

# GATEWAYS TO THE LAW

An exploratory study of how non-profit  
agencies assist clients with legal problems

Sue Scott and Caroline Sage

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Access to Justice Series

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

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# Table of Contents

<b>Summary of key issues</b>	<b>vii</b>
<b>1 Introduction</b>	<b>1</b>
Objectives of the study	3
Scope of the research	4
Defining legal assistance	5
Structure of report	8
<b>2 The research in context</b>	<b>9</b>
Current service delivery environment	9
Public policy environment	12
<i>Use of non-legally trained staff</i>	15
<i>Use of generic legal information</i>	17
<i>Use of technology to deliver services</i>	20
Service definitions	24
Pathways to the law	27
<i>Sources of assistance</i>	30
<i>Factors affecting where people seek assistance</i>	31
Interagency relationships	34
<i>Networks</i>	34
<i>Referral</i>	35
Conclusion	37
<b>3 Methodology</b>	<b>39</b>
Sampling	41
<i>Data collection</i>	42
Data analysis	44
Caveats	45
<b>4 Attributes of the sector</b>	<b>47</b>
Resourcing of agencies	48
<i>Need for legal representation</i>	50

Roles	52
<i>Common philosophies</i>	52
<i>Differences between services</i>	54
Defining legal assistance	55
<i>Definitions</i>	55
<i>Why does it matter?</i>	57
<i>Who can provide legal ‘advice’?</i>	60
Issues	62
<b>5 Client Characteristics</b>	<b>63</b>
Barriers to access	64
<i>Fear of the legal system</i>	64
<i>Lack of knowledge</i>	65
<i>Economic factors</i>	65
<i>Low levels of literacy, comprehension and education</i>	65
<i>Cultural issues</i>	66
<i>Poor English skills</i>	66
<i>Disability</i>	67
Responding to client needs	67
<i>Written information</i>	70
Issues	74
<b>6 Worker knowledge</b>	<b>77</b>
Knowledge of the law	78
<i>Training needs</i>	80
<i>Access to specialist legal assistance</i>	81
Knowledge of generic legal information	82
<i>Accuracy</i>	83
Use of the Internet	84
Issues	86
<b>7 Interagency relationships</b>	<b>87</b>
Networks	87
<i>Building networks</i>	89
Referring clients	95
<i>Referral process</i>	95
<i>Inappropriate referral</i>	98

<i>Knowledge of other agencies</i>	99
<i>How knowledge of agencies was gained</i>	100
Issues	101
<i>Networks</i>	101
<i>Referral</i>	102
<b>8 Implications and conclusion</b>	<b>105</b>
Defining roles and service types	106
Getting the right mix	107
Flexible service delivery	108
Using technology to deliver services	108
Training and support	109
Working together	111
Areas for further research	113
<i>Pathways to the law</i>	113
<i>Service delivery models</i>	113
Conclusion	114
<b>Bibliography</b>	<b>115</b>
<b>APPENDICES</b>	<b>125</b>
A: Agency profiles	127
B: Interview Schedule	135
C: Focus Groups Schedule	141
D: Coding Sheet	143
E: Community agency referral checklist	147
F: Plain Language Materials Checklist	149
 Table 1: Coverage by sector, position and geographic area	 43

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## Summary of key issues

This report presents the findings of an exploratory study into how a range of legal and non-legal agencies in the non-profit sector delivered free assistance to clients with legal problems. We have identified a range of issues and strategies that we hope will stimulate action, discussion and further research. Strategies include the development of clear role definitions and common understanding of service types, the flexible delivery of services, the appropriate use of technology, the provision of adequate training and support, and the development of effective relationships between agencies assisting clients with legal problems. These are discussed in more detail in chapter 8.

The following key issues emerged from the exploratory study:

### **Attributes of the sector**

1. Limited resources restricted the services agencies were able to provide. Participants often felt unable to meet clients' needs, especially the need for representation. Agencies used a range of strategies in an attempt to strike a balance between client needs and the effective use of their limited resources, including imposing eligibility criteria, delivering initial services by phone followed up by face-to-face contact, use of volunteers and provision of community legal education.
2. We identified a lack of clear role definitions among some of the agencies in the study, leading to a lack of knowledge and confusion about what services different agencies provided.
3. There was considerable confusion surrounding the terms 'legal information' and 'legal advice'. This issue was linked to the type of service non-legally trained staff were able to offer clients.

4. Many of the participants expressed a desire to increase client understanding of the law and legal process. They did this by explaining the law and legal processes in plain language and by providing clients with written information about the law.

### **Client characteristics**

1. Participants identified the following characteristics of clients with legal problems:
  - legal problems tended to cluster, and emotional, social and legal issues were often intertwined
  - people had a fear of the legal system
  - people preferred to go to local services unless there were issues of confidentiality
  - face-to-face services were seen as important in enabling service providers to accurately assess the needs and capabilities of clients. They were seen as particularly important for clients in need of physical or emotional support, or assistance with legal procedure
  - individuals varied in their ability to manage their problem with factors such as literacy, economic status, emotional state, language, disability and cultural issues affecting their ability to deal with their problem
  - people often only sought help when a situation had got out of control.
2. Flexibility was viewed as a vital strategy in meeting the varying needs of clients. Participants varied their practice to meet the needs of individual clients in a range of ways including:
  - the amount of time spent with clients
  - the level of assistance provided
  - the level and type of written or oral information provided



- the method and place of referral, and the level of ongoing assistance provided
  - the amount of physical and emotional support provided.
3. Written information was seen as useful for a variety of reasons, including:
    - assisting progress towards resolution
    - clarifying issues
    - gaining control
    - assisting with planning.
  4. Characteristics such as literacy and educational levels influenced the provision of written information to clients. Participants emphasised the need for information to be written in plain language.

### **Worker knowledge**

1. Training in particular areas of the law increased the level of assistance provided by non-legally trained participants to clients with legal problems. Participants who had received no training were often reluctant to provide oral or written information about substantive law, but appeared to be comfortable assisting clients with legal procedure, such as writing letters and filling out forms.
2. Access to legal expertise appeared to increase the ability of non-legally trained participants to assist clients with legal problems. This process was formalised in areas such as tenancy and financial counselling through the provision of specialist solicitors to provide advice to non-legally trained workers. Placements in legal agencies were viewed as a useful method for increasing knowledge of legal services and issues.
3. Participants identified a particular need for training in family law and how courts operate. Some participants had difficulty keeping up-to-date with changes to the law and legal system due to a lack of access

to appropriate information. Rural and regional agencies had difficulty accessing appropriate training.

4. While there was support for the use of written legal information to assist clients, many participants had difficulty accessing appropriate material.
5. Many participants did not use the Internet as an information source due to lack of access to the Internet, limited research skills, lack of knowledge of what was available and a distrust of Internet resources. Higher levels of use appeared to be linked to access, training and being encouraged to use the Internet.

## **Networks**

1. Participation in networks assisted participants to deliver improved services to clients, particularly in rural areas. Specific benefits included:
  - clarification of roles
  - more appropriate referral
  - sharing resources
  - increased access to the expertise of other workers.
2. While there were a number of examples of strong networks, access to and participation in networks varied. There appeared to be a lack of cross-sectoral networks between agencies assisting clients with legal problems.
3. The following factors appeared to assist with the development of networks:
  - commitment and resourcing for networks at both individual and central agency level
  - allocating adequate time to building networks
  - participation of all relevant stakeholders

- having a clear boundary, either geographic or by area of specialisation
- regular face-to-face contact through conferences and interagency meetings, with email and newsletters to provide ongoing support
- participation in the management committees of other agencies
- co-location of services.

### **Referral**

1. Participants placed a high value on appropriate referral. They used a range of referral methods, in response to the differing needs of clients. These included providing details of relevant agencies, contacting other agencies and negotiating with an agency on a client's behalf. The referral destination was affected by the nature of the problem, client ability to pay, participant familiarity with the service, proximity of the service, and cultural and language issues.
2. Knowledge of appropriate legal services varied widely. Many participants relied on pre-existing knowledge, rather than databases or other information sources to find agencies to refer clients to. Participants generally had a greater knowledge of local services than of non-local services. There were a number of instances of duplication of referral databases. Knowledge of other agencies appeared to be gained in an ad hoc way rather than through formal training. Participating in networks appeared to increase knowledge of other agencies.
3. Inappropriate referral was identified as an issue. Participants identified a lack of knowledge of services, a lack of services to refer clients to, and a lack of clarity about the nature of services offered by particular agencies as contributing to inappropriate referrals. There were few strategies for tracking or formalising referrals among the agencies in the study.

## Introduction

Over the past few decades, access to justice has become an increasing concern of law reformers and politicians alike. It is clear that for many people accessing, understanding and dealing with different parts of the legal system is extremely difficult. Studies have continually found that members of the community lack understanding of, and access to, the law and the legal system.<sup>1</sup> This is particularly the case for disadvantaged groups in the community, such as people with low literacy, poor English skills, and the inability to pay for legal services.<sup>2</sup> Many people may not realise that their problems have a legal dimension. Others feel unable to engage with the legal system, or find it complex and bewildering.<sup>3</sup>

In this context, non-profit community and government agencies that provide free information, advice and assistance<sup>4</sup> have the potential to play a valuable role in providing gateways to the law and the legal system. These agencies range from specialist government services to local community centres. While not all these agencies deal specifically with legal issues, they often deal with clients who have

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1 Australian Law Reform Commission, *Multiculturalism and the Law*, ALRC, Sydney, 1992; S. Rudland, *A Question of Justice: Access and Participation for People with a Disability in Contact with the Justice System*, Disability Council of NSW and Law Foundation of NSW, Sydney, 2000; Women's Legal Resources Centre, *Quarter Way to Equal: a Report on Barriers to Access to Legal Services for Migrant Women*, Law Foundation of New South Wales, Sydney, 1994.

2 E. Fishwick, *Back To Basics: Legal Needs in the '90's*, Legal Aid Commission of New South Wales, Sydney, 1992.

3 H. Genn, *Paths to Justice: What People Do and Think About Going To Law*, Hart, Oxford, 1999; S. Parker, *Courts and the Public*, Australian Institute of Judicial Administration, Melbourne, 1998.

4 For a discussion of what is meant by these terms see the section on *Defining legal assistance* later in this chapter.

legal problems. This is because legal problems are part of a wider social context and are, therefore, often entwined with a range of other issues; and also because people lack knowledge of the most appropriate agency to approach. Further, people will generally go to a known and easily accessible source of advice.<sup>5</sup>

In recent years Western governments have shifted away from the full representation model of service delivery to a range of self-help strategies in an attempt to meet legal need in the community in more cost-effective ways. These are sometimes referred to as ‘unbundled’ or ‘complex mixed models’<sup>6</sup> of service delivery. This move has resulted in an increased role for the non-profit sector in assisting individuals with legal problems. In conjunction with this trend, there has been an increased focus on the use of technology as a cost-effective way to increase access to services.<sup>7</sup>

While some research into the needs and behaviour of individuals with legal problems has been undertaken, there has been limited research focusing on the agencies that actually assist these people. The purpose of the current study, therefore, was to undertake exploratory research into how a range of legal and non-legal agencies went about delivering free assistance to clients with legal problems. Our aim was to highlight different factors and issues that affect practice and service delivery, and to draw out the implications these may have for current policy initiatives. Given the current focus on technology as a tool to improve service delivery, we were also interested in how technology

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5 S. Scott, ‘Law online: how do people access and use legal information on the Internet?’, *Alternative Law Journal*, vol. 25, no. 1, 2000, pp. 24–28.

6 A. Currie, ‘Legal aid delivery models in Canada: past experience and future developments’, *University of British Columbia Law Review*, vol. 33, no. 2, 2000, pp. 285–318, p. 293.

7 Australian Law Reform Commission, *Technology — What It Means for Federal Dispute Resolution*, 1998, <<http://www.austlii.edu.au/au/other/alrc/publications/issues/23/ALRCIP23.html>> (Accessed July 2001); Lord Chancellor’s Department, *civil.justice.2000: a Vision of the Civil Justice System in the Information Age*, 2000, <<http://www.lcd.gov.uk/consult/itstrat/civdlc.htm>> (Accessed May 2001); Victorian Law Reform Committee, *Technology and the Law*, Parliament of Victoria, Melbourne, 1999, Available at: <<http://www.lawreform.org.au>>.

is currently used by agencies in the sector and how it could potentially be used by these agencies to improve service delivery.

The research primarily draws on a series of semi-structured interviews with service providers in a range of non-profit agencies. A number of other data sources were also drawn on including policy documents, published research, focus groups and discussions with key stakeholders.

Canvassing and bringing together these issues has been challenging. The diversity of the sector and the lack of common understanding of service types (such as differing definitions of ‘information’ as compared to ‘advice’) made it difficult to develop a clear framework for the discussion. As this study is exploratory, our aim is to highlight ideas and issues for consideration. We have, therefore, by no means covered all the issues relating to the needs and practices of service providers in the sector or answered all the questions relating to current policy debates about methods of service delivery. We do, however, hope that this report identifies some of the key issues relating to the delivery of legal services to the community, and stimulates both discussion and research among those interested in increasing people’s understanding of, and access to, the law and legal system.

## **Objectives of the study**

The study aimed to develop a greater understanding of the needs and practices of a range of non-profit agencies that assist clients with legal problems. The research explored how these agencies went about assisting clients with legal problems, including:

- the provision of oral and written information, advice and assistance
- factors that affected the levels of assistance provided
- methods of referral and factors that affected referral practice

- interactions with other agencies
- the use of technology to deliver services.

## **Scope of the research**

The research focuses on legal and non-legal agencies where individuals with legal problems can go for free assistance in New South Wales. As we were primarily interested in the provision of information, advice and assistance, rather than full legal representation, we focused on agencies that had such assistance as a central part of their role. While the need for adequate representation was an important issue raised by numerous participants, the process of representing clients was not the central focus of the research.

The agencies in the study offered a range of services including referral, negotiation on behalf of clients, assistance with documentation, oral and written information about the law, community legal education and assistance with court processes. Many of the agencies focused on providing services to disadvantaged clients.

As the research was intended to be exploratory we did not attempt to cover the entire spectrum of agencies where people with legal problems might go for assistance.<sup>8</sup> Rather, we aimed to cover a broad cross-section of what can be described as the non-profit sector. We did not attempt to develop a comprehensive analysis or evaluation of any particular group or draw definitive comparisons between the agencies.

When the study was originally conceptualised, the scope was fairly narrow and focused on the use of written and referral information, and

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<sup>8</sup> For example, specialist community legal centres, family support workers and local council staff were not included in the sample.

on the use of technology to deliver such information. However, it quickly became apparent during the preliminary phases of the research that agency staff did not clearly distinguish between written and oral information, information and advice, information and referral, or assistance and advocacy. The participants in the study focused on the needs of the client they were dealing with, rather than the type of assistance they were providing. As a result, the scope of the research was redefined in terms of how agencies went about assisting clients with legal problems. The discussion of the use of technology is primarily from the perspective of how participants viewed technology and how it was being used by agencies, rather than a detailed discussion of the actual technologies.

Due to the scale and exploratory nature of the research, interviews with clients were not undertaken. We do, however, believe that the perceptions of agency staff in the study provide a valuable perspective on the issues faced by individuals with legal problems, especially those who suffer from some form of disadvantage. Many of these staff had been working in the sector for a considerable length of time and had dealt with large numbers of clients with a variety of legal problems.

## **Defining legal assistance**

It quickly became apparent that one of the main difficulties in designing and carrying out research in this area was the lack of commonly understood definitions for terms such as ‘information’, ‘advice’, ‘referral’ and ‘assistance’. There does not appear to be a common terminology or understanding of the concepts behind these terms at either individual worker or institutional level. Current institutional definitions are discussed in more detail in chapter two.

A range of different types of assistance can be categorised within the terms information, advice and assistance, such as referral, written information and advice, oral information and advice, community



legal education, assistance with documentation such as forms, letters and affidavits, advocacy on behalf of clients and attendance at court with clients. Although not explicitly legal, providing emotional and physical support through actions such as listening to clients and providing a safe and comfortable environment may also be defined as assistance.

Within the institutional and policy environment, terminology is emerging to describe these non-representational types of assistance, including 'outside litigation' and 'unbundled services'. 'Outside litigation' services have been defined as including legal advice and information, minor assistance with documents, letters, and telephone calls, and public education and training including workshops, classes, seminars, and publications about the law.<sup>9</sup> This type of assistance is contrasted to 'inside litigation' services, which include legal representation, legal advice and duty solicitor services. The term 'unbundled services' is increasingly being used to describe the provision of a range of types of assistance to individuals with legal problems in discrete packages, often in the context of providing services to unrepresented litigants.<sup>10</sup>

Because of the multiple meanings attached to the terms 'information', 'advice' and 'assistance', we attempted to frame questions to focus on actual practice during the interview process. For example, we used open-ended questions (such as '*Please describe the situation and what you did.*') or very specific questions (such as '*Did you refer the client to another agency?*' or '*Did you give the client any written material to take away with them?*'). We did not ask participants whether they had provided 'information' or 'advice' and only referred to these terms at the conclusion of the interview, when participants

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9 F. Regan, 'Legal Aid without the state: assessing the rise of Pro Bono schemes', *University of British Columbia Law Review*, vol. 33, no. 2, 2000, pp. 383–404, p. 385.

10 F. S. Mosten, *Unbundling of Legal Services and the Family Lawyer*, 2000, <<http://www.equaljustice.org/ethics/unbund.htm>> (Accessed April 2001).

were explicitly asked about how they saw the differences between legal information and legal advice.

Drawing clear distinctions between these different terms is relatively arbitrary. In reality, agencies provide a variety of types of services depending on the type of problem, a client's needs and capabilities, the role of the agency and the ability of workers to assist clients.

In the absence of commonly agreed definitions the following have been adopted for this report:

**'Assistance'** A range of services provided to clients with legal problems including information, advice, advocacy, physical and emotional support, referral, community legal education, generic legal information and assistance with documentation. Assistance does not include legal representation.

**'Legal representation'** Representing clients in court.

**'Generic legal information'** Plain language legal information that is not targeted to the needs of a particular person. This may be in the form of pamphlets, frequently asked questions, Internet sites, videos, tapes, or pre-written oral information delivered via helplines. This type of information is differentiated from **'written information'** which is taken to include all types of written information including legal textbooks, legislation, and case law.

**'Referral'** The provision of information about another agency, including contacting or negotiating with another agency on a client's behalf.

The terms 'legal information' and 'legal advice' are used when definitional issues are being discussed or when the term has been used by another organisation.

There is also confusion around the terminology used for non-legally trained workers who provide legal assistance. While the term 'paralegals' is in common use, there is a variety of understanding of

the roles and functions of paralegals. We have, therefore, chosen to use the terms **'legally trained'** and **'non-legally trained'**.

## **Structure of report**

The report is divided into eight chapters. Chapter two places the research and the issues raised in context through an examination of current public policy and evaluative research. Chapter three outlines the methodology used in the research. Chapters four, five, six and seven present the findings of the exploratory research study into the practice of a range of agencies in New South Wales. Each of these chapters cover a major area that influenced participant practice when assisting clients with legal problems, namely, the attributes of the sector within which they worked, client characteristics, worker knowledge and interagency relationships. Each of these chapters concludes with a brief summary of the key issues that we identified relating to that particular aspect of agency practice. These issues are drawn together in a summary of key issues at the beginning of the report. Chapter eight summarises and discusses the results of the study in the light of current public policy and research. The aim of this final chapter is to highlight areas for further action, discussion and research.

## The research in context

This chapter provides a background and context for the current research by identifying key themes and issues that emerge from previous research and recent public policy initiatives. Ideas from both these sources informed the design of the research and the analysis and interpretation of the data.

It is important to note that there have been few large-scale studies in Australia into either the needs and behaviours of individuals with legal problems, or the delivery of free assistance to these clients. The limited Australian research that is available has tended to focus on specific areas of either need or practice, and has used a range of divergent methodologies. We are, therefore, not attempting to provide a comprehensive picture of either the behaviour of individuals with legal problems or how agencies deliver free assistance to clients with legal problems. Rather we are attempting to draw out the issues highlighted in the research and the ideas underpinning current policy initiatives in order to provide a context for this research. Given the lack of large-scale research in this area in Australia, we have also drawn on international research to assist with the identification of issues.

### **Current service delivery environment**

The landscape of free legal assistance in Australia is complex. Legal and non-legal agencies in the community, government and private sectors provide varying degrees of free assistance to individuals with legal problems. They provide these services in a variety of ways including face-to-face, telephone, outreach, community legal education, written materials and Internet sites. Some agencies

specifically target disadvantaged clients. Both lawyers and non-lawyers provide free assistance.

The following is a 'snapshot' of a range of agencies that provide free assistance to clients with legal problems in Australia. Our aim is to highlight the vast range of agencies that provide services, rather than to provide a comprehensive audit. Many of these agencies have a number of other roles including the provision of representation, advocacy, community development and law reform.

- **Community legal centres** play a significant role in the provision of assistance to people who have little knowledge of the legal system, particularly those suffering high levels of disadvantage. Statistics for community legal centres in Victoria show the importance of this role, with 'advice' accounting for 92.2% of work performed for clients, as compared to representation which accounted for 4.3%.<sup>11</sup>
- **Legal Aid Commissions** provide free assistance to clients with legal problems in addition to legal representation. For example, Legal Aid offices in New South Wales carried out a total of 45,756 advice and assistance interviews in 1999–2000, with 39,612 of these being provided through the Legal Aid HelpLine.<sup>12</sup>
- **Courts** provide a range of free assistance to members of the public.<sup>13</sup> The Family Court, for example, provides information through counter staff, 'information' sessions and via the Internet. A number of Australian courts run **court assistance schemes**. These are staffed by volunteers who provide assistance to court users in a variety of ways

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11 National Association of Community Legal Centres, *Community Legal Centres in Australia: a Briefing Paper*, 2000, <<http://www.naclc.org.au/>> (Accessed September 2001).

12 Legal Aid New South Wales, *Annual Report 1999–2000*, Legal Aid Commission of NSW, Sydney, 2000, p. 13.

13 Parker.

including provision of 'information' about court procedure, referral to legal services and community resources, and assistance in organising interpreters and child care.<sup>14</sup>

- **Chamber Magistrates** are based in local courts throughout New South Wales, and provide a range of assistance to individuals with legal problems, including assistance with legal documents, information about court processes and procedures, and explaining the law.<sup>15</sup>
- **Government Access Centres** were established on a trial basis in small rural towns in New South Wales to provide a single access point for government services. They provide a combination of information and transaction based services and use staff in existing agencies including Chamber Magistrates, Roads and Traffic Authority Offices, Council Offices and Area Health Services.
- **Private lawyers** sometimes provide free legal assistance. This may be in the form of *pro bono* assistance, voluntary work at community centres or free preliminary advice at an initial interview.
- **Community legal clinics** use volunteer law students to provide free assistance. The Family Law Assistance Program, for example, uses law students supervised by qualified lawyers to provide information on family law procedure, mediation and other forms of dispute resolution to unrepresented litigants. This program is administered by Monash University and based at Oakleigh Legal Service.<sup>16</sup>

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14 County Court of Victoria, *What the Court Network Offers*, n.d., <<http://www.countycourt.vic.gov.au/network.htm>> (Accessed April 2001).

