

Further describing the rationale for such services, they also note:

CLE helps people anticipate and avoid legal problems, act more quickly when problems do occur and deal with legal issues more effectively through knowing when and where to get expert help (Legal Aid NSW 2013, p. 27).

Within these broad aims, there appear to be at least two quite differing purposes or roles for CLEI. First, CLEI is provided to ‘help clients help themselves’: to give clients tools to address their legal problems independently, and with no or limited further call on legal assistance. An anticipated impact of ‘self-help’ CLEI may be that while the number of people using CLEI services will increase, the number of clients seeking more intensive assistance (advice, minor assistance, and representation) may reduce.

Second, CLEI is provided to broaden the awareness of legal problems and of particular services as a source of assistance to resolving those problems. This type of CLEI tends to be directed towards more disadvantaged and hard-to-reach client groups, as well as those who support them. The anticipated impact of effective CLEI in these terms may be that the numbers of clients seeking more intensive assistance (advice, minor assistance, representation) may increase.

Of note, these differing uses of CLEI reflect the broader tension facing many legal assistance services which seek to reconcile the need to prioritise services to the most disadvantaged with a broader agenda of addressing the legal needs of those who may not qualify for more intensive forms of legal assistance.

Thinking about these different purposes for CLEI illustrates how the design of CLEI strategies and consequently, the subsequent measures of success, must also vary.

⁷ The review analysed administrative data concerning CLE sessions and CLI materials distributed by Legal Aid NSW or accessed online from their website during a 12-month period (1 October 2013–30 September 2014; see Forell & McDonald 2015). This review did not address the issue of the quality.

CLEI to ‘self-help’

CLEI resources are used to promote and support self-help in a number of ways and take distinct form depending upon whether or not they seek to provide legal information on a ‘just in case’ or a ‘just in time’ basis. This distinction is important because providing the wrong type of material to the wrong clients at the wrong time may be wasted effort.

‘Just in case’ CLEI

A range of CLEI resources developed by legal assistance providers aim to assist clients to ‘self-help’ (or ‘get help’) when it is needed in the *future*. Some of these resources are foundational CLEI which aims to provide basic knowledge about the law and legal processes, such that users understand laws that affect them and can identify options for resolution when issues arise. Examples of this type of preventive or ‘just in case’ CLEI includes information about police powers to young people, CLE on cyberbullying and sexting, broad information about the law and justice system, and information about legal issues faced by older people, such as planning for the future.

In this type of CLEI, consideration needs to be given to exactly which access to justice barriers self-help materials can address as well as those which they do not, or cannot.

To provide one example, a common rationale for the provision of CLEI is that people do not take action about a legal problem because they do not recognise the problem as legal and because they ‘don’t know what to do about it’. Indeed, *lack of knowledge* has been identified as a key barrier to people taking action (Buck, Pleasence & Balmer 2008; Denvir, Balmer & Pleasence 2013; Coumarelos et al. 2012). The Legal Australia-Wide (LAW) Survey found that around one in five (21.4%) respondents indicated that they ‘didn’t know what to do’ as a reason for not taking any action about a problem.⁸ However, further analyses of the LAW Survey dataset by McDonald, Forell and People (2014) indicate that not knowing what to do about a legal problem is rarely the *only* reason for inaction and was more commonly reported in combination with several other reasons for inaction.⁹ Of particular interest is the range of other reasons that ‘didn’t know what to do’ was found to cluster with, namely: that it ‘would be too stressful’; ‘would take too long’; ‘would cost too much’; ‘would damage the relationship with the other side’, and that the respondent ‘had bigger problems’ to deal with. This combination of reasons point to ‘constrained’ rather than ‘informed’

⁸ Other reasons indicated for inaction included that: it would make no difference (56.2% of those who took no action); they didn’t need information or advice (39.2%); had bigger problems (31%) (Coumarelos et al. 2012, pp. 98-99).

⁹ In less than one per cent of legal problems for which no action was taken was ‘didn’t know what to do’ the only reason in a list provided that respondents endorsed for inaction.

inaction – as identified by Balmer et al. (2010)¹⁰ – and suggest that barriers to action are often complex, such that CLEI that seeks *only* to address deficiencies of legal knowledge and understanding may be of limited utility in terms reducing unmet legal need.

