



Taking no action: unmet legal need in the Australian Capital Territory?

Abstract: *The Legal Australia-Wide (LAW) Survey found that a sizeable proportion of people take no action to resolve their legal problems. This paper examines whether inaction in the Australian Capital Territory (ACT) was more common for some disadvantaged groups, the reasons ACT respondents gave for their inaction and whether ACT respondents who took no action achieved favourable outcomes. In addition, the paper considers whether these findings signal possible unmet legal need in the ACT and how this could be addressed.*

Source

This paper is a simplified excerpt from the report, **Legal Australia-Wide Survey: Legal need in the Australian Capital Territory** by Christine Coumarelos, Deborah Macourt, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey (Law and Justice Foundation of NSW, 2012).

About the LAW Survey

The LAW Survey provides a comprehensive assessment of a broad range of legal needs on a representative sample of the population. It covered 129 different types of civil, criminal and family law problems. It examined the nature of legal problems, the pathways to their resolution and the demographic groups that struggle with the weight of their legal problems.

With 20 716 respondents across Australia, including over 2000 in each state/territory, the LAW Survey allows for in-depth analysis at both the state/territory and national level. The major findings were published in a series of nine reports, with a report on Australia as a whole and each state/territory. Some key findings were:

- legal problems are widespread and often have adverse impacts on many life circumstances
- disadvantaged people are particularly vulnerable to legal problems
- many people do nothing to resolve their legal problems and achieve poor outcomes
- most people resolve their legal problems without using lawyers or the formal justice system.

The nine LAW Survey reports are available at:

www.lawfoundation.net.au

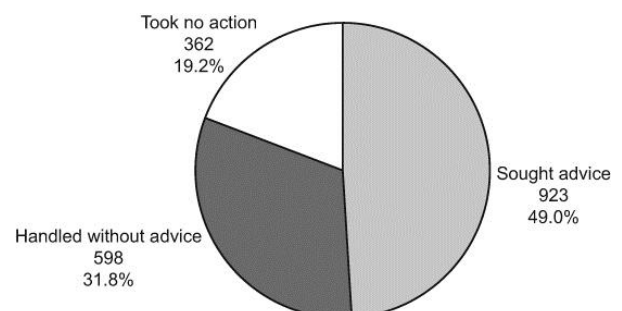
Legal needs surveys have repeatedly shown that ignoring legal problems is common. This level of inaction is not intrinsically a matter of concern, given that inaction does not always constitute unmet legal need. Balmer, Buck, Patel, Denvir and Pleasence (2010) made a distinction between informed and constrained inaction. The former means that the individual correctly decides that taking action is unnecessary, while the latter means that the individual wants to act but is constrained from acting by factors such as a lack of legal knowledge or capability.

Response to legal problems

The LAW Survey examined 129 types of civil, criminal and family law problems. Legal problems were widespread. In the ACT, 49 per cent of respondents experienced one or more legal problems in the 12 months prior to interview.

Respondents were asked in-depth questions about their most serious legal problems, including a series of questions about the actions they took to try to resolve them. ACT respondents sought advice for 49 per cent of legal problems, handled 32 per cent of legal problems without advice and took no action for 19 per cent of legal problems (see Figure 1).

Figure 1: Strategy in response to legal problems, ACT



Note: N=1883 problems. Data were missing for 24 problems.

Taking no action and disadvantage

Two disadvantaged groups in the ACT had higher levels of inaction than their counterparts:

- Respondents with a non-English main language took no action for 32 per cent of problems compared to 19 per cent of problems for other people.
- Respondents with low levels of education took no action for 23 per cent of problems compared to 17 per cent of problems for those with post-school qualifications.

Reasons for taking no action

When no action was taken in response to legal problems, respondents were asked about all of their reasons for doing nothing. If taken at face value, some of the common reasons given for inaction suggest that inaction may have been sensible and may not necessarily have constituted unmet legal need. For example, some common reasons reported by ACT respondents were that they believed:

- taking action would make no difference (59% of problems)
- the problem was resolved quickly (55%)
- the problem was trivial or unimportant (48%)
- there was no dispute, or the respondent was at fault (27%).

Given the gaps in the legal knowledge of the general public, lay judgements about the seriousness of legal problems, the party at fault and the available remedies may sometimes be erroneous. Thus, the above reasons, if based on inaccurate judgements, may still sometimes indicate unmet legal need.

Many of the other reasons given for inaction in response to legal problems more clearly signalled likely unmet legal need, suggesting that ACT respondents wanted to act but were constrained from doing so. For example, such reasons were that:

- it would take too long (34% of problems)
- the respondent had bigger problems (34%)
- it would be too stressful (26%)
- it would cost too much (19%)
- the respondent didn't know what to do (15%)
- it would damage the respondent's relationship with the other side (11%).

These reasons more explicitly indicate that action was not taken due to various personal or systemic constraints.

Taking no action and favourability of outcome

People who took no action in response to legal problems achieved the poorest outcomes. ACT respondents achieved favourable outcomes for:

- 67 per cent of the problems where they sought advice
- 76 per cent of the problems which they handled without advice
- 55 per cent of the problems where they took no action.

Conclusion

Many ACT LAW Survey respondents ignored their legal problems and achieved poor outcomes. This underscores the utility of mobilising people to take action, by helping them to identify their legal rights, appropriate courses of action and relevant advice services. Information and education initiatives could be used to not only signpost people to relevant legal services, but also to motivate people to access these services. In some cases, personal constraints, rather than a lack of knowledge about services, were reported by ACT respondents who ignored their legal problems. For example, ACT respondents sometimes had bigger problems or felt that taking action would be too stressful or would damage personal relationships. High levels of inaction for some disadvantaged groups may reflect a failure to recognise legal needs and a lack of knowledge about the available pathways to legal resolution. This suggests the value of tailoring initiatives to increase legal capability within these groups to empower them to obtain legal assistance.

However, it is worth noting that legal information and education strategies should not be presumed to be universal solutions, but rather only one component of a holistic approach to justice. The LAW Survey indicates the importance of using multiple strategies to address the variety of needs throughout the community, including more intensive and integrated service provision where appropriate for more vulnerable groups.

References

Balmer, NJ, Buck, A, Patel, A, Denvir, C & Pleasence, P 2010, *Knowledge, capability and the experience of rights problems*, Plenet, London.