15 New South Wales Attorney General's Department, *The Chamber Magistrate Service in New South Wales: Discussion Paper*, 1998, <<http://www.lawlink.nsw.gov.au/lc.nsf/pages/chambermagistrate>> (Accessed March 2001).

16 Monash University, *Family Law Assistance Program*, 2001, <<http://www.law.monash.edu.au/legal/flap.htm>> (Accessed June 2001).

- **Community agencies** provide varying levels of assistance to clients with legal problems and often employ specialist workers in areas such as tenancy, financial counselling and youth work. They may also offer assistance sessions with volunteer lawyers.
- **Government agencies** often provide free assistance to clients with legal problems. This may be in the form of telephone helplines, such as those provided by the New South Wales Anti-Discrimination Board and the New South Wales Department of Fair Trading.
- **Member organisations** such as trade unions and motor associations sometimes provide free legal assistance as part of their service to members.
- **Libraries** provide free access to published information about the law. In NSW, trained staff of the Legal Information Access Centre (LIAC), at the State Library of NSW and in public libraries, assist the public to access authoritative up-to-date information and sources of legal assistance relevant to their needs.

## **Public policy environment**

The decline in publicly funded services offering free legal representation to people with legal problems in recent years has seen a corresponding rise in ‘information, advice and assistance’ strategies to meet legal needs. These strategies include information lines that provide generic legal information and referral, the use of non-legally trained community workers to deliver services, and the use of technology to deliver generic information. In this section we examine this changing policy environment.

In its recent review of the federal civil justice system, the Australian Law Reform Commission outlined a variety of strategies which have been introduced in Australia to provide support for clients who are not

eligible for legal aid, but who do not have the funds to pay for legal services.<sup>17</sup> A recent initiative in this area is the Family Assistance Hotline and web gateway established by the Commonwealth Attorney General's Department aimed at providing assistance to callers with family law problems.<sup>18</sup>

These trends are mirrored in other Western countries. The recently established Community Legal Service in the United Kingdom was set up to provide people with basic 'information' and 'advice' about the law and legal services.<sup>19</sup> In the United States, the American Bar Association has recommended a number of strategies to address unmet legal need, including supporting community-wide centres for 'information' and referral, and providing easy-to-understand 'information' at courthouses, libraries, and municipal buildings.<sup>20</sup>

These initiatives can be seen as part of a move towards 'mixed models' of service delivery.

*Complex mixed models use a variety of delivery approaches in an integrated fashion to address a set of specific service delivery needs. The components of a complex mixed model will vary from one jurisdiction to the next depending on the circumstances specific to that place. The specific components that are employed are essentially incidental. The essential element of the complex mixed model concept is the utilization of a range of delivery models matched to specific delivery problems.*<sup>21</sup>

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17 Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, 2000, <<http://www.austlii.edu.au/au/other/alrc/publications/reports/89/ch5.html#Heading19>> (Accessed July 2001) p. 364.

18 Attorney General's Department, *Law by Telecommunications Information Paper*, 2000, <<http://law.gov.au/LBT/infopaper.htm>> (Accessed March 2001).

19 Lord Chancellor's Department, *The Community Legal Service: a Consultation Paper*, Lord Chancellor's Department, London, 1999, Available at: <<http://www.open.gov/lcd>>.

20 American Bar Association, *Agenda for Access: the American People and Civil Justice. Final Report on the Implications of the Comprehensive Legal Needs Study*, 1996, <<http://www.abanet.org/legalservices/ladown/agendaforaccess.pdf>> (Accessed November 2000).

21 Currie, p. 315.



Associated with complex mixed models of service delivery is the concept of ‘unbundled’ legal services. These have been described as the process of dividing services into discrete packages, from which a client can choose. These services may include gathering facts, advising the client, discovering facts, legal research, negotiating, drafting correspondence and documents and representing clients in court.<sup>22</sup> Legal Aid Queensland describes unbundled services as:

*...an education and assistance program for legal aid clients. It is a process of providing, in a meaningful, practical way, information and support for those clients who do not fall within the guidelines to receive legal representation but are not in a position to fund litigation.*<sup>23</sup>

Legal Aid Ontario in Canada is piloting an ‘unbundled’ family law service that includes providing assistance for self-representing individuals when legal aid is not available.

*In our view, the Legal Aid system should narrow the gap between full representation and no representation...Unbundled services test the feasibility of providing consultation and assistance, including the preparation of documents, to individuals who are capable of and willing to represent themselves.*<sup>24</sup>

This increased focus on assistance strategies can be attributed to a number of factors:

- a high level of unmet legal need<sup>25</sup>
- an attempt to reduce public expenditure on litigation by developing more cost effective ways of meeting legal need.

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22 Mosten.

23 Legal Aid Queensland 1999, in Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, p. 364.

24 Legal Aid Ontario, *Pilot Project Progress Report*, 1999, <<http://www.legalaid.on.ca/Publications/pilotprojectjune.htm>> (Accessed August 2001).

25 For discussion of this refer to the *Pathways to the law* section of this chapter.

For example, Commonwealth funding for legal aid in Australia fell from A\$128.303 million in 1996/97 to A\$102.837 million in 1998/99.<sup>26</sup>

- an identified lack of knowledge of the law and legal system among the general community<sup>27</sup>
- high numbers of unrepresented litigants. Australian Law Reform Commission research samples estimate that 41% of Family Court cases, 18% of Federal Court cases and 33% of Administrative Appeals Tribunal (AAT) cases involved one or more unrepresented or partially represented parties.<sup>28</sup>
- the view that technology has the potential to deliver legal assistance in a more cost effective and accessible way through strategies such as pre-packaging commonly used legal services.

### *Use of non-legally trained staff*

An important element of these public policy initiatives is the use of non-legally trained staff to deliver legal 'information' services. The Australian Family Law Hotline, for example, uses 'information' officers to deliver the service.<sup>29</sup> Non-legally trained staff in community agencies are seen as having the potential to increase access to services, especially for rural clients. A key component of the Women's Justice Network in rural Queensland was to "train existing community workers to become 'legal information' workers".<sup>30</sup> The Community Legal Service in the United Kingdom recommended a network of 'information' and 'advice' providers to assist people with

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26 Fleming, p. 357.

27 For discussion of this refer to the *Pathways to the law* section of this chapter

28 Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, 2000, p. 302.

29 Attorney General's Department, *Law by Telecommunications Information Paper*.

30 Legal Aid Queensland, *Women's Justice Network Pilot Project*, c. 1999, <<http://www.wjn.legalaid.qld.gov.au/laq/wjn/backgrnd.htm>> (Accessed May 2001).

legal problems,<sup>31</sup> and expanded roles for ‘paralegals’ have been recommended in the United States.<sup>32</sup>

Non-legally trained workers have been used to deliver assistance to clients with legal problems for some time. A 1992 survey of the use of ‘paralegal’ workers within the Australian legal aid system found that they provided the following forms of assistance: advice, assistance with applying for legal aid, referral, assistance with legal documentation, assistance with court processes, assisting duty lawyers and conducting community legal education.<sup>33</sup> In some instances they appeared for clients in tribunals and courts. The survey noted considerable overlap between the duties of lawyers and ‘paralegal’ workers, and the need for definition of the tasks that specifically require a lawyer.

Despite this, there has been little research in Australia into the quality of services delivered by non-legally trained staff to clients with legal problems. Limited research has been carried out into the specific competencies and training needs of non-legally trained workers assisting clients with legal problems. A study of the roles and areas of competence of youth support workers found that legal support work was a vital yet hidden activity.<sup>34</sup> Many of these workers saw a central part of their role as providing ‘advocacy’ by helping their clients to negotiate the legal system. Despite the high need for knowledge of the legal system, support workers generally gained knowledge ‘on the

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31 Lord Chancellor’s Department, *The Community Legal Service: a Consultation Paper*, Lord Chancellor’s Department, p. 9.

32 American Bar Association, *Agenda for Access: the American People and Civil Justice. Final Report on the Implications of the Comprehensive Legal Needs Study*.

33 J. Power & B. Turnbull, *Paralegals and Legal Aid : Information Paper*, Attorney General’s Department, Office of Legal Aid and Family Services, Canberra, 1994.

34 J. McIntyre, R. Flowers & J. Loughman, *Working Together: a Common Field of Practice for Police, Solicitors, Youth Workers, Aboriginal Workers and Other Practitioners Providing Legal Support to Young People, Volume 2: the Nature of Legal Support with Young People*, A research report of the Marrickville Legal Centre and the Department of Community and Aboriginal Education, University of Technology Sydney, Sydney, 1993.

run', and were usually not confident about their legal knowledge. Common core competencies for legal support workers were identified, including knowledge of the law and legal procedures, knowledge of legal rights, knowledge of agencies, their guidelines and protocols, and knowledge of issues arising in legal support.

A set of draft competency standards for agencies working with domestic violence victims identified a number of legally related competencies including the ability to assist clients identify their rights and represent their own needs, the provision of 'legal information' and advocating on behalf of clients.<sup>35</sup> A study into the education needs of welfare workers concluded that the most important legal training need was the ability to identify a legal problem.<sup>36</sup> This study also found that legal training for welfare workers was fragmented and often irrelevant.

### *Use of generic legal information*

Another element of recent policy developments is the use of generic legal information as a strategy to address legal need. In this context information is often limited to short pamphlet style fact sheets rather than guides to the law or primary legal materials.<sup>37</sup> These are often made available via the Internet. In some instances this information is read to callers over the phone. For example, workers in the Commonwealth Family Law Hotline use generic fact sheets to answer family law inquiries.

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35 Partnerships Against Domestic Violence, *Competency Standards for People Who Come into Professional Contact with Those Affected by Domestic/Family Violence: Final Draft*, 2000, <[http://www.padv.dpmc.gov.au/oswpdf/Version\\_3\\_DRAFT\\_new.pdf](http://www.padv.dpmc.gov.au/oswpdf/Version_3_DRAFT_new.pdf)> (Accessed July 2001).

36 J. Deamer & M. White, *Community Legal Education for Welfare Workers*, NSW Council of Social Service, Sydney, 1980.

37 This is in contrast to the Legal Information Access Centre model, where a range of written information including primary and explanatory materials about the law is provided to clients with legal problems, depending upon their needs and capabilities. See Legal Information Access Centre, 'Stepping the non-lawyer through the legal maze: 5 steps to legal information', *LIAC Newsletter* (insert in Public Library News, November 1999, vol. 5), vol. 9, no. 3, 1999, pp. L2-L3 for more information about this model.

A number of studies have highlighted the limitations of generic legal information when used as a strategy on its own. A Canadian study that piloted the provision of generic legal information materials to self-representing litigants concluded that such resources did not prepare people to defend themselves effectively. Participants did, however, find the material useful as a referral guide and for being alerted to the potential seriousness of their situation.<sup>38</sup> In her United Kingdom study, Genn found that a successful outcome was more likely when an adviser actively provided assistance through strategies such as negotiating with the other side, rather than just providing 'information'.<sup>39</sup> An Australian study into the 'information' needs of migrants found that new arrivals were, on the whole, seeking advice and assistance, but not information *per se*.<sup>40</sup>

While research suggests that generic information may be of limited use on its own, there is evidence that it can be useful when used in conjunction with other forms of assistance.<sup>41</sup> For example, a survey of users of an advice line for women found that although clients sought advice as opposed to generic information or referral, being offered written material was nevertheless seen as important.<sup>42</sup> A number of studies have pointed out that 'information' can satisfy emotional as well as cognitive needs, although these studies were not all limited to generic information.<sup>43</sup>

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38 Currie, p. 314.

39 Genn, p. 97.

40 Springvale Community Aid Advice Bureau, *Information Strategies for New Arrivals*, Springvale Community Aid and Advice Bureau, Springvale, Victoria, 1991, p. 23.

41 W. Scott, *Survey into the Information Needs of Migrants in Australia: Final Report*, AGPS, Canberra, 1980; Currie; B. Dervin, et al., *The Development of Strategies for Dealing with Information Needs of Urban Residents. Phase I, Citizen Study [microform]: Final Report*, ED 125-640, School of Communications, University of Washington, Seattle, Wash., 1976.

42 Urbis Keys Young, *Evaluation of Advice Line Services*, (unpub.), Sydney, 2000.

43 Dervin; R. M. Harris, 'The information needs of battered women', *RQ*, vol. 28, no. 1, 1988, pp. 62-70.

Several reports have noted a lack of coordination in the production and dissemination of generic information for individuals with legal problems.<sup>44</sup> A study of court services for the public noted that ‘we are not aware of any central repository for the material...this raises a question whether a multitude of courts are working away at producing material without any systematic way of drawing on what has been done elsewhere’.<sup>45</sup> A Victorian review of government provision of generic information to the public estimated that the cost of information activities during 1988–89 was \$75 million.<sup>46</sup> The review found that:

- generic information was not targeted
- there was no coordination between government and non-government providers
- there were no common standards or principles
- there were duplications and gaps
- dissemination arrangements between agencies and intermediaries were *ad hoc* and informal
- there was no integrated strategy or overall framework within which to plan and evaluate information activities.

The review saw the primary problem as being one of distribution, rather than a lack of appropriate material.

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44 Access to Justice Advisory Committee, *Access to Justice: an Action Plan*, AGPS, Canberra, 1994; Australian Law Reform Commission, *Multiculturalism and the Law*; Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, p. 376.

45 Parker, p. 74.

46 P. Clancy, G. Terrill & R. King, *Government Information Provision: Current Practices and Proposals for Improvement*, Department of Property and Services, Victoria, 1990, p. 2.

*Use of technology to deliver services*

A number of recent reports have recommended the use of technology as a cost-effective tool to increase access to justice.<sup>47</sup> Strategies such as call centres, generic legal information web pages, online transactions, email delivery, expert systems and videoconferencing are being implemented to varying degrees in Australia.<sup>48</sup> Despite the rapid adoption of these technologies, there has been little published research into their effectiveness.

There has been little research, for example, into use of the Internet by individuals to assist them with their legal problems. A review of Australian and international research into the information seeking behaviour of individuals with legal problems indicates that a number of factors may militate against use of the Internet in the first instance. These included the complexity of legal problems, lack of knowledge in the community about the law and legal system, lack of Internet searching skills, a preference for asking another person and lack of access to the Internet.<sup>49</sup> There are, however, indications that the availability of large amounts of generic information on the Internet may be changing information-seeking behaviour. For example, fifty two million adults in the United States accessed the Internet to find health information in a study carried out in 2000.<sup>50</sup>

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47 American Bar Association, *Agenda for Access: the American People and Civil Justice. Final Report on the Implications of the Comprehensive Legal Needs Study*; Australian Law Reform Commission, *Technology — What It Means for Federal Dispute Resolution*; Victorian Law Reform Committee.

48 Law and Justice Foundation of New South Wales, *Technology for Justice*, 2001, <<http://www.lawfoundation.net.au/olap/links/innovate.html>> (Accessed September 2001).

49 S. Scott, 'Law online: how do people access and use legal information on the Internet?', *Alternative Law Journal*.

50 S. Fox & L. Rainie, *The Online Health Care Revolution: How the Web Helps Americans Take Better Care of Themselves*, 2000, <[http://www.pewinternet.org/reports/pdfs/PIP\\_Health\\_Report.pdf](http://www.pewinternet.org/reports/pdfs/PIP_Health_Report.pdf)> (Accessed August 2001).

Preference for personal contact has been identified as an issue in the use of technology to deliver legal services. An evaluation of Government Access Centres in New South Wales found that people preferred face-to-face contact compared to the post, telephone or the Internet in dealing with Government agencies.<sup>51</sup> An evaluation of the use of videoconferencing to provide legal advice in rural Queensland found that initial face-to-face contact with circuit solicitors appeared to increase the use of videoconferencing facilities.<sup>52</sup>

In some situations, however, research indicates that technology may offer advantages over face-to-face services. An evaluation of an email legal assistance service in Australia found that users, particularly victims of domestic violence, ‘experienced a level of physical and emotional safety not afforded by face-to-face communication’.<sup>53</sup>

There has also been little research into the effectiveness of ‘expert’<sup>54</sup> systems to deliver legal services. An evaluation of a software package to assist victims of domestic violence showed that the software assisted victims prepare their court papers, saved time in the preparation of protective orders, was easy to use and empowered victims. The evaluation also noted, however, that the software was

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51 Taverner Research, *NSW Government Access Pilot Program: Evaluation report*, NSW Premiers Department, Sydney, 2000, Available at: <[http://www.premiers.nsw.gov.au/pubs\\_dload\\_part3/spd/gapp/gap%20complete%20report%20Version2.htm](http://www.premiers.nsw.gov.au/pubs_dload_part3/spd/gapp/gap%20complete%20report%20Version2.htm)>, p. 10.

52 M. Grace & J. Previte, *Evaluation of the Women’s Justice Network*, 2000, <<http://www.wjn.legalaid.qld.gov.au/report/WJNEvaluationReport.pdf>> (Accessed May 2001), p. iv.

53 M. Scott, A. Diamond & B. Smith, *Opportunities for Communities: Public Access to Networked Information Technology: a Report on the DSS Community Information Network Pilot*, Strategic Research, Department of Social Security, Canberra, 1997, Available at: <<http://www.swiftek.com.au/cin#>>, p. 58.

54 Expert systems are defined by Susskind as ‘computer applications that contain representations of knowledge and expertise, respectively, which they can apply...in solving problems, offering advice, and undertaking a variety of other tasks’ R. Susskind, *The Future of Law: Facing the Challenges of Information Technology*, Clarendon Press, Oxford, 1996, p. 121.



least successful in situations where face-to-face assistance was not readily available.<sup>55</sup>

There have been several small-scale studies of the effectiveness of legal helplines. A survey of 55 users of a legal advice line in Australia found high levels of satisfaction with all aspects of the service except for the difficulty in connecting to the service.<sup>56</sup> A preliminary study of 120 clients of legal helpline services for low-income populations in the United States indicated that between 66% and 75% of callers felt they had more confidence, were better able to understand their problem, make decisions and stop the problem growing into something bigger. A lower proportion (57%) felt that they understood the legal system better as a result of their experience.<sup>57</sup> It is important to note, however, that both these studies involved services provided by solicitors. There doesn't appear to be any published research into the effectiveness of legal helpline services that provide referral or generic legal information, or those staffed by non-legally trained workers.

There has also been little published research on how agencies are using technology to assist clients with legal problems. Research indicates that there are a number of barriers to the use of technology by service providers, including lack of training, lack of access, lack of time, and lack of understanding and enthusiasm for the technology. For example, a survey of community legal centres in Victoria found that 59% of staff did not have sufficient skills to take advantage of the Internet.<sup>58</sup> Focus group sessions run with financial counsellors found

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55 National Center for State Courts, *Internet-based Domestic Violence Court Preparation System Evaluation*, (unpub), 1998, p. 8.

56 Urbis Keys Young, p. i.

57 Center for Policy Research & R. Echols, *Hotlines Outcome Assessment Study*, 2000, <<http://www.equaljustice.org/hotline1/hotlinepretest.pdf>> (Accessed July 2001), p. 16.

58 E. Van Moorst, T. Atkins & S. Kidney, *Community Law Online: Enhancing and Extending Access to Community Law*, Prepared for the Federation of Community Legal Centres (Vic) Inc, Melbourne, 2000, p. 18.

that perceived barriers to using the Internet outweighed the perceived advantages. Barriers included:

- cost
- lack of technical support for rural isolated providers
- lack of search skills
- concerns about confidentiality
- feelings of information overload
- time involved
- lack of credibility of information
- viruses
- a perceived need for face-to-face delivery.<sup>59</sup>

Community and government agency access to the Internet varies. While 100% of community legal centres in New South Wales have access to the Internet<sup>60</sup>, only 42% of community centres funded by the New South Wales Department of Community Services had an email address in a study carried out in 2000.<sup>61</sup>

An evaluation of a project that used videoconferencing and the Internet to deliver legal services to rural Queensland via community agencies identified a number of issues for using community agencies to deliver legal services electronically.<sup>62</sup> In order for the technology to be used effectively, a range of strategies needed to be in place including training, technical support, social networking and the ability to create and manage partnerships. Few of the agencies expressed real

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59 G. Graham, *Agora Projects: a Modest Test of the Method*, 1998, <#http://www.civ.org.au/agora/garthrep.htm#> (Accessed July 2001).

60 Unpublished survey carried out by the Law and Justice Foundation of NSW, 2000.

61 New South Wales Department of Community Services, *Computing Infrastructure Survey*, Sydney, 2000.

62 Grace, p. 34.

enthusiasm for the potential of the technology as a resource for them. Interestingly, one factor identified as limiting the use of the technology was that enabling members of the community to educate themselves about legal matters was outside the thinking and role definition of agency staff.<sup>63</sup>

## **Service definitions**

The ‘unbundled’ or ‘mixed’ model of service delivery envisages the provision of a range of ‘information’, ‘advice’ and ‘assistance’ strategies by complementary services. However, as discussed in chapter one, there is varying understanding within the sector of the meaning of these terms.

The difficulties caused by this confusion have been noted in a number of reports. A review of the Chamber Magistrate Service in New South Wales noted that a lack of definition of the functions performed by Chamber Magistrates led to ‘a significant degree of variation between courts in the type and extent of assistance provided to clients’ and the ‘likelihood that clients will be aggrieved because the service did not meet expectations’.<sup>64</sup> Staff of the Family Court of Australia felt that the distinction between ‘legal information’ and ‘legal advice’ was logically and practically unworkable.<sup>65</sup> Research undertaken in the United Kingdom as part of the establishment of the Community Legal Service identified a need for service providers to have a common set of definitions to enable them to understand the roles of different types of services and to specify standards.<sup>66</sup>

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63 Grace, p. 54.

64 New South Wales Attorney General’s Department, *The Chamber Magistrate Service in New South Wales: Discussion Paper*.

65 J. Dewar, B. Smith & C. Banks, *Litigants in Person in the Family Court of Australia*, Research Report No. 20, Family Court of Australia, Canberra, 2000, Available at: <<http://www.familycourt.gov.au/papers/pdf/report20.pdf>>, p. 8.

66 J. Steele, *The Community Legal Service: Developing Joined-up Solutions*, Report to the Lord Chancellor’s Department Public Management Foundation, London, 1999, p. 29.