These findings remind us that while increasing legal knowledge is often a vital and necessary ingredient of promoting access to justice, it may not, in and of itself, be sufficient. Motivation, emotional resilience, a belief that the steps taken will make a difference, skills to follow the steps suggested, and time and resources to act, are just some of the other requirements.¹¹

Public legal education (PLE) frameworks in the United Kingdom in particular engage with this complexity and aim to build capability across a range of domains. A valuable evaluation framework for this type of PLE has been developed (see Collard, Deeming, Wintersteiger, Jones & Seargeant 2011; PLEAS Taskforce 2007).

However, the intensity of CLE required to build such capabilities will often be beyond the capacity of many CLE interventions provided by legal assistance services, which are more typically up to a couple of hours. Further, there will be barriers relating to the complexity of people’s lives that are beyond the scope of any CLE, particularly for those with the disproportionate amount of need (see further Pleasence et al. 2014).

While these observations may seem obvious, they are often not reflected in the expectations for CLEI that are commonly articulated.

‘Just in time’ CLEI

Other self-help resources provide ‘just in time’ assistance, to assist people to progress through steps required to resolve an *existing* legal problem. Examples include:

- Victoria Legal Aid’s Summary Crime Fact Sheets (e.g. *‘Pleading Guilty’*, see Victoria Legal Aid 2015)
- Divorce classes run by Legal Aid NSW

- LawAccess NSW’s LawAssist webpages (which take users through legal processes for issues such as debt and small claims, fines and car accidents).

Recognising that “most people *seek* legal information on a need-to-know basis” (McEown & Reid, 2007, p. 19; see also Byrne 2014) just in time, self-help CLEI tends to focus on the procedural and the particular – helping users progress a matter from one step to the next. This is a type of CLEI for which new communication technologies appear to hold promise, particularly when they are able to help users to quickly progress from simple information to more personalised assistance and even advice as required (e.g. access to in-time telephone or chat support (see Smith 2014).

The success of ‘just in time’ CLEI should ultimately be measured by successful resolution of the issue. To be realistic and achievable, however, consideration must extend to who these services are most appropriately directed to – such as those with higher legal capability that have particular types of legal problems – and how these strategies might link into more intensive support when roadblocks to resolution are reached.

By way of contrast, measures such as changes in knowledge before and after the CLEI, and say six months later, may be far less relevant. The CLEI is provided to assist users to self-help through a particular process, not necessarily to retain that knowledge. If success requires that legal information be retained for six months, for instance, then perhaps the timing of the assistance was wrong!

Consideration of CLEI as ‘just in case’ or ‘just in time’ is also key in understanding differences in the way people will ‘find’ and access CLEI. The observation that people will tend to look for information when they need to know it, reminds us equally that people are *less likely* to be looking for information ‘just in case’. This has implications for the distribution strategy for each type of CLEI, with potentially more effort required to reach out with ‘just in case’ information’ to those who services anticipate could benefit from their information.

Who uses self-help materials?

Some recent analysis of the LAW Survey data undertaken by McDonald and Wei (forthcoming) provides further insight. Their analysis indicates that while CLEI resources are widely available, use of legal information and self-help tools by the general community remains relatively low. For example, a self-help resource was used for 19.5 per cent of problems, but it was the highest level of action (or the most intensive assistance sought) for only 8.7 per cent of problem). Notably, those with three or more indicators of disadvantage

10 Balmer et al. (2010) drew a distinction between informed and constrained inaction in response to legal problems. The former means correctly deciding that taking action is unnecessary; while the latter means that the individual wants to act but is constrained from doing so by factors such as a lack of legal knowledge and capability.

11 In time, knowledge of an issue as ‘legal’ may become a less critical precondition for reaching legal help. For instance, we noted that most searches for legal information on the Legal Aid NSW website originated in Google. Among information resources with the highest number of page views were resources titled to reflect a specific problem or question: ‘What happens when your relationship ends?’ ‘My ex-partner has taken our children without my permission. What can I do?’. By way of contrast ‘Do you have a legal problem’ received many fewer page views (Forell & McDonald 2015).

tried a self-help resource for 14.9 per cent of their problems, but it was the highest level of action for only 3.6 per cent of problems.

These findings reflect other research indicating that self-help materials are less suited to those with lower capability (see Coumarelos et al. 2012; Pleasence et al. 2014).