The following agency definitions<sup>67</sup> highlight differing understanding of these terms:

### **Chamber Magistrates<sup>68</sup>**

Information information about legal processes and *court procedures* including an explanation of the *legal options* available

### **Community Legal Centres<sup>69</sup>**

Information An activity classed as information is one where:

- the person does not give specific details of their own particular problem or
- the specific details of the problem are irrelevant to the information given, or
- importantly, there is *no discussion of options* ...

Advice Advice occurs when a service provider helps a client to select between *options* about the client's own problems. Advice includes but is not limited to legal advice. It may be counselling, advocacy, support and/or legal advice. Advice includes *assistance* with drafting of simple correspondence, which the client then dispatches and/or phone calls which are made on the client's behalf ...

Case A case is an activity where a service provider provides ongoing *assistance* and/or acts on behalf of a client in respect of a problem.

67 These definitions were valid as of March 2000, which is when the interviews with service providers were conducted. They may have been subsequently updated.

68 New South Wales Attorney General's Department, *The Chamber Magistrate Service in New South Wales: Discussion Paper*.

69 Community Link Australia, *Community Legal Service Information System (CLSIS) Data Dictionary: Final SDS Version*, 2001, <<http://www.communitylink.com.au/clsis/DD%20in%20PDF.zip>> (Accessed September 2001), pp. 12–15.

**Legal Information Access Centre (LIAC)<sup>70</sup>**

Information All information is provided from a resource. *No information is provided from personal knowledge.* No opinion, interpretation or advice is offered.

**United Kingdom Community Legal Service proposed definitions<sup>71</sup>**

Information The customer wants to know what rights (or obligations) he or she has in a particular situation, and what his or her options might be — including the availability of more detailed help.

Advice The customer wants to take action (or is being threatened with action) and wants to know exactly what his or her options are, and how to set about taking action.

Case The customer wants (or needs) to take action to change his or her circumstances or to avert or prevent an unwanted change.

Based on these definitions, any of the following could be defined as **either** legal information **or** legal advice:

- a discussion of options
- provision of ‘information’ in response to a particular inquiry
- provision of ‘information’ about court processes in response to a particular inquiry
- provision of ‘assistance’ with legal procedure.

Other terms that have varying meanings in this context are case, representation, advocacy, and assistance. Further confusion arises in

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70 Legal Information Access Centre, *Frequently Asked Questions about LIAC*, Legal Information Access Centre, Sydney, 2001.

71 Lord Chancellor’s Department, *The Community Legal Service: a Consultation Paper*, p. 39.

the area of information and referral services, where 'information' is often defined as providing details of other services and referral is defined as assisting inquirers to connect to services. The implications of this confusion for service delivery are discussed in chapter 8.

## **Pathways to the law**

Service delivery models need to be based on a clear understanding of current needs and behaviours of individuals with legal problems. Australian and international studies indicate that there is a high level of legal need in the community.<sup>72</sup> A survey of 2,229 low-income households in Australia estimated that 30% of these households had experienced some sort of legal problem. This research also involved interviews with 132 key stakeholders. Almost all stakeholders were of the opinion that there was a high and growing level of unmet need and that there were major shortfalls in the areas of family law, breaches of domestic violence orders, injunctions for family violence, and almost all civil matters including discrimination.<sup>73</sup>

A number of Australian and international studies have argued that there is a general lack of knowledge and understanding of the legal system among members of the community.<sup>74</sup> An Australian Law Reform Commission report noted that:

*...there appears to be a general lack of knowledge about the legal system among Australians and that this lack of knowledge denies many people the*

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72 American Bar Association, *Legal Needs and Civil Justice: a Survey of Americans. Major Findings from the Comprehensive Legal Needs Study*, 1994, <<http://www.abanet.org/legalservices/ladown/legneedstudy.pdf>> (Accessed July 2001); Australian Bureau of Statistics, *Usage of Legal Services, New South Wales, October 1990, Catalogue No. 4510.1*, ABS, Sydney, 1990; Genn; Rush Social Research & John Walker Consulting Services, *Legal Assistance Needs Phase 11: Summary Report*, Legal Aid and Family Service Division, Attorney-General's Department, Canberra, 1999.

73 Rush Social Research, p. 13.

74 Australian Law Reform Commission, *Multiculturalism and the Law*; Dewar; Genn; Rush Social Research; Women's Legal Resources Centre.

*opportunity to participate in the process or to understand the reason why the legal system affects them in particular ways.*<sup>75</sup>

Many of these studies point to an expressed need for ‘information, advice and assistance’ about the law and legal system. Suggested strategies for meeting this need include more information and education materials and resources, assistance and support for people who self-represent, more duty lawyer services in family courts, the development of telephone information services and more information about relevant support services.<sup>76</sup>

A number of Australian studies have highlighted the particular problems that disadvantaged groups experience in relation to both understanding and accessing the law.<sup>77</sup> These include people of low socio-economic status, Aborigines, people of non-English speaking background, women, refugees, young people, and people with disabilities. High levels of disadvantage have also been linked to an increased occurrence of problems in non-legal areas.<sup>78</sup> For example, a study of family law clients in Australia found that clients receiving legal aid were more likely to experience problems with alcohol, drugs, violence, literacy, language and non-compliance with orders than self-funded clients.<sup>79</sup>

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75 Australian Law Reform Commission, *Multiculturalism and the Law*, p. 19.

76 Dewar; Donovan Research, *Research into the Information and Communication Needs of Consumers in the Family Law System*, 2000, <<http://www.nwjc.org.au/http/law.gov.au/publications/pubs.htm>> (Accessed March 2001); T. Matruggio, *Plaintiffs and the Process of Litigation: An Analysis of the Perceptions of Plaintiffs Following Their Experience of Litigation*, Civil Justice Research Centre, Sydney, 1994; Rush Social Research.

77 Fishwick; I. O'Connor & C. Tilbury, *Legal Aid Needs of Youth (prepared for Legal Aid Branch, Attorney General's Department)*, Australian Government Publishing Service, Canberra, 1986; Women's Legal Resources Centre.

78 Rudland.

79 R. Hunter, et al., *Legal Services in Family Law*, Justice Research Centre, Sydney, 2000, p. 90.

Research has indicated that individuals experiencing a legal problem have a high chance of experiencing more than one legal problem.<sup>80</sup> Associated with this multiplicity of problems was a tendency for legal and non-legal problems to intertwine.<sup>81</sup>

Not surprisingly, a number of studies have indicated that the level of assistance needed by individuals with legal problems will vary. Individuals with high levels of disadvantage such as poor literacy, low educational levels, or poor English skills; and individuals with complex problems and/or high emotional needs often needed high levels of assistance.<sup>82</sup> This has particular implications for the provision of 'unbundled' services. Solicitors interviewed as part of a study of family law clients in Australia felt that legal aid clients who were emotional, stressed, lacked confidence or had language problems were less suited to unbundled services than self-funding clients.<sup>83</sup> A study of unrepresented litigants in the United States found that a litigant's ability to carry out his or her own representation was directly related to his or her individual literacy level.<sup>84</sup> Conversely, other research indicates that individuals with high educational levels are more likely to be satisfied with relatively low levels of assistance.<sup>85</sup>

Some people who experience legal problems do not access the legal system or seek out legal assistance. A number of reasons for not using the legal system emerge from both Australian and international research, including:

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80 American Bar Association, *Legal Needs and Civil Justice: a Survey of Americans*; Genn, p. 263; Rush Social Research, p. 17.

81 Genn, p. 36.

82 Donovan Research; Genn, p. 256; K. Williamson, 'Information seeking by users of a Citizens Advice Bureau', *Australian Library Journal*, vol. 35, no. 4, 1986, pp. 187–195, p. 192.

83 Hunter, p. 202.

84 University of Maryland Law School, *Evaluation of Assisted Pro Se Domestic Law Project*, c. 1996, <<http://www.equaljustice.org/prose/assist.htm>> (Accessed May 2001).

85 Genn, p. 256; Williamson, p. 192.



- a belief that nothing could be done about the problem
- a belief that they would not be eligible for assistance
- a lack of awareness about where to go
- inaccessibility of legal advice
- fear of legal costs
- previous negative experience
- feelings of powerlessness and alienation
- a perception it was too difficult.<sup>86</sup>

### *Sources of assistance*

Australian and international research indicates that people facing a problem, including a legal problem, most commonly ask family and friends for assistance.<sup>87</sup> Individuals with legal problems who do seek assistance from agencies appear to consult a wide range of agencies in the first instance. For example, a major United Kingdom study indicated that people with legal problems went to a variety of sources other than private solicitors including Citizens Advice Bureaux, local councils, police, trade unions, employers, elected representatives, consumer advice agencies and social workers.<sup>88</sup>

Although a study of this scale has not been undertaken in Australia, there is evidence that Australians with legal problems also consult a range of agencies. A qualitative study of individuals with family law problems found that they went to a variety of agencies for assistance

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86 Genn, p. 76; Rush Social Research, p. 20.

87 Donovan Research; Genn; P. Gerstberger & T. Allen, 'Criteria used by research and development engineers in the selection of an information source', *Journal of Applied Psychology*, vol. 52, August, 1968, pp. 272–79; Keys Young, *Against the Odds: How Women Survive Domestic Violence, The Needs of Women Experiencing Domestic Violence Who Do Not Use Domestic Violence and Related Crisis Services*, Federal Office of the Status of Women, Canberra, 1998, p. xii; H. Scott, *Seniors in Cyberspace: Older People and Information*, Council on the Ageing (Australia), Melbourne, 1999.

88 Genn, p. 83.

including family lawyers, Centrelink, Legal Aid and community agencies.<sup>89</sup> A study of domestic violence victims found that various helping professionals such as doctors, teachers and baby health clinic staff were often the first (or only) services from whom help was sought.<sup>90</sup>

Statistics from non-legal agencies indicate that these services receive a relatively high number of legally related inquiries. At least 25% of calls to the New South Wales Women's Information and Referral Service during the 12 months to June 2001 were referred to legal services.<sup>91</sup> A study of a Citizens Advice Bureau in Victoria found that legal issues accounted for 35% of inquiries.<sup>92</sup>

Referral statistics from legal agencies also support this data. For example, sources of referral to a Domestic Violence Advocacy Service included doctors, Chamber Magistrates, police, community agencies and social workers.<sup>93</sup> Sources of client knowledge about the Immigration Advice and Rights Centre included friends, community centres, legal centres, newspapers, and private solicitors.<sup>94</sup>

### *Factors affecting where people seek assistance*

It is clear that people face a range of difficulties in finding an appropriate agency to assist them with their problem. In a summary of international research in this area, Harris noted that numerous studies

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89 Donovan Research.

90 Keys Young, p. xii.

91 Personal communication.

92 Williamson, p. 189.

93 Domestic Violence Advocacy Service, *Annual Report*, Domestic Violence Advocacy Service, Sydney, 1999, p. 17.

94 J. Duignan & S. Frances, *Free and Independent Immigration Advice: an Analysis of Data Collected by the Immigration Advice and Rights Centre July 1990 – November 1992*, Australian Government Publishing Service, Canberra, 1995.

concluded that people experiencing a problem did not know the appropriate agency to contact.<sup>95</sup> A 1998 survey of 2,229 low-income households in Australia found that spontaneous awareness of Legal Aid was 38% (prompted awareness 60%), and spontaneous awareness of Community Legal Centres was 7% (prompted awareness 24%).<sup>96</sup> Focus groups carried out with tenants experiencing a legal problem indicated that all the participants were initially unaware of where to go for help with their tenancy problem. This meant that for a number of them the problem had become quite complex before they accessed any assistance.<sup>97</sup>

There is also evidence that there is confusion about the roles of certain agencies and the services they offer. For example, community consultations carried out as part of a review of the Chamber Magistrate Service in New South Wales indicated that there was widespread misunderstanding and misinterpretation of the role of Chamber Magistrates.<sup>98</sup>

A range of factors affect where people go for assistance, including the type of problem faced, socio-economic characteristics, knowledge of available services, and the accessibility and location of services. For example, research undertaken in the United Kingdom indicated that legal advisers were the most frequent first point of contact in divorce, family, and work related health matters, whereas Citizens Advice Bureaux were more likely to be used for consumer, financial, employment and landlord issues.<sup>99</sup>

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95 R. M. Harris & P. Dewdney, *Barriers to Information: How Formal Help Systems Fail Battered Women*, Greenwood Press, Westport, Connecticut, 1994.

96 Rush Social Research, p. 19.

97 Robyn Kennedy and Co. & Epic.Gov, *Review of the Tenant's Advice and Advocacy Program (TAAP) carried out for the NSW Department of Fair Trading*, (unpub), 2000, p. 33.

98 New South Wales Attorney General's Department, *The Chamber Magistrate Service in New South Wales: Discussion Paper*.

99 Genn, p. 89.

Demographic factors appear to play a role in where people go for assistance. An international review of published literature showed that people who sought help from formal sources were typically white, well educated, middle class and female, and that factors such as language difficulties, cultural and social isolation and disability may all act as barriers to an individual finding appropriate assistance.<sup>100</sup> Australian studies have found a low use of mainstream legal services by disadvantaged groups such as migrants and Indigenous people.<sup>101</sup>

Institutional factors such as opening hours and waiting times have also been identified as barriers to people accessing free legal services.<sup>102</sup> An evaluation of a telephone legal advice service for women in Australia found that, despite doubling the number of callers assisted during the previous five years, demand for the service still far exceeded service capacity, resulting in high levels of unmet demand.<sup>103</sup>

There is evidence that people prefer to use local rather than centralised services. Reasons include greater accessibility, unwillingness or inability to travel long distances, a preference for face-to-face services, and the need to build a trusting relationship with a service provider.<sup>104</sup> At the same time, the need for confidentiality has been identified as an issue for people accessing legal services, particularly in rural areas.<sup>105</sup> For example, an evaluation of a service that provided

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100 Harris & Dewdney, *Barriers to Information: How Formal Help Systems Fail Battered Women*.

101 M. Cass & R. Sackville, *Legal Needs of the Poor: Research Report*, AGPS, Canberra, 1975; Urbis Keys Young.

102 Genn, p. 76.

103 Urbis Keys Young, p. 4.

104 Grace; E. Kempson, *Legal Advice and Assistance*, Policy Studies Institute, London, 1989; Woolcott Research, *Information and Communications Strategy Study: an Evaluation of the Information Needs and Communications Preferences of Older People*, Conducted for the Department of Social Security, Sydney, 1997.

105 Strategic Partners & University of South Australia Research Centre for Gender Studies, *Current Perspectives on Domestic Violence: a Review of National and International Literature*, 1999, <<http://www.padv.dpmc.gov.au/oswpdf/DVPerspectives.pdf>> (Accessed July 2001), p. 25.

legal advice via videoconferencing in rural Queensland found that clients were reluctant to use local facilities if they felt they couldn't be guaranteed confidentiality.<sup>106</sup>

## **Interagency relationships**

A number of Australian reports have noted a lack of coordination between agencies assisting clients with legal problems, leading to a lack of clear pathways for clients.<sup>107</sup> At the same time, there appears to be little published Australian research into how agencies assisting clients with legal problems work together. There is some international research on factors contributing to effective networks and referral.

### *Networks*

The value of belonging to networks for improved quality of services is highlighted by a study into the provision of legal services in family law in Australia, which noted that learning from, and being part of, a community of family lawyers was one of the most important influences on awareness of and adherence to quality standards. Peer exchange was the most significant means of learning skills.<sup>108</sup>

Research carried out in the United Kingdom has identified a number of factors that contributed to the development of effective networks and interagency relationships.<sup>109</sup> These included:

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106 Grace, p. 36.

107 Australian Law Reform Commission 2000, p. 380; Dewar, p. 8; Family Law Pathways Advisory Group, *Out of the Maze: Pathways to the future for families experiencing separation*, <<http://www.law.gov.au/aghome/commaff/fllad/familylawpathways/submissions/FLPReport.pdf>> (Accessed September 2001), 2001, p. 69.

108 Hunter, p. 322.

109 G. Hague & E. Malos, 'Inter-agency approaches to domestic violence and the role of Social Services', *British Journal of Social Work*, vol. 23, no. 3, 1998, pp. 369–86; G. Hague, E. Malos & W. Dear, *Multi-agency Work and Domestic Violence: a National Study of Inter-agency Initiatives*, Policy Press in association with the Joseph Rowntree Foundation, 1996, Available at: <<http://www.jrf.org.uk/knowledge/findings/socialpolicy/sp101.asp>>; Steele, pp. 24–25.

- adequate resourcing
- commitment from statutory authorities at both the local and policy level
- acknowledgement of power imbalances between agencies
- acknowledgement of differences in agency practices
- employment of a coordinator.

Interagency approaches that only involved meeting to share information were not found to be particularly effective. The introduction of a competitive funding environment and cultural differences between private practice solicitors and advice agencies were identified as barriers to the development of cooperative relationships in the United Kingdom.<sup>110</sup>

Joint training programs also appear to strengthen networks. In an evaluation of six domestic violence projects in the United States, organisations commented on the value of cross-sectoral training as it gave them the opportunity to understand their role within the overall system and to gain different perspectives on domestic violence.<sup>111</sup> The potential benefits of cross-sectoral training were also noted in an Australian study into the training needs of workers providing legal support to young people.<sup>112</sup>

### *Referral*

There is anecdotal evidence of high levels of inappropriate referral in Australia. Community Legal Centres and Chamber Magistrates, for example, have reported high levels of inappropriate referrals.<sup>113</sup> The

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110 Steele, p.24.

111 S. J. Clark, et al., *Coordinated Community Responses to Domestic Violence in Six Communities: Beyond the Justice System*, 1996, <<http://aspe.hhs.gov/hsp/cyp/xsdomvlz.htm>> (Accessed March 2001).

112 McIntyre.

113 Cutler & Co.; New South Wales Attorney General's Department, *The Chamber Magistrate Service in New South Wales: Discussion Paper*.

high number of referral services, a corresponding lack of appropriate services to refer clients with legal problems and low knowledge of services have been identified as possible reasons for inappropriate referral.<sup>114</sup>

The potential benefits of interagency cooperation for improved referral are reflected in the results of a partnership arrangement between the Bankstown Community Justice Centre and Sutherland, Liverpool and Parramatta Local Courts. After a 3 month trial period, the links between these agencies had caused referrals to triple, with 56% of Sutherland Court's Apprehended Violence Orders being referred to Bankstown Community Justice Centre, as compared to the average of 7% for New South Wales at that time.<sup>115</sup>

Work has been carried out in the United States and United Kingdom into indicators for effective referral for individuals with legal problems.<sup>116</sup> A study of 'advice' agencies in the United Kingdom identified the following best practice indicators for referral of clients with legal problems:

- the circumstances in which a referral is appropriate or necessary are identified
- appropriate sources of help are identified
- the reasons for referral are explained to the client
- the client is assisted with accessing the new service
- information is passed on about the case
- the referral is recorded

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114 Australian Law Reform Commission 2000, p. 379.

115 Community Justice Centres Council, *Community Justice Centres 1997-98 Annual Report*, CJC Council, Sydney, 1998.

116 Alliance of Information and Referral Systems, *National Standards for Information and Referral Services*, United Way of America and the Alliance of Information Systems Inc., Alexandria, Virginia, 1991; Steele.

- the outcomes are monitored.<sup>117</sup>

At this stage no similar indicators have been developed for Australia.

## **Conclusion**

Governments are increasingly looking to the provision of a range of assistance strategies to meet the needs of individuals with legal problems. In order to do this effectively it is necessary to understand both the needs and pathways of these clients and how agencies go about assisting them.

A number of themes emerge from the review of research in relation to the characteristics and pathways of individuals with legal problems. These include a high level of legal need, a tendency for legal problems to cluster, the intertwining of legal and non-legal problems, a lack of knowledge of the law and legal system in the community generally, the use of a wide range of agencies for assistance and a preference for local services. In terms of the effectiveness of information and assistance, it appears that written information is seen as useful for a variety of purposes, but that some individuals have a high level of need for support and assistance, including representation. This need appears to be linked to the level of disadvantage of the individual, the level of emotional distress and the complexity of the problem. Little is known about how individuals use technology to assist them with their legal problems.

The current service delivery environment for the provision of free assistance to individuals with legal problems is complex. Published research on how agencies assist clients with a legal problem reflects the fragmented nature of this field. The literature is scattered, with much of the research being in the field of human services rather than

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117 Steele, p. 21.



legal services. While there are a number of studies of particular agencies, there appears to be little research that looks broadly at how legal need is currently being met, or at the needs and practices of agencies that assist people with legal problems.

There has been some research carried out into legal competencies needed by agency staff in specific areas such as youth work and domestic violence, but there appears to be little research at a more general level on skills and knowledge needed by workers providing information, advice and assistance to clients with legal problems. Similarly, research has been carried out into interagency networks in areas such as domestic violence, but not into how agencies work together to assist clients with legal problems, especially in the Australian context.

The current study aims to address these gaps by exploring how a range of agencies in New South Wales deliver free information and assistance to clients with legal problems. The study explores various aspects of agency practice, including how workers respond to client needs, the use of written information, the current use of technology by agencies, how workers gain and share knowledge, how agencies interact and refer clients with legal problems, and what would assist agencies to deliver services more effectively.

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## Methodology

As discussed in the previous chapter, the delivery of free assistance to clients with legal problems is both a diverse and under-researched area. The research aimed to identify and understand key issues and suggest possible ways forward. For this reason an exploratory research approach, which drew on grounded theory techniques,<sup>118</sup> was chosen. Sarantakos argues that exploratory studies “aim at gaining general information for the purpose of defining the research topic, operationalising or explaining variables or aspects of the topic, or generating hypotheses”.<sup>119</sup>

This approach to the research allowed for a detailed exploration of the needs and behaviours of agencies assisting clients with legal problems. We were particularly interested in understanding what factors influenced the level of assistance provided, how agencies perceived their role, the type of assistance provided and interactions with other agencies.

The primary source of data used in the study consisted of semi-structured interviews with staff in a range of community agencies in designated geographical areas in New South Wales and focus groups with service providers. The research also drew on a number of other data sources including a literature review, an examination of policy documents and discussions with key stakeholders. The use of a

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118 Grounded theory was originally developed by Glaser and Strauss as a qualitative method of research. The central aim of a grounded theory approach is to develop a theory that emerges from the data. The approach is exploratory in nature and aims to explain ‘what is going on’ in a particular social context. See A. Strauss & J. Corbin, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*, Sage Publications, Newbury Park, 1992.

119 S. Sarantakos, *Social Research*, Macmillan, Melbourne, 1998, p. 189.

variety of data enabled us to compare and cross-check between different data sources and see whether views expressed in interviews were supported by other available information.

A critical incident technique was used to ground participants in actual practice. Participants were asked to describe a recent situation where they had dealt with a client with a legal problem. In order to define a 'legal problem', a card was shown to participants which listed the following commonly experienced legal problems: Wills, Tenancy, Neighbourhood Dispute, Immigration, Family Law matter, Social Security matter, Discrimination, Crime, Accident, Employment Problem, Debt Problem, Dispute with a Government Department.<sup>120</sup>

Participants were then asked to describe their practice in relation to this critical incident. They were asked a series of questions (See Appendix B) including whether they referred the client to another agency, provided oral or written assistance, assisted the client with legal process, or used the Internet to obtain information. Participants were also asked how they had gained the knowledge to deal with this situation and what they felt their training needs were. Although the use of critical incidents to generate data is an effective way to ground interviews in actual practice, critical incidents do not necessarily generate a representative sample of practice, as participants may choose particularly dramatic incidents or the most recent example they can recall. This issue was partly addressed by following the discussion of the critical incident with questions about general practice in relation to assisting clients with legal problems. The combination of using critical incidents and general questions helped to ensure that the interview was centred around actual practice in relation to the needs of individuals with legal problems, while at the same time exploring more general issues for agencies.

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120 These categories were based on lists used in the following research studies: American Bar Association, *Legal Needs and Civil Justice: a Survey of Americans. Major Findings from the Comprehensive Legal Needs Study*; Australian Bureau of Statistics; Genn.

## Sampling

As discussed in chapter two, the free assistance sector is extremely diverse and is characterised by a wide range of structures and practices. A cross-section of agencies was selected to reflect this diversity and to obtain multiple perspectives. The aim was to explore issues across the sector rather than to develop a comprehensive analysis or to focus on one particular group. For this reason, statistical sampling techniques such as random or stratified sampling were not used. Selection of agencies was based upon discussion with workers in the field and findings from the literature review, and was confined to agencies in New South Wales.

In order to canvass a range of perspectives, legal and non-legal community and government organisations were selected. Agencies selected for the study included Chamber Magistrates, community legal centres, legal aid offices, government access centres, community centres, an aged care information line, a tenancy service, a migrant resource centre and a financial counselling service. A description of the services of these agencies is provided in Appendix A. We interviewed several members of the NSW Police Service, but as their practice and culture was significantly different from the rest of the sample we have not included data from these interviews in the report.<sup>121</sup>

Participants were selected to cover a range of qualifications and positions and included solicitors, generalist community workers, specialist community workers, coordinators, volunteers and office staff. Legally and non-legally qualified staff were selected. Specialist

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121 The original research sample included a number of police. However we felt that the practices and culture within the police services were significantly different from the rest of the sample. Although the police we interviewed dealt with a large number of people with legal problems, it was evident that they saw their role in the legal system in quite a distinct way. Their primary focus was on breaches of the law, rather than providing information, advice and assistance. We therefore decided not to include the data from these interviews in our final report. We do, however, believe that the police are a significant gateway to the law for many people, and that further research on their practices and needs could prove invaluable.

staff in the areas of financial counselling, migrants, youth, tenancy, social work and aged care were selected. Some individuals recognised for 'best practice' were selected. Only staff with at least two years experience in the field were interviewed as it was felt that they would be more able to reflect on their own practices.

In order to ensure that a range of rural and metropolitan perspectives were represented, agencies were selected to cover the following geographic areas: inner metropolitan, outer metropolitan, coastal town, coastal regional centre, inland town and inland regional centre. Where possible, a number of agencies in the same location were chosen in order to begin to build a picture of how agencies interacted with each other. Agencies in close proximity to a community legal centre or Legal Aid office were chosen as well as those who were not, in order to gain an understanding of the issues that arose in relation to proximity to legal services. See Table 1 opposite.

### *Data collection*

Thirty-five individual interviews and three focus groups were carried out. There was a high level of interest in the project, and all but two of the organisations contacted agreed to participate. All participants were granted anonymity. Two researchers were used to gather the data. The researchers attended interviews together in the first instance in an attempt to gain a consistent approach. The interviews and focus groups were carried out between January and April 2000.

### **Individual interviews**

Individual interviews were carried out with thirty-five participants: thirty-two in person, two by telephone, and one as a written questionnaire. Each interview lasted between one and one and a half-hours. The majority of the interviews were carried out in the workplace of the participant. This allowed interviewers to gain a picture of the service delivery environment, as well as minimising inconvenience to the participants. The interviews were recorded and transcribed with permission of the participants.

**Table 1: Participants by agency, position and geographic area**

	Community Centre	Community Legal Centre	Chamber Magistrate	Government Access Centre	Legal Aid
<b>Coastal regional centre</b>		2 coordinators 1 solicitor			1 office manager
<b>Coastal rural town</b>	1 c'ty worker		1 clerk of the court	1 coordinator	
<b>Inland regional Centre</b>	1 financial counsellor	2 solicitors 2 coordinators	1 Chamber Magistrate		
<b>Inland rural town</b>	1 c'ty worker 1 youth wkr 1 duty officer		4 clerks of the court	3 coordinators	
<b>Outer metropolitan</b>	1 c'ty worker 1 migrant worker	1 coordinator 1 CLE wkr 1 volunteer	1 Chamber Magistrate		1 solicitor 1 office manager
<b>Inner metropolitan</b>	1 c'ty worker 1 aged care wkr 1 tenancy wkr 2 migrant wkrs	1 coordinator 1 volunteer 1 solicitor	1 Chamber Magistrate		

The interview schedule (Appendix B) was developed after discussions with workers in the sector, a research review and two pilot interviews. The interview schedule was designed to lead from critical incidents to a more general examination of practice and covered the following broad areas:

- the role of the centre
- description of a critical incident
- referral practices
- provision of oral and written assistance
- provision of assistance with legal procedure
- use of technology
- understanding of the differences between legal information and legal advice.

The semi-structured interviews consisted mostly of open-ended questions. This allowed the researchers to explore issues of particular interest that emerged during the course of the interview and also gave participants the opportunity to raise or expand upon particular matters of interest. The interview process was designed so that participants did not have time to reflect on issues. This was a deliberate attempt to capture everyday practice.

### **Focus groups**

Three focus groups were carried out with staff from community legal centres, community centres and a state-wide telephone information and referral service. Each focus group consisted of approximately twelve participants and lasted for one hour. Prompt questions were used to stimulate discussion. These prompt questions included use of the referral network, use of information and use of the Internet (Appendix C). Notes were taken by the researchers and written up.

### **Data analysis**

All interviews were transcribed and placed onto a NUDIST (Non-numerical Unstructured Data Indexing Searching and Theorizing) database. NUDIST allows data to be identified not only by question but also by reference to themes, practices and attitudes. This data was analysed using a grounded theory approach. This method is particularly suited to analysis of rich data and builds theory based on the concepts that emerge from the data.<sup>122</sup>

The data from the interviews was coded and subsequently categorised according to themes that emerged from the data. These themes included referral, information and advice, client characteristics and worker knowledge. The full coding scheme is outlined in Appendix D.

## **Caveats**

This research is exploratory in nature and does not attempt to reach definitive conclusions, measure the quality of services, audit services, or compare agencies. The study was limited to agencies in New South Wales.

Clients of the service providers were not interviewed, as the primary focus of the research was to examine the issues that agencies faced when delivering services. The perception that participants had of their clients was explored. Given their extensive experience in dealing with clients with legal problems, these perspectives provided a valuable insight into clients' needs and behaviours. At the same time it is acknowledged that these perspectives do not necessarily represent the perspectives of the clients themselves. The lack of actual client perspectives in this study has been partly addressed through an extensive review of available published research on individuals with legal problems.





## Attributes of the sector

The following four chapters present the findings and issues that arose from the interviews and focus groups undertaken as the central part of this research. Each chapter covers a major determinant of practice in relation to clients with legal problems, namely the attributes of the sector, client characteristics, worker knowledge and interagency relationships. While these have been separated out for the purposes of this report, in reality they were all interrelated and interdependent.

Agencies in the study included the Legal Aid Commission of NSW, Community Legal Centres, Chamber Magistrates, Government Access Centres, Community Centres, Migrant Resource Centres, Tenancy services, Financial counselling services, Aged care services and a State-wide information and referral service. These agencies had a number of common characteristics. They were non-profit and operated under fairly tight budgetary constraints. They generally focused on socially and economically disadvantaged members of the community and many were connected to a body of service providers that covered both urban and rural areas. All the agencies dealt with a variety of different clients experiencing a range of legal problems. The provision of assistance was an important part of each agency's role, and most of them appeared to share some common philosophies about their work.

Agencies differed, however, in the type of service they provided, with some focusing on legal assistance and others focusing on referral. There appeared to be a lack of clarity about the different roles agencies played, and varied understanding of the services provided.

A number of these attributes arguably had distinct effects on service delivery. This chapter focuses on how particular attributes of the sector affected the delivery of services to clients with legal problems.

## **Resourcing of agencies**

The non-profit nature of the agencies meant that the limited availability of resources was a significant factor affecting service delivery, and underpinned many agency practices. The tension between the desire to provide appropriate services and the lack of adequate resources to deliver these services was a common theme throughout the interviews.

Limited resources affected the way services were delivered. For example, some agencies limited face-to-face contact with clients despite the fact that they felt that in many situations there was no real substitute for face-to-face contact. One agency responded to the need to balance face-to-face services with providing services in a cost effective way by delivering all initial assistance by telephone with face-to-face follow up when necessary.

Many of the participants recognised the barriers that limited opening hours and waiting times presented for clients. They felt that they could not meet demand for their services and, therefore, did not promote their service.

*The issue with us is that people can't get through on the phone. We put people on phone advice. People can't get through because it's so busy. We know there is a huge access issue in terms of just getting through.*

**Community Legal Centre Coordinator**

A community centre coordinator echoed this problem:

*...when I have given out that [community legal centre] phone number, and I've tried to ring myself on behalf of clients, it is constantly engaged.*

**Community Centre Coordinator**

Some community legal centres provided a special phone number to other community agencies as a way of dealing with this problem.

Although a number of the agencies attempted to provide outreach services, these were usually extremely limited, which affected the level of service provided.

*The problem with them [outreach services] is that we can only report to them once a month and so they book up quickly and there is always the risk by the time you see them that the information is redundant. **Community Legal Centre Coordinator***

Some of the services were expected to cover a huge geographical area. This was particularly the case with rural services, with one agency attempting to provide services to 43% of the State and another crossing State boundaries. A number of participants commented that it was impossible to effectively deliver services to such large areas. Some clearly felt that many people in outlying areas or in socially isolated situations were not receiving any form of legal service.

*Just a little bit too far for a lot of people to get in here. A lot of farmers are all unemployed. If a farmer is on the farm all day and is unemployed getting the transportation is impossible. So they are not being serviced at all...Nobody is servicing the hospitals or the nursing homes or the Aboriginal aged care facilities either. **Chamber Magistrate***

A number of the metropolitan services covered large or high-density suburban areas. Again, these agencies found it difficult to deal with the multiple needs of different client groups in their area.

Eligibility criteria were a common mechanism to ensure that scarce resources went to those most in need. Criteria were most commonly based on socio-economic and/or geographic factors and, in some cases, on a specific group in the community or a particular problem type. In some agencies, assistance and referral services were offered to anyone, and more resource intensive services, such as casework or representation, were limited to particular clients.

Eligibility criteria were seen to result in some groups in the community not receiving adequate assistance with their legal problems. For example, one participant argued that eligibility criteria often meant that people on moderate incomes lacked access to services.

*And it's that middle kind of people who are hard. I remember a guy at the counter saying to me "middle Australia gets kicked in the guts, like me." That's right. I mean here he was, he's got three or four kids and a very average wage, and he's probably actually taking home less money than all these people on social security because he doesn't have any benefits. And I really felt a bit sorry, for through no fault of their own they could not get any free assistance. **Chamber Magistrate***

A number of the community agencies responded to their limited resources through the use of volunteer staff. For example, regular evening sessions run by volunteer solicitors were common in Community Legal Centres.

Agencies commented that charging for generic legal information resources reduced their capacity to provide these resources to clients. The hidden cost of printing material for clients from the Internet rather than being sent free pamphlets was also identified as a problem for organisations with extremely tight budgets.

### *Need for legal representation*

The agencies in the study had limited or no capacity to provide legal representation for clients. A number of the participants expressed a high level of frustration at the lack of access to representation for those clients in need. They felt that explaining the law and providing assistance was of limited use in some situations.

*...the Chamber Magistrate can give wonderful advice in Chambers, which doesn't help the client at all, because when the client goes into court they don't say the right things...you do the best that you can, but if no*

*representation is available, those people are going to be at a disadvantage for sure. **Chamber Magistrate***

Numerous participants identified cuts to Legal Aid as increasing the pressure on already stretched services and complained of limited access to Legal Aid solicitors for people needing to appear in court. A number noted that even when Legal Aid solicitors represented people they were often only able to meet the solicitor on the day of court. This was particularly the case in rural areas.

*It's actually a problem, I feel, if people turn up to court and they haven't been able to see anybody. They can't travel to where the solicitors who are doing legal aid are, and the solicitors who are doing legal aid don't make appointments for people who want legal aid and come out and see them before they go to court. They do it on the day for court. **Chamber Magistrate***

In some instances lack of representation resulted in participants providing a service that they did not feel equipped to provide. One non-legally trained participant in a community centre spoke of attempting to assist a self-representing client because there were no other sources of support. At the same time she felt that this was inappropriate due to her inadequate understanding of the legal system.

*Well, I've tried to [assist the client], but I'm not a legal person myself, so it's been a bit of an experience for me, trying to read transcripts, and she's wanted me to try to find out how she can do it better and all this. And being not a legal person, that's made it very hard for me, and putting a bit of stress on me actually, because when I read it I think, 'Oh God, this is a disaster', like she goes in and she is just wasting her money, she is throwing her money against the wall, because she just goes into court, and she talks about everything. **Community Centre Coordinator***

## Roles

Many participants had similar notions about the role, purpose and aims of the agencies they worked in. Nearly all participants saw themselves as providing a service to disadvantaged members of the community. At the same time, there were a number of differences between services, particularly between community and government agencies.

There appeared to be some confusion about the roles of different legal services and their relationship to each other. Several agencies spoke of initiating meetings with other legal service providers to define their respective roles. This example also demonstrates the difficulties created by different understanding of legal information and legal advice which is discussed in more detail in the next section.

*We did go down and have a meeting with the Chamber Magistrate and introduced ourselves and tried to clear up worthy misconceptions and to see that we had sufficient information to do referrals to the Magistrate...I think we cleared up something that, we talk about giving legal advice. The Magistrate is not quite legal advice in the way the lawyer uses the word legal advice. It can be more explaining process, initiating process...So I think we became clearer. **Community Legal Centre Coordinator***

Several participants commented on the contradictory nature of the role of chamber magistrates, in that they offered assistance to clients with legal problems, including those who had been charged with crimes, while at the same time providing services to the police such as issuing search or detention warrants.

### *Common philosophies*

Many participants expressed a general commitment to the empowerment of disadvantaged groups in the community, and to social justice generally. Dealing with legal problems was seen in terms of assisting people in obtaining or protecting their rights. Participants identified the need for services to provide a safe and accessible point

of contact in the community. This included a common desire to ensure that clients reached appropriate services and that referral was effective.

Many of the participants expressed a desire to increase client understanding of the law and legal process. They did this by explaining the law and legal processes to clients in plain language, and by providing them with written information about the law. A number of the participants mentioned the importance of explaining legal process and court procedures.

*...there's a lot, explaining what to do, Court protocol, who to call what, who sits where, you know, that little map of the corner, this will be the prosecutor, this will be you, walk over to this microphone. I think if people just know these physical things that can give them a lot more confidence than standing there, like everybody else knows what to do, and I'm the idiot. **Chamber Magistrate***

Some participants had an explicit philosophy aimed at empowering clients through increasing their knowledge about their situation. One participant felt that this type of approach to service delivery was lacking in much of the legal sector.

*What I hear and what I see [in the legal sector], someone has got a problem, come on, leave your problem here. Put it on my big shoulders, go away and I'll look after your problem and pay me for doing that. I used to be a practitioner like that too. Basically they don't know the answer. They want the answer. I've got the magic wand in my desk. I'll give them the answer. And my style of practice is that it is actually much better, if we can work on it cooperatively and give them responsibility back on that stuff. **Community Legal Centre Solicitor***

Others commented on the importance of taking the needs and capabilities of individual clients into account when deciding upon the level of service to provide.



*[some clients are] severely disempowered and they're just not capable of actually going somewhere by themselves and accessing that service.*

***Financial Counsellor***

Many of the participants viewed building links with the local community and providing community legal education programs to individuals and other agencies as central to their work.

### *Differences between services*

Despite broad common aims across the sector, there were a number of distinct differences between government and non-government services, and between legal and non-legal services. While many of the differences related to the differing role and function of agencies, several issues are worth noting.

The government agencies appeared to be more isolated from the rest of the sector. Participants working in these agencies were more likely to see their primary role as one of service delivery rather than advocacy or building links with the local community. In contrast, participants working in the community sector often saw themselves as advocates for the community, sometimes in direct opposition to government policies. Many of these agencies engaged in policy work, lobbying, and making submissions about issues affecting the local community.

Community agencies appeared to have a higher degree of autonomy than government agencies, and were often managed by a community-based board. They tended to rely, to a much larger extent, on community goodwill. They generally made considerable use of voluntary staff, while government agencies did not. Community agencies also generally placed a stronger emphasis on networking with other local agencies. They saw themselves as part of the broader community sector, and, therefore, part of their role was to work with other services and maintain interagency networks.

## Defining legal assistance

As discussed previously, there are varying ‘official’ definitions of ‘legal information’ and ‘legal advice’. In order to gain an understanding of how practitioners defined these terms, they were asked the question ‘*Do you see a difference between information and advice? What is it?*’ at the conclusion of the interview. The issue also arose during the interviews when participants were discussing their practice.

A wide range of understanding of these terms were apparent. Distinctions were based on a variety of factors including whether they were dealing with procedural or substantive law, providing options rather than providing advice, and whether the assistance was tailored to individual circumstances. There were also varying opinions about who was able to provide legal advice and why it was important to distinguish between ‘legal information’ and ‘legal advice’. As previously noted, however, participants primarily viewed their practice in terms of meeting the particular needs of the client, rather than in terms of defining the type of assistance they were providing.

### *Definitions*

Some participants defined assistance with procedural law as ‘legal information’, and assistance based on substantive legal knowledge as ‘legal advice’.

*OK, so information is like me saying ‘here’s a form seven, fill it out, this is the procedure that you go through — privilege counselling, then it is listed for a directions hearing before a registrar’, then I can outline how it happens. Advice is saying, when we get to the part of form seven, that says ‘what orders do you seek?’ and I say ‘well, this is where you have to work out what you want to do’ And so they will tell me. So the advice is actually an interaction. **Community Legal Centre Solicitor***

Others saw this distinction as being less clear, especially in relation to assistance provided by court staff with legal procedure.

*But the Family Court counsellors are really adamant; they don't give legal advice. I'll say 'What's legal advice?' Because they know so much, they know what works and what doesn't work. **Community Legal Centre Solicitor***

Some participants defined presenting clients with options as legal information.

*I would see giving out legal information is actually explaining what options are available for a particular incident...whereas advice is actually specifically saying to someone, this is the way to go without giving them options. **Community Centre Coordinator***

While others defined providing options as advice.

*And then also, people think advice is telling someone what to do, I disagree with that...Advice is telling people what options they have and to a greater and lesser extent, depending on the client, what option you might necessarily suggest that they consider. **Community Legal Centre Solicitor***

Another way in which 'information' and 'advice' definitions were conceptualised was in terms of general versus specific information.

*Advice, that's where legal information is applied to a particular situation. Whereas legal information is generally...about a particular area of law, so it's not applied to that particular situation. **Community Legal Centre Solicitor***

Others defined any assistance provided by a person as advice, in contrast to the provision of generic materials which they defined as information.

*If you want information, you give a person a pamphlet or you give them access to the Internet. As soon as you put the human factor in I think that changes information to advice, and multiplies with the experience of the person. **Chamber Magistrate***

In some cases confusion about the distinction between the terms made it difficult for participants to clearly articulate the difference.

*Legal information is the process and what can happen, say it is like a parking fine, well this is what is going to happen and then you write to the police and if you go to court this is what happens and it could go this way or it could go this way, I suppose that is legal advice in a way. I don't know, it is a bit blurry. **Community Legal Centre Coordinator***

In a number of instances a tension was apparent between externally imposed definitions and the desire to respond to client needs.

*Part of my training has been not to advise people, just let them make their own decisions. But sometimes you need to actually say to them, 'look the situation's wrong, what's happened to you is not allowed and this is what you can do'. **Community Centre Coordinator***

One participant defined 'information' as providing information about other agencies that could assist clients with legal problems and 'referral' as contacting an agency on a client's behalf.

There was also varying understanding of the meaning of advocacy. For example, one Chamber Magistrate saw advice in terms of advocacy for a particular client. In contrast, community workers did not tend to see advocacy as legal advice. To these participants, advocacy included actively supporting clients in a range of ways, including taking on a case management role. This was seen as an important part of their role.

### *Why does it matter?*

A number of issues emerged in relation to the distinction between 'legal information' and 'legal advice' including the effect on clients, the effect on appropriate referral, fears of legal liability, issues of quality and who was able to provide different types of assistance.

A number of participants highlighted the fact that clients may not understand the distinction between ‘legal information’ and ‘legal advice’. Participants indicated that clients were often confused and frustrated when they did not receive the service they expected.

*Nearly every client we get calling back from Legal Aid is disgruntled and feels as if they have achieved nothing in the phone call...I think a lot of the Legal Aid people working on the phone lines are not solicitors and probably not able to give legal advice. So, there’s just a sense of frustration there, because it appears to be an advice line. **Community Legal Centre Coordinator***

The lack of common understanding of information and advice created difficulties when referring clients. A number of participants were unclear about the level of service that clients would receive from a particular agency.

*I would like to know if we give the Legal Aid phone number if people can be helped. I don’t know the end product — did people get the help they need? **Information and Referral Helpline Staff***

Fears of legal liability appeared to drive the distinction in some instances, although, as this participant pointed out, this distinction was often illusory.

*As a financial counsellor we give options only. I answer it this way — only options and suggestions. But we’re informed that because we have an expertise in certain areas, it is construed as advice in a court of law. **Financial Counsellor***

In reality, liability is not necessarily based upon whether a person provides advice or information,<sup>123</sup> or whether the person providing a service is legally trained.<sup>124</sup>

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123 Once a special relationship is established a person can be liable for providing negligent advice OR information. *Hedley-Byrne v Heller* (1964) AC 465.

124 The National Community Legal Centre Insurance scheme recognises that trained / experienced non-lawyers may and do give advice and covers all workers at community

One of the key issues that emerged in relation to ‘legal information’ and ‘legal advice’ was defining who could provide ‘legal advice’, especially in relation to non-legally trained workers.<sup>125</sup> The way services were defined had implications for who could provide different types of assistance. Defining assistance with procedural law (filling out forms, writing letters, explaining how the court works, or assisting with an affidavit) as advice, for example, meant that in some agencies only practicing solicitors could provide this assistance. One participant commented that using volunteer solicitors to assist clients with filling out forms was not a productive use of the solicitor’s time.