Given that self-help options appear better suited to particular demographic groups – and not necessarily those who are the priority clients for legal assistance services (e.g. COAG 2015) – services need to consider how much to invest in these strategies. To make these decisions, services need to know what impact these resources have and for whom. Who can successfully use these resources? Might the availability of timely additional support (e.g. advice by phone, email or chat service) when users reach a roadblock in the process significantly increase their prospect of completing the required tasks? What is the cost of providing CLEI (plus further assistance) which is effective in supporting clients to successfully resolve their legal issues – or, more modestly, to the next step required in the process?

Identifying the purpose of self-help CLEI as being to either progress existing issues (i.e. ‘just in time’) or to prevent issues arising or prompt appropriate and timely action when they do (i.e. ‘just in case’) allows more specific and meaningful questions about the costs and the realistic benefits of these strategies, and for what type of users and legal issues they are most effective.

CLE for community workers to ‘give help’

Many legal assistance services target their CLEI to community workers because research has shown that non-legal services are a key pathway between disadvantaged people and legal assistance services (e.g. Scott & Sage 2001; Coumarelos et al. 2012). In the review of Legal Aid NSW’s CLEI activities, we found that more than half (51.5%) of CLE events were for community workers and other professionals only. One-quarter (24.9%) involved both workers/professionals and community members, while nearly one-quarter (23.6%) were for community members only (Forell & McDonald 2015).

Of note, the majority of Legal Aid NSW’s CLE on issues concerning people with disabilities (80.0%) and homeless people (76.1%) were for community workers only. In comparison, 23 per cent of CLE on issues concerning young people, 48 per cent of CLE concerning people in domestic violence situations and 55 per cent of CLE concerning separating families were for community workers only.

The high proportion of Legal Aid NSW’s CLE to community workers in part reflects the rollout of a new project to engage community organisations to

participate in a policy initiative to help clients reduce their fine debt.¹²

The high proportion also reflects a deliberate and evidence-based strategy (used particularly in relation to family and civil issues) to target education to the types of community workers – or ‘legal problem noticers’ – who can be harnessed to provide a pathway between disadvantaged client groups and legal assistance services (see Coumarelos et al. 2012; McDonald, Forell, Wei et al. 2014; Pleasence et al. 2014). The value of this type of CLEI was highlighted by solicitors in a recent evaluation we undertook of outreach legal services to newly-arrived and recently-arrived migrant communities in Sydney (McDonald et al. 2014). In this program, CLE to caseworkers was a critical element of the outreach advice service:

It’s meant that we’ve been doing an enormous amount of CLE and it has been very much focussed on ... the case worker as like the problem solver, the problem spotter. They’re sort of the broker between us and the client so that is where a lot of our energy has gone in the promotion of the services (Legal Aid manager, in McDonald et al. 2014, p. 35)

As pointed out by the family law solicitor – the intention of this CLE strategy is clear:

I wanted them to be our client spotters, I wanted them to know when to refer, when not to refer, how to make appropriate referrals. (Family solicitor, in McDonald et al. 2014, p. 35)

A meaningful measure of the success of this type of CLE work is an increase in referrals to the outreach clinic.

Importantly, the style of CLEI for caseworkers and other professionals will necessarily differ from CLEI delivered directly to clients. As observed in a recent Canadian review of public legal education and information formats and delivery channels ‘...the educational needs of intermediaries are not identical to those of their clients’ (Byrne 2014, p. 16).

CLE for community members to ‘get help’ and ‘reinforce help’

The review of Legal Aid NSW’s CLEI also indicated that while most of the CLE to assist homeless people and people with disability was provided via caseworkers and other professionals, nearly half (47.9%) of the CLE to newly arrived migrants, and 41 per cent of CLE events targeting people from culturally and linguistically diverse (CALD) backgrounds were to community members only, and

¹² One new Legal Aid NSW initiative within the period of review, the Work and Development Order (WDO) service, accounted for a total of 22 per cent of CLE events to community workers/professionals only. Work and development orders allow eligible clients to reduce fine debt through unpaid work with an approved organisation and through certain courses or treatment. As part of the WDO service, Legal Aid NSW provides education sessions for service providers interested in becoming approved WDO sponsors.

a further ten per cent of each were to community members and workers together.