*Where we get stuck is people needing help with forms, all the time, this is a huge problem and growing problem...We’ve just started taking them in, because there is just nowhere to send these people...But it’s quite an inappropriate thing for us to be doing because we are using volunteer solicitors who are coming here after a 9.00 to 5.00 day at work and they want their time to be used as effectively as possible and if we hand them divorce forms, saying, ‘Can you help fill this out’, they sort of think, ‘Oh, why?’* **Community Legal Centre Information Officer**

Defining these services as ‘information’ in other agencies meant that non-legally qualified staff were able to provide the service. This was the case with Chamber Magistrates.

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124 legal centres. The scheme stipulates that non-practicing solicitors providing advice should (cont.) be supervised or have access to a supervising lawyer, provide advice in their area of expertise only, and that all staff should advise inquirers and clients of the professional basis on which advice is given, ‘Appendix: National Professional Indemnity Insurance Scheme: updated June 1995’, in *Practice Guide for New South Wales Community Legal Centres*, Redfern Legal Centre Publishing (for internal use only), Sydney, 1997, pp. 59–68.

125 In Australia, both lawyers and non-lawyers can legally provide legal advice. While most legal profession acts specify that only practicing barristers or solicitors may undertake the preparation of legal documentation or probate work for a fee, they do not explicitly exclude non-lawyers from providing free legal advice. Section 48 of the *Legal Profession Act 1987* (NSW), for example, only states that a person must not act or represent themselves as a barrister or solicitor unless they hold a current practicing certificate.

### *Who can provide legal 'advice'?*

We found significant variation in practice in relation to the services provided by legally and non-legally trained staff. Community legal centres were particularly conscious of defining who was able to provide 'advice' to clients. In a number of these services, non-legally trained workers stated that they could not give out any information relating to the law and had to clearly state that they were not legal practitioners in all dealings with clients. This was partly related to professional indemnity insurance requirements, and partly to concerns about the need for accuracy. In some instances this even extended to the provision of generic legal information.

*I would do it [provide generic information about the law] very rarely...The majority of what I give people is the pamphlets that are out on the board and they are mostly about services. **Community Legal Centre Coordinator***

In other agencies the distinction between services provided by legally and non-legally qualified staff was less clear. For example, both legally and non-legally trained Chamber Magistrates provided a wide range of assistance to clients with legal problems, particularly in relation to legal procedure. This included assisting with legal documentation, explaining court processes and explaining the law in particular areas, such as domestic violence or neighbourhood disputes. This was also the case with some non-legally trained specialist workers who were highly knowledgeable in their particular area. The financial counsellor, for example, believed that her level of knowledge of credit and debt law was higher than that of a general solicitor.

*...because we work specifically in credit and debt issues and recovery I believe that we are pretty well versed in it and I believe that we're better versed than the average solicitor out there, especially in bankruptcy because we have a lot of solicitors and accountants who refer bankruptcy issues to us. **Financial Counsellor***

But she also had a clear view of her role in relation to the provision of legal assistance.

*And I think we need to be able to recognise our boundaries and limitations and refer where appropriate and that is part of our charter as financial counsellors. **Financial Counsellor***

Generalist community workers were often reluctant to provide information relating to the legal aspects of a client's problem. Interestingly, however, several community agency workers who were reluctant to provide information about the law provided examples of situations where they had assisted clients with letters and forms in relation to legal issues. They viewed this as part of their advocacy role.

*If the person's got their divorce kit, that's the sort of service we provide for \$10...But we don't make it up, they've got to come in with the thing photocopied and, sort of, all written. And then we go through it and fill it out for them because they don't have those skills, but we'll do that for them.*

*I can recall an instance when a client was going to get evicted from her house. And she felt that she had been unfairly evicted...I went through the case with her because she came in here, it was pretty clear-cut that it was, and so therefore, I wrote a letter for her to the estate agent pointing out that this, this, this and this had happened and that then she was evicted.*

**Community Centre Coordinator**

In some situations, non-legally trained participants acted on a client's behalf. The tenancy worker, for example, attended the Residential Tribunal on behalf of their clients if necessary. The financial counsellor attempted to obtain legal representation for their clients, and if this was not possible, played a liaising or supporting role in court.

*...we give them the information that is required to deal with the legal system if they can't get representation. But we'll try very hard to get representation for them. If they can't get representation, we'll go with*



*them. I think they call it a Bakerman's representative. **Financial Counsellor***

## **Issues**

1. Limited resources restricted the services agencies were able to provide. Participants often felt unable to meet clients' needs, especially the need for representation. Agencies used a range of strategies in an attempt to strike a balance between client needs and the effective use of their limited resources, including imposing eligibility criteria, delivering initial services by phone followed up by face-to-face contact, use of volunteers and provision of community legal education.
2. We identified a lack of clear role definitions among some of the agencies in the study, leading to a lack of knowledge and confusion about what services different agencies provided.
3. There was considerable confusion surrounding the terms 'legal information' and 'legal advice'. This issue was linked to the type of service non-legally trained staff were able to offer clients.
4. Many of the participants expressed a desire to increase client understanding of the law and legal process. They did this by explaining the law and legal processes in plain language and by providing clients with written information about the law.

## Client Characteristics

Client characteristics emerged as a major factor affecting how services were delivered to clients with legal problems. This chapter examines the perceived needs and capabilities of clients served by the agencies in the study, and how these perceptions affected service delivery. It should be noted that the agencies in this study dealt with a high percentage of disadvantaged clients. Even agencies that did not have specific eligibility criteria generally dealt with a large number of clients who suffered from some level of disadvantage. Client characteristics described in this chapter, therefore, need to be viewed in this context.

Participants argued that their clients often presented with a multiplicity of problems. They noted that emotional, social and legal issues were often intertwined.

*Sometimes they are talking...there is all this other stuff there that is not legal. You are thinking, they have got a relationship, they've got anger, so they just want to offload that. They can't hear what the legal stuff is. It is like a big knot. Once you deal with that stuff, and that stuff, there is a little bit left over which is legal. So I can certainly help you with this legal stuff and I can maybe refer you with those other matters. **Community Legal Centre Solicitor***

The emotional state of clients was seen as a key issue in how clients understood and dealt with their problems. This was seen to be the case even when clients were relatively well educated.

*Even if someone has a relatively good education and even a great job that requires a lot of reading and stuff, if it's a family law matter, they may have absolutely no ability to be rational, or to comprehend what they are doing and put it in an objective framework. **Community Legal Centre Solicitor***

A client's emotional state was also seen to affect how they were perceived and treated by the legal system.

*...in court, they tried to use that against her. But she is not under a psychiatrist because she is mentally deranged; she is under a psychiatrist for anxiety and depression caused by what she is going through at the moment with the neighbours thing. **Community Centre Coordinator***

Although participants were not specifically questioned about particular areas of legal need, participants noted a number of areas of need. These included the need for assistance with forms and other legal procedures, the need for representation and the need for assistance with family law.

## **Barriers to access**

Participants identified a number of factors that created barriers for their clients when dealing with their legal problem. These included fear of the legal system, literacy, comprehension and educational levels, economic status, level of English, cultural issues, emotional state and level of disability.<sup>126</sup>

### *Fear of the legal system*

A number of participants spoke of client fear and lack of trust of lawyers and the legal system.

*They come and see you and they don't know what's happening and people won't even go to the centres sometimes because it is law and they are scared about this. **Community Legal Centre Information Officer***

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126 As participants were not specifically questioned about their perceptions of client barriers, there could be a number of other barriers which are not covered here. Also, we did not interview services that specifically targeted Aborigines or people with disabilities.

### *Lack of knowledge*

Numerous participants felt that many clients did not know where to go for assistance. In some instances this meant that clients sought help when a situation had got out of control or when it was too late in legal terms to effectively resolve the issue.

*People come in sometimes after they really should have sought legal advice, and something will trigger them coming in, say, for example, the rejection of a pension would trigger them coming in, but we should have dealt with the debt issue earlier. So that's what often happens and we find that some issues people are just out of time...But coming in for more immediate issues triggers off the old issue. So there is an issue about not having access to anyone sooner. **Community Legal Centre Solicitor***

### *Economic factors*

Factors such as the cost of lawyers, the cost of non-local calls and, in some instances, access to a telephone were identified as barriers for low income clients.

### *Low levels of literacy, comprehension and education*

Participants consistently referred to the low literacy and educational levels of their target client groups as directly affecting their ability to negotiate the legal system. They felt that many clients did not have the requisite skills, knowledge or emotional support to be able to identify and deal with the different elements of their problem. A number of participants felt that the low literacy and educational levels of most of their clients meant that they did not have the necessary skills to directly access and understand written legal information. The general feeling was that most of their clients would not use the Internet.

*I find the concept that clients are going to access it [the Internet] directly hasn't been our experience...A certain type of client might do that and certainly younger clients who have more familiarity and students and*

*people like that. But our average client, no way. They have no computer literacy at all. **Community Legal Centre Solicitor***

### *Cultural issues*

It was felt that people from non-English speaking backgrounds often had little understanding of the law or the legal system. This was seen to result in a high level of fear of, and misconceptions about, the legal system. These problems were amplified when clients were unrepresented.

*We had a woman come in here yesterday with two small children. She was very upset...She had never been to a Legal Centre before. She had never seen a solicitor before. She'd had no interaction with the court system or any Government. She had recently arrived in Australia and she told us that her husband had left her because she was pregnant and that she was very upset and she had a whole range of other things...She was under a lot of false impressions about the way the legal system works here and she just had no idea and was quite frightened. **Community Legal Centre Coordinator***

Some participants identified the reluctance of Indigenous clients to deal with institutions such as the courts and police due to negative experiences with these institutions. They argued that these clients were more likely to access legal services when they were provided through trusted points in their own communities.

### *Poor English skills*

Some agencies saw a high percentage of clients with poor English skills. These clients were seen to present a specific set of problems. Access to interpreting services was seen as essential for these clients. Despite this, a number of participants spoke of the difficulty of accessing interpreters.

*[Interpreting is] a huge part with the Chinese community. They need it. They feel there is very little access to interpreters and the telephone*

*interpreting service. They might take two days to find an interpreter, especially if it's a more obscure language. But, even Chinese, it takes you forty minutes to get through. So you're not going to sit there on the phone waiting for forty minutes, while your client is sitting there waiting as well, while you get an interpreter. **Migrant worker***

Face-to-face interpreting services were seen as more appropriate than phone interpreting services due to the difficulty in communicating with clients using a phone interpreting service. Participants commented on the lack of translated material about the law and legal issues. Even when material was available, some participants were reluctant to use it as they were unable to assess its accuracy.

In some cases the legal problems faced by these clients arose as a direct result of their lack of English skills, such as in situations where clients had not filled in forms correctly or responded to official requests within the required time frame.

### *Disability*

A number of clients stated that a large number of clients with disabilities accessed their services and that these clients had great difficulty accessing and negotiating the legal system. These disabilities included hearing impairments, mobility problems, intellectual disabilities and mental illness.

## **Responding to client needs**

While the services provided by the participants were, to some extent, prescribed by the type of agency they worked in, their perceived role, and their knowledge of the law, within these constraints there was a high degree of flexibility in how staff dealt with individual clients.

*It depends on the client, depends on the circumstances and the client's needs and the client's ability to do that themselves. Some clients, you just need to push them in the right direction and they're right. Some people*

*really need someone to take care of everything for them and bodily hand them over to the other people. **Community Legal Centre Solicitor***

Decisions about the level of assistance provided were often linked to perceptions of the client's ability, their emotional state, and the urgency or complexity of their problem. Clients with high levels of disadvantage such as intellectual or physical disabilities, mental illness, lack of English, and low literacy, required high levels of assistance.

*Well, if somebody's not literate, you're not going to give them a whole lot of written information. You would spend a lot more time with that client. Again, if somebody's command of English is not good, you're going to give them the information in their own language...somebody with a disability, like schizophrenia...we would make sure constantly that we were explaining very simply what the situation is and following it up with written advices as well, because, depending on how they are that day, it may or may not sink in. **Tenancy Worker***

*Low literacy skills, basically you have to do just about everything for them and explain. You reach a point where you put something in front of them, 'Can you read this?' 'No I can't' So you have to read it for them. And they put their mark on the bottom. **Chamber Magistrate***

The level of assistance varied in a number of ways, including the type of written material given out, whether workers contacted another agency on a client's behalf, which agency clients were referred to, the level of ongoing assistance and the amount of physical and emotional support provided.

*That learning differently concept — some people need to find out — 'I have this family law problem but I need to find out what powers they have and what they can make me do and how much it's going to cost'. If they are saying 'I want this stuff' I can give them heaps. But if someone is saying — 'my life is shit and I want my children' then I'm not going to refer them to a library. **Community Legal Centre Coordinator***

Face-to-face contact was seen as particularly important for clients who had low literacy, limited English or who were emotionally distressed. The amount of time spent with clients varied depending upon their circumstances.

*A woman came in and she was quite calm and she asked for an AVO [Apprehended Violence Order] and during the process of getting it typed up, she completely fell to pieces...So we just locked ourselves in the courtroom until she had calmed down to tell me more of what the rest of her problems were...She ended up being here for two and a half hours.*

***Chamber Magistrate***

Some participants highlighted the need to provide follow up assistance for clients with complex or multiple problems.

*The good thing in Chambers is that people do tend to come back more than once...those ongoing things with family law. You're giving them information and they can come back another time. It might be three or four times you see them.* ***Chamber Magistrate***

This flexible approach to service delivery was apparent across the range of agencies in the study, although levels of assistance varied and were partly defined by the role of the agency. The examples provided by staff of the specialist services that targeted vulnerable groups in the community, such as youth and migrants, demonstrated a high level of ongoing assistance. The following example demonstrates how a casework approach was adopted, with the participant negotiating with appropriate services and advocating on the client's behalf.

*We had a client come in the other day who had been physically thrown out of her property and assaulted by her landlord, all her property had been damaged...The landlord kicked the door off the hinges and broke every window, threw all her property in the bath and basically destroyed everything this woman had and she was locked out then and there. So, we obviously had to deal with her on the spot and we did that by making an urgent application to the Tribunal for her to be re-instated to the property*



*and for repairs to be done in compensation for her damaged property, even though at that time we didn't know what it was. We then had to locate her alternative housing...We then got her accommodation at a friend's place, took her there. We attended the Tribunal on her behalf. She was seven months pregnant and orders were made that the landlord reinstate the premises for her to rent and to repair the property so that the property was habitable. It hasn't been done, so we are now taking an action to have the landlord held in contempt of the Tribunal Orders. **Tenancy Worker***

Decisions about the levels of service given to clients appeared to be made on a case by case basis, based upon the judgment and experience of the participant, rather than in response to established criteria. Participants used terms such as 'a feeling' or 'a gut reaction' to describe how they made decisions about the level of service to provide.

*...it's really an assessment, a personal assessment to where that person is at that particular time. I can say it's a gut feeling, if that makes sense. Obviously that's based on information you've been able to glean from the clients...My belief is that we need to be extremely flexible. We need to be empathetic towards the client and not sympathetic, if that makes sense. **Financial Counsellor***

### *Written information*

Participants were questioned about the extent to which they provided clients with written materials. They considered providing written information about the law and legal system useful in certain situations, depending upon particular client needs and characteristics. Written material was seen as being valuable for a range of reasons including increasing comprehension, reducing fear of the legal system, providing comfort, providing an overview when someone is first encountering a legal issue and providing people with tools to help themselves.

Client characteristics such as literacy and educational levels influenced both the use and type of material provided to clients. Some participants felt it was inappropriate to provide written information to clients with low literacy levels. Others gave it to all clients in case it may be of use.

*I guess you make those assumptions and judgments all the time. I usually assume, unless it's obvious that they can't read or write, and that does happen from time to time, I'll assume that the information will be useful to them in that form, unless they don't want it...So I usually say, 'We have this information, would it be useful for you to take it away?'. Sometimes it's quite clear that people have quite chaotic lifestyles and probably the chances are they won't read it, but you give it to them anyway...you never know. **Community Legal Centre Solicitor***

The use of written information was seen as an effective way to overcome difficulties clients had comprehending due to their emotional state.

*People don't always retain all the information that they get in what can be a stressful face-to-face interview situation. We often photocopy sections from, say, the Redfern Law Handbook if it encapsulates neatly the information. **Community Legal Centre Solicitor***

Written information was also seen to give clients some control and power over their situation.

*It basically puts it back into their hands, so that they've got the information so that they can read it if they want to...a lot of people don't...But, at least, if it's there, then they can look at it. So, I find people tend to go, 'Oh, I have no idea what's going on, I don't know what I'm doing'...And you talk to them and they still aren't really listening, but if you give them the information as well, they might go home and at some stage they might just pick it up and have a scan and at least it gives them something to fall back on. **Community Centre Coordinator***

Participants emphasised the need to filter the amount of written material provided to clients. For example, providing large amounts of written material to emotionally distressed clients was seen as inappropriate. On the other hand, some participants provided a range of information to assist clients who were running their own case if they felt the client was capable of dealing with it.

Most participants used a combination of oral and written information when dealing with clients. A number of participants argued that there was a danger in presuming that clients understood written information without oral explanation. This issue was highlighted in relation to translated materials, where participants stressed the danger of presuming clients were literate in their own language.

Written advice relating to a particular problem was sometimes used to reinforce oral advice.

*But [the explanation I give] also tends to be a lot of information for them to take in and quite often I will provide the actual legal materials with various parts highlighted to reinforce what's been said, so that they have something to take away. And sometimes you're sending them off to deal with the Council or deal with the police or deal with some other body. And they want to be able to repeat what it is that they've been advised and refer to different parts of the legislation or case or whatever, and so I will provide them a summary of information in those situations. **Chamber Magistrate***

### **Use of libraries**

Participants were specifically asked if they referred clients to libraries to access written information. None of the non-legal agencies referred clients to libraries. Several of the legal agencies referred clients to the Legal Access Information Centre (LIAC) at the State Library of NSW if they felt the client had the necessary skills to carry out more detailed legal research. The feedback from those who had referred clients to LIAC was very positive.

*LIAC is another really good resource, people who wanted to do their own cases — people that were obviously really confident and capable of doing their own things, they knew about courts. They [LIAC] are very, very helpful. Everyone has come back and reported getting really good service up there and that was good. **Chamber Magistrate***

Many of the participants were not aware of the services available in libraries. Others felt that the majority of their clients did not have the necessary skills, literacy levels or confidence to use libraries. Further, they argued that libraries were not appropriate for clients in crisis.

### **Format of the material**

Participants were asked to comment on the importance of the format of material they provided to clients. A list based on their responses is included in Appendix G. Most stressed the need for materials to be written in plain English due to the low literacy and educational levels of many of their clients. At the same time, a number of participants felt that pamphlet type information was too general to be of use to clients and preferred to give out more detailed written information relevant to the individual situation.

The look and feel of material, including its colour, layout, font size, graphics and format, were seen to affect clients' use of material and their ability to comprehend it. Tailoring material to the needs of particular client groups was seen as important. For example, pocket-sized material was identified as being particularly popular with young people. Another participant spoke of tailoring the design of material to the particular needs of Aboriginal people.

*Kooris for example...I'm on a working party and we've had to design a brand new pamphlet for Aboriginal people about their fines. It's specifically pitched, its got a black person on the cover, and it's got little captions. 'What do I do?' And you open it up, and a little cartoon, and very simplified reading material. Because it's basically found if it comes from a white fellow they won't look at it...if it's catchy and colourful the Kooris will pick it up. If it's plain and white, they won't go near it...they are my own observations. **Chamber Magistrate***

Some participants saw the lack of design and colour of Internet material as reducing its effectiveness.

*The quality of a brochure though like that [from the Coroner's court] is far superior to anything that you can print off from the Internet, and we only have black and white printers. Chamber Magistrate*

Materials from the NSW Legal Aid Commission, Redfern Legal Centre Publishing, the Coroner's Court and the *Women and Family Law* booklet were identified by a number of participants as being particularly well produced in terms of both their content and presentation.

## Issues

1. Participants identified the following characteristics of clients with legal problems:
  - legal problems tended to cluster, and emotional, social and legal issues were often intertwined
  - people had a fear of the legal system
  - people preferred to go to local services unless there were issues of confidentiality
  - face-to-face services were seen as important in enabling service providers to accurately assess the needs and capabilities of clients. They were seen as particularly important for clients in need of physical or emotional support, or assistance with legal procedure
  - individuals varied in their ability to manage their problem with factors such as literacy, economic status, emotional state, language, disability and cultural issues affecting their ability to deal with their problem
  - people often only sought help when a situation had got out of control.

2. Flexibility was viewed as a vital strategy in meeting the varying needs of clients. Participants varied their practice to meet the needs of individual clients in a range of ways including:
  - the amount of time spent with clients
  - the level of assistance provided
  - the level and type of written or oral information provided
  - the method and place of referral, and the level of ongoing assistance provided
  - the amount of physical and emotional support provided.
3. Written information was seen as useful for a variety of reasons, including:
  - assisting progress towards resolution
  - clarifying issues
  - gaining control
  - assisting with planning.
4. Characteristics such as literacy and educational levels influenced the provision of written information to clients. Participants emphasised the need for information to be written in plain language.



## Worker knowledge

As discussed in chapter four, non-legally trained staff provided varying levels of assistance to clients with legal problems. One of the areas explored in the current study was what knowledge participants needed to assist clients with legal problems and what assisted them in gaining this knowledge. No attempt was made to assess the quality of information provided by participants.

Participants needed a wide variety of skills and knowledge in order to assist clients with legal problems. As well as knowledge of the law, legal process and legal agencies, participants also needed a high level of interpersonal skills in order to tease out issues and to deal with clients in stressful situations. This chapter focuses on two particular areas of knowledge — knowledge of the law and legal process by non-legally trained participants, and knowledge of written legal information to assist clients. Knowledge of other service providers is discussed in the chapter on interagency relationships.

The length of time many of the participants had worked in the sector was noteworthy.<sup>127</sup> Many had been both in a particular sector and in a particular region for many years and, therefore, drew on a vast wealth of experience. For example, the Chamber Magistrates in the study had worked for an average of 14 years in the court system, with 8 years being the shortest and 26 years the longest time in the job.

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127 Although it should be noted that workers with less than two years experience were not included in the study.



## **Knowledge of the law**

Not surprisingly, knowledge of the law was an important factor influencing the type of assistance that non-legally trained staff provided to clients with legal problems. These staff relied on a combination of specialist training, help from colleagues and experience to gain legal knowledge.

Several of the specialist community workers who had received legal training relating to their particular area of expertise provided high levels of support with the legal aspects of a client's problem. Participants who worked in the areas of tenancy, financial counselling and migrant services were all required to attend training in legal issues relating to their area of specialty. In some cases this training was extensive and linked to accreditation requirements. The financial counsellor was required to undertake extensive training as part of accreditation requirements.

*That training was done by the principal solicitor at Wesley Legal Service. So we spent about a week or so going through specific court processes she had for credit and debt collection services...We have to maintain our accreditation every twelve months and we must do a minimum of twenty hours on maintaining our different skill levels per year. That's a minimum. Obviously part of that is court processes, recovery, debt recovery action. So we do that every year, and personally I would probably do 250 hours per year on various issues of training. **Financial Counsellor***

Not all specialist workers in the study, however, had a high level of knowledge of the law in their area. Participants who dealt with a particular client group rather than a particular area of the law appeared to have lower levels of knowledge. The youth worker, for example, expressed concerns about his ability to deal with the legal aspects of clients' problems and had difficulty keeping up-to-date with changes to the law.

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*We have been told that we have got a new policy, that we have a Protection Act. Now I haven't had a chance to read this wonderful document. We didn't even know this was out. Youth worker*

The generalist community workers who had received no training in the law were reluctant to provide any form of assistance with the legal aspects of a client's problem. This included a reluctance to provide any form of written legal information to clients, or to carry out legal research on their behalf. These participants were fearful of providing wrong or out-of-date information to clients. They saw their primary role in these situations as providing referral to agencies with more specialist legal knowledge.

*No, because see I think that, this is my personal opinion, that the law is so complex, I would not like to give a client wrong information. So I'm better off referring them to an expert, they wouldn't give them the wrong information, because they're an expert and I just might, and I wouldn't want to. Community Centre Coordinator*

Several of the generalist community workers had, however, received training in areas such as court support and domestic violence. This appeared to substantially increase their ability to assist clients with the legal aspects of their problem. This community centre information worker felt that training in domestic violence court support had provided her with the skills and confidence to explain the legal situation in relation to domestic violence. It is worth noting that she also applied what she had learnt to other violent situations.

*It [the training] has given me a really good understanding of what Apprehended Violence Orders are all about...Because a lot of people don't know where to start, they wouldn't have a clue what to do...And I've used that also for other violent situations, like family violence, or neighbours, and for explaining, 'OK, this is how you do it', 'this is what you do', 'this is what it means'. The biggest problem I think is — 'Well, look I've got an AVO, but what's to stop them coming after me?' — and then I'm able to explain that there's actually rules out now through the police, that if the police are called...[when] it's an AVO, they have to respond. A lot of*

*people are saying, 'Well, this didn't happen in the past, so it's a total waste of time doing it'...So I can explain to them that this is the reason that it didn't work in the past and this is why it is more likely to work now...Sure, nothing's foolproof. 'But this is a really good chance that you've got that if your husband is bashing your door down, you can ring this number, you can ring the police and they've got to come over. So you've got more protection here'...I can say, 'Look this is the law, this is what you've been protected from, a, b, c, d, e, f, g, these are the protections...They won't be able to come to your premises. Do you go to school? You can stop them from going to your school'. So I can actually give them quite specific information because I know a lot more. **Community Centre Information Worker***

### *Training needs*

A number of participants expressed a need to know more about the law and the legal system, especially in relation to court processes.

*I would love to get some more general knowledge about the law and what it's about, what the processes are. I'd like to be walked through a court case. I know a little bit about going into court, but I'd like to be walked through some of the rights and wrongs, what could happen, what can't happen, what the processes around Legal Aid are, why some people can get it, why other people can't. Like I don't really have a big understanding of all that stuff and I would like to get more of that. **Community Centre Information Worker***

Several participants spoke of the need to have greater knowledge of family law because of the large number of clients that they saw with family law problems. This was a particular issue for Chamber Magistrates because family law is in the Commonwealth rather than State jurisdiction. The need to keep up-to-date with changes to the law and legal system was identified by a number of agencies, both legal and non-legal. Non-legal specialists identified a particular need for plain language resources about changes to the law in their area.

Rural and regional services found it difficult to access training, which was often run in Sydney. The short duration of many courses often meant it was uneconomic to travel long distances to attend training sessions.

There were several examples of participants providing training in their area of expertise to other community workers. The tenancy worker, for example, provided training and assistance to other workers in their local community. The aged care worker commented on the value of undertaking a placement at a community legal centre as a strategy for gaining understanding and knowledge of the legal issues in their area and for building networks.

Written information was used by participants for both research and keeping up-to-date with changes to the law, although participants with little knowledge of the law appeared reluctant to carry out research in response to a client with a legal problem. Resources used by participants included journals, newsletters, loose-leaf services and email. Government and Legal Aid agencies usually had access to library networks. In contrast, community agencies generally had limited access to legal research tools such as loose-leaf services. This was a particular problem in rural areas where there was limited access to legal library services.

### *Access to specialist legal assistance*

The most common method of finding out about the law was to ask colleagues. It was felt that accessing a colleague was more time efficient and resulted in better information than carrying out research. Having access to specialist legal expertise appeared to be an effective way for non-legally trained participants to gain the knowledge necessary to assist a particular client.

*Usually when it's legal information, I am ringing to get information because I have a vague idea, so I'll say, 'That doesn't sound right to me, let me check it out and see what we can find out'...So, I'll ring the*

*[Community] Legal Centre, ask them, they'll give me a rough idea...I'll say, 'OK' and then I'll go and sit back down with the client and I'll say, 'OK, this is what the Legal Centre's told me. Now, these are the options'. And quite often the Legal Centre will say, 'Well, they need to do this, this, and this'. So, I'll sort of go back to them and let them know and then provide them with options and that may include going down to the Legal Centre.*

***Community Centre Coordinator***

Access to specialist legal assistance varied. A number of community legal centres provided other community groups with priority assistance through the provision of a special phone number. In some cases assistance was in the form of *pro bono* assistance from the private legal profession. Participants generally preferred to contact services they already had a relationship with.

*Well, I prefer to have somebody I know. I work better when I can ring up and say is X there, fine, chat, chat, chat, and get to the issue. And I know that she knows me vaguely and I know her vaguely and I feel a whole lot better that way.* ***Community Centre Information Officer***

In many cases arrangements were not formalised and access depended on personal networks. The financial counsellor and tenancy worker, however, both had a relatively formalised system of access to solicitors with expertise in their particular area. The financial counsellor had access to solicitors in the Wesley Legal Service, the Consumer Credit Legal Service and Legal Aid. The tenancy worker had access to a legal officer through the NSW Tenant's Union.

## **Knowledge of generic legal information**

Participants used a variety of methods to track down relevant generic legal information for clients including ringing agencies, picking up brochures, using networks and colleagues and being on mailing lists. Participants commented that sourcing material was sometimes difficult and time consuming. None of the agencies appeared to have

consistent procedures in place for identifying relevant resources for clients. Some had attempted to create their own master list or database of pamphlets but had difficulties keeping this up-to-date. Only one participant used the Legal Information Access Centre database of pamphlets to find relevant publications.<sup>128</sup>

Some participants were aware that they were possibly duplicating effort due to their lack of knowledge of what plain English resources were already available.

*...am I trying to reinvent the wheel here? Isn't this somewhere else, where do I find this? So when I download quickly NSW Defacto stuff that is really palatable, up-to-date and useful and thank God I haven't invented it.*  
**Community Legal Centre Solicitor**

### *Accuracy*

All participants showed an awareness of the importance of generic legal information being accurate and up-to-date. One participant pointed out the potentially serious consequences of using inaccurate material.

*We've already got into serious trouble — when we were running our X program. Our solicitor and volunteers were running youth workshops and instead of checking materials they simply downloaded material from Y [web site] and took it with them. One of the things that site got wrong was the law in relation to underage drinking in hotels which was the week before schools week and they hit the local hotels saying the CLC gave us this and said we could do this. We were contacted by the Licensing Board, the local police station, by very irate hoteliers and we were forced to retract and apologise. Always check your primary sources. [This] needs to be the responsibility of the solicitors. They should have gone back to the original regulations.* **Community Legal Centre Coordinator**

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128 Legal Information Access Centre, *LIAC Pamphlet Index*, 2001, <<http://www.slsw.gov.au/liac/pamphlet/index.htm>> (Accessed August 2001).

The source of the information was the principle means of gauging accuracy. Material from government, for example, was assumed to be accurate. Participants also used the date of publication to assess accuracy. There were particular concerns about the accuracy of information on the Internet, relating to the fact that anyone can publish material on the Internet.

### **Use of the Internet**

There was relatively low use of the Internet to find generic legal information for clients — 15 of the 35 participants did not use it at all. This seemed to be due to a combination of factors:

- lack of access. Nine agencies did not have access to the Internet.
- lack of the knowledge or skills to use the Internet effectively. A large number of the participants said that they would like Internet training.
- concerns about the level of accuracy of generic legal information on the Internet
- lack of time to access resources and to become familiar with the Internet
- lack of appropriate resources on the Internet. A number of participants spoke of material on the Internet being too basic to be of any real use to them and indicated that they would find the provision of explanatory materials about the law such as loose-leaf services via the Internet extremely useful.

In general, a culture of Internet use in the agencies surveyed seemed to be lacking.

*Probably the fact that I can't [use the Internet] is a reflection of the lack of centrality of the Internet in my own practice. Like, if I knew more about it, I would be able to get more out of it. **Community Legal Centre Solicitor***

The notable exceptions to this low Internet use were the tenancy worker and the four Government Access Centre workers. These participants appeared to have a high level of comfort and familiarity with the Internet and had incorporated its use into their everyday practice. They were all enthusiastic about using the Internet to assist clients with legal problems. The following response shows how one worker combined the Internet with other forms of assistance.

*I can think of one recently, and it's not a particularly difficult one, but it was a Dividing Fences situation. And the woman rang up to find out some information and I...referred her to the Lawlink site to have a look at the Dividing Fences Act. And she did that, and she still needed to make an appointment, so she came in, I think, it might have been one of the Redfern Legal Centre publications on dividing fences, and we got that out and had a look and that sort of fixed the problem...I've been finding lately that I've been referring, if a lot of people ring up with a problem, they want to see the Chamber Magistrate, the appointment gets made but I also refer them to Lawlink. **Chamber Magistrate / Government Access Centre Worker***

Convenient and regular access and encouragement to use the Internet appeared to be key factors in these high levels of use. The Internet was an important element of the Government Access Centre Program and GAC workers were given unlimited access to the Internet and encouraged to use it.

AustLII, Lawlink and Service NSW were mentioned by a number of the participants as being particularly useful. Several participants expressed a need for clear Internet pathways to quality legal resources for clients.

*I'd like to see it broken down ... into different legal issues, it could be property, it could be whatever. And so that what you click on is easier to find. **Government Access Centre Worker***



## Issues

1. Training in particular areas of the law increased the level of assistance provided by non-legally trained participants to clients with legal problems. Participants who had received no training were often reluctant to provide oral or written information about substantive law, but appeared to be comfortable assisting clients with legal procedure, such as writing letters and filling out forms.
2. Access to legal expertise appeared to increase the ability of non-legally trained participants to assist clients with legal problems. This process was formalised in areas such as tenancy and financial counselling through the provision of specialist solicitors to provide advice to non-legally trained workers. Placements in legal agencies were viewed as a useful method for increasing knowledge of legal services and issues.
3. Participants identified a particular need for training in family law and how courts operate. Some participants had difficulty keeping up-to-date with changes to the law and legal system due to a lack of access to appropriate information. Rural and regional agencies had difficulty accessing appropriate training.
4. While there was support for the use of written legal information to assist clients, many participants had difficulty accessing appropriate material.
5. Many participants did not use the Internet as an information source due to lack of access to the Internet, limited research skills, lack of knowledge of what was available and a distrust of Internet resources. Higher levels of use appeared to be linked to access, training and being encouraged to use the Internet.

## Interagency relationships

Working with other agencies emerged as an important factor assisting participants to deliver services to clients with legal problems. This chapter explores how agencies in the study worked with other agencies in terms of their participation in networks and referral of clients.

### Networks

Participation in networks appeared to assist participants deliver improved services to clients in a number of ways. These included:

- increased worker knowledge of the law
- increased worker knowledge of other agencies
- clarification of roles
- more efficient use of resources
- greater ability to deliver services to clients, particularly in rural areas.

A number of the participants commented on the value of belonging to networks. The financial counsellor saw networking and case management as essential because of the multiplicity of problems that clients with financial difficulties presented with, and the difficulty for any single organisation in dealing with these.

*Financial counselling impinges on all aspects of social type issues, obviously the financial issue is of the greatest importance. We work with a multitude of various other service providers ranging from housing type*

*organisations that provide emergency support accommodation, people who are going through separations, women who have experienced domestic violence and they have had to flee, mental health, the Department of Community Health, you name it, we're involved. **Financial Counsellor***

Networks were used to link State-based specialist organisations with regional providers to improve service delivery to rural clients as demonstrated by the following case study.

*I had been contacted by the principal solicitor [at the Consumer Credit Legal Centre in Sydney] to assist a client who they had assessed as having a sexually transmitted debt.<sup>129</sup> Because that person lived in our particular area, she needed some help with financial assessment and also gathering relevant data that would assist that person. So that person presented here, we assisted her with her financial issues, helped her collate and gather various information from the credit provider, helped her build a case and build up a chronology that was sent off back to the Consumer Credit Legal Service. Then they assessed that situation, they got back to us, and asked if we could look around and maybe suggest a particular law firm down here who may act pro bono or who would act if she could get Legal Aid. **Financial Counsellor***

Examples of participation in networks both within and between sectors were common. Working with other service providers seemed to be a particularly strong focus for agencies in the community sector. Participants from community legal centres, community centres, tenancy workers, and financial counsellors, for example, placed a high priority on the development of networks with other service providers in their local communities.

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129 Sexually transmitted debt is a term used to describe a situation in which some legal responsibility for a debt is transferred or transmitted from one person (often male) to another (often the female partner) simply because of the fact of the relationship. McDonald G, 'Women and credit in the banking industry' in *Women and Credit: A Forum on Sexually Transmitted Debt*, Ministry of Consumer Affairs (Victoria) 1991, p. 11.

*We network with the main service providers that we link with, for example financial counsellors, social workers, counsellors, and women's health. We attend inter-agency meetings and generally we can resource them in terms of legal issues. Often we have connections in terms of being on each other's sub committees or advisory bodies as well.* **Community Legal Centre Coordinator**

Access to, and involvement in, networks varied, however, and some participants felt relatively isolated.

*There is a network, but it doesn't do anything and that's the only one I am aware of. So we don't actually have that. It would be great. I would love to have one where you could all get together and you could talk about — 'look I've got a situation, does anyone have any ideas?'* **Community Centre Coordinator**

A number of the participants spoke of the need to work with local solicitors for a range of reasons, such as when they did not have the necessary expertise or a client needed to be referred for conflict reasons. Several of the Chamber Magistrates mentioned working closely with local police and solicitors. With the exception of domestic violence networks, there were, however, no examples of formal networks between agencies assisting clients with legal problems.

### *Building networks*

A number of factors emerged as assisting with the development of networks:

- commitment and resourcing at the individual and central agency level
- allocating adequate time to building networks
- participation of all relevant stakeholders

- having a clear boundary, either geographic or by area of specialisation
- regular face-to-face contact through conferences and interagency meetings, with email and newsletters to provide ongoing support
- participation in the management committees of other agencies
- co-location of services.

Face-to-face meetings and personal relationships were seen as important and it appeared that networks were particularly strong within geographical areas. Providers of regional services, on the other hand, found it difficult to establish effective networks with agencies outside their immediate geographical location. One agency, for example, had established a relationship with the local Chamber Magistrate, but had no dealings with Chamber Magistrates in any of the other towns in the region they serviced.

Some agencies, such as community legal centres, used email in conjunction with face-to-face meetings to strengthen their networks.

*I use this [BBS]<sup>130</sup> several times a day as I'm the coordinator. I don't go into the specific law conference sites so much, but...I really like the BBS and it lets me know what is happening on a political level, what our funding bodies are doing to us and getting tips from other coordinators who have been doing this for a lot longer than I have. **Community Legal Centre Coordinator***

Adequate resourcing for the networking role and having it as a clear part of a job description were seen as important. Participants commented on the amount of time needed to develop networks. The financial counsellor, for example, had spent the first twelve months

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130 Community legal centres around Australia use an email network called the Bulletin Board System (BBS) to share knowledge, ideas and experiences.

after the establishment of the service building networks with other organisations. A number of the participants identified difficulties in allocating the necessary amount of time to developing and maintaining networks. Some overcame this through working in their own time.

*I ended up taking a flex day and going around the whole [area] to see all of their facilities...and I sort of started a habit of trying to go somewhere different each flex. **Chamber Magistrate***

Involvement of staff from other agencies in management and advisory committees was a strategy used by some agencies to build networks.

*I invited him [solicitor from Legal Aid] to join the Management Committee, because I think that that is also a strategy for keeping a link with that agency, and that's been good. **Community Legal Centre Coordinator***

Networks based around a particular problem type or area of law appeared to be a particularly effective way of building relationships between agencies. The value of domestic violence networks in building relationships with, and knowledge of, other service providers was mentioned by several of the participants.

Providing numerous services at one location, either through hosting outreach services or co-location, appeared to facilitate effective working relationships. For example, a number of community centres provided facilities for other agencies including Community Justice Centres, Legal Aid, Community Legal Centres and migrant workers.

The following two case studies based on participant interviews illustrate a number of features of effective networks. The first is an example of a State-wide tenancy network and the second of a local interagency network for dealing with victims of domestic violence.

### **Case study 1: A State-wide network: Tenancy Advice and Advocacy Program (TAAP)<sup>131</sup>**

One of the participants in the study worked for the Tenancy Advice and Advocacy Program (TAAP). TAAP is a network of twenty independently incorporated services across New South Wales. These services provide advice, advocacy and community education to tenants and community workers in their regions. Each TAAP service is unique and responsive to the particular characteristics of the geographic population it serves. The participant had close links with the local community and also had access to a strong State-wide network that he indicated provided him with valuable support.

*It's very much a networking role and, we hope that we can utilise the resources in the community because we have got such a small level of resources as well...We refer closely to X Legal Centre, or a number of solicitors that we've got who do protected tenancy matters...Migrant Interagency, the X Interagency, Y Interagency, we talk to workers there, we do all sorts of info sharing things...because we're networked we share that stuff, it's probably the best network I've seen for sharing and backing each other up. If somebody knows something, other people get to know that...I do a lot of backups for people in tenancies and public housing issues because that's my background. **Tenancy Worker***

All TAAP services meet quarterly. One meeting per year is held in a regional/rural location. TAAP members communicate with each other through an email bulletin board service. There is a regular newsletter.

As well as having access to the expertise and advice of other tenancy workers, the participant also had access to a range of support services provided by the Tenants Union to the network. These included a coordinator, an administrator, a solicitor, a policy and publicity officer, an

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131 Interview data plus material from the Tenants Union of NSW Co-operative Limited, *Annual Report 1997–1999*, Tenants Union, Sydney, 1999, was used for this case study.

education and resources worker, an access officer, an IT support worker and an information/administration support worker. Generic information resources are produced centrally by the Tenants Union and distributed by TAAP workers. Callers to the centralised Hotline advice service are often referred to the TAAP network.

The following features of this network are worth noting in relation to building effective networks:

- service providers are linked to both the central network and to each other
- there are regular face-to-face meetings, with email and newsletters used for ongoing communication
- individual services are closely linked to local providers and respond to local needs
- the centralised hotline service refers callers to local services so that a face-to-face service can be provided when appropriate
- the network is well resourced at a central level with advice and support available in areas such as information technology, law, education and administration.

### **Case study 2: A local domestic violence network**

*At X, it was excellent because it was a small community and there's a community legal centre and we used to have meetings every month...the Department of Housing, Department of Health, they had a Women's Health Centre, as well, and it was a great little group. So it was so easy to find out what everyone was doing and have the information, and court support so you could...type up the domestic violence summons which would be going to court, again great liaison with the police, you walk straight over to the police station, out the door and across, and say can you please serve this one straight away. She [the client] is really worried, you know, and she is worried what will happen when we go there, so can you do it. Again, the Domestic Violence Police Officer was a terrific guy who was totally devoted*



*to it. And I knew it will be done that afternoon. which was quite a unique situation that doesn't happen in other places.*

*It took a long time [to build the network], like, it takes 6 months...It just happens to be a great group. The [Community] Legal Centre were very devoted, the Department of Housing was very into that area and interested in that. If housing was a problem, that's what they would do for us. The same sort of walk in situation because we all trusted each other's ability to assess the situation. Obviously they can't give a brand new house to everyone who walks in off the street. But we had a system where, if I recommend and wrote a letter and went in there, that person could be in another house the next day...*

*[I would] send her up the road with a little card, she didn't really need an appointment, because it was just up the road and their address explained where it was and she could go up and see people at the Legal Centre who came along to court on the day. We had a safe room there where they could go in, take the kids, have a cup of coffee or whatever and be right away from the main part of the court. So she didn't have to see him until she actually went into court, and have the people with her when she went in. So it was a really nice situation there. **Chamber Magistrate***

This case study demonstrates a number of features in relation to building networks:

- the network is based around a particular issue, in this case domestic violence
- a variety of clients' needs are met including emotional, physical, and legal needs
- a wide range of government and community agencies are involved — Community Legal Centre, Department of Housing, Women's Health Centre, Police, Chamber Magistrate
- each of the agencies are clear about their role e.g. the Chamber Magistrate types up the summons, the police serve the summons, and the community legal centre provides court support

- a case management approach is used with each agency passing on relevant details
- personal relationships and trust between the service providers are important
- there is commitment to the development of the network by all parties
- face-to-face meetings are an important part of building relationships
- time is needed to build the network
- the services are geographically close to each other.

### **Referring clients**

Participants were asked a series of questions about their referral practice in relation to clients with legal problems including how they carried out referral, how they selected agencies to refer clients to, how they worked with other agencies and how they gained their knowledge of the services of other agencies. Participants were also specifically questioned about their referral practice in relation to the critical incident they had described.

Participants identified a wide range of legal and non-legal services they referred clients to including emergency accommodation, police, counsellors, Community Health Centres, Department of Community Services, tenancy workers, refuges, domestic violence and family support agencies.

### *Referral process*

Two major approaches to referral emerged: providing a client with the contact details of an agency; and contacting another agency on a client's behalf. Agencies often used both, depending upon the needs of individual clients.

*It really depends on the person. Some people, they're too distressed, or they're just not confident enough to do it themselves. So if that's the situation, I would ring for them. **Community Legal Centre Coordinator***

Time and availability of resources, however, also influenced the decision about the referral process.