The high proportion of CLEI directed towards newly arrived migrants, and to CALD communities more broadly, reflects the outreach advice service described above, providing legal assistance services in migrant resource centres (MRCs), during the audit year (see McDonald, Forell et al. 2014). In addition to CLEI directed to community workers in MRCs, CLEI was also used to provide information about Australian laws relevant to issues target clients may be experiencing, and to raise awareness of the onsite legal outreach service that can assist them:

I think one of the main reasons why we have a huge focus on CLEI for our migrant, refugee, CALD communities, is because the family law system in Australia is so different ... to back home. There's lots of misunderstanding, lots of misconception, lots of concerns, lots of fears about the family law system in Australia. (Family solicitor, in McDonald et al. 2014, p. 38)

However, the CLEI was not simply about providing knowledge. In the context of effective legal outreach services, the CLEI was also used as a tool to provide a face to the outreach, and to build a relationship and trust between marginalised client groups and the legal service provider:

... doing CLEI with community members I think just increases the trust that the service has and, you know, gets your face out there so you're recognisable ... it's still incredibly important to, you know, have that trust and have the people recognise you and sort of know who you are. (Outreach solicitor, in McDonald et al. 2014, p. 39)

The importance of building trust to facilitate service provision, particularly to marginalised groups, is detailed in evidence-based guidelines for providing legal outreach (Forell & Gray 2009; Forell, McDonald, Ramsey & Williams 2013; Pleasence et al. 2014, pp. 59-64).

Important also is that the CLEI directed towards newly arrived migrants does not, of itself, aim to teach clients to resolve legal problems themselves, but simply to provide a necessary (but not sufficient) link or stepping stone to legal assistance. This contribution is modest in scope – but critical to the broader process.

A recognition of the role CLEI is playing in this context broadens the focus from the provision (and retention) of knowledge, to consideration of the other elements also required to forge a link to legal assistance – trust, the proximity and the direct link to advice services etc.

A focus on relationship-building as a critical role of CLEI to 'get help' also points to the importance of face-to-face rather than technology-based CLEI in these contexts.

Another purpose of CLI resources in particular is to *reinforce* advice and assistance provided by lawyers. As noted in a review of public legal education in Canada:

People retain more information, and are more likely to take some action if the information is provided in more than one format (e.g. in person assistance plus print; internet information and an outreach worker to introduce users to web-based material). (McEown & Reid 2007, p. 20)

Similarly, in the Legal Aid NSW review one of the main purposes of the *A guide to bail* brochure was to reinforce legal advice provided to people in custody (Forell & McDonald 2015, pp. 45-46).

A model for understanding different types of CLEI

Consideration of the range of CLEI activities helps to illustrate some of the specific ways in which CLEI, as part of broader kitbag of strategies, may improve access to justice. However, to assess how successful different CLEI strategies are – for diverse groups of people, with different problems, and at different points of time – we need to be clear about the purpose of particular CLEI initiatives. What is the strategy? How does it fit with other strategies? What is the logic of its potential and anticipated impact? Who is it intended to assist? What is the (perhaps modest) realistic difference it is expected to achieve? Critically, the success measure for one particular type of CLEI may not necessarily be relevant for another.

For instance, it is not the case that all CLEI strategies aim to improve knowledge and empower people to help themselves. That is not a realistic aim for some users, including people with low legal capability, or those who are facing complex issues at different points in time. But CLEI strategies may nevertheless be vital for improving access to justice in other ways, such as:

- raising awareness among target client groups, and those who support them, that problems individuals may experience may have legal solutions
- building awareness of, and trust in, sources of legal assistance including low cost and free providers of legal assistance
- equipping workers to appropriately refer disadvantaged clients to legal assistance services.

Our attempt here has been to better differentiate between different types of CLEI, to think more specifically about when to use CLEI, for whom and to what end. So far, three broad types of CLEI have been identified: CLEI to **self-help**; CLEI to **get help** and **reinforce help**; and CLEI to **give help**. We have also set out the difference between 'just in time' and 'just in case' CLEI. Table 1 presents a typology of these differences.