Many of the participants contacted other agencies on behalf of their clients. This was linked to a strong desire to ensure that referral was appropriate. Examples included ringing Legal Aid to check eligibility, ringing the court to arrange an interpreter, ringing the Law Society to find the names of appropriate solicitors, contacting the Department of Housing to organise alternate accommodation and arranging for detectives to come and see a client.

Contacting other agencies often became more than referral and involved negotiating with another agency on behalf of the client. Agencies dealing with vulnerable clients such as young people or migrants appeared to be particularly likely to view this role as an important one. It was seen to pave the way for clients, reduce the chance of inappropriate referral, and reduce the likelihood of people giving up because they did not have the necessary skills to negotiate the legal system themselves.

Most of the participants preferred to refer clients to agencies they were familiar with, and that they trusted would treat clients appropriately. This was felt to be particularly important for clients who were dealing with sensitive issues or who were emotionally vulnerable.

*Well, I suppose the most important thing is that person will be treated with dignity, respect and courtesy because the majority of the people that we see basically have been here, there and everywhere and we're the end of the road, if I can say that. And a lot of these people have either contemplated or attempted suicide, so it's very, extremely important that wherever we refer those people to they will be treated in a respectful, courteous manner and they will be listened to. That's the bottom line. **Financial Counsellor***

Participants emphasised the importance of having sufficient knowledge of the services they were referring clients to and that their clients were dealing with.

*'Well in terms of your advice services, does it matter where you are?' and we're actually thinking it does, ... and I can only speak from the tenancy perspective, but when a tenant rings up, we actually know where they're living, we know what sort of housing they are living in, we often know who their agent is, we know the past behaviour of their agent, we've come up against their agent in the Tribunal. We are able to link people in, say, matters of excessive rent, we are able to link tenants together to swap their evidence in terms of comparative rents and so on. We know local services, we can make referrals over the phone, because we know local services, in a call centre we don't know any of those things so, yes, it does. **Tenancy worker***

There was a reluctance to refer non-English speaking background clients to services that did not cater to their language needs. A number of the participants stated that they would normally refer these clients to specialist migrant resource centres.

Participants referred clients to local services whenever possible, both because they were more familiar with their services and because they felt that clients preferred local services.

*Because we are in a way geographically isolated away from the city, and people who want information want it on a local basis...they're not going to go to Sydney to get a service, they're going to get it here and we know what's here and we know what's coming here. **Community Centre Coordinator***

There appeared to be a high level of referral to local solicitors. Although general practice was not to recommend particular solicitors for ethical reasons, tensions were apparent between the need to follow ethical guidelines and the desire to refer clients to solicitors who participants were familiar with and had confidence in.

*...after a period of time you get to know who's good and who's not, if I can say that, but at the same time being aware that one must not make a judgment. **Financial Counsellor***

Client ability to pay was a factor in deciding where to refer clients. In some cases participants felt powerless to assist low-income clients as there were no suitable services available to refer them to.

*Forty practitioners on our referral list and some of them are great, but they charge, like you don't know what to do with people, what do you do with them. **Community Legal Centre Coordinator***

### *Inappropriate referral*

Many of the participants noted that it was common to receive inappropriate referrals from other services. This appeared to be due to confusion over role definitions, lack of knowledge of services and lack of availability of appropriate services.

*I suppose the neighbours thing is the big one...The council send them to us, so it goes around in circles. The council don't want to know about it, so they send them down to us, and they say 'the council said you would be able to help us'. Sometimes it's a fence, or a tree, or whatever else, so we quite often get things that...[are] more council than they are us. But they palm them off, and send them down to us. Hoping, thinking, that they will be sent to the legal service or something like that. They know we've got the legal service here — 'oh just go down to the Neighbourhood Centre'. But when the people ring up they think we're going to answer the question. It creates a false situation. **Neighbourhood Centre Coordinator***

There was only one instance of an agency that had established cross referral protocols. These involved developing understanding about which clients could be referred and under what circumstances.

There appeared to be few strategies in place for tracking referrals. The main way referrals were tracked was by encouraging clients to report

back if a referral was not appropriate. One participant spoke of the benefits of knowing what had happened to clients.

*Community Justice have started doing that [providing feedback]. I used to wonder what happened to these people. They wander off and you don't see them and I noticed when I got here that the Community Justice Centre actually sends back lists saying this one settled, this one didn't. **Chamber Magistrate***

### *Knowledge of other agencies*

Knowledge of appropriate services for clients with legal problems varied widely. Participants identified difficulties in knowing the exact nature of services offered by other agencies because of variations in hours of service, appointment systems, types of services offered and eligibility criteria. A number of participants spoke of the difficulty in keeping up-to-date with changes in services. A checklist of what participants felt it was important to know about other agencies is included in Appendix E.

Many of the non-legal agencies appeared to have a fairly limited knowledge of available legal services. Many were unclear about eligibility criteria for legal aid and had limited knowledge about the general information and assistance role of the Legal Aid Commission. There was also a fairly low awareness of the roles and services of Chamber Magistrates. This was clearly illustrated by one participant who confused the local Magistrate with the Chamber Magistrate. In this case there was a full time Chamber Magistrate in the town.

*We have a Chamber Magistrate of course who is...rotating, he's there twice a month and then he goes to other Centres. So he is only there...twice a month, unless it's a special case and then I think they bring him in for that sort of stuff, we have no community justice, we have no mediation, we have no legal aid, we have nothing. **Youth Worker***

Knowledge of specialist legal services varied. For example, the youth worker did not know about the NSW Legal Aid Youth HotLine or the

National Children's and Youth Law Centre. In contrast, specialist workers who had received training in their area and were linked into strong networks had considerable knowledge of, and contacts with, specialist legal services in their area.

Participants generally knew more about agencies in their local area. Agencies trying to offer services on a regional basis often had difficulties if they needed to refer clients to services outside their local area.

*We all know each other. Work well with each other. The welfare interagency all comes together once a month. It's a little bit more difficult when you get calls from other areas. That's when it gets tough, if they call from a town where we used to go initially you've built up some knowledge of people and places. And it's not too bad but sometimes we still get calls from people who are well outside of our region and we still give them legal advice. But we can't refer in the same way. **Community Legal Centre Solicitor***

### *How knowledge of agencies was gained*

There was a high level of reliance on pre-existing knowledge and networks to locate agencies to refer clients to, and a corresponding lack of use of databases and other research tools. Staff of the State-wide information and referral service were the exception to this, and made extensive use of their in-house database to find agencies. The high value placed by agencies on knowing the type and quality of services offered by an agency could partly explain the low use of referral databases.

Despite the apparent low use of databases and research tools, a number of agencies maintained their own referral databases. There appeared to be considerable duplication in this area. Several of the legal services agencies maintained databases containing information about local solicitors such as contact details, speciality areas, languages spoken, and availability for Legal Aid work. In some

instances agencies in the same geographic location kept separate lists of local solicitors. One Community Legal Centre had begun discussions with their local Legal Aid Commission Office to investigate ways they could share their solicitor referral databases.

Despite a high level of support for the concept of shared databases, only one participant indicated that they used a referral database produced by another organisation.

*And there's also an excellent community directory put out by the local council, which is now online, where you can put in a key word and get up the agency...it's an excellent directory and in fact we are using that more than our own now. So rather than us updating ours every year, we just use theirs. **Community Legal Centre Coordinator***

Knowledge of other agencies appeared to be gained on the job in an *ad hoc* way. Participation in networks appeared to increase knowledge of other services. There appeared to be very little training available about services for clients with legal problems. Individual agencies ran information sessions about their own services, but these were not coordinated. The only instance of combined training was a half-day showcase of legal services in a particular geographic area. This lack of training was particularly an issue for new workers or newly established agencies that did not have the benefit of experience and already established networks.

## **Issues**

### *Networks*

1. Participation in networks assisted participants to deliver improved services to clients, particularly in rural areas. Specific benefits included:
  - clarification of roles



- more appropriate referral
  - sharing resources
  - increased access to the expertise of other workers.
2. While there were a number of examples of strong networks, access to and participation in networks varied. There appeared to be a lack of cross-sectoral networks between agencies assisting clients with legal problems.
  3. The following factors appeared to assist with the development of networks:
    - commitment and resourcing for networks at both individual and central agency level
    - allocating adequate time to building networks
    - participation of all relevant stakeholders
    - having a clear boundary, either geographic or by area of specialisation
    - regular face-to-face contact through conferences and interagency meetings, with email and newsletters to provide ongoing support
    - participation in the management committees of other agencies
    - co-location of services.

### *Referral*

1. Participants placed a high value on appropriate referral. They used a range of referral methods, in response to the differing needs of clients. These included providing details of relevant agencies, contacting other agencies and negotiating with an agency on a client's behalf. The referral destination was affected by the nature of the problem, client ability to pay, participant

familiarity with the service, proximity of the service, and cultural and language issues.

2. Knowledge of appropriate legal services varied widely. Many participants relied on pre-existing knowledge, rather than databases or other information sources to find agencies to refer clients to. Participants generally had a greater knowledge of local services than of non-local services. There were a number of instances of duplication of referral databases. Knowledge of other agencies appeared to be gained in an *ad hoc* way rather than through formal training. Participating in networks appeared to increase knowledge of other agencies.
3. Inappropriate referral was identified as an issue. Participants identified a lack of knowledge of services, a lack of services to refer clients to, and a lack of clarity about the nature of services offered by particular agencies, as contributing to inappropriate referrals. There were few strategies for tracking or formalising referrals among the agencies in the study.



## Implications and conclusion

Non-profit legal and non-legal agencies are an essential source of free assistance to individuals with legal problems, particularly for disadvantaged members of the community. These agencies have the potential to reduce pressure on other parts of the legal system by providing clients with preliminary assistance as appropriate, by assisting clients negotiate the system and by providing referral to more expert assistance when necessary.

The success of such a model, however, is predicated upon a clear understanding of the needs and pathways of individuals with legal problems and an adequately supported network of service providers with clearly defined, complementary roles. This study highlights a number of factors that might assist with developing strategies to support these service providers in working together to provide relevant and timely assistance.

A common theme throughout the interviews was the tension between the desire to provide appropriate services and the lack of adequate resources to do this effectively. Many of the agencies in the study primarily served disadvantaged members of the community who often needed relatively high levels of assistance. Adequately meeting the needs of these clients was often time consuming and meant that services needed to be delivered in particular ways, such as face-to-face assistance. At the same time, the high level of unmet legal need in the community meant that the agencies also attempted to make their services accessible to as many people as possible.

While adequate resourcing is fundamental to the delivery of services, we identified a number of other factors that could contribute to effective service delivery. These include the development of clear role

definitions and common understanding of service types, the flexible delivery of services, the appropriate use of technology, adequate training and support, and the development of effective relationships between agencies assisting clients with legal problems.

### **Defining roles and service types**

We identified a lack of clear role definitions among some agencies in the study, and confusion about the exact nature of services different agencies provided. There was particular confusion surrounding the terms ‘legal information’ and ‘legal advice’. In some cases definitions were based on who was providing the assistance rather than on the type of assistance provided; whereas in others it appeared to be based on whether the information was generic or tailored to the needs of the individual client.

This lack of common understanding potentially has a significant impact on practice. At an agency level it may mean that certain types of assistance are not provided due to its categorisation as ‘advice’; whereas, in other situations ‘information’ may be indiscriminately handed out without appropriate quality controls or recourse to more expert assistance. Further, it is unclear whether clients are aware of the apparent distinction between ‘information’ and ‘advice’ and may experience confusion about the nature of the assistance they receive. At an interagency level, lack of clear role definitions and understanding of services can lead to inappropriate referral, ineffective use of complementary services and the tendency within agencies to attempt to meet all client needs independently. At a policy level, lack of clear definitions can lead to difficulties in consistent evaluation of services and appropriate allocation of resources.

Clarifying roles and developing shared understanding could reduce confusion and allow agencies to work effectively together. In particular, in attempting to reach common understanding it would be worthwhile for agencies to consider why the distinction between

‘legal information’ and ‘legal advice’ is important. Related to this question is whether clients themselves have a clear understanding of the type of assistance they are receiving, and whether the service is appropriate to their needs and is of adequate quality.

### **Getting the right mix**

A number of current strategies for legal service delivery require individuals to have the ability to independently manage their problems. These include unbundled services, generic information services, and the delivery of services directly to clients using technology. While these strategies may be of great benefit to some clients, they may not be appropriate for individuals suffering high levels of disadvantage or emotional distress who often require high levels of individualised assistance.

It is important that service delivery models take the differing needs and capabilities of clients into account. In a review of legal service delivery models, Legal Aid Ontario recommends that ‘the choice of delivery models must be highly sensitive and adaptive to the legal context in which services are required, the geographic context where they must be provided, and the special-needs context of particular client groups who require these services’.<sup>132</sup> Participants in the study commented on the difficulty of accessing legal advice and representation services, and the problem of inappropriate referrals caused through lack of access to services. It is important to monitor the mix of referral, generic information, assistance, advice and representation services to ensure that client needs are being met.

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132 Ontario Legal Aid Review, *Report of the Legal Aid Ontario Review: a Blueprint of Publicly Funded Services*, 2000, <<http://www.attorneygeneral.jus.gov.on.ca/html/OLAR/ch7.htm>> (Accessed April 2001).

## **Flexible service delivery**

The flexible approach to service delivery demonstrated by the participants in our exploratory study is worth considering in the context of the need to match delivery models to client needs and capabilities. Within the constraints imposed by their roles, knowledge and resources, participants viewed flexible service delivery as a vital strategy for meeting the differing needs and capabilities of individual clients. This allowed them to spend less time with clients they felt had the competence to deal with problems independently, and, therefore, to provide higher levels of assistance to those clients who required it.

Flexible service delivery does, however, raise a number of issues. It locates a high degree of control with the service provider. This raises the issue of how practitioners should go about accurately assessing the level of assistance required by clients. Flexible service delivery may also sit uneasily with factors such as the need to be seen to be providing an equitable and consistent level of service to all clients, the need for common understanding of the level of service provided and pressures to contain costs by standardising services. A related issue is the need to locate flexible service delivery within clearly defined roles rather than to attempt to meet all the needs of clients.

## **Using technology to deliver services**

As discussed previously, there is an increased focus on using technology to increase access to legal services in a cost efficient way. The anticipated efficiencies of technology are often predicated on the assumption of cost savings resulting from the provision of services in a standardised way. It is important that technological solutions are designed around the needs of the target client group, rather than around the technology. While the delivery of pre-packaged services may be effective for clients with the ability to access and interpret such information, careful consideration needs to be given to the suitability of such services for disadvantaged clients. Particular

consideration needs to be given to the appropriateness of replacing face-to-face services with generic information and referral telephone lines or Internet sites.

In the case of disadvantaged clients in particular, technology may be more appropriately used to assist agencies deliver services more effectively than to provide information directly to clients with legal problems. There appears to be potential for technology to assist agencies in a range of ways. These include providing access and pathways to appropriate legal material on the Internet, using expert systems to guide agency staff through legally related issues, using email to support networks and using technology to deliver training. For this potential to be realised, however, agencies need to have adequate access to technology, appropriate training in both the technology and the law and legal system, access to networks and access to technical support.

Given the complexity of the service delivery landscape, the development of shared referral databases has the potential to reduce duplication and allow agencies to identify relevant services for their clients quickly. This would be particularly useful for clients in need of non-local assistance. At the same time, care needs to be taken to ensure that referrals based on the use of databases are appropriate. Our research indicates that it is important for agency staff to be familiar with the agency they are referring clients to. For this reason, referral databases should probably be seen as a supplement to, rather than a replacement of, personal knowledge of other agencies.

## **Training and support**

The increased focus on the use of non-legally trained staff to assist clients with legal problems increases the need for effective strategies to ensure staff have adequate knowledge to assist these clients. Training in specific areas of the law and legal process has the potential to increase workers' ability to assist clients and to improve the quality



of services. Participants in the study identified particular needs for training in family law, court processes, and referral.

The high level of client need for assistance with legal documentation could possibly be addressed by providing non-legal agencies with training and support in this area. Community agencies in the study already viewed assisting clients with forms and letters as part of their role. This strategy could reduce pressure on legal agencies by freeing up solicitors to deal with more complex inquiries.

Agencies have a range of training needs in common. Joint training programs, particularly in rural areas, would encourage the development of networks and ensure efficient use of resources. An Internet based training register would assist with this process. Legal update services could also be jointly developed and distributed through newsletters, email and the Internet.

Providing access to legally trained staff with expertise in particular areas emerged as an effective way of providing support to non-legally trained workers, especially when used in conjunction with training. This method of service delivery has been referred to as 'second tier' services.<sup>133</sup> The use of second tier services has the potential to improve the ability of community agencies to assist clients with legal problems, particularly in rural areas.

While participants in the study supported the provision of written information to clients, many had difficulty accessing relevant material. The identification of competencies for the delivery of written legal information, and the provision of appropriate training would assist with improving delivery of this material to clients. An Internet database of these resources would increase access to them and reduce duplication.<sup>134</sup>

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133 Lord Chancellor's Department, *The Community Legal Service: a Consultation Paper*, p. 40.

134 This strategy has been recommended in a number of reports. See Australian Law Reform Commission 1992; Australian Law Reform Commission 2000; Parker.

## **Working together**

Clients are often faced with a multiplicity of interrelated legal and non-legal problems and will approach a variety of agencies for assistance. Based on what is known about the behaviour of individuals with legal problems it may be unrealistic to aim for a model where all individuals enter the system via a single gateway. For these reasons, it is essential for workers, agencies and institutions to work together to ensure that services are provided as seamlessly as possible and that there are clear pathways between different forms of assistance.

Our research indicates that interagency cooperation has significant potential to improve services by clarifying roles, identifying gaps and reducing duplication, improving case management, improving the appropriateness and effectiveness of referrals, facilitating the sharing of resources, knowledge and research, and improving services to clients through the use of second tier services. Jointly developing casework models, training programs, generic legal information materials and referral resources such as databases or easy reference cards, would save considerable time for individual agencies and lead to better quality resources.

Working together also has the potential to address the need for face-to-face services for a range of legal problems. Several agencies in the study met this need through the development of close relationships between centralised and local services. Strategies included providing specialised legal assistance to local services and the referral of clients from centralised to local services using a casework model. This was particularly effective for improving the level of assistance provided to clients in rural areas.

Although we identified a wide range of networks, including a number of extremely effective interagency models, we did not find many examples of cross-sectoral networks with a specific focus on assisting clients with legal problems. The development of such networks, at

both individual agency and auspicing body level, has the potential to improve service delivery to clients.

Based on our research and other studies, the following factors appear to contribute to the development of effective networks:

- commitment and resourcing at the individual and central agency level
- a non-competitive funding environment
- addressing differences in practice and culture
- allocating adequate time to building networks
- participation of all relevant stakeholders
- having a clear boundary, either geographic or by area of specialisation
- regular face-to-face contact through conferences and interagency meetings with email and newsletters to provide ongoing support
- participation in the management committees of other agencies
- co-location of services.

Appropriate referral is an essential element in ensuring that clients reach relevant services. Consideration needs to be given to what constitutes effective referral, how to monitor referral and whether common standards and protocols for referral need to be developed.

## Areas for further research

Several areas of further research have been identified.

### *Pathways to the law*

There appears to be very little Australian research into which agencies people go to when they have a legal problem. Research of this kind would assist in developing strategies to ensure agencies have adequate skills, knowledge and resources to meet the needs of these clients. Given that the research that does exist indicates that people will go to a range of agencies depending upon the nature of their problem and their social and economic circumstances, it may be useful to carry out this research in specific areas of law and with specific groups. Research of this nature has already been undertaken, for example, in domestic violence and family law.<sup>135</sup>

A related issue that could be investigated is how people go about finding agencies and their referral experiences. This would assist with understanding the level of inappropriate referral, what factors assist appropriate referral, how to improve client knowledge of services, and whether the way referral is carried out affects outcomes.

### *Service delivery models*

As discussed in chapter two, governments are currently exploring a range of alternative models of service delivery to meet legal need. Changes to the service delivery mix need to be carefully monitored and evaluated, through tracking gaps and bottlenecks in services, and by evaluating the effectiveness of different modes of service delivery. This would include understanding more about who is using services, and assessing the quality and effectiveness of these services in meeting the needs of clients with legal problems. Specific areas that could be further investigated include:

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135 Keys Young; Donovan Research.

- the quality of services delivered by non-legally trained workers
- whether individuals with legal problems are receiving the level of assistance they need
- the effectiveness of legal helplines that provide referral and/or generic legal information
- the use of the Internet by individuals to assist them with their legal problems
- identification of the training needs and competencies required for providing assistance in different areas of the law and for providing generic information and referral services to clients with legal problems
- development of best practice models for cooperation between agencies.

## **Conclusion**

Models of service delivery are currently being refashioned, with a greater emphasis on increasing access to legal assistance for the wider community, a greater emphasis on self-help strategies, increased use of non-legally trained staff to assist people with legal problems, and an increased focus on the use of technology to increase access to legal assistance. Non-profit agencies have the potential to play a significant role in this changing landscape by acting as gateways to the law and legal system for individuals with legal problems.

It is essential, however, that ongoing research and open discussion inform these new models of service delivery. We have identified a range of issues and strategies in this paper that we hope will stimulate action, discussion and further research, both among public policy makers and those delivering services. We look forward to working with those concerned with access to justice to explore these issues further.

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# APPENDICES





# A

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## Agency profiles<sup>136</sup>

### **New South Wales Legal Aid Commission**

*<http://www.legalaid.nsw.gov.au/lac.nsf/pages/aboutus>*

Purpose	To assist socially and economically disadvantaged people understand and protect their legal rights.
Services	Free legal advice and minor assistance in all areas of law, grants of legal aid, alternative dispute resolution and community legal education programs. Administer the Domestic Violence Court assistance program. All regional offices provide advice and representation in family and criminal law but civil law advice lawyers only available at some regional offices. Information, assistance and referral by telephone are provided through the Legal Aid HelpLine. Telephone advice also available through 5 specialist services — mental health, prisoners, veterans, child support and children (24-hour hotline available for young people). Telephone advice not available through regional offices.
Funding and management	State and Commonwealth funding, client contributions, Solicitor's trust account. Funding administered by the Legal Aid Commission.
Delivery network	Legal Aid head office, 19 regional offices including 7 country offices, outreach advice clinics in metropolitan and country centres, and the Legal Aid HelpLine (telephone service).
Staff	Information officers staff the Legal Aid HelpLine. Advice services and representation provided by lawyers. Social workers available to existing LAC clients.
Eligibility	Legal advice is free at all Legal Aid offices by appointment. Free telephone advice in family and civil law provided to those who have an urgent legal problem or are unable to attend a LAC office due to family commitments, work or disability. For representation clients must meet eligibility criteria.
Internet access	Yes

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136 These profiles were valid as of 31 March 2000, when the interviews were carried out. Details may have since changed.

### **New South Wales Community Legal Centres**

<http://www.legalaid.nsw.gov.au/lac.nsf/pages/AR9924>

Purpose	Community Legal Centres are independent, non-profit organisations that provide disadvantaged sectors of the community with access to legal information and services. They advocate for a fair, humane and non-discriminatory legal justice system and develop ways of effectively informing the community of their legal rights.
Services	Legal information, advice, casework, representation, community legal education, advice to government on policy issues, law reform, referral.
Funding and management	State and Commonwealth Community Legal Centre Program funding administered by the Legal Aid Commission. Community based, non-profit, management committees.
Delivery network	16 generalist centres (including 8 rural or regional centres) and 8 specialist centres. A number of community legal services provide telephone advice and outreach services.
Staff	Solicitors provide the bulk of legal assistance. High use of volunteers for both advice and administrative work (often local solicitors).
Eligibility	Most generalist services have geographic criteria. Other criteria include language, income, and disability.
Internet access	All Community Legal Centres have access to email and the Internet. There are often a limited number of computers available in each centre and connection times may be slow.

## Chamber Magistrates

<http://www.lawlink.nsw.gov.au/lc.nsf/pages/chambermagistrate>

Services	Information and assistance with complex legal problems, information on legal options, dealing with apprehended and personal violence complaints, information about court process and procedures, assistance with the interpretation of, and (in some circumstances) preparation of legal documents, community legal education, referrals.
Funding and management	New South Wales Attorney General's Department.
Delivery network	Available at all Local Courts across the State. Some outreach services are provided. Most chamber magistrates do not provide telephone services but this is currently under review. New South Wales is the only State in Australia that provides a Chamber Magistrate service.
Staff	There are seventeen full-time legally qualified Chamber Magistrates located at the larger courts in the Sydney Metropolitan, Central Coast, Newcastle and Wollongong areas. In rural areas, and at the smaller metropolitan courts, Clerks of the Court perform the role of Chamber Magistrate in combination with their registry management and quasi-judicial functions. Clerks of the Court are not usually legally qualified. Chamber magistrates are public servants not judicial officers.
Eligibility	Anybody is able to use the Chamber Magistrate Service.
Internet access	Varies widely, some have no access, some only have access to the New South Wales Attorney General's Department intranet and those that are also Government Access Centres have access to the Internet.

### **Government Access Centres**

[http://www.premiers.nsw.gov.au/pubs\\_dload\\_part3/spd/gapp/gap%20complete%20report%20Version2.htm](http://www.premiers.nsw.gov.au/pubs_dload_part3/spd/gapp/gap%20complete%20report%20Version2.htm)

Services	2-year pilot to trial integrated government service delivery in rural and remote communities in New South Wales. Provide information on government activities, organise referrals, make appointments for visiting agency staff, and undertake agreed transactions on behalf of various agencies.
Funding and management	New South Wales Premier's Department with some funding provided by other government departments for delivery of specific services. Funding in kind provided by auspicing body in form of staff and facilities.
Delivery network	Seven government access centres based in rural and remote locations across New South Wales. Government Access Centres use a variety of pre-existing agencies in the community such as Chamber Magistrates and RTA offices. Emphasis on face-to-face service delivery facilitated by electronic support systems.
Eligibility	Anyone can use the service.
Internet access	100%

## Community Centres

<http://www.mapl.com.au/E6.htm>

Services	Provide services for disadvantaged people, groups and communities. Respond to local community needs and characteristics. Community development role. Services provided include information, referral, advice and advocacy. Provide a range of specialised services depending upon funding availability and needs of the community. These include services for children, young people, aged, migrants and family support services. Some community centres host outreach legal services.
Funding and management	Most Centres receive funding from more than one source of funds. There are over 20 different sources of funds for Centres. The principal sources include the Community Services Grants Program (Department of Community Services), fees for services and donations, the Department of Family and Community Services and the Home and Community Care Program. Usually report to a community based Management Committee.
Delivery network	300 Neighbourhood and Community Centres in New South Wales. 54% are in Sydney, Newcastle and Wollongong, 46% are in country areas. Vary in size from less than one full-time equivalent staff member to more than 20 full-time staff.
Staffing	High use of volunteers. Paid staff — 1,400 full-time equivalent positions. Volunteer staff — 660 full-time equivalent positions.
Eligibility	Varies
Internet access	A study of New South Wales Department of Community Services funded organisations found that 90% have computers; 59% modems; and 42% have an email address. <sup>137</sup>

### **Migrant Resource Centres**

*<http://www.immi.gov.au/settle/help/nsw4.htm>*

Purpose	Meeting the settlement needs of refugees, humanitarian entrants and other migrants, particularly those who have arrived in Australia recently.
Services	Information, referral and advice in different languages on issues such as immigration, social security, housing, tenancy. Range of services provided such as childcare, English classes, employment and training, classroom and meeting facilities, projects and groups for the unemployed, elderly women. Community development role.
Funding and management	Funded by the Department of Immigration and Multicultural Affairs. Usually report to a community-based management committee.
Delivery network	12 Migrant Resource centres in New South Wales, 2 in regional areas. Some outreach services are provided.
Eligibility	Refugees, humanitarian entrants and other migrants, particularly those who have arrived in Australia recently.
Internet access	100%

**Tenants Union/ Tenants Advice and Advocacy Program (TAAP)**

*<http://www.tenants.org.au>*

Purpose	To represent the interests of tenants in New South Wales.
Services	Advocacy and advice, lobbying for improvements in residential tenancy laws, community education, casework and litigation.
Funding and management	Commonwealth Attorney General's Department (administered through the New South Wales Legal Aid Commission), interest on tenants bonds (administered through the New South Wales Department of Fair Trading).
Delivery network	20 tenant's advice and advocacy services across New South Wales — 14 generalist, 4 specialist aboriginal services, an aboriginal resourcing unit and a caravan parks resourcing service. State-wide tenant's hotline operated by a network of volunteer services. The Tenants Union is the resourcing and coordinating body for the network.
Eligibility	Tenants of New South Wales
Internet access	100%



### **Financial Counsellors**

*<http://acwa.asn.au/fcan/finance/aboutfincon/aboutfincon.html>*

Purpose	To ensure the provision of financial counselling to the community of New South Wales and to actively participate in credit and debt reform.
Services	Free information for people with financial problems, including sources of assistance and how to apply for it. Provide advocacy with government departments including Centrelink and the Department of Housing.
Funding and management	32 metropolitan, 28 rural located in community organisations and financial counselling centres. (There is also a separate network of rural financial counsellors).
Delivery network	Available to everyone
Eligibility	Variety of sources of funding including the Casino Benefit Trust Fund, Department of Fair Trading, Commonwealth and welfare agencies e.g. St Vincent de Paul. Host organisations provide support in kind.
Internet access	Variable depending upon host organisation.

# B

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## Interview Schedule

### **Legal information needs of community agencies**

#### **1. Background Details**

- a. Type of centre  
e.g. Specialist Community Legal Centre; Generalist Community Legal Centre, Government Access Centre; Chamber Magistrate; Community/ Neighbourhood Centre
- b. Specialty areas within the Centre  
e.g. Centrelink, youth, tenancy
- c. Role of Centre  
i.e. in relation to the rest of the community sector (Ask for a mission statement if they have one)
- d. Geographical coverage of the centre  
Issues with this?  
Outreach services
- e. Position  
Volunteer, Coordinator, Solicitor, Community legal education worker
- f. Your role in the Centre  
e.g. acts as a first point of contact for inquiries.  
Days per week:
- g. Length of time working in the sector  
0–6 months ; 6–12 months ; 1–2 yrs; 2 yrs+
- h. Educational Qualifications  
e.g. Studying law

- i. Do you have access to the Internet ?  
At your desk?  
How long have you had access for?

## 2. Critical incident and general practice

### General Description

- a. Think of a recent situation where you had a client with a legal problem ....  
in any of these areas?  
*(Show prompt card for non-legal centres)*  
Please describe the situation and what you did. *(Point form of main steps taken)*
- b. What factors affected what you did?  
*(Prompt —time, resources, information/advice)*

## 3. Referral

- a. Thinking back to the situation you have described, did you refer the client to another agency?  
How did you know about the agency?  
How did you know what services they offered?  
What made you decide to refer the client to this agency in particular?
- b. How do you go about finding an agency to refer a client to?  
*(Prompt: Phone book, Internal database — how is it kept up to date, Internal printed resource — how is it kept up to date, Internet — where in particular, Contact someone — who, how: phone, email)*
- c. There are a number of different ways to go about referring:  
e.g. give a phone number, give contact details of a specific person, give written information, ring the agency, take client to the service.  
Which of these methods did you use in this situation and why?  
Which of these methods do you generally use and why?

- d. Do you have sufficient knowledge about the services of agencies you refer clients to?  
What do you want to know about an agency you refer a client to?
- e. What do you know about the legal agencies in your area?  
(*Prompt: Chamber magistrates, Community Legal Centres, Community Justice Centres, Legal Aid*)  
What do you see as the differences between them?
- f. What are your thoughts on legal call centre models?
- g. Would it be useful for you to be able to access referral information on the Internet?  
Why/why not?
- h. Do you keep other providers up-to-date about the services you provide?  
If so, how?

#### 4. Use of Information with Clients

- a. Did you give the client any written material to take away with them?  
Why/why not? (*Prompt — didn't have; nothing relevant; not appropriate*)  
If yes,  
What did you give them?  
How did you find this material?  
Did you assess its usefulness and/or accuracy? If so, how?
- b. Is there anything (else) you would have liked to give this person to take away with them?  
Why didn't you take this course of action? (*Prompt – time, wouldn't know how to find it*)
- c. Did you/would you think of printing out information or accessing information from the Internet for this client?  
Why/why not?
- d. Do you think it is useful to give written information about the law to clients?

Why/Why not? Do you have a particular reason for this?

If yes, in what situations? How often?

What sort of information?

How do you think this is useful for clients?

Is the format of the information you give important?

Why?

How would you feel about printing pamphlets off the Internet?

What are the issues?

- e. Do you assess the usefulness and accuracy of the material you give out/put out on display?

If so, how?

- f. What publications do you find particularly useful? Not useful?

- g. Why?/Why not?

- h. If you don't have information on hand to give to a client with a legal problem, do you try and find the material?

Why/why not?

If yes, how do you go about finding material to give clients and for display?

*(Prompt: Use of Internet, ringing government department, in-house resource folders)*

Would you look for the material when the client is with you?

Why/why not?

- i. Do you refer clients with legal problems to a library?

Why/why not?

Do you refer clients to the Legal Information Access Centre?

Why/why not?

- j. Do your perceptions of the client's ability to comprehend the material affect the sort of material you give them?

How?

*(Prompt: leaflets, plain English, case law, looseleaf, non written formats)*

- k. Are there particular issues for clients

— with low literacy?

— who don't speak English?

- l. Do you use materials in other languages?

If so, how do you find them?

*(Prompt — ring relevant department, get sent to you, look on the Internet)*

- m. Do you assist clients to deal with using the legal system?

*(Prompt — fill out forms, court processes, writing letters)*

- n. Do you access information on the Internet for clients?

Where do you look?

What is useful?

How do you assess the accuracy of the information?

- o. *(For legal agencies only)*

If you have a client who doesn't have representation, do you give them tools to assist them deal with the legal system?

If so, what?

## 5. Strategies to inform yourself

- a. Are there particular legal issues you would like to know more about?

What are they?

- b. Do you generally go looking for information about the law or legal process if you have a client with a legal problem?

Give an example.

- c. How do you go about informing yourself about legal issues?

*(Prompt — training, reading, Internet, colleagues)*

- d. Do you have methods of keeping up-to-date with legal knowledge?

If so, how?

*(Prompt: journals, newsletters, colleagues, email, Internet)*

How are these useful?

- e. Do you experience any particular difficulties?

- f. What training needs do you have?

- g. Do you do any community legal education work?  
What resources do you use to assist you with this?  
How do you find these resources?  
(*Prompt — Internet, colleagues, already know about*)

## **6. Internet Access**

(May have already covered some of this)

- a. Would you/do you find the Internet a useful resource for legal related inquiries?  
Why/why not?  
What do you find particularly useful?
- b. What legal resources would you like to see provided by the Internet?
- c. What Internet training needs do you have?
- d. What issues do you see for the community using the Internet to access legal information?

## **Finally**

- a. Is there anything else you would have liked to have done for this client?
- b. Are there any general comments you'd like to make about accessing and using legal information?
- c. Do you see a difference between legal information and advice?  
What is it?

# C

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## Focus Groups Schedule

### **Assisting clients with legal related problems — what do you do?**

Think of some recent examples of clients you have seen with legal related problems.

e.g. Wills, Tenancy, Neighbourhood dispute, Immigration, Family law matter, Social security matter, Discrimination, Crime, Accident, Employment problem, Debt problem, Dispute with a government department

### **Referral network**

How do you access referral information?

How do you acquire your knowledge of other agencies?

What would you like to know about other agencies?

How do you keep other agencies up-to-date about your services?

### **Gaps in knowledge**

How would you best like these filled?

### **How do you go about referring clients?**

### **Use of information**

How do you define the difference between information and advice?

### **Use of written information**

- Do you send legal related information out to callers?
- Use of materials in other languages? — how often? how do you find?
- What is the value of doing this? — is there a philosophy about doing this?
- How do you deal with literacy issues?



- How do staff assess the accuracy of information? That it is up-to-date?
- What type of information do you find useful to give to clients.

**How do you keep yourself informed about legal issues?**

**Internet**

Use of the Internet/what would be useful to have access to via the Internet?

Problems e.g. do you have easy access? can you find what you're looking for?

What is useful/Good sites?

What would be really useful?

# D

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## Coding Sheet

### (1) Background Details

#### (1 1) Type of Centre

i.e.— type of centre interviewee worked in

(1 1 1) Community Legal Centre

(1 1 2) Court

(1 1 3) Community Centre

(1 1 4) Specialist Centre

(1 1 5) GAC

(1 1 6) Legal Aid

(1 1 7) Police

(1 1 8) Other

#### (1 2) Speciality within Centre

Includes speciality within actual organisation— i.e. not just interviewee

(1 2 1) Migrant

(1 2 2) Youth

(1 2 3) Tenancy

(1 2 4) Financial Counselling

(1 2 5) Children's

(1 2 6) Welfare

(1 2 5) Other

#### (1 3) Location

##### (1 3 1) Rural Regional Centre

(1 3 1 1) Inland

(1 3 1 2) Coastal

##### (1 3 2) Rural Town

(1 3 2 1) Inland

(1 3 2 2) Coastal

##### (1 3 3) Metro

(1 3 3 1) Inner

(1 3 3 2) Outer

##### (1 3 4) Proximity Community Legal Centre

(1 3 4 1) Yes

(1 3 4 2) No

- (1 3 5) Proximity Legal Aid
  - (1 3 5 1) Yes
  - (1 3 5 2) No
- (1 4) Position of Interviewee
  - (1 4 1) Solicitor
  - (1 4 2) Volunteer
  - (1 4 3) Office staff
  - (1 4 4) Specialist Worker
    - (1 4 4 1) Youth
    - (1 4 4 2) Migrancy
    - (1 4 4 3) Tenancy
    - (1 4 4 4) Financial
  - (1 4 5) Coordinator
  - (1 4 6) Chamber Mag
  - (1 4 7) Clerk of Ct
  - (1 4 8) Community Liaison—education
  - (1 4 9) Other
- (1 5) Hours— interviewee
  - (1 5 1) PT
  - (1 5 2) FT
- (1 6) Length of Time in sector
  - (1 6 1) 0–2 yrs
  - (1 6 2) 2–5 yrs
  - (1 6 3) 6–10 yrs
  - (1 6 4) 10+ yrs
- (1 7) Qualifications—Education
  - (1 7 1) Law Degree
  - (1 7 2) University other
  - (1 7 3) Tafe Other
  - (1 7 4) None
- (1 8) Access to Internet
  - (1 8 1) Yes
    - (1 8 1 1) Desk
    - (1 8 1 2) Centre
  - (1 8 2) No
- (2) Role of Centre
  - (2 1) Area Coverage (Includes area specific effects)
  - (2 2) Issues coverage
  - (2 3) Client types-groups
  - (2 4) Mode of Service Delivery (includes telephone, case law, advice, assistance)

- (2 5) relation to community (including other service providers)
- (3) Critical incidents
- (4) Client Characteristics
  - How the Intermediary deals with the client on a personal level
    - (4 1) Emotional Issues
    - (4 2) Cultural Contingencies (Excl NESB)
    - (4 3) Disabilities
    - (4 4) Literacy
    - (4 5) NESB
    - (4 6) Comprehension
    - (4 7) Socio-Economic
- (5) Identifying issues
  - (5 2) Separating out problems
- (6) General Practice (includes filtering amounts of information, use of 2<sup>nd</sup> tier services)
  - (6 1) Worker roles/characteristics (includes information/advice practice)
  - (6 2) Issues (time resources geography, availability of other services, triage)
  - (6 3) Research for clients
  - (6 4) Empowerment issues
- (7) Informing Clients
  - (7 1) Oral information (why or why not— oral imparting of info useful or helpful)
  - (7 2) Written Information (includes philosophy of usefulness of written info)
    - (7 2 1) Type (Including Legislation, plain English, pamphlets etc)
      - (7 2 1 1) What's useful (what written information is useful or particularly good, colour, size, presentation, and content issues such as plain English)
        - (7 2 1 1 1) Examples
      - (7 2 1 2) Translated
        - (7 2 1 2 1) Examples
      - (7 2 1 3) Internet
        - (7 2 1 3 1) Examples
    - (7 2 2) Accuracy (Includes up-to-date)
    - (7 2 3) Issues (includes cost)

- (7 2 4) Legal Process  
Helping clients deal with any aspect of legal process and procedures (filling in forms, Ct procedures etc) — including explaining where/how/why do something etc
- (7 2 5) Community Legal Education
- (8) Referral
  - (8 1) Method used (reasons — agency, client attributes, giving info, searching, making contact for client, comments on why use method)
  - (8 2) Knowledge of other agencies — services
    - (8 2 1) Legal
    - (8 2 2) Non-legal
    - (8 2 3) Libraries
  - (8 3) How info kept (organisation or format of referral info)
  - (8 4) How info found
    - (8 4 1) Networking
    - (8 4 2) Internet
  - (8 5) What's useful to know
  - (8 6) Keeping other services up to date
  - (8 7) Issues
- (9) Knowledge of Law
  - (9 1) How Obtained
    - (9 1 1) Training
    - (9 1 2) Experience
    - (9 1 3) Written material
    - (9 1 4) Colleagues (conferences, networks, meetings, email)
    - (9 1 5) Internet (includes email)
  - (9 2) Issues
- (10) Internet specific practice
  - (10 1) length of time used
  - (10 2) Training
  - (10 3) Wish list
  - (10 4) Issues (includes accuracy, connectivity, low speed, Community Access)
- (11) Interesting Comments
  - (11 1) Call centre models
  - (11 2) Family law
  - (11 3) Legal Information vs Advice
  - (11 4) "wish list"

# E

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## Community agency referral checklist

This list has been collated from participant suggestions regarding what they need to know about agencies they are referring clients to. It could be further developed on an interagency basis to ensure that referral databases and pamphlets about services have all the necessary information.

### **Contact details**

Telephone numbers

Email address (some agencies may prefer that this is not publicly available)

Internet address

Emergency number for long weekends and 24-hour services

Address

Opening hours

### **Services**

Description of the service

Types of legal service offered

Specialty areas covered e.g. Family law

Type of legal assistance provided – e.g. assistance with forms, court processes, representation

Whether the service provides advice, generic or referral

Whether a telephone service is provided and the times of this service

Appointment or drop in

Waiting period

Cost of service

Programs offered

Geographical coverage

Boundaries and limits: e.g. eligibility limits by income, employment

Particular client groups served e.g. youth, gay and lesbian, older people

Services for NESB e.g. NESB workers, languages other than English spoken

Can the client have a support person with them (e.g. youth worker)?

What additional paperwork do agencies need if they are referring clients?

# F

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## Plain Language Materials Checklist

This plain language checklist has been compiled from participant comments on what they find effective in plain language materials about the law.

- Use plain English – simple, clear, avoid long words, avoid legalese, not intimidating, easily digestible.
- Limit the number of words on a page.
- Produce information at several levels of complexity.
- Strike a balance between too much and not enough information.
- Use a question and answer format.
- Show the steps people need to follow using a simple flow chart or pictorial diagram.
- Tell clients where they stand, where they can get further information, and what they should be considering.
- Give readers an idea that they are not alone.
- Provide details of other relevant services, including local services if possible.
- Produce materials in relevant community languages and including the English title on these.
- Provide telephone interpreter service details on all resources and indicate whether charges will be paid for by the agency.
- Provide examples of precedent letters.
- Provide information about time limitations.



- Provide information about what to expect when going to court.
- Ensure that information is up-to-date, accurate and well researched.
- Indicate the date on the resource.
- Use eye-catching techniques e.g. colour, illustrations.
- Use adequate font size.
- Use coloured pictures. Photostories were identified as being particularly useful for people with poor English skills.
- Use simple layout and compartmentalise the information.
- Use small quick points.
- Use colour coding.
- Adapt the format to the needs of the client e.g. young people like material which is easy to carry, and fits into their wallet or jeans pocket.
- Carry out user testing.

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# Law and Justice Foundation of NSW Publications

## **Access to Justice Series**

Unrepresented Parties & the Equal Opportunity Tribunal (2000)

Future Directions for pro bono legal services in NSW supplementary report: proposed models (1999)

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## **Justice Research Centre Monograph Series**

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Compensation in an Atmosphere of Reduced Legalism (1994)

So Who does use the Court? (1993)

The Costs of Civil Litigation (1993)

The Pace of Litigation in NSW (1991)

Role of Conciliation (1990)

### **Legal Information**

Email law: a planning guide for delivery of free legal assistance via email (2001)

Best practice guidelines (2001)

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# The Law & Justice Foundation of New South Wales

The Law and Justice Foundation seeks to improve access to justice, particularly for socially and economically disadvantaged people. The Foundation is an independent statutory body with a 34 year history of improving access to justice for the people of NSW. Its staff and Board come from a range of different backgrounds such as law, research, education and the social sciences. This enables us to consider issues of access to justice from different perspectives.

The Law and Justice Foundation believes that:

- a fair and equitable justice system is essential for a democratic, civil society
- reform should, where possible, be based on sound research
- people need accurate, understandable information to have equitable access to justice
- community support agencies and NGOs play a critical role in improving access to justice for disadvantaged people.

Our strategies for 2001–2003 include:

- identifying legal and access to justice needs, particularly of socially and economically disadvantaged people
- conducting rigorous, independent research to inform policy development
- contributing to the availability of understandable legal information
- supporting projects and organisations that improve access to justice.