TABLE 1: IDENTIFYING THE PURPOSE OF CLEI: TO WHOM, WHEN AND TO WHAT END

<i>Who</i>		<i>Broader community</i>	<i>Core clients</i>	<i>Workers</i>
		<i>Higher capability</i>	<i>Lower capability</i>	<i>Problem noticers</i>
<i>To do</i>		<i>Self-help</i>	<i>Get help (& reinforce help)</i>	<i>Give help</i>
<i>When</i>	<i>Just in time</i>	Procedural—to outline steps to take with current problem and provide tools to do so e.g. LawAssist NSW <i>Is someone chasing you for money?</i> Divorce classes * <i>More scope for technology</i>	To identify problems as legal, and introduce legal service for immediate help e.g. CLE provided by solicitors in outreach locations * <i>Less scope for technology due to importance of relationship building</i>	To educate problem noticers to recognise clients' existing legal issues and know where to refer client to legal help (including outreach) e.g. <i>Law Check-Up tool</i> , linked to outreach advice service * <i>Mix of technology and face-to-face CLE</i>
	<i>Just in case</i>	To encourage steps to prevent problems arising and encourage action when they occur e.g. Planning for later life decision-making CLE on <i>Cyber bullying</i> for young people * <i>More scope for technology</i>	To identify problems as legal --to prevent problems and to encourage help seeking when problem arises e.g. <i>Let's talk</i> CLE package, delivered in migrant resource centres To reinforce advice provided * <i>Less scope for technology due to importance of relationship building</i>	To build capacity to recognise issues and refer, across a range of issues, to assist current and future clients e.g. <i>Law for non-lawyers</i> , the webinar series * <i>More scope for technology</i>
<i>Intent</i>		Provide <i>alternative</i> to legal assistance services	To <i>connect</i> isolated clients to legal assistance services	Provide a <i>pathway</i> to legal assistance services for clients
<i>Types of outcomes</i>		Users able to resolve issues	Users seek assistance	Problem noticers provide appropriate referrals

This model can be applied to CLEI provided within organisations, linking CLEI with other legal assistance strategies, as well as to collaborative planning for CLEI across the legal sector. The model applies equally to face to face education sessions, hardcopy resources and online innovations.

Conclusion

CLEI carries the weight of great expectations – as an empowerment tool, as a strategy to prevent the escalation of legal issues, and as a way to improve access to justice. While CLEI undoubtedly plays a vital role in increasing access to justice, and practitioners can point to examples of significant difference being made, it is not a one-shot magic bullet which can, alone, replace the need for more intensive services, nor can it meet the needs of all clients. Rather, it is an integral part of a 'kitbag' of legal assistance tools that might more effectively and efficiently be deployed for particular purposes, and in combination with other strategies.

While this is broadly known, this approach needs to be better integrated into the expectations of – and then the planning, monitoring and evaluation of – CLEI strategies. Objectives need to be realistic, modest and appropriate to the specific strategy and

circumstance. Applying the framework of services as targeted, joined-up, timely and appropriate may help in this thinking and as a way forward to more effective and efficient service provision. In short, CLEI strategies should be:

- **Targeted** to specific groups for specific purposes. We need to be clear who CLEI is intended for and what impact is anticipated.
- **Appropriate** to the legal need of the target group and what we expect people to do about the issue, and tailored to their capability.
- **Timely** with perhaps greater recognition of the utility of 'just in time' assistance compared to 'just in case', particularly for diverse client groups.
- **Integrated** with other legal and non-legal services as required.

This also applies more broadly to the appropriate role and use of technology in CLEI. The framework may also assist legal assistance services to decide which types of CLEI are within the scope of their organisational priorities, and which may work better as the remit or in combination with others.

Finally, while CLEI (for some people and some issues) may well provide a necessary step towards the successful resolution of legal issues, it will often be

insufficient. It may therefore need to link to other strategies (such as advice, minor assistance and representation) or to other services (such as non-legal services). Improved CLEI understanding and practice is important for more effective and efficient use of the scarce public resources available to enhance access to justice. The challenge is to hold realistic and thoughtful expectations of the specific role that various CLEI strategies might play in meeting legal need and improving access to justice for different people in different circumstances. In many circumstances, people are seeking to have legal problems resolved, not seeking legal information per se.

The purpose of this paper has been to revisit, recalibrate and encourage more realistic expectations of CLEI strategies. We do so to set a course for more modest, meaningful and measureable CLEI that can better inform understanding of 'what works'. We also hope to raise understanding of how different CLEI strategies complement other forms of legal assistance in successfully addressing the legal needs of the most disadvantaged, and also the community more broadly.

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PO Box A109 Sydney South NSW 1235, Australia
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